

This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

#### Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + Refrain from automated querying Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

#### **About Google Book Search**

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at http://books.google.com/

HARRISON OF PRICE

007-81919

RHB HH i

	•	
	•	
	·	
·		

• 

		•		· .	
,					
					٠
				•	
	·		•		1
		,			

• • .

• • 1

• . 

 Lauren J. Marine

### A

# COMPLETE INDEX

TO ALL

# L.R.A. NOTES

1 L.R.A. to L.R.A.1918F
1888-1918
Also 1 to 7 B. R. C.

# IN ONE VOLUME AND ONE ALPHABETICAL ARRANGEMENT

THE LAWYERS CO-OPERATIVE PUBLISHING COMPANY ROCHESTER, N. Y. 1919

Copyright 1919

bу

· THE LAWYERS CO-OPERATIVE PUBLISHING COMPANY

E. R. Andrews Phinting Company, Rochester, N. Y.

This index greatly simplifies the use of L.R.A. because it brings all the annotation in the whole series, from 1 L.R.A. to 1918F, into a single volume under a single alphabetical arrangement.

L.R.A. annotations now cover a great range of subjects. They not only collect the authorities for you, but thoroughly analyze, compare, and review them so as to give exact information as to what the courts have actually decided. In multitudes of instances they give very quickly all you could get by days and weeks of investigation elsewhere.

The constant habit of always looking here first on every question of law will prove exceedingly profitable, because it takes little time to look, even if you fail to find what you need, while surprisingly often you will find just what you want, and all that you could otherwise find by long and laborious investigation.

The more constantly you use the work the more highly you will prize it.

Analogous topics covering the principle of your question should also be examined, if you do not find that specifically indexed.

The use of digests is not needed when your question is annotated, except for later cases.



### A COMPLETE INDEX

TO

### ALL L.R.A. NOTES

### From 1 L.R.A. to L.R.A.1918 F

#### ABANDONMENT.

§ 1. Generally. Of appeal, see APPEAL AND ERROR, § 25. Of business by corporation, see CORPORA-TIONS, § 78b.

Of highway, see HIGHWAYS, VIII

Of homestead, see HOMESTEAD, III.

Of operation of railroads, see RAILBOADS, § 44.

Presumption and burden of proof as to, see EVIDENCE, § 94.

Of scheme by loan association, effect on application on mortgage of payments made by mortgagor on stock. 29 L.R.A. 132.

Of unlawful design, effect on liability for homicide. 63 L.R.A. 392.

Effect of abandonment of unlawful conspiracy on liability for homicide in carrying out same. 68 L.R.A. 193.

Effect of abandonment of joint enterprise or partnership to exclude from paticipation in the profits thereof. L.R.A. 1918B, 679.

Mandamus to restore to office one who has abandoned same. 19 L.R.A.(N.S.) 74. Carrier's liability for abandonment freight. 39 L.R.A.(N.S.) 644.

Is a domicil lost by abandonment without intention of returning, before acquiring a new one. 40 L.R.A.(N.S.) 986.

2. Of action or prosecution.

Right of condemning party to dismiss con-demnation proceedings after award or verdict and before confirmation or judgment. 28 L.R.A.(N.S.) 91.

Of suit before entry as affecting justifica-tion under writ in defense to action for false imprisonment. 4 L.R.A. (N.S.)

Termination of civil action by, so as to support suit for malicious prosecution. 2 L.R.A.(N.S.) 951.

Consult also L.R.A. Digests of Cases.

ABANDONMENT—cont'd

Of criminal prosecution as termination so as to support suit for malicious prosecution. 2 L.R.A.(N.S.) 939, 941.

Effect of abandonment of criminal prosecution to create presumption of want of probable cause. 12 L.R.A. (N.S.) 717.

Conduct designed to induce litigant to abandon suit as a contempt. 42 L.R.A. (N.S.) 722.

§ 3. Of property or property rights generally.

Of easement, see EASEMENTS, § 28. Of homestead, see Homestead, § 8.

Of leased premises, see LANDLORD AND TENANT, § 28.

Of mining claim, see MINES, §§ 23, 26.

Of personal property. 4 L.R.A.(N.S.) 573. Sale of real property as. 10 L.R.A.(N.S.) 633.

Effect of, on right to revoke license to maintain burden on land after incurring of expense. 49 L.R.A. L.R.A.

Effect of abandonment on title to real property acquired by adverse possession. 24 L.R.A. (N.S.) 1161.

Right to take private property for public use without compensation on theory that it has been abandoned. 39 L.R.A. (N.S.) 1029. Estoppel of possessor of land to assert

claim by abandonment. 13 L.R.A. (N.S.) 137.

Right to testify as to one's intent with reference to abandonment of easement or other right. 23 L.R.A.(N.S.) 397.

Tenant's or cropper's abandonment of crop as affecting rights and interests therein. 46 L.R.A. (N.S.) 53.

Reverter of land conveyed for school purposes upon abandonment. 44 L.R.A. (N.S.) 1226.

ABANDONMENT-cont'd

4. Of water rights.

Of rights of prior appropriators of water, see WATERS, § 91.

Of privilege or easement incidental to milldam. 32 L.R.A.(N.S.) 47.

Of right to dam back water of stream. 59 L.R.A. 838.

Of surface water drain by city. 65 L.R.A. 286.

Of right by prior appropriator of water. 30 L.R.A. 265.

Of proceedings for the acquisition of water supply. 58 L.R.A. 253.

Of drain. 60 L.R.A. 249.

Of canal. 61 L.R.A. 871.

Of ferry franchise. 59 L.R.A. 554; L.R.A. 1916D, 835.

§ 5. Of railroad property.

Right to compensation for superstructures on abandoned railroad. 66 L.R.A. 44. Of railroad deeded to company, right of reversion on. 1 L.R.A. (N.S.) 806.

Devotion of abandoned railroad right of way to a different use. 36 L.R.A. (N.S.) 515.

6. Of leased premises. See Landlord and Tenant, § 28.

§ 7. Of vessel. Of insured vessel, see Insurance, § 176.

Right of seamen to salvage after abandonment by master. 64 L.R.A. 196.

§ 8. Of cemetery.

By town or municipality of ground used for cemetery. 42 L.R.A.(N.S.) 1216. Removal of remains on abandonment of cemetery. 3 L.R.A.(N.S.) 493.

8 9. Of franchise. Of ferry franchise. 59 L.R.A. 554; L.R.A. 1916D, 835.

Of corporate franchise as excuse for not exhausting remedies at law before bringing creditor's bill. 23 L.R.A. (N.S.) 99.

§ 10. Of contract or rights under. See Contracts, § 145.

11. By husband or wife. In general, see Husband and Wife, §§ 70, 71.

As ground for divorce, see DIVORCE, §§ 24, 24a.

Effect of abandonment on wife's statutory right of action for death of husband. L.R.A.1916E, 129.

12. Of child.

Recovery for death of child by parent who has abandoned him. 1 L.R.A. (N.S.) 1161; L.R.A.1916E, 122.

Necessity of consent or notice to parents on adoption of child which has been abandoned. 30 L.R.A.(N.S.) 147.

Effect of, on rights of parent to custody of child. 41 L.R.A.(N.S.) 594, 606.

ABANDONMENT-cont'd

Liability of parent for necessaries furnished abandoned child. 40 L.R.A. (N.S.) 489.

#### ABATEMENT.

Of action or suit, see ABATEMENT AND RE-VIVAL.

Of purchase price at judicial sale, see Ju-

DICIAL SALE, § 15.
Of nuisance, see Nuisances, §§ 21-23.

From purchase price in action for specific performance, see Specific Perform-ANCE, § 28.

In purchase price for deficiency in quantity of land sold, see VENDOR AND PUB-CHASER, § 21.

Of legacy, see WILLS, § 125.

Of wharf. 40 L.R.A. 646.

Of rent on destruction of premises. 22 L.R.A. 613.

obstruction to navigable water. L.R.A. 91; 51 L.R.A. (N.S.) 1172. Of dam. 59 L.R.A. 879.

Determination of proportional part of rent to be abated upon destruction of premaises. L.R.A.1916F, 277.

Right of purchaser of land at judicial sale to abatement of purchase price for deficiency in quantity. 28 L.R.A.(N.S.)

#### ABATEMENT AND REVIVAL.

§ 1. Generally.

Of appeal, see APPEAL AND ERROR, § 25. Of attachment proceedings, see ATTACH-MENT, § 18.

Of garnishment proceedings, see Garnish-MENT, § 21. By repeal of statute, see STATUTES, § 84.

Of mandamus to restore to office one illegally removed. 19 L.R.A.(N.S.) 83.

Reversal on merits without remanding as bar to new action. 30 L.R.A.(N.S.) 377.

Effect of condonation of matrimonial offense on pending suit. 6 B. R. C. 638.

Proof under plea of the general issue in ejectment of matters pleadable in abatement. L.R.A.1918F, 249.

2. By death.

Of bastardy proceedings, see BASTARDY, § 3.

Effect of death pendente lite of one having right to contest will. L.R.A. 1918A,

Suicide as affecting abatement of action or cause of action. L.R.A.1916A, 1141.

Of appeal or error to or from Federal Supreme Court by death of party. 66 L.R.A. 856.

Survival, after death of promisor, of contract to pay for personal services rendered to third person. 13 L.R.A. (N.S.) 643.

Does the grantor's right to rescind for breach of condition as to support descend to his heirs or representatives. 23 L.R.A.(N.S.) 232.

Begin with this book on every law question.

ABATEMENT AND REVIVAL—cont'd Of bill for alimony. 2 L.R.A.(N.S.) 242. Survivability as a test of assignability of cause of action for personal tort. 14

L.R.A. 514.

Action against physician or surgeon. 37 L.R.Ă. 838.

Abatement of action, or cause of action, for breach of promise of marriage. 9 L.R.A.(N.S.) 1020.

Death of party to suit for libel or slander by wife. 30 L.R.A. 529.

Action for fraudulently inducing void mar-

riage. 33 L.R.A. 411.
Survival of infant's right to disaffirm contract. 43 L.R.A. (N.S.) 714.

Survival of cause of action on liquor dealer's bond after death of licensee. L.R.A. (N.S.) 183.

Does contractual obligation or provision in decree of divorce or separation for the support of a child survive the death of the obligor. 48 L.R.A.(N.S.) 429.

Survival of cause of action and abatement and revival of action for deceit or false representations upon death of party. 52 L.R.A. (N.S.) 885.

Survival of cause of action, and abatement and revival of action, for malicious prosecution, false imprisonment, or libel and slander, upon death of party. 52 L.R.A.(N.S.) 1215.

Abatement of action for mental anguish for negligence in transmission of telegram upon death of plaintiff. 49 L.R.A. (N.S.) 281.

§ 3. — action for personal injury or death.

Bffect of statute declaring a cause of action for death survivable to render it assignable. 27 L.R.A. (N.S.) 404.

Law governing survival of cause of action for personal injury. 5 L.R.A.(N.S.)

756.

Suicide as affecting. L.R.A.1916A, 1141. Abatement and revival of actions for personal injury upon death of plaintiff. L.R.A.1915E, 1104.

Survival of right of action under Federal employers' liability act. 47 L.R.A.

(N.S.) 66; L.R.A.1915C, 72.

Does statutory action for wrongful death survive to personal representatives of original beneficiary. 24 L.R.A.(N.S.)

Survival of action against township for injury by defects in highway. 13 L.R.A. (N.S.) 1243.

Survival of action, or cause of action, for wrongful death upon decease of wrongdoer. 11 L.R.A.(N.S.) 1157; L.R.A. 1916A, 1143.

Does husband's action for damages sustained by him on account of personal injury to wife abate by his own death or that of the wrongdoer. 17 L.R.A. (N.S.) 570.

Right of personal representative of employee or of dependent of employee entitled to recover under Workmen's Compensation Act. L.R.A.1917D, 166. Consult also L.R.A. Digests of Cases.

ABATEMENT AND REVIVAL—cont'd

Right of personal representatives to compensation that was being paid to dependents or employees under Work-men's Compensation Acts. L.R.A. L.R.A. 1918F, 563.

§ 4. Dissolution of corporation.

Abatement of action by or against corporation, in the absence of a saving statute, by dissolution or expiration of charter. 32 L.R.A.(N.S.) 446.

Abatement of action by corporation by appointment of receiver. 50 L.R.A. (N.S.)

§ 5. By other actions pending.

When action is deemed commenced for pur-

pose of abating subsequent action.
52 L.R.A.(N.S.) 79.
What identity of issues is necessary to abate second action. L.R.A.1918A, 5. Action on policy as bar to action to reform it. 12 L.R.A. (N.S.) 907.

Pendency of suit for divorce or separation as bar to another suit in the same state. 40 L.R.A.(N.S.) 83.

Pendency of action for personal injury as abatement of action for death, or vice versa. L.R.A.1915E, 1132.

Pendency of suit against lessee as bar to suit against lessor in case of injury by negligence of company using railroad under a lease, license, or other contract. L.R.A.1918E, 272.

6. - suit in other state.

Suits for divorce in different states. 59 L.R.A. 187.

Recovery of judgment for exempt claim pending garnishment proceedings in another state. 35 L.R.A. (N.S.) 1154.

Abatement of action on insurance policy by reason of pendency of action in foreign jurisdiction on the policy. 29 L.R.A. (N.S.) 405.

Garnishment proceedings and an action to recover the debt pending in different states or countries as sustaining plea in bar or abatement. L.R.A.1917F, 1016.

7. — Federal or state court.

Pendency of actions in both state and Federal courts sitting in the same state. 42 L.R.A. 449.

Pendency in Federal court of action in personam removed from state court as affecting right to commence new action upon same cause of action in the state court. 26 L.R.A. (N.S.) 969.

8. Revival.

Revivor of action for death or bodily injury in other state. 56 L.R.A. 222.

Title of purchaser at judicial sale as affected by want of revivor. 21 L.R.A. 44. Law governing revival of cause of action

for personal injury. 5 L.R.A. (N.S.) 756. Exclusiveness of particular statutory method for revival of action. 33 L.R.A.

(N.S.) 576.

Right to revive suit and continue same against foreign representative of a deceased defendant over whom jurisdiction was obtained in his lifetime. 15 L.R.A. (N.S.) 632.

45

ABATEMENT AND REVIVAL--cont'd

Revival of action for deceit or false representations upon death of party. 52 | See Officers, § 21. L.R.A. (N.S.) 888.

Revival of action for malicious prosecution, false imprisonment, or libel and slander, upon death of party. 52 L.R.A.(N.S.) 1220.

Revival of action for personal injury upon death of plaintiff. L.R.A.1915E, 1104.

#### ABBREVIATIONS.

See Name, § 3.

#### ABDUCTION AND KIDNAPPING.

Civil action for abduction of child. L.R.A.(N.S.) 867.

Of criminal as defense to prosecution. L.R.A. 177.

Proof of corpus delicti in prosecution for. 68 L.R.A. 50.

Evidence of specific instances to prove character for chastity in prosecution for. 14 L.R.A.(N.S.) 725; L.R.A.1916B, 967.

Effect of defendant's mistake as to age of girl. 25 L.R.A.(N.S.) 661.

Right of one wrongfully brought into jurisdiction to be released on habeas corpus. 12 L.R.A. (N.S.) 225.

Taking of a child by or at instance of one parent from the custody of the other as kidnapping. 32 L.R.A.(N.S.) 845; L.R.A.1915E, 189.

#### ABERRATION.

As affecting testamentary capacity. L.R.A. (N.S.) 94; L.R.A.1915A, 463.

#### ABETTING.

In commission of crime, see CRIMINAL LAW,

Validity of contract made for purpose of abetting public enemy. (N.S.) 606. 12 L.R.A.

#### ABILITY.

Right of witness to express opinion as to. L.R.A.1918A, 681.

#### AB INITIO.

Does subsequent wrongful act by one who enters premises under license of owner or occupier, make him a trespasser ab initiof 27 L.R.A. (N.S.) 442.

#### ABOLISHING OFFICEL

#### ABORTION.

Homicide in commission of or attempt to commit, see Homicide, § 10.

Cruel and unusual punishment for. L.R.A. 1915C, 565.

Proof of corpus delicti in prosecution for. 68 L.R.A. 42, 49, 70.

Evidence of other crimes in prosecution for. 62 L.R.A. 229.

Admissibility of dying declarations in prosecution for homicide by commission of, or attempt to commit, abortion. 63 L.R.A. 916.

Admissibility of declarations of one upon whom an abortion is committed, against others charged with complicity therein. 35 L.R.A. (N.S.) 1084; L.R.A.1916C, 570.

Instigating offense as defense to prosecution. 30 L.R.A.(N.S.) 954.

Necessity and sufficiency of description of offense in bail bond or recognizance. 38 L.R.A.(N.S.) 313.

#### ABRIDGMENT.

infringement of common-law right in intellectual productions. 51 L.R.A. 378.

#### ABSCESS.

Liability under accident policy for injury resulting in. 47 L.R.A.(N.S.) 924.

#### ABSCONDING DEBTORS.

As nonresidents for purpose of attachment. 19 L.R.A. 668. Attachment against. 30 L.R.A. 470.

#### ABSENCE.

Presumption of death from, see EVIDENCE. § 30.

Effect of, on running of limitations, see LIM-ITATION OF ACTIONS, § 46.
Of accused, see CRIMINAL LAW, § 46.

Absence from state as operating to renew mortgage debt. 55 L.R.A. 685.

Of judge during trial, see TRIAL, § 3.

Right to exclude pupil from school for. 41 L.R.A. 597.

Of juror, agreement of remaining jurors to verdict. 43 L.R.A. 69.

Begin with this book on every law question.

ABSENCE—cont'd

Of maker of note as excuse for delay in enforcing liability. 18 L.R.A. (N.S.) 560.

Absence of accused from territorial juris-

Absence of accused from territorial jurisdiction at time of offense as affecting jurisdiction of the offense. 33 L.R.A. (N.S.) 331.

Unwarrantable comment of counsel in argument to jury respecting absent witnesses. L.R.A.1918D, 70.

#### ABSENTEE,

Constitutionality of statutes providing for administration of estate of. 4 L.R.A. (N.S.) 944.

Exhaustion of remedy as to nonresident or absent debtor as condition precedent to creditor's bill. 23 L.R.A.(N.S.) 85.

#### ABSOLUTE DEED.

As mortgage, see MORTGAGE, § 15.

#### ABSTRACT BOOKS.

Right to copy real-estate records for purpose of compiling independent set of. 5 L.R.A.(N.S.) 545.

Power of court to decline jurisdiction of. 6 B. R. C. 340.

#### ABSTRACTS.

§ 1. Generally.

Right of abstracters to inspect records. 27 L.R.A. 82.

Right to rent or other compensation from private persons or corporations making abstracts of public records. L.R.A. 1918E, 942.

Right to copy real-estate records for purposes of compiling independent set of abstract books. 5 L.R.A.(N.S.) 545.

Master's rights in respect to abstracts made by employee. 5 L.R.A.(N.S.) 1190.

Duty of vendor as to abstract of title. 43 L.R.A. (N.S.) 44.

Tender of abstract of title as condition of enforcing forfeiture for vendee's failure to pay last instalment of purchase money. 28 L.R.A.(N.S.) 956.

Right of purchaser to rely on. 38 L.R.A. (N.S.) 8.

§ 2. Negligence in making or examining.

Liability of attorney to client for mistake in examination of titles. 52 L.R.A.

Liability of officer for defects in. 22 L.R.A. 99.

Liability of title abstracter. 12 L.R.A. (N.S.) 449; 26 L.R.A.(N.S.) 1207; 42 L.R.A.(N.S.) 176; L.R.A.1916D, 826.

Consult also L.R.A. Digests of Cases.

#### ABSURDITY.

Belief in, as insane delusion. 37 L.R.A. 267.

Offense of obtaining money by false pretenses as affected by absurdity of representations made. 6 L.R.A.(N.S.) 369; L.R.A.1916C, 1104.

#### ABUSE.

Of process, see Abuse of Process.
Of discretion, see Appeal and Error, § 29;
Discretion.

Of passenger, see Carriers, §§ 10-15a. Liability of master for abuse by servant, see Master and Servant, § 172.

Of defendant by prosecuting attorney in argument. 46 L.R.A. 652.

Of adverse litigant by counsel in argument to jury. L.R.A.1918D, 87.

Provocation by, of difficulty in which homicide occurs. 45 L.R.A. 701.

Right of officer to arrest without warrant for abusive language. 13 L.R.A. (N.S.) 881.

Abuse forcing spouse to leave marital home as desertion. 29 L.R.A.(N.S.) 615.

Abusive language as justification for assault on passenger by train employee. 33 L.R.A.(N.S.) 280.

Abusive statements by person causing accident made sometime thereafter as res gestæ. 42 L.R.A.(N.S.) 926.

Libel or slander by words used as mere words of abuse. L.R.A.1917D, 205.

#### ABUSE OF PROCESS.

Liability for, generally, see False Imprisonment; Malicious Prosecution.

Extent of recovery for, see DAMAGES, §§ 16a, 55.

Liability for wrongful levy, see LEVY AND SEIZURE, IV.

Effect of malice on liability for. 62 L.R.A. 721.

Whether executor or administrator to be sued in personal or representative capacity for. 51 L.R.A. 266.

Liability of officer who uses criminal process to collect a debt. 24 L.R.A. (N.S.) 301.

Liability for procuring judgment on spurious claim and enforcing same against judgment debtor's property. 36 L.R.A. (N.S.) 1112.

Municipal liability for wrongful legal proceedings instituted by its officers for its benefit. 32 L.R.A.(N.S.) 34.

#### ABUTTING OWNERS.

Adjoining owners, see Adjoining Owner. Measure of compensation to, see DAMAGES, §§ 89, 90.

 Injury to, by elevated railroad, see ELEVAT-ED RAILBOADS, § 2.

Right to compensation on use of highway for additional purpose, see EMINENT DOMAIN, §§ 55-57.

Allowance to, in eminent domain, see Damages, §§ 89, 90.
Rights in highway, see Highways, §§ 11-

14, 27.

Rights of railways in street as to, see HIGHWAYS, § 27; STREET RAILWAYS,

Rights of, on vacation of highway, see HIGHWAYS, § 111.

Requiring abutting owner to remove snow, ice, or weeds, from highway, see HIGH-

WAYS, § 56.
Liability for public improvements, see
HIGHWAYS, § 47; PUBLIC IMPROVE-MENTS.

Municipal liability for injuries due to acts or omissions of, see Highways, §§ 61, 62.

Liability of, generally, see HIGHWAYS, §§ 80–86.

Liability to, for grading or changing grade of street, see Highways, §§ 51, 53.

Rights of, as to toll bridges. 58 L.R.A. 157. Duty of, as to levees. 58 L.R.A. 759.

Duty of municipality to keep street water off from abutting property. 65 L.R.A.

Right of abutting owner held liable for tort to contribution or indemnity from one actually responsible for its commission. 40 L.R.A.(N.S.) 1150.

Right of abutting owner to make improvements in street. 44 L.R.A.(N.S.) 552. Right of action of occupant of premises

abutting on highway for interference with the public's view of goods or advertising displayed thereon. 6 B. R. C. 493.

#### ACCELERATION.

Of maturity of mortgage, see MORTGAGE, § 65.

Of flow of surface water, see WATERS, § 65. By election against will, see WILLS, § 115.

Of remainder by renunciation of life estate. L.R.A.1915A, 671; L.R.A.1918B, 64. Provision accelerating maturity as affecting negotiability of bills and notes. 35 L.R.A.(N.S.) 390; L.R.A.1915B, 472.

Effect of provision for, in mortgage or note to start statute of limitations running. 12 L.R.A. (N.S.) 1190; 51 L.R.A. (N.S.)

151; L.R.A.1918F, 169. Provability in bankruptcy of claim under provision accelerating future rents in case of default. 31 L.R.A.(N.S.) 270.

ACCELERATION—cont'd

Provisions in lease accelerating maturity of future rents and giving lessor right to take possession upon default in payment of rentals or upon insolvency of lessee as alternative or concurrent. L.R.A.1916B, 1101.

Sufficiency of tender of payment to prevent acceleration of maturity of entire debt. 47 L.R.A.(N.S.) 980.

#### ACCEPTANCE.

1. Generally. Of part payment in full, see Accord AND SATISFACTION.

Of assignment for creditors, necessity, see Assignment for Creditors, § 4.

Of bill of exchange, see BILLS AND NOTES, §§ 24, 25.

Of offer, see Contracts, §§ 22, 23.

As taking contract out of statute of frauds, see Contracts, § 56a.

Of work, see Contracts, §§ 130, 139.

Of dedication, see DEDICATION, § 7. Of deed, see DEEDS, § 9.

Of guaranty, see GUARANTY.
Of highway, see HIGHWAYS, § 6.

Of insurance policy, see Insurance, § 38.

Of tenant's surrender of premises, see LAND-LORD AND TENANT, § 30.

Of office, see Officers, § 15.

Of resignation of office, see Officers, § 19. Of property sold, see Sale, §§ 21-25.

Waiver of breach of warranty by, see SALE, § 59.

Of devise or bequest, see Wills, §§ 110-115. Of conditional pardon. 14 L.R.A. 287.

Of privilege of using street. 148; L.R.A.1918E, 895. Of ferry license. 59 L.R.A. 533. 50 L.R.A.

Of water furnished to municipality. L.R.A. 71.

Of bond in Federal Supreme Court. L.R.A. 860.

Of contract of reinsurance by insured. L.R.A.(N.S.) 318.

Necessity of, and time for, acceptance of resignation by employee of a private employer. L.R.A.1915D, 477.

Estoppel to deny acceptance of replevin bond which has served its purpose. 29 L.R.A.(N.S.) 751.

Implied contract for through carriage by acceptance of through shipment. 31 L.R.A.(N.S.) 5.

Of lease by receiver or assignee of creditors of lessee. 59 L.R.A. 676.

Vesting of title to leasehold in lessee's trustee in bankruptcy as independent on acceptance by trustee. 33 L.R.A.(N.S.) 745.

principal of purchaser of real estate found by broker. 44 L.R.A. 616.

By debtor of surplus arising from sale under a decree as affecting his right to appeal from the decree. L.R.A.1918E, 106.

Effect of acceptance by purchaser where stipulations as to title in executory contract are dissimilar from those in subsequently executed conveyance. L.R.A.(N.S.) 459.

Begin with this book on every law question.

#### ACCEPTANCE—cont'd

Statute of limitations applicable to action to enforce implied promise arising from acceptance of devise chargeable with payment of legacy. 8 L.R.A.(N.S.) 3**93**.

2. Of service of process.

Of service of process as affecting right to injunction. 31 L.R.A. 205.

Effect of acceptance of service of process by publication or personally outside of state. 24 L.R.A. (N.S.) 1279.

#### ACCEPTED CHECK.

Right of holder to maintain action thereon against bank. L.R.A.1916C, 177.

#### ACCESS.

§ 1. To highway.

Interference with, as taking of property, see EMINENT DOMAIN, § 44.

Interference with access to highway from part of parcel not taken by taking of another part as element of damages in condemnation. 28 L.R.A.(N.S.) 385.

Obstruction in highway preventing access to property except by circuitous route as a special injury entitling owner to maintain action for damages or for abatement of the nuisance. L.R.A. 1917A, 1155.

Abutter's right to compensation for interference with by railroad in street. 36 L.R.A.(N.S.) 736, 764.

Right of abutting owner to damages for special injuries by interference with ingress and egress where street railway is not considered an additional burden. 25 L.R.A.(N.S.) 1267.

Injunction as proper remedy to protect right to ingress and egress from street to abutting property. 35 L.R.A.(N.S.) 193.

Liability of a municipality for temporarily interfering with access to property in making in (N.S.) 620. improvements. 46 L.R.A.

Right of property owner whose means of access from one direction is shut off or interfered with by closing of adjoining street or portion of street upon which he is situated. 2 L.R.A.(N.S.) 269; 30 L.R.A.(N.S.) 637; 52 L.R.A.(N.S.) 889.

#### 2. Miscellaneous. Easement of, generally, see Easements. To water, see Waters, §§ 10, 11.

Remedy for refusal to permit access to children as provided by decree of divorce. L.R.A.1917B, 290.

Consult also L.R.A. Digests of Cases.

#### ACCESSION AND CONFUSION.

Confusion of goods by inevitable accident. L.R.A.1917D, 851.

Title by accession to crops, fruit, and timber wrongfully severed. 32 L.R.A. 422.

Trust in proceeds of collection by insolvent bank where proceeds have been mixed with its own funds. 32 L.R.A. 719.

Replevin for undivided interest in commingled goods. 37 L.R.A.(N.S.) 270.

Accession to property which is the subject of a conditional sale or chattel mortgage. L.R.A.1916E, 256.

Does chattel mortgage on domestic animals cover their increase when not men-

tioned therein. 14 L.R.A.(N.S.) 431. Rights and remedies of owner of standing timber which has been manufactured into lumber after expiration of time stipulated for removal. 29 L.R.A. (N.S.) 552.

Lien on property of bankrupt of one whose funds are wrongfully used in purchasing it. 9 L.R.A. (N.S.) 876.

\*\*\*

#### ACCESSORY.

See CRIMINAL LAW, § 26.

#### ACCIDENT.

In general, see NEGLIGENCE.

To passenger, see CARRIERS, III. To person on highway, see HIGHWAYS, VI.; NEGLIGENCE, §§ 24-28.

To insured, see Insurance, VIII. c, 2.

To person on railroad track, see RAILROADS. VII.

person on street railway track, see STREET RAILWAYS, IV. b.

defense to criminal prosecution, see CRIMINAL LAW, § 15.

Presumption of negligence from occurrence of, see Evidence, III. g.

Opinion evidence as to cause of, see Evi-DENCE, § 187a.

Evidence of precautions after, see EVIDENCE, § 270.

Evidence of other accidents, see EVIDENCE, § 273.

Evidence of condition before and after accident, see Evidence, § 274.

Homicide by, see Homicide, § 14.

ground for relief from judgment by default, see JUDOMENT, § 94.

Proximate cause of, see PROXIMATE CAUSE. What constitutes, within meaning of Workmen's Compensation Act, see

WORKMEN'S COMPENSATION, § 8.

See also ACT of GOD.

Confusion of goods by inevitable accident. L.R.A.1917D, 851.

Escape and explosion of gas generated by. 29 L.R.A. 359.

Imputing to employer knowledge of probable future accidents. 41 L.R.A. 55.

ACCIDENT-cont'd

Tenant's implied obligation as to damages by. 64 L.R.A. 657.

Equitable relief against forfeiture of estate due to accident. 69 L.R.A. 849.

As ground for enforcement in equity of grantee's oral promise to grantor to hold in trust. 39 L.R.A.(N.S.) 928.

As ground for relief from divorce decree. L.R.A.1917B, 459.

Increased liability for, as element of damages for laying out street across railway property. 24 L.R.A.(N.S.) 1232. Probative effect of admission by party of re-aponsibility for. 15 L.R.A.(N.S.) 1096.

#### ACCIDENTAL INJURY.

What constitutes, see Workmen's Compensation, § 12.

As an assault. 14 L.R.A.227; L.R.A.1917D, 950.

#### ACCIDENTAL MEANS.

Death of insured by, see Insurance, § 165.

#### ACCIDENT INSURANCE.

See INSURANCE.

#### ACCOMMODATION PAPER.

See BILLS AND NOTES, §§ 74-77.

#### ACCOMMODATIONS.

At inn or hotels, see INNKEEPERS.

#### ACCOMPLICE.

Liability for acts of, see CRIMINAL LAW, § 27.

Who are accomplices, see CRIMINAL LAW, § 28.

Effect of agreement for immunity of accomplice testifying for prosecution, see CRIMINAL LAW, § 34.

Corroboration of, see Evidence, § 321.

Weight of self-contradictory testimony of, see Evidence, § 322.

Competency of, as witness, see WITNESSES, § 11.

Basing indictment upon testimony of. 28

L.R.A. 319.

Evidence as to character of. 20 L.R.A. 614.

Effect of testimony of, to require instruction of law of circumstantial evidence.

69 L.R.A. 211.

Begin with this book on every law question.

Duty and liability of expert accountants.

45 L.R.A. (1.4.)

Stockholder's right of expert accountants.

Stockholder's right of expert accountants.

(N.S.) 1975.

10 assistance of, in instruction of expert accountants.

Begin with this book on every law question.

#### ACCORD AND SATISFACTION.

§ 1. Generally.

As to compromise, see Compromise and Set-TLEMENT.

As to payment in general, see PAYMENT.

Distinction between novation and accord executory. 12 L.R.A.(N.S.) 1134.

pastor's claim for salary. 38 L.R.A. 689.

Of partly performed contract for services. 24 L.R.A. 233. Certification of check as release of drawer

or indorser. 9 L.R.A.(N.S.) 698; 29 L.R.A.(N.S.) 205.

Acceptance of principal sum as affecting right to interest. 40 L.R.A.(N.S.) 588. Secondary agreement abrogating or altering prior contract as an accord and satisfaction. L.R.A.1915B, 59.

Right to maintain action on original claim for mere failure to pay at time stipulated in agreement of accord or compromise. 45 L.R.A.(N.S.) 1062.

2. By third person.

With one joint tort feasor, effect on liability of other. 58 L.R.A. 300.

Effect of payment of debt by a volunteer or stranger to the original undertaking. 23 L.R.A. 120.

3. By part payment.

By part payment.
By part payment generally. 20 L.R.A. 785;
11 L.R.A. (N.S.) 1018; 21 L.R.A. (N.S.)
1005; L.R.A.1917A, 719.
By stranger or volunteer. 20 L.R.A. 794;
23 L.R.A. 120; 11 L.R.A. (N.S.) 1024;
21 L.R.A. (N.S.) 1005; L.R.A.1917A, 724.

Acceptance of remittance of part of the amount of an unliquidated or disputed claim, accompanied with the statement that it is "in full," or words of similar import, as assent to its receipt in full payment. 14 L.R.A.(N.S.) 443; 27 L.R.A.(N.S.) 439.

Right of town, county or municipality to surrender valid claim on partial pay-ment thereof. 19 L.R.A.(N.S.) 320.

§ 4. — acceptance of partial allowance

of claim by public body.

Claims against the United States.

L.R.A.(N.S.) 112.

Claims against other bodies. 42 L.R.A. (N.S.) 116.

Claims for statutory salary or pay. 42 L.R.A. (N.S.) 121.

Splitting demands. 42 L.R.A.(N.S.) 121. Miscellaneous. 42 L.R.A.(N.S.) 121.

### ACCOUNTANT.

#### ACCOUNT BOOKS.

Evidence of contents of, see EVIDENCE, § 120. As evidence, see EVIDENCE, §§ 139-144.

public officers, right to inspect. L.R.A. 83.

Contemporary promise of one person to pay charge in account book, where benefit enures to another, as a promise to answer for a default of another within statute of frauds. 15 L.R.A. (N.S.) 224.

Assumption of debts on dissolution of partnership by entries on books of new firm. 9 L.R.A.(N.S.) 65.

#### ACCOUNTING.

§ 1. Generally.

Between cotenants, see COTENANCY, § 8. By personal representative, see EXECUTORS AND ADMINISTRATORS, §§ 50-53.

By guardian, see GUARDIAN AND WARD, § 10a.

Between partners, see PARTNERSHIP, §§ 50, 51.

By receiver, see RECEIVERS, § 24.

By trustee, see TRUSTS, § 31.

Admiralty jurisdiction of. 66 L.R.A. 235. Jurisdiction and determination of suits involving an accounting between part owners of ship. L.R.A.1917A, 1109.

Jurisdiction of equity over suits for accounting with respect to real property in another state or country. 691; 23 L.R.A. (N.S.) 924.

Right under statute to an order for the examination of an adverse party to enable one to frame his pleadings where latter is entitled to an accounting. L.R.A.1918C, 593.

For trust in gold or silver. 29 L.R.A. 523. Necessity for, as ground for injunction against judgment. 31 L.R.A. 768.

As against persons not in being. 8 L.R.A. (N.S.) 69.

Right of policy holder to an accounting by insurer. 28 L.R.A.(N.S.) 559.

Duty to account for lasting articles under bequest of chattels for life. 16 L.R.A. (N.S.) 486.

Right of ward to maintain common-law action of account against guardian. 26 L.R.A. (N.S.) 789.

Officer's duty to account for money or property recovered as result of litigation. 42 L.R.A.(N.S.) 697.

Liability of public officer to sureties of another public officer for loss sustained by them through former's neglect to require proper settlement of accounts. 28 L.R.A.(N.S.) 115.

Right of promoter to maintain suit for accounting against fellow-promoterd. against fellow-promotera. L.R.A.1918E, 849.

2. By or to mortgagee.

Effect of provision for accounting to mortgagee in chattel mortgage of stock of merchandise containing provision giving possession and power of sale to mort-gagor. 36 L.R.A. (N.S.) 1187.

Consult also L.R.A. Digests of Cases.

#### ACCOUNTS.

§ 1. Generally.

Account books as evidence, see EVIDENCE, §§ 139-144.

Entries in account books as evidence, see EVIDENCE, § 120.

Running of limitations upon, see LIMITA-TION OF ACTIONS, §§ 29, 30.

Compulsory reference in actions involving, see REFERENCE, § 2a.

Devise or bequest of store, shop, or business as passing book accounts. L.R.A.1917D, **437**.

Future; mortgage or assignment of. 14 L.R.A. 126.

Assignment of future book accounts not arising out of existing contract. L.R.A. 1918A, 126,

Manner of pledging or assigning book account. 27 L.R.A.(N.S.) 666.

Application of usury law to purported sale or assignment of accounts. L.R.A. 1917E, 1121.

Outstanding accounts as property or credit subject to taxation. 29 L.R.A.(N.S.)

Right of ward to maintain common-law action of account against guardian. 26 L.R.A.(N.S.) 789.

What constitutes a certification of, as required by fidelity bond or contract. 10 L.R.A.(N.S.) 323.

Right to sue upon separate items of account for goods sold upon stated periods of credit. 13 L.R.A.(N.S.) 529,

Injunction against sale under power in mortgage because overstatement in disputed or complicated accounts. 35 L.R.A. (N.S.) 910.

Collateral attack for fraud not affecting jurisdiction on judgments and orders confirming accounts. 36 L.R.A(N.S.) 982.

§ 2. Accounts stated.

Consent to, see Consent, § 3. Element of time in, see TIME, § 7.

What constitutes an account stated. L.R.A. 811.

Effect of retaining statement of account to render it an account stated. 29 L.R.A. (N.S.) 334; L.R.A.1917C, 447.

Character of the claims which may be the subject of account stated. L.R.A.(N.S.) 534.

Effect of statement of amount due on instrument for payment of money to sustain action as on stated account. 24 L.R.A. (N.S.) 1237.

Illegal character of original transaction as defense to an action on account stated. 45 L.R.A.(N.S.) 539.

Right to defend action on stated account by showing breach of contract on which founded. 6 L.R.A.(N.S.) 820.

ACCOUNTS-cont'd

Effect of dispute as to certain items of an account upon assent to other items. 7 L.R.A.(N.S.) 924.

Effect of statement of account by executor to waive or toll statute of limitations as to an indebtedness of the estate.

L.R.A.1915B, 1048.

Mistake in statement of commodity furnished as affecting the right to recover for a larger amount actually furnished. L.R.A.1915B, 711.

Conclusiveness of stated or settled account containing inaccuracy or error in method of mathematical calculation. 23 L.R.A.(N.S.) 787.

#### ACCOUNT STATED.

See Accounts, § 2.

#### ACCRETION.

In general, see WATERS, §§ 22, 41.

In value of corporate assets as basis of dividends. L.R.A.1915D, 1052.

## ACCRUED BENEFITS.

Application of dues or assessments accruing on benefit certificate. 55 L.R.A. 605.

#### ACCRUED INTEREST.

As part of par value with prohibition against sale of bonds at less than par. 35 L.R.A. (N.S.) 789.

#### ACCUMULATED INTEREST.

Right in case of renewal of loan to compute interest on basis of including accumulated interest as part of principal of renewal. 6 L.R.A. (N.S.) 612.

#### ACCUMULATIONS.

Representation or estimate of insurance company as to. L.R.A.1918F, 343.

Taxation of, as part of capital stock of corporation. 58 L.R.A. 569.

Effect of direction for, on validity of charitable gift. 2 B. R. C. 880.

Right of estate of one entitled by will or statute to an allowance for support and maintenance to accumulation undrawn and unexpended at time of her death. 9 L.R.A.(N.S.) 997.

Begin with this book on every law question.

#### ACCUMULATION-cont'd

Effect of provision for, on time for ascertaining member of class described as testator's "heirs," "next of kin." "relations," etc., to whom estate in real or personal property is limited by way of remainder or executory gift. 33 L.R.A.(N.S.) 12.

Recovery by administrator in action for benefit of estate of probable accumulations of deceased as damages for his

death. 15 L.R.A.(N.S.) 451.

Right on dissolution of benefit association or local branch thereof to funds voluntarily accumulated by the branch to be expended solely for benefit of its members. 15 L.R.A.(N.S.) 336.

#### ACCUSED.

Character of, see Character, § 2a.

Protection of, on criminal prosecution, see
CRIMINAL LAW. 88 43-54.

CRIMINAL LAW, §§ 43-54.
Presence of, at trial, see CRIMINAL LAW, § 46.

Admissibility in evidence of things taken from, see EVIDENCE, § 153.

Confession by, see EVIDENCE, §§ 207-214. Surrender by, see SURRENDER, § 2.

Cross-examination of, see WITNESSES, § 37.

Contempt by publication reflecting upon defendant in criminal case. L.R.A.1917E, 713.

Right of court to caution jury as to believing testimony of accused in his own behalf. 19 L.R.A.(N.S.) 802.

Admissibility in behalf of accused of extrajudicial confession of stranger. 37 L.R.A.(N.S.) 345.

#### ACKNOWLEDGMENT.

1. Generally.

To toll statute of limitations, see LIMITATION OF ACTIONS, §§ 68-71.

By payee, in indorsement of liability as maker. 7 L.R.A. (N.S.) 400.

Of deed executed by attorney in fact or agent. 41 L.R.A.(N.S.) 823.

Leaving blank for name of party in certificate of acknowledgment. 19 L.R.A. 279.

Presumption as to time of alteration in. 39 L.R.A.(N.S.) 115.

Sufficiency of evidence to impeach certificate of acknowledgment of deed. 6 L.R.A.(N.S.) 442.

Effect of defective acknowledgment on marketability of title. 38 L.R.A. (N.S.)

Right to attach certificate of acknowledgment after date of acknowledgment. 22 L.R.A.(N.S.) 216.

Liability of notary or other officer certifying to acknowledgment or affidavit.
49 L.R.A. (N.S.) 45.

ACKNOWLEDGMENT—cont'd

§ 2. Who may take.

Right of interested persons to take acknowledgment. 33 L.R.A. 332.

Acknowledgment before a stockholder or officer of a corporation which is a party to the instrument. 23 L.R.A. (N.S.) 1075; 41 L.R.A. (N.S.) 375.

Validity of acknowledgment of deed of trust taken by trustee. 16 L.R.A. 719.

Power of consul to take acknowledgment of

deeds and powers of attorney. 45 L.R.A. 499.

§ 3. Sufficiency; necessity.

Sufficiency of abbreviation to show official character of officer. 14 L.R.A. 815.

Effect of grammatical defects in certificates of acknowledgment. 11 L.R.A.(N.S.) 643.

Form and sufficiency of certificate of married woman's acknowledgment. 45 L.R.A.(N.S.) 1109.

Validity of acknowledgment taken over telephone. 30 L.R.A.(N.S.) 358.

Tax deed as color of title where acknowledgment is defective. 11 L.R.A. (N.S.) 78Ŏ.

Necessity for acknowledging assignment for creditors as against attaching creditor. 26 L.R.A. 594.

4. Correcting or curing defects.

Right to correct certificate of acknowledgment after date of acknowledgment. 22 L.R.A.(N.S.) 216.

Constitutionality of statutes curing defective acknowledgments of conveyances of real property. 31 L.R.A. (N.S.) 1076.

5. Impeachment of.

Impeachment of certificate of acknowledgment. 41 L.R.A.(N.S.) 1161.

#### ACQUAINTANCE.

As essential to nonexpert opinion as to sanity or insanity. 38 L.R.A. 729.

#### ACQUIESCENCE.

Estoppel by, see ESTOPPEL, §§ 18-26.

In boundary line. 21 L.R.A. 834.

Liability of corporate directors for acts in excess of their powers as affected by. 55 L.R.A. 761.

In servant's violation of rules promulgated for conduct of business. 43 L.R.A. 368. By employee in taking out of patent by his employer. 5 L.R.A.(N.S.) 1179.

Effect of acquiescence in adjudication on right to appeal therefrom. 29 L.R.A.

(N.S.) 27. In violation of injunction as justification therefor. 9 L.R.A.(N.S.) 304.

By creditor in assumption of debts on dis-83; 48 L.R.A.(N.S.) 552.

Consult also L.R.A. Digests of Cases.

#### ACQUITTAL.

Former acquittal as a bar, see CRIMINAL Law, §§ 59-64.

As evidence of want of probable cause for prosecution, see Malicious Prosecu-TION, § 7.

For other crime, effect on admissibility of evidence of such crime. 62 L.R.A. 342.

Termination of criminal prosecution by, so as to support a suit for malicious prosecution. 2 L.R.A.(N.S.) 929.

#### ACQUITTANCE.

Forgery by making or altering. 54 L.R.A. 796.

#### ACTION IN REM.

See Proceeding in Rem.

#### ACTION ON THE CASE.

See CASE.

#### ACTION OR SUIT.

I. In general, §§ 1-6.

II. When right of action accrues generally, § 7.

III. Conditions precedent, \$\$ 8-11. IV. Defenses, \$\$ 12-16.

V. Splitting; successive actions, \$ 17.

VI. Joinder, \$\$ 18, 19. VII. Stay, \$ 20.

VIII. Commencement, § 21.

### I. In general.

§ 1. Generally. Abandonment of, see Abandonment, § 2. Abatement and revival, see ABATEMENT AND REVIVAL.

Appearance in, see APPEARANCE.

Compromise of, see COMPROMISE AND SET-TLEMENT.

Jurisdiction of, see Courts.

Dismissal or discontinuance of, see DIS-MISSAL AND DISCONTINUANCE.

Election of remedy, see Election of Reme-DIES.

Against estate of decedent, see Executors AND ADMINISTRATORS, §§ 58, 61.

Guardian's power over, see GUARDIAN AND WARD, § 9.

Injunction against, see Injunction, §§ 40-

On judgment, see Judgment, VII. b. Limitation of, see Limitation of Actions. solution of partnership. 9 L.R.A.(N.S.) | Interruption of statute of limitations by, see Limitation of Actions, §§ 63, 64. ACTION OR SUIT, I.—cont'd Malicious prosecution of, see MALICIOUS | Insolvency of corporation, or appointment PROSECUTION.

Termination of, for purpose of malicious prosecution therefor, see MALICIOUS

PROSECUTION, § 9.

Municipal liability for acts of officers or

Municipal liability for acts of officers or agents in instituting, see MUNICIPAL CORPORATIONS, § 84.

Parties to, see Parties.

Private action, see PRIVATE ACTION.

Removal of, see REMOVAL OF CAUSES.

Replevin suits, see REPLEVIN.

Effect of repeal of statute on, see STATUTES,

Enforcement of tax by action, see TAXES, § 69. Trial of, see TRIAL.

Venue, see VENUE.

As to service of process, see WRIT AND PROCess, II.

Privilege from suit, see WEIT AND PROCESS, §§ 30-37.

On assignment, see Assignment, § 15. On bill or note, see BILLS AND NOTES, §§ 61-

On contract, see CONTRACTS, VII. To recover tax, see TAXES, §§ 86, 87.

To recover legacy, see WILLS, § 107.

To construe will, see Wills, §§ 130, 131.

By attorney general, see ATTORNEY GEN-ERAL.

By stockholders, see Corporations, § 98. By foreign corporation, see Corporations, §§ 149-151.

By executor or administrator, see Execu-TORS AND ADMINISTRATORS, §§ 57, 61.

By ward against guardian, see GUARDIAN AND WARD, § 15.

By or between husband and wife, see Hus-BAND AND WIFE, VI.

By or against infant, see INFANTS, V.

By or against incompetent person, see In-COMPETENT PERSONS, §§ 18-20.

By or against municipality, see MUNICIPAL

CORPORATIONS, § 2a. By, against, or between partners, see PART-

NERSHIP, §§ 52-57.

By receivers, see RECEIVERS, § 22. Against receivers, see RECEIVERS, § 23.

By state, see STATES, §§ 8, 9. Against state, see STATE, § 12.

For death, see DEATH, II.

For divorce, see DIVORCE, II.

Prohibition to restrain suit prosecuted collusively or for an ulterior purpose. 24 L.R.A.(N.S.) 874.

Effect of statute to defeat or preserve; effect of repeals. 14 L.R.A. 721.

Effect upon suit, of discharge from arrest

of one arrested while attending court. 19 L.R.A. 560.

Does an action for damages to real property run with the land. 2 L.R.A. (N.S.) 819.

Bringing suit before award as revocation of submission to arbitration. 31 L.R.A. (N.S.) 679.

Proceedings in, on holidays. 19 L.R.A. 319. Forbearance of threatened suit as consideration for a compromise. 25 L.R.A. (N.S.) 302.

Begin with this book on every law question.

ACTION OR SUIT, I.—cont'd

of receiver, as affecting its right to sue. 50 L.R.A.(N.S.) 383.

Bringing suit as a change of position within law of estoppel. 52 L.R.A.(N.S.) 1185.

Bringing or inciting the bringing of a false or fictitious suit as contempt. L.R.A. 1915B, 689.

§§ 2, 3. Control or settlement of. Control of attorney over, see ATTORNEYS, §§ 12-16.

Compromise of. 15 L.R.A. 440. Settlement and avoidance of litigation as consideration for a compromise. 25 L.R.A.(N.S.) 299.

Control of guardian ad litem or next friend over action. 16 L.R.A. 507.

Extent of power of indemnity insurer to set-tle or control litigation. 6 L.R.A. (N.S.) 564; 52 L.R.A.(N.S.) 128.

§ 4. Right of action generally. Who may enforce liability of stockholder, see CORPORATIONS, §§ 116, 116a.

For death, see DEATH, II.

Fright as basis for cause of action, see FRIGHT.

For nuisance, see Nuisances, §§ 20-25. To recover personal property, see REPLEVIN,

For conversion, see TROVER, §§ 2-8. Privilege from suit, see WRIT AND PROCESS, §§ 30-37.

See also PRIVATE ACTION.

Sufficiency of equitable title to sustain action for injury to real property. L.R.A. (N.S.) 231.

Perjury and subornation of perjury as grounds for civil action. 24 L.R.A. (N.S.) 265.

Fraudulent inducement by one party to void marriage as ground for civil action in other party's favor. 33 L.R.A. 411.

Right of action against unincorporated association. 2 L.R.A.(N.S.) 789.

Right to maintain action for prize offered in prize contest. 33 L.R.A.(N.S.) 305.

Right of action against carrier for nondelivery of goods delivered for transportation to purchaser or consignee. L.R.A. 427.

Right of one whose property has been taken for public use without condemnation proceedings, to maintain action for compensation or for permanent damages. 28 L.R.A.(N.S.)

Right of one in peaceable possession to maintain forcible entry and detainer against another entitled to possession who forcibly dispossessed him. 8 who forcibly dispossessed him. L.R.A. (N.S.) 426; L.R.A.1918B, 670.

To recover damages caused by an injunction. 18 L.R.A. 275; L.R.A.1916E,

Constitutionality of retroactive statute creating right of action on account of past acts or transactions. 52 L.R.A. 934.

ACTION OR SUIT, I.—cont'd

Libel or slander of one person, as ground of action by another. 45 L.R.A.(N.S.) 76**6**.

Action at law against corporation by true owner of stock for unauthorized transfer of stock on its books. 45 L.R.A. (N.S.) 1081.

§ 5. Form; kind; mode of bringing. Election of remedies, see Election of REMEDIES.

Form of action as affecting right of set-off in case of bankruptcy. 55 L.R.A. 74.

Forms of action against carriers for wilful tort of servant to passenger. 40 L.R.A. (N.S.) 1085.

Form of action to recover damages for mental anguish in telegraph case. 49 L.R.A. (N.S.) 281.

Character of action by depositor against bank for wrongfully refusing to honor check. 5 L.R.A.(N.S.) 870.

Against officers as suits against states. 1 L.R.A. (N.S.) 727.

Manner of bringing suit against unincorporated trade union. 1 B. R. C. 852. Under what surname may be brought. 2

L.R.A. (N.S.) 1089.

6. — civil or criminal.

Nature of proceeding to punish for contempt, see Contempt, § 2.

Character of proceedings for violation of municipal ordinance as civil or criminal. 33 L.R.A. 33; 4 L.R.A.(N.S.) 782; 48 L.R.A.(N.S.) 161.

Suit for statutory penalty as a civil or criminal prosecution. 27 L.R.A. (N.S.) 739.

Proceedings for incorporation of drainage district, or for other public improvement, as a civil suit within statute allowing change of venue. 12 L.R.A. (N.S.) 900.

Civil action against thief to recover stolen property or its value. 41 L.R.A. (N.S.) 255.

#### II. When right of action accrues generally.

7. Generally

To enforce liability of stockholders, see Corporations, § 120.

When limitations commence to run, LIMITATION OF ACTIONS, §§ 19-47.

Accrual of right of action for malicious prosecution, see MALICIOUS PROSECU-TION, § 9.

Accrual of cause of action on assumption of debts on dissolution of partnership. 9 L.R.A.(N.S.) 109.

When right of action for injury to real estate from a cause not immediately effective accrues. 5 L.R.A.(N.S.) 379.

When cause of action for breach of promise accrues. 66 L.R.A. 801; L.R.A.1915B, 280.

Consult also L.R.A. Digests of Cases.

ACTION OR SUIT, II.—cont'd When right of action for damages from wrongful discharge of servant accrues. 6 L.R.A. (N.S.) 58.

When suit may be brought for wages by wrongfully discharged servants. 5 L.R.A.(N.S.) 443.

Action for enticing servant to quit. L.R.A. (N.S.) 1097.

Action for price before expiration of credit. 3 L.R.A. (N.S.) 908.

Right of one whose interest is merely contingent to maintain suit to establish or enforce a trust. 7 L.R.A.(N.S.) 999.

Time to sue, as affected by acceptance of commercial paper for antecedent indebtedness. 35 L.R.A.(N.S.) 110.

Effect of refusal to execute purchase-money notes to give vendor an immediate right of action. 12 L.R.A.(N.S.) 180.

When suit to enjoin unlawful expenditures by municipality is premature. L.R.A. (N.S.) 26.

Mandamus to compel steps preliminary to an election before the arrival or expiration of the time fixed therefor. L.R.A.1917F, 221.

Effect of prematurity of action on running of limitations. 3 L.R.A.(N.S.) 296. When cause of action for continuing nui-

sance arises. L.R.A.1916E, 999.

#### III. Conditions precedent.

§ 8. Generally.

In suit against stockholder, see CORPORA-

TIONS, § 115.
To action of ejectment, see EJECTMENT, § 3. Prerequisites to relief from fraud, see FRAUD AND DECEIT, § 40.

To remedy for fraudulent conveyance, see FRAUDULENT CONVEYANCES, § 26.

To suit on policy, see INSURANCE, § 152.
To action for replevin, see REPLEVIN, § 4. To action of trover, see TROVER, §§ 7, 8.

Law governing condition precedent to li-ability of drawer or indorser. 61 L.R.A. 215.

To equitable relief against forfeiture of estate. 69 L.R.A. 836.

To equitable remedies of creditors. 23
L.R.A.(N.S.) 1.
Agreement for arbitration as condition

precedent to litigation. 47 L.R.A. (N.S.) 387.

Arbitration as condition precedent to action on insurance policy. 15 L.R.A.(N.S.) 1055; 28 L.R.A.(N.S.) 104.

Necessity of exhausting remedies within order against decision expelling or suspending a member from a mutual benefit association as condition of action for damages or benefits. 52 L.R.A. (N.S.) 820.

enforcement of liability of corporate directors under statutes purporting to make them liable for contracting debte in excess of a fixed limit. L.R.A.1915D, 1048.

Conditions precedent to right to enforce stockholder's liability outside state of incorporation. 33 L.R.A. (N.S.) 906. ACTION OR SUIT, III.—cont'd

Readiness to perform as condition of remedy by action for damages for wrongful discharge of servant. 6 of discharge of servant. L.R.A. (N.S.) 59.

Employment and wrongful discharge of servant as condition to maintenance of action for wrongful discharge. L.R.A.(N.S.) 60.

Right of purchaser who has resold to recover for breach of warranty as to quantity or quality, where he has not actually made good to his vendees. 3 L.R.A. (N.S.) 465.

Necessity of entry or formal declaration of forfeiture, as a condition of maintaining action, other than for damages. based on breach of condition subsequent in a conveyance of freehold. 14 L.R.A. (N.S.) 1188; 23 L.R.A.(N.S.) 938; L.R.A.1917C, 882.

Necessity of eviction to maintenance of action for breach of covenant of warranty of title or of seisin. 17 L.R.A.

(N.Š.) 1178.

Prerequisites to suit against national bank for twice amount of interest paid. 56 L.R.A. 704.

Attempt to compromise action for death or bodily injury in other state as condition of maintenance. 56 L.R.A. 222.

Presentation of claims against county by county board as condition precedent. 39 L.Ř.A. 77.

Application to governing body of municipality for relief as condition of citizen's right to maintain suit to enjoin action by municipality. 8 L.R.A. (N.S.) 574.

Denial of claim against state for noncompliance with condition precedent. 42 L.R.A. 39.

#### § 9. Demand or request.

Demand as a condition precedent to an action on a promise to pay on demand the debt of another. 34 L.R.A.(N.S.) 154.

Demand as prerequisite to action by cotenant for use and occupation or rents and profits. 29 L.R.A. (N.S.) 232.

Demand as a condition of action to recover money collected by an agent. 28 L.R.A. (N.S.) 626.

Demand for payment of alimony as condition of contempt proceedings. L.R.A. 437.

As condition of suit against stakeholder or depositary of funds to be held in connection with an illegal transaction. L.R.A.1918F, 975.

Necessity of applying to board of directors as a condition of right of stockholder to sue on behalf of the corporation. 51 L.R.A. (N.S.) 99.

Necessity of applying to body of stockholders as a condition of right of stock-holder to sue on behalf of the corporation. 51 L.R.A.(N.S.) 112.

10. Notice.

Notice of loss or claim to carrier, see CARRIERS, § 134.

ACTION OR SUIT, III.—cont'd

Law governing stipulation in contract making notice of damages a condition of right of action. 7 L.R.A.(N.S.) 191.

Notice as condition precedent to action by grantee for injury by damming back water of stream. 59 L.R.A. 903.

Notice of loss or injury to goods required by carrier's contract as a condition precedent. 17 L.R.A.(N.S.) 642.

Effect of failure to serve statutory notice of libel upon right to actual damages. 13 L.R.A. (N.S.) 525.

§ 11. Payment or tender.

Payment or tender of freight charges as condition precedent to trover against carrier. 21 L.R.A. 117.

Tender of deed or abstract of title as condition of enforcing forfeiture for vendee's failure to pay last instalment of purchase money. 28 L.R.A. (N.S.) purchase money.

Tender or payment of consideration as a condition precedent to a suit for the specific performance of a contract to convey realty consummated by the vendee's exercise of an option. 24 L.R.A. (N.S.) 91.

Right of mortgagee who has paid taxes to maintain independent action against mortgagor for reimbursement before or after foreclosure of mortgage. L.R.A.(N.S.) 679.

#### IV. Defenses.

§ 12. Generally.

Defenses to criminal prosecution, CRIMINAL LAW, III.

To action for assault and battery, ASSAULT AND BATTERY, §§ 3-6.

In action for bribery, see BRIRERY, § 3. In contempt proceedings, see CONTEMPT,

In action against corporate stockholder, see CORPORATIONS, VIII. e.

In divorce suit, see DIVORCE AND SEPARA-TION, §§ 30-33.

In ejectment, see EJECTMENT, § 7. In action for libel or slander, see LIBEL AND SLANDER, §§ 37-39.

In foreclosure suit, see MORTGAGE, § 73. In action for nuisance, see Nuisances, §§ 26-29.

In action against surety, see PRINCIPAL AND SURETY, § 8.

In replevin suit, see REPLEVIN, § 14.

In action for trespass, see TRESPASS, § 10. In action for trover, see TROVER, § 10.

Liability for transferring note to bona fide holder so as to cut off, see BILLS AND Notes, § 33.

Defense available to carrier transporting intoxicating liquor into prohibition territory, see CARRIERS, § 144.

Effect of failure to set up defense on right to injunction against judgment, see Injunction, § 51.

Showing of, as essential to relief against judgment, see Injunction, § 51; Judg-MENT, § 88.

Limitation of action as a defense, see Limi-TATION OF ACTIONS.

Advice of counsel as defense, see Malicious Prosecution, § 8.

ACTION OR SUIT, IV.—cont'd

Unconstitutionality of statute as defense | Failure of railroad to comply with condiagainst mandamus to compel its enforcement, see MANDAMUS, § 20.

Assumption of risk as, see MASTER AND

SERVANT, §§ 109-122.

Contributory negligence as, see NEGLIGENCE,

Defects in work as defense to assessment for public improvement, see Public Im-PROVEMENTS, § 13.

Violation of Sunday laws, see SUNDAY, \$ 7.

As to usury, see Usury, III. b.

Right to plead inconsistent defenses. 48 L.R.A. 177.

Loss of cause of action by lapse of time pending suit. 18 L.R.A. 211.

Interposition of unfounded defense in a civil action as basis of action for damages. 34 L.R.A.(N.S.) 1026.

Unconstitutionality of statute as defense against mandamus to compel its enforcement. 24 L.R.A.(N.S.) 1260; 34 L.R.A.(N.S.) 1060.

Special matters of defense by persons obstructing street for business purposes. 25 L.R.A. (N.S.) 405.

Special defenses in action to recover damages for mental anguish in telegraph case. 49 L.R.A.(N.S.) 289.

Illegal character of original transaction as defense to an action on account stated. 45 L.R.A.(N.S.) 539.

Who may raise objections under the Torrens Law. L.R.A.1916D, 42.

Ill health as defense to action for breach of promise to marry. 15 L.R.A. 531; 7 L.R.A. (N.S.) 582; 40 L.R.A.(N.S.) 585; L.R.A.1916D, 1276.

Inability to pay alimony as defense to contempt. 30 L.R.A. (N.S.) 1001.

Collateral champerty as. 14 L.R.A. 785. Showing of valid defense as essential to injunction against judgment by confession. 30 L.R.A. 242.

§ 13. Actions on contracts.

Availability to third person, see infra, § 16. In action for breach of marriage promise, see Breach of Promise, §§ 4, 5.

In action on note, see BILLS AND NOTES, §§ 65-67

Defense of ultra vires, see Corporations, § 32a.

Estoppel to set up defense, see ESTOPPEL, III.

In action on insurance policy, see INSUB-ANCE, VIII. d.
In action for rent, see LANDLORD AND TEN-

ANT, V.

In action for purchase money, see Purchase Money, § 9.

Drunkenness as, see Drunkenness, §§ 3, 4.

Conflict of laws as to defenses available to maker or acceptor. 19 L.R.A. (N.S.)

Conflict of laws as to defenses available to drawer or indorser. 19 L.R.A. (N.S.)

Consult also L.R.A. Digests of Cases.

ACTION OR SUIT, IV.—cont'd

tions on which railroad aid bonds were issued as a defense to them in the hands of a bona fide holder. 19 L.R.A. (N.S.) 849.

Defects or irregularities affecting bond as defense to action on replevin bond which has served its purpose. L.R.A.(N.S.) 747.

Mitigation of damages as defense to action for wrongful discharge of servant. 6 L.R.A. (N.S.) 99.

In action by wrongfully discharged servant for damages from breach of contract. 6 L.R.A. (N.S.) 73.

Breach of contract as defense to action on stated account. 6 L.R.A.(N.S.) 820. Architect's underestimate of cost of structure as basis of defense against him. 42 L.R.A.(N.S.) 125.

Duress by threat to prosecute relative as a

defense. 26 L.R.A. 53.

Compromise or settlement as defense in action for debts assumed on dissolution of partnership. 9 L.R.A. (N.S.) 111.

Avoidance by infant of release of cause of action ex delicto. 11 L.R.A (N.S.) 690.

Absence of legal organization as defense to contract for purchase of corporate stock. 15 L.R.A.(N.S.) 409.

Defenses to action for specific performance of contract for sale of corporate stock. 50 L.R.A. 507; 31 L.R.A. (N.S.) 497; L.R.A.1915D, 303.

Right in action at law to attack release for fraud. 20 L.R.A.(N.S.) 915.

What misrepresentations as to books sold will constitute a defense to an action for their purchase price. 22 L.R.A. (N.S.) 1210.

Against contract of members of mutual fire insurance companies. 32 L.R.A. 490.

Special defenses in action to enforce subscription for charity. 48 L.R.A.(N.S.) 811.

14. Actions relating to water rights. In action for interference with rights of ferryman. 59 L.R.A. 553.

To action for injury by damming back water of stream. 59 L.R.A. 904. To municipal liability as to drainage. 61

L.R.A. 706.

To liability for safety of wharf or dock. 61 L.R.A. 954.

Defense to wharfage charges. 70 L.R.A. 208.

§ 15. Actions for personal injury. In action for death, see DEATH, §§ 12, 13.

Assumption of risk as, see MASTER AND SERVANT, III. b.

Contributory negligence as, see NEGLIGENCE,

Violation of Sunday law as defense to action for personal injuries. 36 L.R.A. (N.S.) 547.

Volenti non fit injuria as defense to actions by injured servants. 47 L.R.A. 162.

ACTION OR SUIT, IV.—cont'd

Provocation lessening assault as defense to civil action for assault and battery. 38 L.R.A.(N.S.) 516.

§ 16. Availability of defense to third person.

Defense of usury, see Usury, § 13.

Right of third person to take advantage of champerty. 35 L.R.A.(N.S.) 512.

Right of lien creditor to set up Statute of Limitations against other creditors of his debtor. L.R.A.1918C, 1020.

Right of defendant in action by undisclosed principal on the contract made by the agent to avail himself of defenses that would have been available in an action by the agent in his own right on the contract. 28 L.R.A.(N.S.) 228.

Right in action by corporate receiver to recover unpaid balance of stock subscribtions, to interpose defense that would have been available against corporation. 18 L.R.A.(N.S.) 347.

Right of bank in action by holder for proceeds of commercial paper collected by it to avail itself of defenses that would have been available in an action on the paper. 26 L.R.A.(N.S.) 1098.

May one who destroys insured property defeat an action by the owner upon the ground that the right of action is in the insurer. 23 L.R.A.(N.S.) 870; L.R.A.1918F, 145.

Lack of, or invalidity of franchise as a defense to an action by a public service corporation for service rentals. 52 L.R.A. (N.S.) 713.

#### V. Splitting; successive actions.

17. Generally.

Effect of accepting partial allowance of claim against public body. 42 L.R.A. (N.S.) 121.

Right to maintain separate action for interest. 28 L.R.A. (N.S.) 78.

Right to sue on separate items of account for goods sold on stated periods of credit. 13 L.R.A.(N.S.) 529.

Right of buyer to maintain separate action for nondelivery of each instalment under entire contract. 3 L.R.A. (N.S.) 1042.

Action for wrongful discharge of servant. 5 L.R.A. (N.S.) 449, 586; 6 L.R.A. (N.S.) 119.

Injury both to person and to property at the same time as constituting more than one cause of action. 51 L.R.A. (N.S.) 319.

Damages sustained on account of injuries to one's self and another at the same time, as constituting one or more than one cause of action. L.R.A.1917C, 544.

Several actions for death, or injury causing death. 8 L.R.A. (N.S.) 384; L.R.A. 1915E, 1095.

Right to maintain both action for personal injury under survival statute and ac-

tion for death. L.R.A.1915E, 1132.

Judgment in action for personal injury as abatement of action for death or vice versa. L.R.A.1915E, 1152.

Begin with this book on every law question.

ACTION OR SUIT, V.—cont'd

Right to split elements of damages for personal injury and maintain separate ac-

tions thereon. L.R.A.1916B, 743. Judgment in action for personal injury or death as bar to a subsequent action based on a different ground of negligence. L.R.A.1916D, 1167.

Libel and slander; publication in different editions or publications as distinct causes of actions. L.R.A.1916A, 1077.

Right to successive actions in case of continuing nuisance. L.R.A.1916E, 1011.

#### VI. Joinder.

§ 18. Generally.

Joinder of parties, see Parties, §§ 25, 36.

Of actions against officers making arrest. 51 L.R.A. 222.

Right to join in one complaint claims of ordinary and gross negligence arising out of one state of facts. 31 L.R.A. (N.S.) 158.

Action for wife's libel and slander. 30 L.R.A. 527.

actions for damming back water of stream, 59 L.R.A. 886.

Joinder of statutory action against master with common-law action against servant for latter's negligence. 12 L.R.A. (N.S.) 675.

Joinder of action for personal injury with action for wrongful death. 1915E, 1138. L.R.A.

Right to recover in one action for the death of a person and for his suffering before death. 14 L.R.A.(N.S.) 893; 32 L.R.A.(N.S.) 867.

Uniting interests of several parties to obtain jurisdictional amount for injunction against enforcement of liens or claims against specific property. 61 L.R.A. 786.

19. Injury to person and to property. Injury both to person and property at the same time as constituting more than one cause of action. L.R.A. 161; 36 L.R.A.(N.S.) 240; 51 L.R.A. (N.S.) 319.

#### VII. Stay.

§ 20. Generally.

Of proceedings to enforce mortgage for part of mortgage debt. 37 L.R.A. 749.

#### VIII. Commencement.

3 21. Generally.

When action based on service by publication deemed commenced for purpose of 28 L.R.A. statute of limitations. (N.S.) 702.

#### ACTIVE NEGLIGENCE.

Liability to trespasser or bare licensee for active as distinguished from passive negligence. 36 L.R.A.(N.S.) 492.

#### ACTIVE PARTNERS.

Compensation of. 17 L.R.A.(N.S.) 394; Of right of way. L.R.A.1918A, 593. L.R.A.1917F, 576.

#### ACTIVE TRUSTS.

See TRUSTS, § 5.

#### ACT OF BANKRUPTCY.

See BANKRUPTCY, § 2.

#### ACT OF GOD.

1. Generally.

See also Inevitable Accident; Vis Major.

As affecting rights in water course. L.R.A. 820.

Liability for injury by escape through act of God of water stored on one's premises. 15 L.R.A.(N.S.) 547.

Liability of contractor to replace bridge destroyed by unprecedented flood against which he does not contract. 15 L.R.A. (N.S.) 833.

As excuse for nonperformance of contract. L.R.A.1916F, 26.

Liability of railroad company to employees for injuries caused by defects in roadbed caused or accompanied by rainfall. 49 L.R.A.(N.S.) 198.

#### § 2. What constitutes.

Snowstorm as. 24 L.R.A.(N.S.) 1209.

Is destruction by decay rendering premises untenantable within landlord's covenant to repair or the statute relieving tenant from rent in case of destruction by act of God or elements. 21 L.R.A. (N.S.) 130.

Destruction of boom or dam by unprecedented flood as affecting the liability of one under contract to build and maintain it. 35 L.R.A.(N.S.) 1109. Insanity or illness as. 4 L.R.A.(N.S.) 898.

Vessel striking submerged object as act of God. L.R.A.1915C, 423.

3. Effect of, on carrier's liability. Effect of, on carrier's liability as to freight, see Carriers, § 111.

Presumption of negligence from injury to passenger by derailment by. 13 L.R.A. (N.S.) 608; L.R.A.1916C, 372.

#### ACTORS.

Applicability of master and servant doctrine | Import of, in policy of insurance. 33 L.R.A. to case of actor. 37 L.R.A. (N.S.) 514. (N.S.) 156. to case of actor. 37 L.R.A. (N.S.) 514. Consult also L.R.A. Digests of Cases.

#### ADAPTATION.

#### ADDITIONAL AFFIDAVITS.

For attachment. 31 L.R.A. 427.

#### ADDITIONAL BOND.

See Additional Security.

#### ADDITIONAL COMPENSATION.

Of expert witness. 27 L.R.A. 669. Promise of, as consideration for agreement to complete contract. 34 L.R.A. 38; L.R.A.1917D, 1104.

#### ADDITIONAL COUNSEL.

Attorney's right to withdraw from suit because of employment of. 35 L.R.A. (N.S.) 962.

#### ADDITIONAL LOCATION.

See MINES, § 20.

#### ADDITIONAL PENALTY.

Power of municipality to impose for what is also offense under state law. 17 L.R.A.(N.S.) 56.

#### \*\*\* ADDITIONAL SECURITY.

In Federal Supreme Court. 66 L.R.A. 860. Filing additional replevin bond as release of sureties on original undertaking. 29 L.R.A.(N.S.) 752.

#### ADDITIONAL SERVITUDE.

See Eminent Domain, §§ 54-57.

#### ADDITIONS.

To party wall, see PARTY WALL, § 3.

Revaluation of homestead because of. 44 L.R.A. 402.

#### ADDRESS.

Forgery by falsification of. 54 L.R.A. 799. Telegraph company's duty as to discovering unknown sendee in case of mistake in address. 22 L.R.A. (N.S.) 767.

Public addresses derogatory to parties to litigation as contempt of court. 2 B. R. C. 500.

#### ADEMPTION.

See WILLS, §§ 121-123.

#### ADEQUATE REMEDY AT LAW.

See Equity, § 3; Injunction, § 3.

#### ADJOINING OWNER.

Right to lateral support, see LATERAL | See JUDGMENT. SUPPORT.

Matters as to party wall, see PARTY WALL. Contributory negligence of owner of land adjoining railroad right of way, see RAILROADS, §§ 85, 86.

See also ABUTTING OWNERS.

Right of, to notice to redeem from tax sale. 44 L.R.A.(N.S.) 672.

Liability for interference with view of ad-

joining owner. L.R.A.1917C, 1135. Liability for injury to person by falling of. adjoining walls or buildings. 34 L.R.A. 560.

Liability for injury from matter precipitated upon adjoining property. 36 L.R.A.(N.S.) 1171.

Right to discharge water, snow, or ice from roof upon premises of adjoining owner. L.R.A.1916A, 693.

Liability for damages caused by filling

space between building and wall of adjoining building. L.R.A.1916D, 765.

Effect of encroachment of building on adjoining premises on marketability of title. 38 L.R.A.(N.S.) 33.

Liability of owner or occupier of land to servants working on adjacent premises. 46 L.R.A. 104.

Liability for spread of weeds or noxious vegetation to adjoining premises. 52 L.Ř.A. 293.

Employer's liability for work of independent contractor which is dangerous to adjoining landowner. 65 L.R.A. 849.

Liability in absence of negligence for damages from substance thrown in blasting. 34 L.R.A. (N.S.) 211; L.R.A. 1917A, 1016.

Driving foul air against neighbor's windows as nuisance. 9 L.R.A. (N.S.) 695.

Right of owner or occupant of neighboring property to enjoin maintenance of house of prostitution. 11 L.R.A.(N.S.) 1060; 42 L.R.A.(N.S.) 1041; L.R.A. 1918D, 819.

Begin with this book on every law question.

ADJOINING OWNER-cont'd

Injury to gas or oil well from acts done on adjoining premises. 48 L.R.A.(N.S.)

3

4

Right of one who pumps oil, gas, or water on his premises to enjoin similar acts of his neighbor. 30 L.R.A.(N.S.) 1057. Duty to keep gates in railroad fence closed. 49 L.R.A. 625.

#### ADJOURNMENT.

Of action or prosecution, see CONTINUANCE.

Loss of priority of execution by creditor's consent to postponement of sale. 27 L.R.A. 374.

Judicial sale on adjourned or postponed date. 38 L.R.A.(N.S.) 249.

#### ADJUDICATION.

#### ADJUSTMENT.

Of claims against insolvent insurance company. 38 L.R.A. 100.

#### ADMINISTRATION.

Of decedent's estate, see EXECUTORS AND Administrators.

#### ADMINISTRATOR DE BONIS NON.

Powers of, see EXECUTORS AND ADMINIS-TRATORS, § 13.

Liability of, see Executors and Administrators, § 20a.

What assets pass to, see EXECUTORS AND ADMINISTRATORS, § 32.

Revocation of probate as a termination of appointment of administrator, c. t. a. 21 L.R.A.(N.S.) 975.

Liability of estate for debts contracted and expenses incurred by, in carrying on business. 40 L.R.A. (N.S.) 227.

#### ADMINISTRATOR WITH THE WILL ANNEXED.

See Administrator De Bonis Non.

#### ADMIRALTY.

§ 1. Generally.

Maritime liens, see Maritime Liens. As to shipping generally, see Shipping. ADMIRALTY—cont'd ·

Distinction between public or governmental and private or corporate functions of municipality as affecting its liability in admiralty for torts of its agents. L.R.A.1918A, 1079.

Pendency of admiralty cases in both state and Federal courts. 42 L.R.A. 462.

Rule and evidence in admiralty where party fails to introduce documentary ("the best") evidence which would properly be part of the case. 34 L.R.A. 585.

May substantive law of state be invoked in an action for personal injuries, not resulting in death, on waters within the maritime jurisdiction. L.R.A.1917F.

Conclusiveness of sentence of foreign court of admiralty. 20 L.R.A. 668.

Imprisonment under orders of court in, as imprisonment for debt. 34 L.R.A. 664. Limit of liability on bond. 55 L.R.A. 395. Right to recover funeral or medical expenses of person negligently killed. 2 B. R. C. 714.

Right to interest on unliquidated damages. 28 L.R.A. (N.S.) 7, 80.

Rate of interest allowed by admiralty court in case of marine tort as affected by place of occurrence or suit. 51 L.R.A.

(N.S.) 966. Applicability of the Federal Employers' Liability Act or State Compensation Acts

to injuries within admiralty jurisdiction. L.R.A.1918C, 474. Limitation of application of workmen's compensation statute by Federal laws. L.R.A.1916A, 461; L.R.A.1917D, 85.

2. Jurisdiction.

Admiralty jurisdiction of right to fish. 60 L.R.A. 504.

Jurisdiction and powers of consul in prize cases. 45 L.R.A. 495.

Jurisdiction and powers of consul with respect to seamen. 45 L.R.A. 486, 488, 493.

Jurisdiction and powers of consul as to disabled vessels. 45 L.R.A. 495.

Jurisdiction of action growing out of collision of vessel with bridge. 21 L.R.A. (N.S.) 324.

Action in admiralty for nondelivery of goods delivered to carrier for transportation to purchaser or consignee. 22 L.R.A. 429.

Right to sue in admiralty for damages resulting from injury to another. 42 L.R.A. (N.S.) 640.

Will action in rem lie against proceeds of private sale of property against which such an action would lie. 2 B. R. C.

Jurisdiction of admiralty to enforce Federal employers' liability act. L.R.A. (N.S.) 73.

Jurisdiction of admiralty over suit for injury to stevedore. 51 L.R.A. (N.S.) 1157.

Jurisdiction of, and law governing, action for death on waters. L.R.A.1916A,

Consult also L.R.A. Digests of Cases.

ADMIRALTY—cont'd

Of suits for adjustment of rights between part owners of ship. L.R.A.1917A, 1108.

🖁 3. ∸ of contracts. Generally. 66 L.R.A. 193.

#### ADMISSION.

On application for continuance, see Con-TINUANCE, § 3.

Estoppel by, see ESTOPPEL, § 16. Evidence of, see EVIDENCE, § 215.

Of state, see STATE, § 2.

During trial, see TRIAL, §§ 8, 9. By trustees, see Trusts, § 23.

Power of corporate president and vice-president as to. 14 L.R.A. 359. By fiduciaries in actions. 32 L.R.A. 671.

Denial of continuance on admissions by prosecution as affected by right of accused to meet witnesses. 16 L.R.A. 239.

Of service against foreign corporation. 23 L.R.A. 500.

prosecution under statute enhancing penalty for crime by prior offenders. 34 L.R.A. 405.

As cumulative evidence. 14 L.R.A. 611. Effect of, on burden of proof and right to open and close. 61 L.R.A. 513.

Of genuineness of handwriting used as standard of comparison. 63 L.R.A. 432. Inconsistency in defenses as. 48 L.R.A. 203. Entries in books of account as. 53 L.R.A. 534.

Judgment in criminal action as, in civil action. 11 L.R.A.(N.S.) 662.

Assumption of debts on dissolution of part-

nership by. 9 L.R.A.(N.S.) 63.
Of service of process by statutory agent of foreign corporation appointed to receive service. 2 L.R.A.(N.S.) 389.

Impeachment of enrolled bill by admissions

or litigants. 40 L.R.A. (N.S.) 33.

#### ADOPTED STATUTES.

Construction of, see STATUTES, § 27.

#### ADOPTION.

Of Constitution, see Constitutional Law,

Of child, see PARENT AND CHILD, §§ 16-18.

Of nuisance as rendering one liable therefor. 32 L.R.A.(N.S.) 900.

Of lease by receiver or assignee for creditors

of lessee. 59 L.R.A. 676. Employer's adoption of independent contractor's tort as affecting former's liability for injuries occurring during work. 66 L.R.A. 956.

#### ADULTERATION.

Of food, see Food, § 2.

Right to require that articles offered for sale shall answer a designated standard of purity. 41 L.R.A.(N.S.) 149.

#### ADULTERY.

§ 1. Generally.

Slander in charging woman with, see Liber and Slander, § 12.
See also Fornication.

Former jeopardy in case of. L.R.A.1915A, 256.

Solicitation to commit adultery as a criminal offense. L.R.A.1918A, 98.

Adultery of wife with consent or connivance of husband as justification of abandonment or nonsupport by latter. L.R.A.1917D, 640.

Injunction against enforcing contracts for illicit intercourse. 48 L.R.A. 844.

Construction and effect of provisions requiring prosecution to be upon complaint of husband or wife. 19 L.R.A. (N.S.) 786.

Legitimation of offspring of adulterous intercourse. 1 L.R.A.(N.S.) 773.

By one spouse as avoiding gift of other spouse. 35 L.R.A.(N.S.) 124.

Effect of, on right of parent to custody of child. 41 L.R.A.(N.S.) 601.

Effect of, on wife's statutory right of action for death of husband. L.R.A. 1916E, 129.

Assault to prevent commission of adultery with wife in future. 18 L.R.A.(N.S.) 688.

Degree of homicide in killing wife as affected by her confession of, or declaration of intent to commit, adultery. 38 L.R.A.(N.S.) 99.

Necessity and sufficiency of description of offense in bail bond or recognizance. 38 L.R.A.(N.S.) 313.

§ 2. What constitutes.

Effect of fact that but one of the parties is married upon the offense of "adulterv." 18 L.R.A.(N.S.) 580; L.R.A. 1915D, 438.

What necessary to constitute open, notorious. L.R.A.1918F, 595.

§ 3. Defenses.

Insanity as affecting. 34 L.R.A. 162. Ignorance of defendant, in prosecution for adultry, that other party was married, as a defense. 18 L.R.A. (N.S.) 527.

Acquittal of one of the parties, as bar to prosecution of the other. 49 L.R.A. (N.S.) 479.

§ 4. Evidence in prosecution for. Necessity of proof of marriage in prosecution for. 68 L.R.A. 44, 72.

Evidence of other crimes in prosecution for. 62 L.R.A. 329.

Begin with this book on every law question.

ADULTERY—cont'd

Husband or wife as witness against the other in prosecution for. L.R.A.1917E, 1133.

Competency of one spouse to testify as to misconduct of other spouse on indictment of paramour for adultery. 39 L.R.A.(N.S.) 318.

Age of alleged accomplice as affecting necessity of corroboration of testimony. L.R.A.1915E, 1224.

§ 5. Divorce cases.

As ground for divorce, see Divorce and SEPARATION, § 22.

Charge of, as ground for divorce, see Di-VORCE AND SEPARATION, § 23.

Effect of, on right to alimony, see DIVORCE AND SEPARATION, § 46.

Adultery of plaintiff as ground for relief from divorce. L.R.A.1917B, 464.

#### ADULTS.

Rights of, in parent's homestead. 56 L.R.A. 53.

Adoption of, under statute providing for adoption of child. 12 L.R.A. (N.S.) 884. Statutory right of parent to recover for

Statutory right of parent to recover for death of adult child. L.R.A.1916E, 190.

Statutory right of adult child to recover for death of parent. L.R.A.1916E, 176. Support of adult child as an advancement. 22 L.R.A.(N.S.) 1165.

#### ADVANCEMENT.

§ 1. Generally.

Interest on, or to equalize. 14 L.R.A. 716. Bringing advancements into hotchpot in cases of partial intestacy. 4 B. R. C. 268.

§ 2. What constitutes.

Support of adult child as an advancement. 22 L.R.A. (N.S.) 1165.

Gift to one spouse by parent of the other as advancement or ademption. 26 L.R.A.(N.S.) 1050.

Grantee's oral promise to grantor to hold in trust as giving rise to constructive trust where conveyance was by way of advancement to child. 39 L.R.A. (N.S.) 920.

3. Effect of.

Right of one receiving advancement and executing release of interest in estate to share in after-acquired property. 65 L.R.A. 578.

§ 4. Evidence as to.

Admissibility of books of account to prove. 52 L.R.A. 707.

Parol evidence to show that deed was intended as an advancement. 20 L.R.A. 108; 25 L.R.A. (N.S.) 1205.

#### ADVANCES.

§ 1. Generally. By factor, see Factor, § 3.

Mortgage of future crops to secure. L.R.A. 1917C, 18.

Damages for breach of contract to make. 37 L.R.A. 233; L.R.A.1916F, 506.

Estoppel to set up original obligee's breach of condition to make future advances as against assignee of contract for payment of money not protected by the law merchant. 23 L.R.A. (N.S.) 178.

Right of purchaser to compel return of

Right of purchaser to compel return of advanced payments upon resale by vendor after purchaser's default. 35 L.R.A.(N.S.) 532.

Right of broker to recover advances made in furthering wagering contract. 11 L.R.A.(N.S.) 575.

§ 2. Lien or security for.

Maritime liens for. 70 L.R.A. 367, 414, 439.

Sale or mortgage of future crops to secure. 23 L.R.A. 467.

Keeping equitable mortgage alive after payment as security for further advances. 1 L.R.A.(N.S.) 405.

Right of one who advances money to another for purpose of redeeming from the sale under mortgage to be subrogated to lien of mortgage. 23 L.R.A. (N.S.) 190.

Right of one advancing money for purchase price of property to be subrogated to vendor's lien. 37 L.R.A.(N.S.) 1203.

Permitting conveyance to attorney of subject-matter of litigation or retainer from client to stand as security for advances by former. 23 L.R.A.(N.S.) 689.

Security for, as participation by creditors in debtor's fraudulent intent. 31 L.R.A. 631.

§ 3. Priority of claim for.

Priority as between mortgages for advances and mechanics' liens. 14 L.R.A. 307. Priority of claims against property in hands of receiver for money advanced. 2 L.R.A.(N.S.) 1026, 1044, 1060.

8 4. Guaranty of.
Generally. 16 L.R.A.(N.S.) 370.
Request to make advances to another as implied guaranty of payment. 15 L.R.A. (N.S.) 1115; 46 L.R.A.(N.S.) 484.

§ 5. Interest on. Right of partner to interest on advances. 35 L.R.A. (N.S.) 223.

8 6. Requiring payment in advance. Discrimination by public service corporation by requiring payment of rental in advance. 31 L.R.A.(N.S.) 315.

Right of public service corporation to require payment of rentals in advance.
31 L.R.A.(N.S.) 319.

Consult also L.R.A. Digests of Cases.

ADVANCES—cont'd

Destruction of premises as affecting rent paid or payable in advance. 33 L.R.A. (N.S.) 540.

Necessity for payment in advance by traveler at inn. 2 B. R. C. 690.

#### ADVERSE CLAIM.

§ 1. Generally.

As cloud on title, see CLOUD ON TITLE.

Sheriff's duty as to adverse claims to proceeds of judgments in his hands except in cases of rival executions. 47 L.R.A. 737.

As rendering title unmarketable. 38 L.R.A. (N.S.) 29.

Yielding to adverse claimant as affecting buyer's right to assert breach of warranty of title of personal property. L.R.A.1918B, 1138.

§ 2. In mine.
To granting of patent to mining claim, see MINES, § 24.

#### ADVERSE HOLDING.

What amounts to an adverse holding, by third persons, of property acquired from bankrupt. 8 L.R.A.(N.S.) 1232.

## ADVERSE PARTY.

As witness, right to impeach. 21 L.R.A. 425.

#### ADVERSE POSSESSION.

I. In general, § 1.

II. What constitutes, §§ 2-14.

III. Color of title, \$\$ 15-18.

IV. Effect: title by, § 19.

V. Continuity; tacking, \$ 20.

VI. Abandonment, § 21.

#### I. In general.

§ 1. Generally.

Conveyance of land held adversely, see CHAMPERTY AND MAINTENANCE.

Easement by prescription, see EASEMENTS, § 9.

Prescriptive right to maintain nuisance, see Nuisances, § 26.

Acquirement of water rights by prescription, see WATERS, §§ 101-105.

As to statute of limitations generally, see LIMITATION OF ACTIONS.

Right to make persons in open adverse possession of land parties to an action as unknown claimants. L.R.A:1918F, 619.

Right of adverse occupant to notice to redeem from tax sale. 44 L.R.A.(N.S.) 676.

Conflict of laws as to. 48 L.R.A. 635.

ADVERSE POSSESSION, I.—cont'd Nonuse of easement accompanied by ad Is possession of a mortgagee who enters

verse use. 18 L.R.A. 537. Duration of adverse use. 18 L.R.A. 538.

Right, by or against one in adverse possession of land, to maintain replevin for things severed. 69 L.R.A. 732.

Bailee's right to assert against bailor hostile adverse paramount title of third person. 33 L.R.A. (N.S.) 681; L.R.A. 1918B, 662.

Jurisdiction of equity, on ground of avoiding multiplicity of suits, over suit for possession of separate parcels of land held adversely by different claimants under a common source. 14 L.R.A. (N.S.) 239.

Federal courts following state decisions on questions relating to. 40 L.R.A.(N.S.) 425.

#### II. What constitutes.

§ 2. Generally.
Use of private alley by public as permissive or prescriptive. L.R.A.1917E, 723.

Right of one in permissive possession of real property to acquire title by adverse possession. 12 L.R.A.(N.S.)

Possession taken under mistaken belief that land is part of the public domain, as adverse to true owner. 31 L.R.A. (N.S.) 153.

Acquiring title to mining claim by adverse possession. 40 L.R.A. (N.S.) 817.

Adverse possession by religious society. 27 L.R.A. (N.S.) 388.

Prescription or adverse possession of grave or burial lot. 40 L.R.A.(N.S.) 752.

When right of burial in private burial ground is barred by adverse possession. 42 L.R.A.(N.S.) 1138.

#### § 8. On boundary.

Adverse possession due to ignorance or mistake as to boundary. 21 L.R.A. 829; 33 L.R.A.(N.S.) 923.

§ 4. Vendor and purchaser.

Effect of warranty deed to prevent grantor from asserting title by adverse possession, subsequently initiated, as against his grantee or his privies. 25 L.R.A. (N.S.) 129.

§ 5. Donor and donee.

By donee under parol gift. 35 L.R.A. 835.

#### 6. Landlord and tenant.

Estoppel of tenant to dispute landlord's title, see ESTOPPEL, § 36.

Adverse possession by tenant against landlord's title. 53 L.R.A. 941; 12 L.R.A. (N.S.) 1148.

7. Mortgagor and mortgagee.

By mortgagor or grantee against mortgagee. 1 L.R.A. (N.S.) 1036.

Begin with this book on every law question.

ADVERSE POSSESSION, II.—cont'd

under incomplete or defective foreclosure adverse to mortgagor. 23 L.R.A. (N.S.) 754.

Possession of party to mortgage as adverse within rule against conveyance of land held adversely. 35 L.R.A.(N.S.) 751.

§ 8. Tenants in common and by en-

When does possession under invalid proceedings for sale of decedent's land to pay his debts become adverse as to remaindermen. 'L.R.A.1917E, 1109.

Effect of conveyance by one cotenant to third person to found adverse possession against others. 32 L.R.A. (N.S.) 702.

Presumption of ouster of one tenant in common from long-continued, undisturbed possession of another. 10 L.R.A. (N.S.) 185.

Against wife holding by entireties. L.R.A. 335.

Possession by one tenant as adverse within rule against conveyance of land held adversely. 35 L.R.A. (N.S.) 752.

 Remaindermen or reversioners. Against remaindermen and owners of fu-ture estates. 19 L.R.A. 839.

Does the continuation by a life tenant, or his grantee, of an adverse possession initiated by the creator of the life estate, inure to the benefit of the remaindermen. 24 L.R.A.(N.S.) 1055.

Power of one who, by will or law, takes an estate for life or years in real property to which decedent held the equitable title only, to initiate adverse possession as against the remainderman by procuring a conveyance of the fee from the holder of the legal title. 9 L.R.A. (N.S.)

Effect of husband's life estate to suspend or prevent running of statute of limitations against wife's title to real estate adversely possessed. 10 L.R.A.(N.S.)

Possession of life tenant as adverse within rule against conveyance of land held adversely. 35 L.R.A.(N.S.) 753.

8 10. By or against public.
 Power of state to secure title to private property by adverse possession. 15
 L.R.A.(N.S.) 1120.

Applicability of statute of limitations to actions by agencies of state. 3 L.R.A. (N.S.) 746; 22 L.R.A. (N.S.) 921; L.R.A.1916E, 97.

Acquisition of title by prescription against public. 26 L.R.A. 451.

Acquisition by prescription of title to land for purposes of canal. 61 L.R.A. 877.

§ 11. - railroad right of way.

Adverse possession of railroad right of way. 2 L.R.A. (N.S.) 272; L.R.A. 1916B, 657.

Acquisition of prescriptive right of way across railroad tracks. 35 L.R.A.(N.S.) 190; 48 L.R.A. (N.S.) 903.

ADVERSE POSSESSION, II.-cont'd § 12. — highway or alley.

Acquiring highway by prescription, see HIGHWAYS, § 5.

Prescriptive right to maintain obstruction

in highway, see Highways, § 39.

Rights acquired as against the public by adverse possession of highway or city street. 18 L.R.A. 146.

Encroachment on public street or alley by occupier of abutting property, for storage or other similar purposes, as basis of adverse possession. 36 L.R.A.(N.S.) 1056.

### § 13. Hostility. Effect of mistake, see MISTAKE, § 16.

As essential element in adverse possession. 15 L.R.A.(N.S.) 1192.

As essential element in case of adverse pos-session of railroad right of way. L.R.A.1916B, 661.

14. Extent; kind of possession. Working part of mine as adverse possession

of whole property. 3 B. R. C. 418. Inclosure of right of way as. 1 L.R.A. (N.S.) 565.

### III. Color of title.

§ 15. Generally.

Quitclaim, see QUITCLAIM DEED, § 5.

Parol partition to give color of title. 16 L.R.A. 326.

Quitclaim deed as color of title for purposes of adverse possession. 4 L.R.A. (N.S.) 776.

Unrecorded deed as color of title. L.R.A. 1915B, 1006.

Fraudulent deed as color of title. L.R.A. 1918E, 1049.

Void parol conveyance of easement as foundation for casement by prescription.

13 L.R.A. (N.S.) 991.

Must ancestor have been in possession to give heirs the benefit of his color of title. 42 L.R.A. (N.S.) 403.

16. Tax certificate as.

Is possession under tax certificate during redemption period adverse. 13 L.R.A. (N.S.) 627.

\$ 17. Invalid tax deed as.

Effect of an invalid tax deed as color of title within general statutes of limitations. 11 L.R.A. (N.S.) 772.

Does a void tax deed set in motion special statutes of limitations governing actions to recover lands sold for taxes. 27 L.R.A.(N.S.) 339.

Statute limiting time for attack on tax sale or creating conclusive presumption as to its validity as applied to a sale under proceedings void for jurisdictional defects under which possession had not been taken. 8 L.R.A.(N.S.) 157.

18. Necessity of.

The necessity of color of title when not expressly made a condition by statute to found title by adverse possession. 15 L.R.A.(N.S.) 1178.

Consult also L.R.A. Digests of Cases.

### ADVERSE POSSESSION—cont'd

# IV. Effect; title by.

§ 19. Generally.

Loss of easement by, see Easements, § 26. Effect of, on dower right, see Dower, § 14.

Use of possessory title as a weapon of offense. 46 L.R.A.(N.S.) 487.

Effect of, on right to partition. 20 L.R.A. 626.

Effect of, to extinguish easement of right of way. 22 L.R.A.(N.S.) 889.

Right of one in adverse possession to maintain trespass quare clausum fregit. 30 L.R.A.(N.S.) 266.

Title by, as marketable title. 38 L.R.A. (N.S.) 26.

Title to flats by. 40 L.R.A. 394. Title to is land by. 58 L.R.A. 677.

Rights of person in adverse possession with

respect to accretions to shore lands. 58 L.R.A. 209.

Extent of rights acquired by adverse possession of surface of land. 4 B. R. C. 238.

Bar of curtesy by adverse possession. 52 L.R.A.(N.S.) 525.

Rights under the Torrens Law of one in adverse possession. L.R.A.1916D, 58.

### V. Continuity; tacking.

§ 20. Generally.

Unbroken continuity as essential element of adverse possession. 15 L.R.A. (N.S.)

Parol transfer of possession as basis of tacking. 35 L.R.A.(N.S.) 498.

Suit affecting title to real estate not prosecuted to an actual change of possession as breaking the continuity of possession so as to toll the Statute of Limitations. L.R.A.1918A, 1046.

Possession of executor or administrator as continuation of that of ancestor. L.R.A. 1917C, 147.

Does continuation by grantee of life tenant in possession initiated by creator of life estate, inure to benefit of remaindermen. 24 L.R.A.(N.S.) 1055.

### VI. Abandonment.

21. Generally.

Effect of abandonment on title to real property acquired by adverse possession. 24 L.R.A.(N.S.) 1161.

### ADVERTISING.

§ 1. Generally.

Damages for breach of advertising contract. 22 L.R.A.(N.S.) 272.

Responsibility of publisher to patrons of advertiser. L.R.A.1918C, 820.

Right of action of occupant of premises abutting on highway for interference with the public's view of goods or advertising displayed thereon. 6 B. R. C. 493

ADVERTISING—cont'd

Advertising lost or stolen paper as putting purchaser on inquiry. 29 L.R.A. (N.S.) 383.

Pass in consideration of, as violation of statute forbidding discrimination in passenger rates. 23 L.R.A. (N.S.) 217; 31 L.R.A.(N.S.) 657; L.R.A.1918B, 1117.

Authority of traveling salesman to make advertising contract. 41 L.R.A. (N.S.) 1019.

Prohibiting or restricting advertising as interference with interstate commerce. L.R.A.1917E, 701.

Constitutionality of statute requiring one advertising for help during strike to mention its existence. 49 L.R.A. (N.S.) 879.

Statute or ordinance forbidding or restricting advertisements of intoxicating liquors. L.R.A.1916B, 895.

Use of another's trademark or insignia not technically a trademark for advertising purposes as infringement or unfair competition. L.R.A.1915B, 889.

Right of action for use of photograph or name for advertising purposes. 24 L.R.A.(N.S.) 991; 34 L.R.A.(N.S.) 24 1137; L.R.A.1915C, 839; L.R.A.1918D,

§ 2. In or on what.

Use of highway for purposes of, see High-WAYS, § 16.

On walls of building, see WALLS, § 2. See also BILLBOARDS.

Exercise of police power for esthetic purposes. 34 L.R.A.(N.S.) 998; L.R.A. 1917A, 1220.

Grant of right to use other public places for advertising purposes. 9 L.R.A. (N.S.) 455.

Right of railroad, street railway, or other common carrier, to contract for the use of its cars for advertising purposes. 24 L.R.A.(N.S.) 1010.

8 3. Penalty for.

By attorney as ground for disbarment. 9 L.R.A.(N.S.) 282; 33 L.R.A.(N.S.) 941; L.R.A.1917B, 1128.

As ground for revoking physician's license 8 L.R.A.(N.S.) 585; 30 L.R.A.(N.S.) 783: 43 L.R.A.(N.S.) 912; 51 L.R.A. (N.S.) 958.

Publication of advertisements derogatory to parties to litigation, as contempt of court. 2 B. R. C. 497.

### ADVICE.

Of counsel, see Advice of Counsel.

Voluntariness of confession induced by advice. 18 L.R.A.(N.S.) 812; 50 L.R.A. (N.S.) 1077.

Effect on personal liability of a trustee for losses to trust estate from investments, of fact that he acted on advice. 44 Admissibility of, in evidence, see EVIDENCE, L.R.A. (N.S.) 978.

ADVICE—cont'd

Mental anguish from deprivation of opportunity to receive or give, as element of damages for failure to deliver telegram announcing illness or death. 49 L.R.A. (N.S.) 300.

# ADVICE OF COUNSEL.

As defense to action for malicious prosecution, see Malicious Prosecution, § 8.

As affecting liability for exemplary damages in suing out attachment for collection of debt only. 29 L.R.A.(N.S.) 281.

Personal liability of executor or administrator to distributees for interest where settlement of estate is delayed by. 31 L.R.A. (N.S.) 359.

Liability of attorney to client for mistake or omissions in. 52 L.R.A. 892.

Improper advice to client with no intention to wrong him as ground for disbar-ment or suspension. L.R.A.1916A, L.R.A.1916A, 1175.

Effect of, on settlement between guardian and ward out of court. L.R.A.1916E, 871.

#### AEROPLANE FLIGHT.

Liability of one maintaining place of amusement for injury to patron by. L.R.A. 1915F, 690.

### ÆSTHETICS.

See ESTHETICS.

# AFFECTIONS.

Alienation of, see Husband and Wire, 48 66, 67.

#### AFFIANCED WIFE.

As to "dependent" within restrictions as to beneficiaries of mutual benefit associations. 2 L.R.A. (N.S.) 654; 36 L.R.A. (N.S.) 208; 38 L.R.A. (N.S.) 357; 51 L.R.A. (N.S.) 726.

# AFFIDAVIT.

§ 1. Generally. In attachment, see ATTACHMENTS, \$\$ 14.

By corporate officer, see Corporations, § 42.

§ 134.

AFFIDAVIT-cont'd

Of merits, see JUDGMENT, § 88.

Of jurors, see New TRIAL, § 13.

For removal of causes from state court, see REMOVAL OF CAUSES, § 12.

For publication of process, see WRIT AND PROCESS, § 21.

See also OATH.

Impeachment of contradicting affidavit on application for continuance. 16 L.R.A.

Privilege as to statements in. 22 L.R.A. 837; L.R.A.1916C, 986; 4 B. R. C. 969. By officer of corporation as affidavit by agent of corporation. 16 L.R.A.(N.S.)

7Õ3.

Publication of affidavits in pending actions as contempt of court. 2 B. R. C. 500.

Ex parte affidavits in proceeding to punish criminal contempt. L.R.A.1917B, 118. Liability of notary or other officer certifying to. 49 L.R.A.(N.S.) 45.

Propriety of arguments by counsel to jury citing statements in affidavits for continuances. L.R.A.1918D, 57.

Necessity of affidavit showing that persons sought to be made parties, or their names, are unknown in action against parties designated as unknown. L.R.A. 1918F, 629.

2. Sufficiency.

Validity and sufficiency of, for purposes of extradition. 28 L.R.A. 803.

Failure of description of land in affidavit

of claim for mechanics' lien and build-

ings distinct from land. §2 L.R.A. 382.

Affidavit in contempt proceedings on information and belief. L.R.A.1917C, 854.

Affidavit showing that persons sought to be made parties, or their names, are unknown. L.R.A.1918F, 632.

3. Who may take.

Power of consul to take affidavits. L.R.A. 499.

4. Amendment.

Right to amend affidavit for attachment. 31 L.R.A. 422.

5. Use of.

Use of, before grand jury. 28 L.R.A. 319. Admissibility of affidavit of juror to show misconduct outside the jury room and not inhering in verdict. 31 L.R.A. (N.S.) 930.

# AFFINITY.

also Brothers-in-Law; Sisters-in-

Proof of instrument where subscribing witness is incompetent because of. 35 L.R.A. 337.

Whether "relatives" include those by affinity. 14 L.R.A. 342.

Implied agreement to pay for services rendered by relative by marriage. 11 L.R.A.(N.S.) 873.

Incest between persons related by. 31 L.R.A. Homicide in killing of. 63 L.R.A. 908; 49 (N.S.) 772.

Marriage between persons related by, as void or voidable. L.R.A.1916C, 730.

Consult also L.R.A. Digests of Cases.

#### AFFIRMANCE.

Of infant's contracts, see INFANTS, § 20.

# AFFIRMATIVE ACTION.

Necessity of, in order to terminate rights of member of mutual benefit society for nonpayment of dues. 17 L.R.A. (N.S.) 246.

#### AFFRAY.

Passenger's duty to protect himself during affray on train. 32 L.R.A.(N.S.) 1209. Admissibility as res gestæ of statements or exclamations of nonparticipant in. 20 L.R.A.(N.S.) 133; 33 L.R.A.(N.S.) 109.

#### AFFREIGHTMENT.

Deviation as affecting carrier's right to avail itself of provisions of special contract of affreightment. 35 L.R.A. (N.S.) 1046; L.R.A.1917A, 62.

### AFTER-ACQUIRED PROPERTY.

Chattel mortgage on, see CHATTEL MORT-GAGE, § 9.

Passing of, by deed, see DEEDS, § 22. Estoppel to claim, see Estoppel, § 5. Priority of judgment lien on, see JUDGMENT,

§ 64.

Mortgage on, see MORTGAGE, § 18. Effect of quitclaim deed on, see QUITCLAIM DEED, § 4.

Priority of judgment liens on. 42 L.R.A. 209.

Right of one receiving advancement and executing release of interest in estate to share in after-acquired property. 65 L.R.A. 578.

Right of broker with whom property is list-ed for sale to purchase subsequently acquired interest. 20 L.R.A. (N.S.) **1162.** 

Validity of agreement to transfer, in consideration of maintenance. 70 L.R.A. 485.

Validity of mortgage other than railroad mortgage, covering after-acquired realty. 21 L.R.A. (N.S.) 843.

### AFTER-BORN CHILDREN.

§ 1. Generally.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 58.

L.R.A. (N.S.) 582.

AFTER-BORN CHILDREN—cont'd

May a child en ventre sa mere be consid-

ered as in being for purpose of rule as against perpetuities. 4 B. R. C. 492. Right of after-born child to recover for death of brother. L.R.A.1916E, 131.

Statutory right to recover for death of parent. L.R.A.1916E, 130.

§ 2. Property rights of.

As grantee in deed, see DEEDS, § 17. Conclusiveness of judgment against, see JUDGMENT, § 49.

Disherison of, see WILLS, § 68.

Right to take under provision of will, see Wills, § 70.

Conflict of laws as to rights of under will. 2 L.R.A.(N.S.) 467.

Devises of life estates to unborn children of living persons as contravening rule against perpetuities. 6 L.R.A. (N.S.) 330.

Capacity of child en ventre sa mere to take under devise or bequest to "children,' etc. 1 B. R. C. 582.

Marketability of title subject to defeat by birth of person not in being. 38 L.R.A. (N.S.) 35.

-devestiture of.

Devestiture of estates of persons not in being. 8 L.R.A. (N.S.) 49; 42 L.R.A. (N.S.) 439.

### AGE.

§ 1. Generally.

Of consent, see AGE OF CONSENT.

Effect of ignorance, mistake or belief as to, on criminal responsibility, see CRIMI-NAL LAW, § 14.

Full age or majority, see Majority, § 1.

As affecting competency of witnesses. L.R.A. 605.

As qualification of grand juror. 28 L.R.A. 199.

Age of alleged accomplice in sexual offense as affecting necessity of corroboration of testimony. L.R.A.1915E, 1222.
Of juror as ground for new trial. 18 L.R.A.

475; 50 L.R.A. (N.S.) 973.

Entries in family Bible as evidence of. 41 L.R.A. 451.

Census returns as evidence of. 9 L.R.A. (N.S.) 718.

Right of witness to express opinion as to. L.R.A.1918A, 685.

Opinion evidence as to age of writing. L.R.A.1918B, 437; L.R.A.1918D, 642.

Of accused as affecting voluntariness of confession. 18 L.R.A.(N.S.) 786; 50 L.R.A.(N.S.) 1082.

Age limit for application of doctrine of "attractive nuisance." 19 L.R.A. (N.S.)

Admissibility of previous statements as to, by witness out of court, consistent with his testimony. 41 L.R.A.(N.S.) 949.

, AGE-cont'd

Prenatal injury to, as ground of action. Admissibility of evidence as to, to show 45 L.R.A.(N.S.) 625.

Admissibility of evidence as to, to show pecuniary loss in death action. L.R.A. pecuniary loss in death action. L.R.A. 1918C, 1111; L.R.A.1918E, 279.

Provision in bequest or devise contemplating the attainment of a specified age as rendering the gift contingent. L.R.A. 1915C, 1012.

§ 2. Misrepresentations as to. Estoppel of infant by, see ESTOPPEL, § 29.

Master's liability for injury to minor servant who secured employment by mis-representing his age. 20 L.R.A.(N.S.) 500; 25 L.R.A.(N.S.) 708; 42 L.R.A. (N.S.) 624; L.R.A.1915F, 1082.

False pretenses by infant inducing another to enter into contract with him by representing that he is of age. 24 L.R.A. (N.S.) 1101.

Effect of qualifying statements as to, in application for insurance by words "to best of my knowledge and belief," or words of like import. 43 L.R.A. (N.S.)

#### AGENCY.

See PRINCIPAL AND AGENT.

#### AGE OF CONSENT.

Marriage of persons under, see MARRIAGE, § 9.

Rape of female under, see RAPE, § 3.

Does statute fixing age of consent render a girl below that age incapable of sexual crime. 27 L.R.A.(N.S.) 872.

Evidence of specific instances to prove character for chastity of victim of crime. 14 L.R.A.(N.S.) 723.

### AGGRAVATION.

Of damages, see Damages, § 12.

#### AGISTER.

Lien of, see LIENS, §§ 14, 17.

Presumption and burden of proof as to negligence in case of loss or injury. 43 L.R.A. (N.S.) 1186.

Liability of agister under special terms of contract for care or return of subject of agistment. L.R.A.1915B, 302.

Duty of agister to supply water. L.R.A. 1915E, 590.

#### AGREEMENT.

Of jurors, see JURY, § 15. See also CONTRACTS.

AGREEMENT-cont'd

Collateral attack for fraud not affecting jurisdiction on judgments by agreement. 36 L.R.A.(N.S.) 981.

### AGRICULTURAL GRANT.

Location of claim on. 7 L.R.A.(N.S.) 798.

### AGRICUL/TURAL LANDS.

Organization of, into municipal corporation. L.R.A.1918B, 1086.

#### AGRICULTURE:

Who is a farm or agricultural laborer within statute giving lien. 19 L.R.A. (N.S.) 1039; L.R.A.1917D, 382.

Who are farm laborers within meaning of Workmen's Compensation Acts. L.R.A. 1918F, 202.

Agricultural operations on Sunday. L.R.A. 193.

Power to prescribe teaching of, in public schools. 47 L.R.A.(N.S.) 202.

Allowance of expense of farming carried on by personal representative as costs of administration. 40 L.R.A.(N.S.) 230.

Liability of personal representative for losses sustained or debts contracted in carrying on farming. 40 L.R.A. (N.S.) 217, 21**9**.

Farmer as peddler or hawker. 1916B, 1297. L.R.A.

Combination of farmers as a monopoly. 44 L.R.A. (N.S.) 1104.

Engaging in other business as affecting exemption of farmer from involuntary bankruptcy proceedings. 20 L.R.A. (N.S.) 148.

Effect upon state insolvency laws of provisions of Federal Bankruptcy Act excepting farmers from involuntary bank-ruptcy. L.R.A.1917A, 109. Liability of state board of agriculture con-

ducting fair or exposition for injury to patron. L.R.A.1915E, 469.

Applicability to state board of agriculture of Workmen's Compensation Acts. L.R.A.1918F, 190.

# AID.

To railroad, see RAILBOADS, § 26.

# AIDING AND ABETTING.

In assault and battery, see Assault and BATTERY, § 9.

Criminality of, see CRIMINAL LAW, § 25.

Validity of contract made for purpose of aiding public enemy. 12 L.R.A.(N.S.)

#### AIR.

Easement of, see EASEMENTS, §§ 13, 19-21. Consult also L.R.A. Digests of Cases.

AIR—cont'd

What constitutes a "taking" of. 18 L.R.A. 166.

Driving foul air against neighbor's windows as nuisance. 9 L.R.A. (N.S.) 695.

#### AISLES.

Duty of proprietor of theater as to safety of aisles. 42 L.R.A.(N.S.) 1075; L.R.A. 1915F, 698.

# ALABAMA CLAIMS.

Geneva award; right of assignees; war premiums; claims against indemnity fund; compensation for collection; rights of representatives of deceased claimant; jurisdiction and procedure; litigation as to title to fund. 3 L.R.A. 460.

#### ALCOHOL.

Keeping of, on insured premises. L.R.A. 1917C, 278.

As intoxicating liquor. 20 L.R.A. 645. Judicial notice of intoxicating character of.

48 L.R.A.(N.S.) 302.

Power to prohibit manufacture of, for uses other than a beverage. 49 L.R.A.(N.S.) 182.

Liability for injury to employee by explosion of. L.R.A.1918B, 864.
Liability for injury to children from ex-

plosion of alcohol left accessible to them. L.R.A.1917A, 1295.

### ALCOHOLISM.

See also Drunkenness.

Presumption of continuance of. 35 L.R.A.

Application of statutes regulating practice of medicine to persons treating. 3 L.R.A.(N.S.) 763; 24 L.R.A.(N.S.) 103; 25 L.R.A.(N.S.) 1297; 33 L.R.A. (N.S.) 179; L.R.A.1917C, 822.

Effect of, on recovery from one negligently causing injury to person suffering from. 48 L.R.A.(N.S.) 121.

### ALDERMAN.

Imputing to municipality alderman's knowledge of defect or obstruction in street. L.R.A.1918B, 650.

### ALE.

As intoxicating liquor. 20 L.R.A. 647. Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 306.

#### ALIAS.

See NAME, § 7.

#### ALIAS EXECUTION.

Effect on, of creditor's consent to delay or postponement of sale. 27 L.R.A. 380.

### ALIBI.

Presumption and burden of proof as to, see

EVIDENCE, § 114.

Admissibility of evidence of, see EVIDENCE, § 285a.

Sufficiency of evidence as to, see EVIDENCE, § 317. Proof as to, beyond reasonable doubt, see-

EVIDENCE, § 325.

#### ALIENATION.

Effect of rule in Shelley's Case on, see DEEDS, § 30; WILLS, § 82. Restraint on generally, see PERPETUITIES.
Restraint on, as repugnant to fee, see
WILLS, § 78.

Restraint on, in will, see WILLS, §§ 78, 87.

### ALIENATION OF AFFECTIONS.

In general, see Husband and Wife, §§ 68,

Liability of husband for wife's conduct in alienating affection of another's husband. L.R.A.1918A, 517.

#### ALIEN ENEMY.

See WAR.

### ALIENS.

§ 1. Generally.

Alien enemies, see WAR. Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 40.

Alien wife, see HUSBAND AND WIFE, § 2.

Discrimination against as to licenses, see LICENSE, § 46a.

Effect of provisions of congressional "white slave traffic act" as to harboring alien

women. L.R.A.1915A, 869.
Treaty guaranties to. 16 L.R.A. 277.
Right to equal protection of laws. 14 L.R.A.

583.

As grand jurors. 28 L.R.A. 195.
Alienage of juror as ground for new trial.
18 L.R.A. 476; 50 L.R.A.(N.S.) 973.

Begin with this book on every law question.

ALIENS—cont'd

Right of action for death of other person. 54 L.R.A. 934; 3 L.R.A. (N.S.) 473; 21 L.R.A. (N.S.) 267.

Right of action for death of employee under Federal employers' liability act for benefit of nonresident alien dependent.

L.R.A.1915C, 74.

Recovery under Workmen's Compensation
Acts by nonresident alien dependents.
L.R.A.1918F, 496.

Validity of Workmen's Compensation Act as affected by provision for compensation to aliens. L.R.A.1917D, 62.

Prohibiting or restricting employment of aliens. L.R.A.1916D, 569.

Power of state, under 14th Amendment to deny to aliens the right to engage in a lawful occupation. 11 L.R.A.(N.S.) 799.

Removal of separable controversy in which

alien is a party. 5 L.R.A.(N.S.) 56. Validity of discrimination against aliens by inheritance tax law as affected by treaty with foreign government. 3 L.R.A.(N.S.) 632; L.R.A.1916A, 474.

Exemption of aliens from provisions of Selective Service Act of May 18, 1917. L.R.A.1918E, 1020.

§ 2. Status.

Effect of marriage on wife's status as an alien. 22 L.R.A. 148; L.R.A.1916D, 132.

§ 3. Immigration; deportation.

Validity of statute creating prima facie rule of evidence in deportation cases. L.R.A.1915C, 736.

State laws imposing taxes or penalties up-on immigration as interference with commerce. 13 L.R.A. 686.

Right of Chinese person to bail in deporta-tion proceedings. 31 L.R.A.(N.S.) 1088.

§ 4. Inheritance; property rights. Descent to, through, and from, see DESCENT AND DISTRIBUTION, § 4.

Right of, to take estate by curtesy under enabling statutes. 7 L.R.A.(N.S.) 659.

Termination of right to declare escheat by death of alien, or transfer in his life-time. 9 L.R.A.(N.S.) 186.

Right of, to locate mining claim. 7 L.R.A. (N.S.) 813.

Right of, to contest will. L.R.A.1918A, 467.

§ 5. Naturalization.

Effect of, on alien's right to inherit. 31 L.R.A. 181.

Right of alien wife of alien to. 29 L.R.A. (N.S.) 829.

Right of clerk on salary basis to retain fee for. 30 L.R.A. (N.S.) 810.

Powers of state legislatures and courts in

respect to. 30 L.R.A. 761.

Jurisdiction of state courts over naturalization proceedings. 48 L.R.A. 36.

Test of intelligence to be applied in naturalization proceedings. 22 L.R.A. (N.S.) 1041.

#### ALIMONY.

See DIVORCE - AND SEPARATION, §§ 34-49; MARRIAGE, § 20.

### ALLEY.

Adverse possession of, see Adverse Possession, § 12.

Boundary on, see Boundaries, § 5.

Creation of easement by conveyance with reference to, see EASEMENTS, § 11.

Use of private alley by public as permissive or prescriptive. L.R.A.1917E, 723. Right to, as way of necessity, where other

possible modes of access exist. L.R.A.(N.S.) 1022.

Injunction against interference with fences or gates under claim of. 7 L.R.A. (N.S.) 58, 72.

Municipal liability for defects or obstruc-tions in. 20 L.R.A.(N.S.) 573. Extent of right conferred by grant or reser-vation in conveyance of lot of right to use lane or alley. 3 B. R. C. 533.

#### ALLOWANCE.

Of alimony, see DIVORCE AND SEPARATION, §§ 34-49.

From decedent's estate, see EXECUTORS AND ADMINISTRATORS, §§ 54-55a.

#### ALLUVION.

See WATERS, § 42.

#### ALMANAC.

As evidence. 40 L.R.A. 560.

### ALMSHOUSE.

Residence of inmate of, for purpose of voting. 23 L.R.A. 215; 40 L.R.A. 169.

#### ALTAR WINES.

Applicability to, of liquor law. L.R.A. 1918F, 266.

# ALTERATION OF INSTRUMENTS.

1. Generally.

Payment by bank of altered check, see BANKS, §§ 24, 25.

Presumption and burden of proof as to, see EVIDENCE, §§ 91, 91a. As forgery, see FORGERY.

Of receipt, see RECEIPT, § 2.

Revocation of will by alteration, see WILLS, §§ 39, 40.

Of official ballot. 47 L.R.A. 839. Consult also L.R.A. Digests of Cases.

ALTERATION OF INSTRUMENTS—cont'd Power of insured to destroy rights of beneficiary by altering certificate. 49 L.R.A.

Insurance broker as agent for insured in alteration of policy. 38 L.R.A. (N.S.)

Presumption as to alteration of typewritten instrument made in duplicate. L.R.A. (N.S.) 680.

Duty of indorser, maker, or surety, to see that spaces on commercial paper are filled so as to prevent raising. 21 L.R.A.(N.S.) 402.

Alteration of note by erasing, crossing out or otherwise canceling or obliterating material provision thereof without substituting new matter. 32 L.R.A. (N.S.) 520.

Inserting or completing date of commercial paper. L.R.A.1916F, 1266.

§ 2. Duty of explaining.

Burden of explaining erasures or alterations appearing on face of will. 17 L.R.A.(N.S.) 184.

§ 3. Materiality.

Forgery by altering mere memorandum. 54 L.R.A. 794.

Addition of name of attesting witness to instrument as an alteration. 24 L.R.A. (N.S.) 1155; L.R.A.1917D, 828.

Erasing or otherwise canceling or obliterating a material provision without the substitution of new matter. 32 L.R.A. (N.S.) 519.

Change to correct a mistake in designation of party. 31 L.R.A.(N.S.) 127.

Changing name of grantee in deed. L.R.A. 1917E, 815.

Alteration of deed after delivery. 32 L.R.A. (N.S.) 284; L.R.A.1918B, 489.

4. — commercial paper.

Effect of alteration, see infra, § 7.

Alteration of date. 32 L.R.A.(N.S.) 515; 51 L.R.A.(N.S.) 346; L.R.A.1916F, **1266**.

To correct mistake in designation of party. 31 L.R.A.(N.S.) 127.

Changing name of payee of note, or adding or erasing words "bearer" or "or-der" as material alteration. L.R.A.1915A, 166.

Adding of another party to negotiable in-strument after its execution and de-livery as a material alteration. L.R.A. 1918F, 698.

By erasing or canceling material provision without inserting new matter. 32 L.R.A.(N.S.) 520.

Making memorandum on negotiable instrument as an alteration. L.R.A.1916D,

Indorsement of payment on bill or note as a material alteration. 46 J.R.A. (N.S.) 1043; L.R.A.1916F, 215.

By inserting place of payment. 31 L.R.A.

(N.S.) 643.

By insertion of interest clause in note. ? L.R.A.(N.S.) 217.

ALTERATION OF INSTRUMENTS-cont'd § 5. Ratification.

Necessity of consideration to sustain ratification of unauthorized alteration. 39 L.R.A.(N.S.) 131.

§ 6. Effect.

Alteration in books of account, as affecting admissibility in evidence. 52 L.R.A. 574.

Alteration of records as ground for injunction against judgment. 30 L.R.A. 563. Effect of alteration of replevin bond which has served its purpose. 29 L.R.A.(N.S.) 752.

Effect of changing name of grantee in deed. L.R.A.1917E, 815.

Alteration of instrument by agent of holder as affecting right to recover thereon. L.R.A.1916F, 293.

§ 7. — commercial paper.

Effect of alteration of note on good faith of transferee, see BILLS AND NOTES, § 41.

Effect on mortgage of alteration of note secured thereby. 16 L.R.A. 468; 41 L.R.A. (N.S.) 230.

Liability of maker or drawer on raised ne-

gotiable paper. 22 L.R.A. 686.

As affecting question whether commercial paper operates as payment of debt. 35 L.R.A.(N.S.) 76.

Erasure, marks, and defects as putting purchaser of negotiable paper on inquiry.

29 L.R.A.(N.S.) 376; L.R.A.1918F,

Alteration by agent of holder as affecting right to recover thereon. L.R.A.1916F,

Liability of maker, acceptor, or indorser of commercial paper where blanks therein are filled up contrary to his instructions. 5 B. R. C. 702.

#### ALTERNATIVE ACTIONS.

For death or injury. 34 L.R.A. 789.

# ALTERNATIVE ALLEGATIONS.

Use of disjunctive "or" in indictment charging kind or quality of liquor sold. 51 L.R.A. (N.S.) 133.

Joinder of parties in action on bond with alternative allegations as to liability. 51 L.R.A. (N.S.) 640.

#### ALTERNATIVE JUDGMENT.

See Replevin, § 15.

# ALTERNATIVE PROMISES.

Intervening impossibility of performance as as a defense in case of alternative promises. L.R.A.1916F, 81.

Begin with this book on every law question.

### AMBIGUITIES.

Parol evidence to explain, see EVIDENCE, § 168. In will, see WILLS, § 61.

#### AMBULANCE.

Duty and liability as to. 38 L.R.A.(25.6.)

#### AMENDATORY LAWS.

Title of, see STATUTES, § 14.

#### AMENDMENT.

- Of affidavit generally, see Affidavits, § 4. Of affidavit in attachment suit, see ATTACH-MENT, § 15.
- Of records on appeal, see APPEAL AND ERBOR, § 21.
- Of record on certiorari, see CERTIORARI, § 6. Of record to cure defect for which motion
- in arrest has been made, see June-MENT, § 16.
- Of judicial records generally, see RECORDS
  AND RECORDING LAWS, § 8.
- Of Constitution, see Constitutional LAW, § 4.
- Of corporate charter, see CORPORATIONS, § 19.
- Of indictment, see Indictment, Information, and Complaint, § 30.
- Of mining location, see MINES, § 20. Of municipal charter, see MUNICIPAL COR-
- PORATIONS, § 7.
  Of pleadings, see PLEADING, §§ 10, 11.
- Of statutes generally, see STATUTES, IV. Of verdict, see TRIAL, §§ 83-86.
- Of writ, see Weit and Process, § 7.
  Trial of extradited person on amended charge, see EXTRADITION, § 4.
- Power to amend commitment or sentence by increasing punishment. 40 L.R.A. (N.S.) 90.
- Of claim as discharge of sureties on bonds given to dissolve attachments or on bail bonds in civil actions. 42 L.R.A. (N.S.) 484.
- Of petition for initiative or referendum. 50 L.R.A. (N.S.) 219; L.R.A.1917B, 34.

#### AMERCEMENT.

Effect against surety on official bond of judgment of amercement against officer. 52 L.R.A. 165.

Variance between execution and judgment as affecting amercement of officer for failure to return execution. 42 L.R.A. (N.S.) 895.

#### AMICUS CURLE.

Right of court to surcharge account of executor, administrator, guardian or receiver on objection by. 18 L.R.A. (N.S.) 284.

Right of stranger to an action to appear as amicus curise to protect interests of infants. 44 L.R.A.(N.S.) 1182.

#### AMNESTY.

Legislative power to grant. 34 L.R.A. 251.

#### AMORTIZATION.

Limitation of amount of carrier's liability, see Carriers, § 131.

Of recovery, see DAMAGES.

Of intangibles, in estimating return of public service corporation for rate-making purposes. 52 L.R.A.(N.S.) 49.

#### AMOUNT.

Of bond in Federal Supreme Court. 66 L.R.A. 860.

Of bail in capital case. 39 L.R.A.(N.S.)

Who may exercise option under a contract calling for a maximum or minimum amount of commodity. L.R.A.1918D, 583.

### AMOUNT IN CONTROVERSY.

In general, see COURTS, §§ 27-29. Effect of, on right to remove suit to Federal court, see REMOVAL OF CAUSES, § 5.

Effect of, on admissibility of account books as evidence. 52 L.R.A. 569.

### AMUSEMENT PARKS.

Liability of person maintaining, for safety of patrons. 1 L.R.A.(N.S.) 427; 3 L.R.A.(N.S.) 1134; 32 L.R.A.(N.S.) 715; 42 L.R.A.(N.S.) 1071; L.R.A. 1915F, 690.

Liability of lessor for personal injuries to a customer or patron. L.R.A.1916F, 1128.

# AMUSEMENTS.

§ 1. Generally.
Bathing, see Bathing.
Bathhouse, see Bathinguse.
Bathing resort, see Bathing Resort.
Consult also L.R.A. Digests of Cases.

AMUSEMENTS-cont'd

Boat livery, see Boat LIVERY.

Moving pictures, see Moving Pictures.

Parades, see Parades.

Civil rights in places of, see CIVIL RIGHTS, § 2.

Giving of reduced transportation to fairs, exhibitions, etc., by public service corporation as an unlawful discrimination. L.R.A.1918D, 916.

Games or amusements which are proper subjects for exercise of police power. L.R.A.1917E, 318.

Using street for fair purposes. 14 L.R.A. 558.

Necessity of franchise for. 37 L.R.A. 718. Injunction against, by municipality. 41 L.R.A. 322.

Delegation of power to license. 20 L.R.A. 721.

Use of public money for entertainments. 14 L.R.A. 475.

Right of taxpayer to enjoin unlawful expenditures by municipality for amusements. 36 L.R.A.(N.S.) 2.

Power of municipality to construct exhibition or amusement hall. 26 L.R.A. (N.S.) 425.

Use of public-school building for entertainment. 31 L.R.A. (N.S.) 589; 50 L.R.A. (N.S.) 1182.

Use of railroad right of way for recreation purposes as against owner of fee. 36 L.R.A.(N.S.) 518.

Right of municipal corporation to require theater to pay for services of firemen or policemen, performed at the theater or place of exhibition. 11 L.R.A. (N.S.) 700.

Power of state or municipality to determine location of places of amusement. L.R.A.1916D, 99.

Gathering for, as a meeting within purview of offense of disturbing a meeting. 30 L.R.A.(N.S.) 832; 45 L.R.A.(N.S.) 109.

Validity of contract relating to unlicensed theater. 12 L.R.A.(N.S.) 617.

Measure of carrier's liability for prevent-

Measure of carrier's liability for preventing exhibition or show by breach of contract of carriage. 4 L.R.A.(N.S.) 569; 49 L.R.A.(N.S.) 491.

Managers of expositions as exempt from suit as agency of state. 35 L.R.A. (N.S.) 243.

### § 2. As nuisances.

Dancing as. 18 L.R.A.(N.S.) 699.

Display of fireworks in city streets as. 16 L.R.A.(N.S.) 621.

Pool room as. 10 L.R.A.(N.S.) 992; 21 L.R.A.(N.S.) 836.

Theater queue, as nuisance for which proprietor of theater is responsible. 7 B. R. C. 124.

Municipal regulation of, as a nuisance. 39 L.R.A. 528.

Power of municipal corporation to declare particular kinds of amusement as nuisances per se. 31 L.R.A.(N.S.) 548.

#### AMUSEMENTS—cont'd

§ 3. Admission to places of.
What are places of amusement within the civil rights act. 19 L.R.A.(N.S.) 907.
Right to control or revoke admission to theater or other place of amusement. 1 L.R.A. (N.S.) 1184, 1188; L.R.A.

1916E, 253.

Humiliation as element of damages for exclusion from place of. 14 L.R.A.(N.S.) 1242; 38 L.R.A. (N.S.) 204; L.R.A. 1915B, 1119.

4. — tickets.

Legislation forbidding speculation in theater tickets. 5 L.R.A. (N.S.) 183; L.R.A. 1918D, 388.

Nature and extent of rights of holder of ticket of admission to place of amusement. 1 L.R.A.(N.S.) 1184; 43 L.R.A.(N.S.) 961; L.R.A.1916E, 253.

5. Liability for injuries at.

Liability of one maintaining place of amusement for the safety of patrons. 1 L.R.A.(N.S.) 427; 3 L.R.A.(N.S.) 1132; 19 L.R.A.(N.S.) 772; 32 L.R.A. (N.S.) 713; 42 L.R.A.(N.S.) 1071; L.R.A.1915F, 690.

Negligence in displaying firearms. 3 L.R.A. (N.S.) 330.

Liability for injuries caused by discharge of fireworks. 16 L.R.A. 395; 3 L.R.A. (N.S.) 330, 759.

Liability of operator of scenic railroad or similar device to passengers. 26 L.R.A.

(N.S.) 1054.

Liability for injuries caused by lack or insufficiency of fire escapes at places of. 15 L.R.A. 160; 10 L.R.A.(N.S.) 177; 21 L.R.A.(N.S.) 178; 39 L.R.A.(N.S.) 744.

Liability of master to servant for personal injury by wild animal or animal kept for exhibition purposes. 23 L.R.A. (N.S.) 1071.

Liability for assault or abuse by employees. L.R.A.1916E, 914.

Liability of lessor of premises for injury to patron. L.R.A.1916F, 1123.

Conducting state fair or exposition as exercise of governmental or private function respecting liability for injury to patron. L.R.A.1915E, 469.

### § 6. — liability for acts of independent contractor.

Liability of persons giving exhibitions for acts of independent contractor. 66 L.R.A. 152.

Persons assisting in public entertainment as independent contractors. 65 L.R.A.

Employer's nonliability for torts of inde-pendent contractor at. 65 L.R.A. 644.

Liability of one maintaining place of amusement to which public are invited for negligence of concessionaire. 14 L.R.A. (N.S.) 284; 32 L.R.A.(N.S.) 717; L.R.A.1915F, 696.

AMUSEMENTS—cont'd

§ 7. — municipal liability.

Liability of municipal corporation for injuries by exhibition conducted by its officers or employees. 34 L.R.A.(N.S.)

Municipal liability for personal injury on account of exhibition permitted in public street. 9 L.R.A. (N.S.) 146; L.R.A.

1915F, 568.
Municipal liability for failure to prevent public exhibitions. 42 L.R.A. (N.S.) 864.

Liability of municipality for failure to prevent display of fireworks in street. 23 L.R.A.(N.S.) 643.

§ 8. Loss of property at place of. Liability of keeper of bath house for loss of valuables of patron. 6 L.R.A. (N.S.) 828.

§ 9. On Sunday.

Prohibition of Sunday sports or games. 17 L.R.A. 830.

What amusements are prohibited by Sunday laws. 30 L.R.A.(N.S.) 465.

Applicability of Sunday laws to moving pictures. L.R.A.1918B, 361.

Keeping theater open on Sunday as violation of Sunday law. 17 L.R.A.(N.S.) 1157.

Playing baseball on Sunday as an offense. 21 L.R.A.(N.S.) 23; 32 L.R.A.(N.S.) 1186; 41 L.R.A.(N.S.) 407.

Validity of classification in Sunday law as to keeping open place of. 32 L.R.A. (N.S.) 1190.

Surf bathing as violation of Sunday laws. 30 L.R.A.(N.S.) 470.

Free performance as a violation of the Sunday law. L.R.A.1916B, 1130.

### ANALYSIS.

Particular analysis of milk prescribed by police regulations. 1 L.R.A.(N.S.) 926.

### ANARCHY.

Validity of statutory or other regulation forbidding display of red flag or other symbol tending to incite disorder. Ľ.R.A.1915B, 706.

Libel or slander in charging person with being an anarchist. L.R.A.1917D, 861.

### ANATOMICAL SUBJECTS.

Exhibitions of, as nuisance. 45 L.R.A. (N.S.) 23.

#### ANCESTOR.

Descent and distribution of property of, see | DESCENT AND DISTRIBUTION; EXECU-TORS AND ADMINISTRATORS, §§ 47-49;

Consent of, to sale of expectancy by prospective heir. 33 L.R.A. 281.

#### ANCESTRAL ESTATES.

Descent of. L.R.A.1916C, 902.

#### ANCHORAGE.

Obstruction of rights of navigation by. 59 L.R.A. 56.

### ANCIENT CHANNEL.

Right as between upper and lower proprietors to restore water to. 41 L.R.A. 750.

### ANCIENT DEFECTS.

Liability of township for injury by ancient defects in highway. 13 L.R.A. (N.S.) 1272.

# ANCIENT DOCUMENTS.

Necessity of proving, by subscribing witnesses. 35 L.R.A. 341.

Use of ancient book as evidence. 53 L.R.A. 532.

Recital in ancient deed as evidence of heirship. 45 L.R.A.(N.S.) 94.

### ANCIENT SIGNATURE.

Opinion evidence as to. 36 L.R.A. (N.S.) 162.

### ANCIENT USE.

Of water as essential to support present right. 41 L.R.A. 743.

#### ANCIENT WRITINGS.

Comparison of handwriting in. 62 L.R.A. Competency of witness to handwriting of. 63 L.R.A. 984.

# ANCILLARY ADMINISTRATION.

See EXECUTORS AND ADMINISTRATORS, §§ 60, **61** Consult also L.R.A. Digests of Cases.

# ANCILLARY GUARDIANS.

Necessity of bond to make acts of, valid. 33 L.R.A. 760.

### ANCILLARY PROCEEDINGS.

When may local venue be disregarded upon the ground that the action or proceedings is ancillary or incidental. L.R.A. 1916D, 1134.

#### ANCILLARY SUITS.

Removal of, to Federal court, see REMOVAL OF CAUSES, § 4.

#### ANESTHETIC

Accident as proximate cause of death under anesthetic. 3 B. R. C. 65.

### ANGER.

defense to criminal prosecution, see . CRIMINAL LAW, § 11. Homicide in, see Homicide, § 32.

#### ANIMALS.

1. In general, § 1.

II. Rights and liabilities concerning, §§ 2-22.

a. In general, § 2.b. Property rights in, §§ 8-6.

c. Killing or injuring, §§ 7-8. d. Liability for damage by, \$\$

9-16. e.Diseased animals, 🖇 17.

f. Regulations concerning; license and tax laws, \$\$ 18, 10.

g. Impounding; as nuisances, \$\$ 20-22.

III. Cruelty to, \$ 28.

### I. In general.

§ 1. Generally. As to agistment, see Agisters.

Transportation of, see CARRIERS, §§ 124-127.

Constitutionality of statutes as to, see Con-

STITUTIONAL LAW, § 42. Dead animals, see DEAD ANIMALS.

Frightening of, see FRIGHT, § 1. As to game, see GAME AND GAME LAWS.

As to horses, see Horses. Insurance on, see Insurance, § 222.

As to stables, see STABLES.

Evidence of trailing of persons by blood-hounds. 42 L.R.A. 432; 35 L.R.A.

(N.S.) 870; L.R.A.1917E, 730. Employees in charge of, as tenants. '4 L.R.A.(N.S.) 709.

Injunction to prevent trespass of. L.R.A.(N.S.) 179.

ANIMALS, I.—cont'd

Striking or frightening animal as assault upon one in control. L.R.A.1915E, 812. Right of witness to express opinion as to. L.R.A.1918A, 668, 680, 716, 720.

Keeping of pigs as a nuisance. 1917C, 212.

Implied warranty of fitness on sale of food for animals. L.R.A.1917F, 475.

### II. Rights and liabilities concerning.

### a. In general.

\$ 2. Generally. Liability of agister, see Agisters.

Necessity and sufficiency of description of offense of illegal use of estrays in bail bond or recognizance. 38 L.R.A. (N.S.)

Liability for escape of another's stock from pasture by failure to keep proper division fence. 20 L.R.A. 479.

Creation of partnership by provision for taking profits from use of, as compensation. 18 L.R.A.(N.S.) 1046.

### b. Property rights in.

§ 3. Generally.

Property right in wild animals which are being pursued or have been wounded. 50 L.R.A.(N.S.) 704.

Property rights in bees. 40 L.R.A. 687. Property rights in dogs. 40 L.R.A. 503. Brand as evidence of ownership of. L.R.A. (N.S.) 87.

Rights as between life tenant and remainderman to increase of livestock. L.R.A. 1915C, 849.

§ 4. Larceny of.

Larceny of dog. 40 L.R.A. 514. Larceny of estrays. 30 L.R.A.(N.S.) 341; L.R.A.1916A, 468.

Killing animal and carrying away part of the carcass as larceny of the animal. L.R.A.1915E, 848.

### § 5. Sale of.

Validity of sale of, in violation of law. 12 L.R.A.(N.S.) 597.

Sufficiency of selection or designation of part sold out of a larger number. 26 L.R.A.(N.S.) 45.

Express warranty as to quality as excluding implied warranty. 33 L.R.A.(N.S.)

Implied warranty of fitness of animals sold for slaughter. L.R.A.1917D, 823.

Does warranty extend to obvious defects in. 12 L.R.A. (N.S.) 82.

Duty of seller to disclose defect in animal. L.R.A.1917C, 619.

Liability of vendor of diseased livestock in absence of express warranty. 29 L.R.A. (N.S.) 202.

Remedy for breach of warranty of horse where its death prevents its return and the substitution of another as provided by the contract. 25 L.R.A.(N.S.) 823. ANIMALS, II. b-cont'd

False pretenses in misrepresenting the quality, condition or status of animals sold or traded. 49 L.R.A.(N.S.) 576.

Effect of buyer's use of animals purchased after seller's refusal to accept them when tendered in rescission of contract. L.R.A.1916F, 480.

Exclusiveness of remedy for breach of warranty provided for in contract for sale of animal. 50 L.R.A. (N.S.) 774.

§ 6. Liens; chattel mortgage.

Mortgage covering increase of, see CHATTEL MORTGAGE, § 12.

Lien on, see LIENS, §§ 14, 17.

### c. Killing or injuring.

7. Generally. Killing of, or injury to, by dogs, see infra,

Liability of bailee of horse, see BAILMENT. § 6.

Liability of carrier for, see CARRIERS, §§ 124-127.

Liability of railroad company for, see RAIL-BOADS, §§ 73-76, 85.

Contributory negligence of owner of animal killed on railroad track, see RAILBOADS, § 85.

Injury by reason of leaving gates in rail-road fence open. 49 L.R.A. 625.

Loss of stock as element of damages for removal of fences. 53 L.R.A. 629.

Liability of one who neglects to repair division fence for death or injury of live stock after straying through the fence. 52 L.R.A. (N.S.) 99.

Liability of one in possession of unfenced land for injuries to live stock which strays thereon from public range. 52 L.R.A.(N.S.) 133. Liability for injury to live stock upon one

side of fence by live stock on other. L.R.A.1915D, 1074.

Evidence of other crimes in prosecution for killing or injuring animals. 62 L.R.A.

Liability for injury to animal from fright caused by wrongful act. L.R.A.1917C, 991.

Liability for frightening animal to death. 23 L.R.A. (N.S.) 183.

Liability of persons leaving dangerous substances accessible to cattle, for injuries

to cattle eating them. 7 B. R. C. 233. Liability of vendor of unwholesome food for cattle. 21 L.R.A. 140; L.R.A. 1916B, 1108.

Liability of hirer for injury to horse while being used for a purpose other than that for which it was hired. 28 L.R.A. (N.S.) 1106.

Liability of railroad company for attracting animals running at large by allowing freight or waste to remain exposed on its premises. 28 L.R.A.(N.S.) 83. Right to interest on damages from injury

to. 28 L.R.A.(N.S.) 68.

ANIMALS, II. c-cont'd

Validity of statute permitting the summary killing of domestic animals other than dogs, running at large. 21 L.R.A. (N.S.) 699.

Power to require destruction of diseased domestic animals without making compensation therefor. 18 L.R.A. (N.S.) 369.

8. Dogs.

Right to kill dogs. 15 L.R.A. 249; 40 L.R.A. 510; 19 L.R.A.(N.S.) 835; 28 L.R.A.(N.S.) 673; L.R.A.1915C,

Liability for unintentionally killing or injuring unlicensed dogs. L.R.A.1917F, 485.

Duty of railroad or street railways with respect to dogs on track. 37 L.R.A. 659; 40 L.R.A. 509; 6 L.R.A. (N.S.) 911.

Right to damages for killing of dog by public officer. 19 L.R.A. 196.

### d. Liability for damage by.

9. Generally.

Sufficiency of plaintiff's pleadings, see PLEADING, § 25.

Liability of owner for injuries by, to persons coming upon owner's premises. 14 L.R.A. 196.

Liability for injuries inflicted by domestic animals other than dogs. 2 L.R.A. (N.S.) 1188.

Liability for injury to livestock upon one side of fence by livestock on other. L.R.A.1915D, 1074.

Liability of one maintaining place of amusement for injury by animals. 42 L.R.A. (N.S.) 1072.

Liability of keeper of animal known to be dangerous as affected by absence of negligence on his part. 6 L.R.A. (N.S.) 1164; 2 B. R. C. 14.

Master's liability for injury due to negligence of servant having custody of dangerous animals. 10 L.R.A. (N.S.) 392.

Sufficiency of general allegations as to keeping dangerous animals. 59 L.R.A. 272. Evidence as to disposition of animal prior to injury. 32 L.R.A. (N.S.) 1159.

Admissibility of evidence of subsequent vicious conduct of animal inflicting injury. 17 L.R.A.(N.S.) 1233.

Expert testimony as to vicious character of animals. 24 L.R.A.(N.S.) 1189.

Pollution of water course by stock. 26

L.R.A. (N.S.) 222.

Character of liability of several persons whose animals unite in committing the injury. 40 L.R.A.(N.S.) 109.

Contributory negligence of child injured by animal. L.R.A.1917F, 92.

§ 10. Animals trespassing or running at large.

Right to kill trespassing dog, see supra, § 8.

Scienter as condition of liability for damages by trespassing dogs. 25 L.R.A. (N.S.) 691.

Consult also L.R.A. Digests of Cases.

ANIMALS, II. d-cont'd

Liability of owner for trespass of cattle. 22 L.R.A. 55.

Municipal liability for failure to prevent animals running at large. 27 LR.A. 728; 23 L.R.A. (N.S.) 642; 42 L.R.A. (N.S.) 862.

Liability for trespass on unfenced land by live stock being driven along the high-

12 L.R.A. (N.S.) 912.

Civil liability of nonresident for damage done by his stock while straying in district where allowing animals to run at large is forbidden. 22 L.R.A. (N.S.) 1098.

Liability of owner for injury to person or property on highway by animal permitted to run at large. L.R.A. 1918D, 260.

Animal at large in violation of statute. 16 L.R.A. (N.S.) 647.

Liability of landowner for damage by trespassing live stock which enter upon his land and thence wander to adjoining property. 48 L.R.A. (N.S.) 447; L.R.A.1916E, 448.

Liability of owner of animal allowed to stray or run at large on highway or other public place for injuries to percons or property of passers-by occasioned otherwise than by direct attack. 5 B. R. C. 120.

Liability of a carrier for injury or damage inflicted by an animal which escapes from its custody or control. L.R.A. 1915D, 564.

### § 11. Wild animals.

Liability for injury done by animals ferce nature. 11 L.R.A. (N.S.) . 748; 16 L.R.A. (N.S.) 445; 52 L.R.A. (N.S.) 377.

Master's liability to servant for personal injury by wild animal. 23 L.R.A. (N.S.) 1071.

Liability of a carrier for injury or damage' inflicted by an animal which escapes from its custody or control. L.R.A. 1915D, 564.

§ 12. Dogs.

Who is the keeper or harborer of a dog. 17 L.R.A. (N.S.) 431; L.R.A.1917E, 520.

Liability of carrier for injury to passenger by dog. 4 L.R.A.(N.S.) 947.

Liability of owner for injuries caused by dog running against person. 33 L.R.A. (N.S.) 163.

Scienter as condition of liability for damages by a trespassing dog. 25 L.R.A. (N.S.) 691.

What scienter is necessary to charge owner with liability for injury inflicted by dog to person or property of another. 24 L.R.A.(N.S.) 458; 51 L.R.A. (N.S.) 45.

Measure of damages for personal injury by dog. 37 L.R.A. (N.S.) 865.

What are animals within statute in relation to killing of animals by dogs. 44 L.R.A. (N.S.) 607.

ANIMALS, II. d—cont'd

Statutes making owner or keeper liable for injuries by dog while out of inclosure. L.R.A.1916E, 712.

Liability for injury inflicted by dog upon one who enters premises by mistake. L.R.A.1916C, 347.

Contributory negligence of child injured by dog. L.R.A.1917F, 92.

13. Bees.

Liability of owner of bees for injuries done by them. 62 L.R.A. 132.

14. Injury to hirer. Injury to hirer of horse, see BAILMENT, § 12.

§ 15. Injury to servant.

Duty and liability of master to servants in respect to animals owned or used by master. L.R.A.1915B, 433.

Duty to warn servant against vicious horse.

3 L.R.A.(N.S.) 209.

Liability of master to servant for personal injury by wild animal or animal kept for exhibition purposes. 23 L.R.A. (N.S.) 1071.

§ 16. Municipal liability. Liability of municipal corporation for failing to prevent animals running at large in street. 27 L.R.A. 728; 23 L.R.A. (N.S.) 642; 42 L.R.A.(N.S.) 862. Liability of municipality for failure to en-

force ordinance in relation to animals. L.R.A.1915A, 448.

#### e. Diseased animals.

17. Generally.

Carrier's liability for communication of disease to animals, see Carriers, § 127.

Validity and construction of statutory regulations as to infected animals. 26 L.R.A. 638; 43 L.R.A.(N.S.) 1066.

Delegation by legislature of power as to quarantining cattle. 32 L.R.A.(N.S.) 651.

State legislation for protection of health of live stock as interference with interstate commerce. 26 L.R.A.(N.S.) 279.

Power to require destruction of diseased domestic animals without making com-

pensation. 18 L.R.A.(N.S.) 369.

Scienter as a condition of liability for spreading contagious disease among animals. 6 L.R.A.(N.S.) 922.

Duty of seller to disclose latent disease in animal. L.R.A.1917C, 619.
Liability of vendor of diseased live stock in

absence of special warranty. 29 L.R.A. (N.S.) 202.

Damages recoverable for selling diseased animals. 34 L.R.A.(N.S.) 697.
Liability of live stock inspectors. L.R.A.

1915B, 1013.

### f. Regulations concerning; license and tax laws.

18. Regulations generally. Municipal regulations of, as nuisances, see infra, § 22.

ANIMALS, II. f—cont'd Constitutionality of statute allowing cattle to graze in highway. 33 L.R.A. (N.S.) 1055.

Power of municipality to prohibit keeping of live stock. 39 L.R.A.(N.S.) 266.

Validity and construction of statutory regulations of infected animals. 26 L.R.A. 638; 43 L.R.A.(N.S.) 1066.

Constitutionality of statutes authorizing seizure of animals by humane officers. 15 L.R.A.(N.S.) 554.

Loss of collar as defense to prosecution for keeping dog without collar. 42 I.R.A. (N.S.) 437.

19. License and tax laws.

License and tax laws as to dogs. 40 L.R.A. 520.

Character of dog tax. 39 L.R.A.(N.S.) 155. Constitutionality of tax on dogs for benefit of sheep owners. 17 L.R.A. (N.S.) 855. Right to kill unlicensed dogs. 15 L.R.A.

249.

Liability for unintentionally killing or injuring unlicensed dogs. L.R.A.1917F, 435.

Validity of contract of unlicensed stock breeders. 12 L.R.A.(N.S.) 617.

Requiring nonresident bringing live stock into state for grazing purposes to pay license tax. 40 L.R.A.(N.S.) 291.

# g. Impounding; as nuisances.

20. Impounding. § 20. Impounding. Liability of municipality for impounding animals. 27 L.R.A. (N.S.) 138.

21. Animals as nuisances.

Bees as. 62 L.R.A. 133.

Keeping of barking dog as. 7 L.R.A.(N.S.)

22. — municipal regulation of. Municipal regulation as to nuisance of. 38 L.Ř.A. 332.

Running at large as a nuisance in street subject to municipal control. 39 L.R.A. 674.

Municipal power over stockyards as nuisances. 38 L.R.A. 655.

Power of municipal corporation to prevent stock yards within corporate limits. 28 L.R.A. (N.S.) 122.

Right of municipality to prohibit the keeping, standing, or exhibiting of stallions and jacks. 11 L.R.A. (N.S.) 736.

### III. Cruelty to.

§ 23. Generally.

Malice or wilfulness as ingredient of the offense of abusing animals. L.R.A.(N.S.) 433.

Constitutionality of statute or ordinance for prevention of cruelty to. L.R.A.1916A. 951.

#### ANNEXATION.

Of territory to municipality, see MUNICIPAL CORPORATIONS, §§ 11, 12.

ANNEXATION—cont'd
Of territory to town, see Towns, § 3.
Effect of, on right of alien to inherit. 31
L.R.A. 181.

#### ANNOTATOR.

Common-law right of annotator or commentator. 51 L.R.A. 358.

# ANNUAL SUPPLIES.

Contracts for, as indebtedness of municipality. 59 L.R.A. 610.

#### ANNUITY.

§ 1. Generally.

Basis and method of computing value of, for purposes of succession tax. 46 L.R.A.(N.S.) 714.

Form of instrument necessary to create. 47 L.R.A. 614.

Set-off in bankruptcy. 55 L.R.A. 68.

Form of judgment on annuity and instalment bonds. 62 L.R.A. 428, 439, 453. Specific performance of contract as to. 6 L.R.A.(N.S.) 591.

Enforcement of annuity charges upon a devise. 30 L.R.A.(N.S.) 825.. Right of legatee for whose benefit the pur-

Right of legatee for whose benefit the purchase of annuity is directed to receive the principal in lieu thereof. 33 L.R.A. (N.S.) 979.

Effect of death of beneficiary of testamentary gift of annuity, before its purchase. 2 B. R. C. 909.

Testamentary annuity as payable out of corpus or income. L.R.A.1917E, 580.

§ 2. Apportionment.

Apportionment of annuities in absence of statute. 63 L.R.A. 616; 29 L.R.A. (N.S.) 775.

### ANNULMENT.

Relief of purchaser on annulling judicial sale, see JUDICIAL SALE, § 13.
Of marriage, see MARRIAGE, §§ 16-20.

### ANTECEDENT INDEBTEDNESS.

As consideration for contract, see Con-TRACTS, § 10.

May a corporation issue stocks or bonds in payment of or as security for, under statute prohibiting the issue except for money, labor done, or property actually received. L.R.A.1916E, 570.

Consult also L.R.A. Digests of Cases.

ANTECEDENT INDEBTEDNESS—cont'd Protection under recording act of mortgage given as security for. 33 L.R.A. (N.S.) 57.

Love and affection as consideration for executory promise to pay existing debt of another. L.R.A.1918C, 543.

ANTENUPTIAL CONCEPTION.

See ANTENUPTIAL PREGNANCY.

#### ANTENUPTIAL CONTRACT.

See Husband and Wife, §§ 55-61.

#### ANTENUPTIAL DEBTS.

Liability of community property for. 19 L.R.A. 235.

#### ANTENUPTIAL FRAUD.

On marital rights, see HUSBAND AND WIFE, §§ 43, 43a.

### ANTENUPTIAL INDEBTEDNESS.

Husband's liability for, see HUSBAND AND WIFE, § 10.

#### ANTENUPTIAL PREGNANCY.

As ground for divorce or annulment of marriage. 18 L.R.A. 375; 13 L.R.A. (N.S.) 996; L.R.A.1916E, 650.

Proof necessary to establish bastardy of child born to married woman in cases of antenuptial conception. 36 L.R.A. (N.S.) 261.

#### ANTICIPATION.

In respect to patent, see PATENT, § 9.

As an element of proximate cause. 11 L.R.A.(N.S.) 684.

Validity of anticipatory contract making provisions for wife in event of her obtaining divorce for subsequent fault of husband. 23 L.R.A. (N.S.) 880; L.R.A.

1918A, 384.

Anticipatory breach of contract as basis of suit for specific performance. 36 L.R.A. (N.S.) 408.

Damages for anticipatory breach of contract as provable claim in bankruptcy L.R.A.1917B, 585; L.R.A.1918A, 545.

#### ANTICIPATORY BREACH.

See ANTICIPATION.

# ANTI-SCALPING ACT.

See CARRIERS, §§ 21, 148.

#### ANTI-TRUST ACTS.

See CONSPIRACY; MONOPOLY AND COMBINA-TIONS.

#### APARTMENTS.

Implied covenant of fitness for purpose in-

tended. 33 L.R.A. 455. Continuance of rent for, after destruction

of leased building. 22 L.R.A. 613. Duty and liability of landlord of apartments as to heating. 37 L.R.A. (N.S.)

Apartment house as violation of restrictive covenants. 45 L.R.A.(N.S.) 726; L.R.A.1918C, 875.

Lien or one other than innkeeper or boarding-house keeper who rents rooms or apartments. L.R.A.1915F, 665.

### APERTURES.

Right to open, in party wall. 10 L.R.A. (N.S.) 1191.

#### APEX.

Of vein in mine, see MINES, § 8.

# APOLOGETIC STATEMENTS.

Apologetic statements made sometime after accident by person causing accident as res gestæ. 42 L.R.A.(N.S.) 928.

### APOPLEXY.

As affecting testamentary capacity. L.R.A. 1915A, 452.

### APOTHECARIES.

See DRUGS AND DRUGGISTS. Regin with this book on every law question.

### APPARENT OWNERSHIP.

Estoppel of one permitting title to realty to stand in another's name to assert title as against the latter's creditors. 30 L.R.A.(N.S.) 1; 46 L.R.A.(N.S.) 1097.

### APPEAL AND ERROR.

I. Right of appeal, §§ 1, 2.

II. Modes of review, § 3.

III. Appellate jurisdiction, § § 4-6. IV. Transfer of cause; parties, \$\$ 7-17.

a. Right to transfer, §§ 7-8a.

b. Effect, §§ 9-11.

c. Parties, § 12.

d. Mode; conditions; regulations, § 13.

e. Time for taking appeal, **\$\$** 14, 15.

f. Security, §§ 16, 17.

V. Record, \$\$ 18-23c. VI. Objections and exceptions, \$\$ 24,

24a. VII. Dismissal; abatement, § 25.

VIII. Hearing and \$\$ 26-40. determination,

a. In general, §§ 26-34. b. What errors warrant re-

versal, §§ 34a-40. IX. Judgment on appeal, §§ 41-44a

a. In general, § 41.

b. Costs, \$ 42.

c. Effect of decision; subsequent proceedings, \$\$ 43-44a.

X. Rehearing, § 45.

XI. Liability on appeal bond, \$ 46. XII. Effect of danger of, \$ 47.

As to certified cases, see CASES CENTIFIED. Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 179.

In eminent domain proceedings, see EMI-NENT DOMAIN, § 34.

From justice's judgment, see JUSTICE OF THE PEACE, § 8.

From order appointing receiver, see RE-CEIVERS, § 8.

As to bill of review, see REVIEW.

Appeal in workmen's compensation cases, see Workmen's Compensation, § 3.

### I. Right of appeal.

§ 1. Generally.

Right to appeal from appointment of guardian for incompetent person, see INCOM-PETENT PERSONS, § 23.

From tax assessment, see Taxes, § 59c.

Effect of right of appeal upon plaintiff's right to dismiss action. L.R.A.1917C, 133.

Right to appeal from order of Federal circuit court remanding cause to state court. 1 L.R.A. 67.

APPEAL AND ERROR, I.—cont'd

Right to appeal from void judgment, decree, or order. 33 L.R.A.(N.S.) 736.

Constitutionality of statute denying right of appeal from decision of courts in certain classes of cases. 19 L.R.A. (N.S.) 377.

Power of legislature to permit appeal to court for purpose of reviewing the amount of a tax assessment. 13 L.R.A. (N.S.) 716.

From decree for costs only. 1 L.R.A. (N.S.) 1083.

Right of applicant to appeal in proceedings to appoint guardian for incompetent person. 15 L.R.A.(N.S.) 436.

From mandate of court requiring submission of question by initiative petition. 50 L.R.A.(N.S.) 218.

As to matters connected with initiative and referendum election. L.R.A.1917B, 32.

Dissolution of preliminary injunction as affecting right to punish for contempt for its violation pending appeal. 51 L.R.A.(N.S.) 972.

Validity of contract not to appeal from decree of divorce. 44 L.R.A.(N.S.)

Constitutionality of statute denying right of appeal from decision in certain classes of cases. 44 L.R.A.(N.S.) 1209.

§ 2. Criminal cases. Right of state to appeal, see infra, § 7a.

Question whether suit for statutory penalty is a civil or criminal prosecution as affecting appeal. 27 L.R.A. (N.S.) 752.

Right to review of order in habeas corpus discharging or remanding party held for extradition. 34 L.R.A. (N.S.) 755. In case of insanity after commission of criminal act. 38 L.R.A. 589.

#### II. Modes of review.

§ 3. Generally.

Under the Torrens Law. L.R.A.1916D, 49.

Exclusiveness of remedy by appeal in case of defects in local improvement. 56 L.R.A. 908.

Right of legislature to deny right of appeal where there is other mode of review.

19 L.R.A. (N.S.) 380.

Exercise of superintending control of place of appeal. 51 L.R.A. 109; 20 L.R.A. (N.S.) 949.

Lack of remedy by appeal as ground for injunction against judgment. 30 L.R.A. 560.

Exceptions to rule that certiorari will not lie where there is an appeal. 50 L.R.A. 787.

Prohibition not issued to review or correct errors of law or fact. 3 L.R.A. 57. Writ of prohibition not to serve purpose of

writ of error. 9 L.R.A. 59.

Appeal as proper method of review of controversies arising in bankruptcy proceedings. 10 L.R.A.(N.S.) 765.

Consult also L.R.A. Digests of Cases.

### APPEAL AND ERROR—contid

### III. Appellate jurisdiction.

§ 4. Jurisdiction of Federal Supreme Court over state courts.

What adjudication of state courts can be brought up for review in the Supreme Court of the United States by writ of error to those courts. 62 L.R.A. 513.

How and when questions must be raised and decided in a state court in order to make a case for a writ of error from the Supreme Court of the United States. 63 L.R.A. 33.

§ 5. Supervisory jurisdiction.

Superintending control of courts generally, see Courts, §§ 30, 31.

Inherent power of supervisory or superintending control in courts of appellate jurisdiction. 51 L.R.A. 36.

Exercise of superintending control and supervisory jurisdiction to aid appellate jurisdiction. 51 L.R.A. 110.

Exercise of superintending control in place of appeal. 51 L.R.A. 109; 20 L.R.A. (N.S.) 949.

Original jurisdiction of court of last resort under grant of appellate jurisdiction. 58 L.R.A. 844.

§ 6. Jurisdictional amount.

Right of legislature to deny right of appeal in cases where amount does not exceed designated sum. 19 L.R.A.(N.S.) 379; 44 L.R.A.(N.S.) 1209.

Counterclaim as affecting amount involved. L.R.A.1918F, 837.

Effect of counterclaim in amount in excess of jurisdiction in appellate court. 37 L.R.A.(N.S.) 616.

#### IV. Transfer of cause; parties.

### a. Right to transfer.

§ 7. Who entitled to.

Under the Torrens Law. L.R.A.1916D, 49. Who may appeal to, or sue out writ of error from, Federal Supreme Court. 66 L.R.A. 854.

Who is a "person aggrieved" within statute allowing appeal by such person in proceedings for the appointment of a guardian for an alleged incompetent. 25 L.R.A. (N.S.) 155.

Right of surviving party to appeal from decree of divorce. 57 L.R.A. 583; 44 L.R.A.(N.S.) 505.

Appeal by distributee from decree on accounting of which he had no notice. 63 L.R.A. 97.

Right of receiver to appeal. L.R.A.1915D, 802.

Right of lowest bidder to appeal from refusal to award contract to him. 30 L.R.A.(N.S.) 130.

§ 7a. — right of state to appeal in criminal case.

In general. 19 L.R.A. 342.

Constitutionality of statute giving state right to appeal in criminal case. L.R.A. 1915F, 1093.

APPEAL AND ERROR, IV. a-cont'd

§ 8. Less or waiver of right.
Waiver of right to appeal by taking advantage of judgment or order appealed from in another direction. 1916E, 894.

Effect of escape on appeal from conviction.

26 L.R.A.(N.S.) 921. Right of trial court to cut off defendant's appeal by requiring or permitting a reduction of an excessive verdict. L.R.A. (N.S.) 1065.

Acceptance by debtor of surplus arising from sale under a decree as affecting his right to appeal from the decree. L.R.A.

1918E, 106.

8a. Appeal from part of decree. Right to accept favorable part of a decree, judgment, or order, and appeal from the rest of it. 29 L.R.A. (N.S.) 1.

### b. Effect.

§ 9. Generally. In injunction suit, see INJUNCTION, § 83.

Effect of death of party pending appeal. 49 L.R.A. 168.

Effect of pardon granted pending appeal. L.R.A.1917B, 570.

Possibility of appeal from dismissal of garnishment or attachment as affecting right to withhold property from debtor. L.R.A.1917B, 591.

Protection of one purchasing after decree and before any steps have been taken to review the same. 10 L.R.A.(N.S.) 443.

Rights of one acquiring interest in property from party to suit pending proceedings in appellate court. 27 L.R.A. 735.

Effect of right to appeal from divorce decree on party's right to remarry. 17 L.R.A. 573.

Effect of right to appeal on plaintiff's right to dismiss action. L.R.A.1917C, 133.

Appeal as affecting decree for permanent alimony. L.R.A.1915B, 1071.

Effect, on marriage relation, of appeal from conviction of husband or wife. 31 L.R.A. 518.

On right to maintain action for malicious prosecution. 2 L.R.A. (N.S.) 953.

Pendency of appeal or error as affecting running of statute of limitations against an action for malicious prosecution. 43 L.R.A.(N.S.)611.

When does limitation commence to run against action to recover money paid on a judgment subsequently reversed or modified. 25 L.R.A.(N.S.) 31.

In condemnation proceedings. 2 L.R.A. (N.S.) 313.

Right upon appeal to dismiss condemnation proceedings after confirmation of award or after judgment, L.R.A.1916C, 648.

Effect of appeal from disbarment or suspension of attorney. 24 L.R.A.(N.S.) 756.

Validity of statute or ordinance providing for forfeiture of liquor license upon

APPEAL AND ERROR, IV. b-cont'd conviction of licensee irrespective of appeal. 29 L.R.A.(N.S.) 417.

Personal liability of executor or administrator to distributees for interest during pendency of appeal. 31 L.R.A. (N.S.) 356.

To modify or suspend injunction. 1 L.R.A. (N.S.) 555.

Effect of appeal from order appointing receiver. 20 L.R.A. 395.

As stay of judgment in habeas corpus proceedings. 2 L.R.A. (N.S.) 244; L.R.A. 1918C, 923.

Effect of appeal from a prior conviction on enhancement of penalty for crime by prior offender. 34 L.R.A. 403.

Suspension of injunction pending appeal.

38 L.R.A.(N.S.) 436.

Right to release on bail pending appeal under general statute. 37 L.R.A.(N.S.) 693.

Right to bail pending appeal in attempt to avoid body execution. L.R.A.1915E,

Right to release pending appeal from conviction upon taking pauper's oath. L.R.A.1916F, 106.

Right to damages for detention of property pending appeal in replevin. 52 L.R.A. (N.S.) 1199.

§ 10. Subsequent proceedings below or in other inferior courts.

Power of trial court to correct its record after an appeal or writ of error. 31 L.R.A.(N.S.) 207.

Jurisdiction to award temporary alimony, suit money, or counsel fees pending appeal in divorce suit. 27 L.R.A. (N.S.) 712; L.R.A.1916F, 1259.

Effect of appeal from injunction upon jurisdiction of trial court to punish for contempt for its violation. 14 L.R.A. (N.S.) 1150; L.R.A.1918F, 794.

Suspension on appeal, of injunction to enjoin infringement of patent. 39 L.R.A.

(N.S.) 14.

Effect of pending appeal from a conviction upon its operation as a bar to another prosecution for the same offense. 23 L.R.A.(N.S.) 596.

Power of public prosecutor to dismiss prosecution after taking of. 35 L.R.A. 716. Delay in prosecution caused by, as ground for discharge of accused. 56 L.R.A.

Release on bail in capital case pending appeal. 39 L.R.A.(N.S.) 768.

Effect of appeal from order appointing a receiver of corporation to enable a court of concurrent jurisdiction to take jurisdiction. 22 L.R.A.(N.S.) 316.

Effect of order to turn back the property after appeal from appointment of receiver upon right of other courts to exercise jurisdiction over it. 15 L.R.A. (N.S.) 963.

Power of equity to enjoin enforcement of judgment in an action at law in order to retain status quo pending appeal from the judgment. 25 L.R.A. (N.S.)

APPEAL AND ERROR, IV. b-cont'd § 10a. — pending error or appeal to Federal Supreme Court.

Further proceedings pending error or appeal to Federal Supreme Court. 66 L.R.A. 862.

§ 11. Effect of repeal of statute pending appeal.

Effect of repeal of civil statute pending appeal from judgment based on statute. 37 L.R.A. (N.S.) 934.

Effect of repeal without saving clause of statute or ordinance pending appeal from conviction under it. 28 L.R.A. (N.S.) 243.

### c. Parties.

§ 12. Generally. Who entitled to appear, see supra, §§ 7, 7a.

On error or appeal to Federal Supreme Court. 66 L.R.A. 854.

### d. Mode; conditions; regulations.

13. Generally.

§ 13. Generally.

What entry or record necessary to complete judgment or order for purposes of appeal. 28 L.R.A. 627.

Practice and procedure governing the transfer of causes to the Federal Supreme Court on writ of error or appeal. 66 L.R.A. 833.

Rights of individual tort-feasors against whom a joint verdict has been obtained as to appeal. L.R.A.1918C, 974.

# e. Time for taking appeal.

14. Generally.

First and last days in computing time for. 49 L.R.A. 226; 15 L.R.A.(N.S.) 689. Where last day falls on holiday. 19 L.R.A.

Loss of papers as excuse for delay in filing transcript on appeal. 25 L.R.A. (N.S.)

Constitutionality of statute reviving right of appeal on writ of error after same barred by lapse of time. 45 L.R.A. 614. Statute changing time allowed for appeal

or writ of error as affecting pending action. 51 L.R.A.(N.S.) 760. Under the Torrens Law. L.R.A.1916D. 49.

§ 15. For transfer of cause to Federal Supreme Court.

When review only is desired. 66 L.R.A. 846.

When supersedeas is desired. 66 L.R.A.

How time is to be computed. 66 L.R.A. 848. How objections may be raised. 66 L.R.A. 850.

Time for filing record and docketing cause. 66 L.R.A. 850.

### f. Security.

16. Generally. Liability on bond, see infra, XI. Consult also L.R.A. Digests of Cases.

APPEAL AND ERROR, IV. f-cont'd Liability of clerk of court in accepting insufficient appeal bond. 44 L.R.A. (N.S.) 175.

Premature executing of appeal bond. 44 L.R.A.(N.S.) 1144.

Condition in execution of appeal bond as to its execution by another. 45 L.R.A. 333.

Power of surety company to act as surety

on appeal bond. 48 L.R.A. 590.

Power of appellate court to require new supersedeas or appeal bond. 9 L.R.A. (N.S.) 1054.

Effect of insertion of unauthorized provision in bond. L.R.A.1917B, 990.

§ 17. On error or appeal to Federal Supreme Court.

Necessity. 66 L.R.A. 858.

Requirements as to time. 66 L.R.A. 858. When supersedeas is desired. 66 L.R.A. 858.

Formal requisites in general. 66 L.R.A. 859.

Parties. 66 L.R.A. 859.

Sureties. 66 L.R.A. 860.

Acceptance and approval. 66 L.R.A. 860. Amount. 66 L.R.A. 860.

New or additional security. 66 L.R.A. 860.

### V. Record.

18. Generally.

Filing record and docketing cause in Federal Supreme Court. 66 L.R.A. 850.

Disposition of appeal where without fault of appellant the record is lost or incomplete. 25 L.R.A. (N.S.) 860; L.R.A.1915B, 353.

§ 19. What should be shown by What record on appeal must show. 8 L.R.A.

Necessity for perpetuating in record objection, ruling, and exception to improper arguments by prosecuting attorney. 46 L.R.A. 646.

§ 20. — in Federal Supreme Court.

What the record must show respecting the presentation and decision of a Federal question in order to confer jurisdiction on the Supreme Court of the United States of a writ of error to a state court. 63 L.R.A. 471.

The record for the purpose of showing jurisdiction in the Supreme Court of the United States of a writ of error to a state court. 63 L.R.A. 329.

§ 21. Amendment.

On certiorari, see CERTIORARI, § 6. Amendment of judicial records generally, see RECORDS AND RECORDING LAWS, § 8.

Power of trial court to correct its record after appeal or writ of error. 31 L.R.A. (N.S.) 207. APPEAL AND ERROR, V.—cont'd

Amendment of record to cure defect for a motion in arrest of judgment has been made. 67 L.R.A. 185.

Amendment of pleadings in appellate court to conform to proof. L.R.A.1916D,

§ 22. Opinion as part of.
Opinion of the court below as part of the record. 15 L.R.A. 798.

Of state court as part of record on review in United States Supreme Court. 63 L.R.A. 330.

23. Bill of exceptions; case made. L.R.A. 611.

Mandamus to compel judge to sign bills of exceptions after expiration of term, 36 L.R.A.(N.S.) 1087.

Death of judge before signing bill of exceptions as ground for new trial. 2 L.R.A. (N.S.) 1000.

Presumption as to time of alteration in bill of exceptions. 39 L.R.A.(N.S.) 114.

#### § 23a. — authority of judge pro tem, as to.

Whether certificate should be by regular or special judge. 42 L.R.A. (N.S.) 616.

Expiration of court term, vacation by special judge of bench, etc., as affecting his authority to sign. 42 L.R.A.(N.S.)

Power upon rendition of judgment to allow time for preparing and filing bill of exceptions or case-made. 42 L.R.A. exceptions or case-made. (N.S.) 623.

Power to extend time given for preparing or filing bill of exceptions or case made. 42 L.R.A.(N.S.) 623.

#### § 28b. Assignment of errors.

23c. — cross errors.

Effect of cross errors on right of appellant to dismiss appeal on writ of error. L.R.A.1917A, 119.

### VI. Objections and exceptions.

§ 24. Generally.

Necessity of objection to improper argument by prosecuting attorney. 46 L.R.A. 642.

Necessity of objection to misstatement of facts or statement of facts not in evidence by counsel in argument to jury. L.R.A.1918D, 41.

§ 24a. Time and place of taking. For objection to improper argument by

prosecuting attorney. 46 L.R.A. 642. Time for objection to service on nonresident.

50 L.R.A. 585. Of objecting to omission of revenue stamp

from instrument. 48 L.R.A. 318.

Time and manner of objecting to jurors who have served in same or similar case. 68 L.R.A. 882.

Begin with this book on every law question.

APPEAL AND ERROR, VI.—cont'd When objection must be made to consumption of liquor by jury. L.R.A.1915C,

#### VII. Dismissal; abatement.

25. Generally.

Right of appellant to dismiss appeal or writ of error. L.R.A.1917A, 113.

Dismissal of appeal by one joint defendant for nonjoinder of other joint defendant in whose favor judgment was rendered. L.R.A.1917D, 676.

Dismissal of appeal from decree in divorce suit for failure to comply with order for payment of temporary alimony, suit money or counsel fees. 51 L.R.A. (N.S.) 1119.

Dismissal by court on its own motion of appeal by receiver not entitled to appeal. L.R.A.1915D, 811.

Dismissal of appeal where without fault of appellant the record is lost or incomplete. L.R.A.1915B, 353.

Abandonment or dismissal of appeal as a breach of the condition of an appeal bond. L.R.A.1915A, 839.

Effect of war on appeal in suit in which alien enemy is a party. 5 B. R. C. 589. Abatement of appeal by or against corpora-

tion, by dissolution or expiration of charter. 32 L.R.A.(N.S.) 450.

#### VIII. Hearing and determination.

### a. In general.

26. Trial de novo.

Right to certiorari where appeal is a trial de novo. 50 L.R.A. 795.

Waiver of failure to serve, or defects in service of process, by an appeal from justice's court to courts where trial must be de novo. 34 L.R.A.(N.S.) 661.

Jury trial on appeal as satisfying constitutional right to trial by jury. 15 L.R.A.

Trial de novo on appeal to court from de-cision of railroad commission. 49 L.R.A. (N.S.) 572.

Right of garnishee on trial de novo on appeal to attack judgment against principal defendant for lack of jurisdiction. 51 L.R.A.(N.S.) 599.

27. Questions reviewable generally. On appeal in workmen's compensation cases. L.R.A.1917D, 188.

Rules governing appellate court on applica-tion for bail in capital case. 39 L.R.A. (N.S.) 784.

Decision as to competency of children as witnesses. 19 L.R.A. 610.

Review of ruling on motion for new trial because of reading newspaper account of trial by juror in criminal case. 46 L.R.A.(N.S.) 745.

Review of decision as to disqualification of juror in criminal case upon opinion gained from newspaper reports. 35

L.R.A.(N.S.) 1015.

APPEAL AND ERROR, VIII. a—cont'd Right to review of order granting or denying motion for inspection of books or papers, apart from an appeal from final judgment. 28 L.R.A.(N.S.) 516.

Review by appellate court of ruling of the trial court on motion to grant a new trial in action for bodily injuries on ground of inadequacy of damages awarded. 28 L.R.A. (N.S.) 130.

§ 28. — in Federal Supreme Court.
What questions the Federal Supreme Court
will consider in reviewing the
judgment of state courts. 63
L.R.A. 571.

§ 28a. Objections as to which party is estopped.

Right of party who invoked jurisdiction to raise, on appeal, objection of lack of jurisdiction. L.R.A.1916B, 803.

§ 29. Discretionary matters.

Refusal of continuance for illness of party. 42 L.R.A.(N.S.) 662.

Granting or refusing continuance to procure witness who is beyond the jurisdiction. L.R.A.1918E, 527.

When does a refusal of an order for physical examination amount to an abuse of discretion. 15 L.R.A.(N.S.) 663.

Limitation of time for argument of counsel for accused as abuse of discretion. 25 L.R.A.(N.S.) 1027.

Review of ruling on motion for new trial because of reading of newspaper account of trial by juror in criminal case. 46 L.R.A.(N.S.) 745.

As to granting new trial because of con-

As to granting new trial because of consumption of liquor by jury. L.R.A. 1915C, 318.

As to granting new trial because of improper argument, of counsel to jury. L.R.A.1918D, 45.

As to opening decree of divorce taken by default. L.R.A.1917B, 472.

§ 29a. Questions not raised below. Raising defense of statute of frauds for first time on appeal. 49 L.R.A.(N.S.) 29; L.R.A.1917B, 1071.

Raising objection of duplicity in indictment for first time on appeal. 49 L.R.A. (N.S.) 457.

Right of garnishee to raise question of invalidity of judgment against principal defendant for lack of jurisdiction for first time on appeal. 51 L.R.A.(N.S.) 600.

8 30. Errors waived or cured below. When error in denying continuance for absent witness cured. 2 L.R.A.(N.S.) 721.

Waiver of objection to testimony by crossexamination. 33 L.R.A.(N.S.) 103.

Withdrawal of refusal to charge and giving requested charge in substance as affected by subsequent refusal to charge proposition in form originally preferred. 2 L.R.A.(N.S.) 309.

Consult also L.R.A. Digests of Cases.

APPEAL AND ERROR, VIII. a—cont'd Waiver of objection to communication by judge with juror not in open court. 17 L.R.A.(N.S.) 614.

Taking steps to contest cause on the merits after special appearance as waiver of objections to jurisdiction over the person. 16 L.R.A.(N.S.) 177; L.R.A. 1916E, 1082.

Effect of corrective instructions on misstatement of facts, or statement of facts not in evidence by counsel, in argument to jury. L.R.A.1918D, 34.

§ 31. Review of facts.

On appeal in workmen's compensation cases. L.R.A.1917D, 188.

Right of appellate court to set aside finding of jury upon the ground that it is contrary to scientific principles. 7
LR.A.(N.S.) 357; 15 L.R.A.(N.S.) 701; 28 L.R.A.(N.S.) 648; L.R.A. 1916B, 301.

Review of findings in action to have written instrument importing an absolute conveyance declared a mortgage or pledge. L.R.A.1916B, 563.

§ 32. — inadequacy or excessiveness of damages.

Instances of excessive or inadequate amounts, see Damages, §§ 64, 65a.

Inadequacy of damages. 47 L.R.A. 33. Power of appellate court to interfere with verdict for excessive damages. 26 L.R.A. 384.

Decision that damages excessive, effect on second appeal. 34 L.R.A. 343.

Rules guiding the courts on appeal in determining excessiveness or adequacy of verdicts for personal injuries resulting in death. L.R.A.1916C, 810,

Excessive damages under civil damage act for death through intoxication. L.R.A. 1916D, 943.

§ 33. — criminal cases.

Conviction on testimony of accomplice which is self-contradictory. 21 L.R.A. (N.S.) 878.

Power to reverse conviction for insufficiency of evidence to sustain the verdict. 17 L.R.A. 484.

Excessive sentence. 45 L.R.A. 150; 51 L.R.A. (N.S.) 373.

§ 34.—in Federal Supreme Court. Questions of fact on error from Federal Supreme Court to state court. 63 L.R.A. 577.

b. What errors warrant reversal.

§ 34a. In general.

Binding force of statute or court rule not to reverse for errors not amounting to miscarriage of justice. L.R.A.1918B, 390.

§ 85. As to evidence or witnesses: variance.

Binding force of statute or court rule not to reverse for errors not amounting to miscarriage of justice. L.R.A.1918B, 390. APPEAL AND ERROR, VIII. b—cont'd
Admission or exclusion of books of account.

52 L.R.A. 610.

Refusal to allow cross-examination on relevant matters covered by examination in chief as ground for reversal. 25 L.R.A. (N.S.) 683.

Variance as to name of deceased as ground for reversal in homicide. 38 L.R.A.

(N.S.) 187.

Commitment or holding of witness for contempt or perjury during trial as ground for reversal. 43 L.R.A. (N.S.) 844.

§ 36. As to instructions.

Binding force of statute or court rule not to reverse for errors not amounting to miscarriage of justice. L.R.A.1918B, 390.

Prejudicial error in instruction as to relation of doctrine res ipsa loquitur to burden of proof. L.R.A.1916A, 932.

Necessity of qualifying by reference to conscious falsity an instruction under a statute enacting the maxim. Falsus in uno. falsus in omnibus, without that qualification. 29 L.R.A.(N.S.) 680.

Failure to qualify a master's duty as to places and appliances by reference to ordinary care or reasonable safety. 6 L.R.A.(N.S.) 602.

§ 37. Argument or comment by prosecuting attorney.

Misstatement of facts, or statement of facts not in evidence, by counsel in argument to jury, as ground for reversal. L.R.A. 1918D, 4.

1918D, 4.

Reversal of conviction because of unfair or irrelevant argument or statements of facts by prosecuting attorney.

46 L.R.A. 641.

Comment on failure of defendant to produce witness as ground for reversal or new trial. 34 L.R.A.(N.S.) 811.

Reference by prosecuting attorney in argument to jury to attempts to tamper with witnesses or jurymen as ground for reversal. 30 L.R.A.(N.S.) 795.

Reference by prosecuting attorney in argument to jury to result in other case. 38 L.R.A.(N.S.) 1130.

Argument by prosecuting attorney that an acquittal would encourage lynch law as ground for reversal. 51 L.R.A.(N.S.) 914.

§ 38. Remarks or conduct of judge. Effect of judge communicating with jury, not in open court. 17 L.R.A.(N.S.) 609; L.R.A.1916D, 719.

Intimation that a recommendation to mercy would be entertained as ground for reversal of conviction. 40 L.R.A.(N.S.) 239.

Rebuking or fining attorney during trial as prejudicing rights of party. 42 L.R.A. (N.S.) 428.

Admonishing or warning witness by judge in criminal case as ground for reversal. L.R.A.1917E, 859. APPEAL AND ERROR, VIII. b—cont'd § 39. As to jury; conduct of trial.

Binding effect of statute or court rule not to reverse for errors not amounting to miscarriage of justice. L.R.A.1918B, 390.

Effect upon conviction of failure to give accused an opportunity to plead. 45 L.R.A.(N.S.) 664.

Disqualification of a part of the participating judges. L.R.A.1918D, 244.

Prejudicial error in examination of jurors as to connection with casualty or indemnity company in action against one insured or indemnified by such company. L.R.A.1915A, 153.

Mistake as to name of juror as ground for reversal. 47 L.R.A. (N.S.) 717.

Effect of failure to swear jury. L.R.A. 1917D, 399.

Employment of person to watch jury to guard against their being tampered with. 48 L.R.A.(N.S.) 540.

View by jury. 42 L.R.A. 391; L.R.A. 1915B, 703.

Coercion of disagreeing jury. 16 L.R.A. 643.

Right to reversal where jury disregard erroneous instructions. 21 L.R.A.(N.S.) 852.

Treating jurors as ground for reversal. 19 L.R.A.(N.S.) 733; 49 L.R.A.(N.S.) 889.

Consumption of liquor by jury as ground for new trial or reversal. L.R.A. 1915C, 302.

Effect of jury in criminal case hearing speech or address out of court on subject related to issues before them. 38 L.R.A.(N.S.) 1116.

Effect of misconduct of spectator during criminal trial. L.R.A.1918E, 959.

Placing manacles upon prisoner as ground of reversal of conviction. 39 L.R.A. 824.

§ 40. As to findings, verdict, or judgment.

Excessive damages as ground for reversal. 26 L.R.A. 391, 398.

Inadequacy of damages as ground. 47 L.R.A. 33.

Excessive sentence as ground of reversal. 45 L.R.A. 150; 51 L.R.A. (N.S.) 381.

# IX. Judgment on appeal.

# a. In general.

§ 41. Generally. Effect of appellant's dismissal of appeal on judgment. L.R.A.1917A, 120.

Power of reviewing court to dismiss prosecution. 35 L.R.A. 716.

Form and extent of relief in case of excessive sentence. 45 L.R.A. 150; 51 L.R.A. (N.S.) 381.

Reversal of judgment as against some persons sued as joint tort feasors, without reversing as to others. 27 L.R.A.(N.S.)

Power of appellate court to resentence for lower degree on reversal of conviction for homicide for higher degree. 21 L.R.A.(N.S.) 20.

APPEAL AND ERROR, IX. a—cont'd May judgment against two or more tort easors be set aside as to some and allowed to stand as to the rest. L.R.A. 1918C, 970.

Constitutional power of appellate court, upon reversing judgment for plaintiff on verdict, to direct a judgment for defendant without remanding the case for a new trial. 2 L.R.A. (N.S.) 362.

Power to limit the issues in granting new trial. L.R.A.1915E, 239.

Power of court to make a reduction of damages a condition of refusing a new trial of an action for unliquidated damages without consent of defendant. 6 B. R. C. 10.

#### b. Costs.

42. Generally.

Costs where appellant dismisses appeal. L.R.A.1917A, 120.

Right of executor or administrator to appeal in forms psuperis. 68 L.R.A. 418. Liability for costs on appeal from award in proceedings. condemnation L.R.A.(N.S.) 624.

Liability of indemnitor for costs of successful appeal by party indemnified. L.R.A. 1915F, 598.

c. Effect of decision; subsequent proceedings.

43. Generally.

Reversal of judgment on appeal or error by one joint defendant as affecting other joint defendant in whose favor judgment below was rendered. L.R.A.1917D,

Acquittal or discharge on appeal, as evidence of want of probable cause for prosecution. 64 L.R.A. 480.

Reversed conviction as evidence of probable cause defeating action for ma licious prosecution. L.R.A.1916F,

Reversed conviction by magistrate or justice. 34 L.R.A.(N.S.) 958.

Effect of judgment rendered on appeal after death of party without revivor. 41 L.R.A.(N.S.) 1053.

Effect of reversal upon previous judicial sale. 21 L.R.A. 52.

Effect of prior decision on statutory new trials in real actions. 40 L.R.A. 825.

Reversal on merits without remanding as a bar to a new action. 30 L.R.A. (N.S.) 377.

Effect on conviction of failure to give accused an opportunity to plead after reversal. 13 L.R.A. (N.S.) 814.

Right to amend pleadings after final decision on appeal. 18 L.R.A.(N.S.) 263.

Bill of review because of newly discovered evidence after affirmance or reversal by appellate court. 4 L.R.A.(N.S.) 865; 30 L.R.A.(N.S.) 1030.

Effect of cumulative sentences in case of reversal of first conviction. 7 L.R.A. (N.S.) 128.

Consult also L.R.A. Digests of Cases.

APPEAL AND ERROR, IX. c .-- cont'd

Liability for tort in doing acts authorized by subsisting judgment which is after-45 L.R.A. 800; 40 wards reversed. L.R.A.(N.S.) 1197.

Judgment affirming a nonsuit as the law of the case. 48 L.R.A.(N.S.) 464.

§ 44. On later appeal.

Conclusiveness of prior decisions on subsequent appeals. 34 L.R.A. 321.

§ 44a. Restitution.

Refusal to restore money or property secured under judgment subsequently reversed or set aside as contempt. L.R.A.(N.S.) 3100.

Measure of restitution where property is sold under a judgment or order subsequently reversed without intervening supersedeas or stay. L.R.A.1917C, 1179.

#### X. Rehearing.

45. Generally.

Petition for rehearing as part of record of state court on review in the United States Supreme Court. 63 L.R.A. 333.

# XI. Liability on appeal bond.

46. Generally.

Matters as to bond generally, see supra, §§ 16, 17.

Sureties on bond in Federal Supreme Court, 66 L.R.A. 860.

Who is real party in interest, who must bring action on appeal bond. 64 L.R.A. 605.

Compromise or consent to affirmance as affecting liability of surety upon appeal bond. 43 L.R.A.(N.S.) 1040.

Liability of sureties on appeal bond where judgment is in favor of one principal and against another. 51 L.R.A. (N.S.) 656.

Abandonment or dismissal of appeal as a breach of the condition of an appeal bond. L.R.A.1915A, 839.

When discharge of principal in bankruptcy will release surety on. 14 L.R.A. (N.S.) 510.

Right of sureties on appeal or supersedeas bond to look to sureties on prior bond of same principal. 6 L.R.A.(N.S.) 1021; L.R.A.1918D, 1192.

Effect of delivery of bond unsigned by principal obligor, 12 L.R.A. (N.S.) 1118. Effect of insertion of unauthorized provi-

sions in bond. L.R.A.1917B, 990. Effect of dismissal of appeal by appellant. L.R.A.1917A, 120.

Form of judgment on appeal bond. L.R.A. 442.

Effect upon surety on appeal bond of judg-40 L.R.A. ment against principal. (N.S.) 741; L.R.A.1918E, 819.

Presumption as to time of alteration in appeal bond. 39 L.R.A. (N.S.) 115. Penalty as limit of liability on appeal bond,

55 L.R.A. 387.

### APPEAL AND ERROR—cont'd

XII. Effect of danger of,

§ 47. Generally. On marketability of title. 38 L.R.A. (N.S.) 15.

#### APPEAL BOND.

See Appeal and Error, §§ 16, 17, 46.

#### APPEARANCE.

§ 1. Generally.

Authority of attorney to appear in action, see Attorners, § 15.

Right of witness to express an opinion as to appearance of person or object. L.R.A.1918A, 668.

By appellee or defendant in error in Feder-

al Supreme Court. 66 L.R.A, 853.

Filing bond to secure release of seized prop erty as an appearance. L.R.A.1916F,

2. Effect of.

Effect of appearance by nonresident in divorce suit, see Divorce and SEPARA-TION, § 12.

As an admission or waiver by a fiduciary. 32 L.R.A. 681.

On right to injunction against judgment. 31 L.R.A. 211.

Taking steps to contest a cause on the merits after a special appearance, as waiver of objections to jurisdiction over the person. 16 L.R.A.(N.S.) 177; L.R.A.1916E, 1082.

L.R.A.1916E, 1082.

Appearance of claimant in garnishment proceedings as relieving garnishee of duty te protect his rights. L.R.A.1918B, 1068.

Appearance by counsel on charge of misdemeanor as satisfaction of condition of bail bond or recognizance. 27 L.R.A. (N.S.) 943.

Waiver of lack of or defects in service of process by special appearance on appeal from justice's court. 34 L.R.A. (N.S.)

Judgment on voluntary or collusive appearance as bar to subsequent prosecution. L.R.A.1918A, 1181.

a unauthorized appearance. Effect of judgment on, see JUDGMENT, § 24.

Effect of judgment obtained on unauthorized appearance by attorney. 21 L.R.A.

Effect of failure to object before judgment to unauthorized appearance by an attorney, upon right to relief from judgment. L.R.A.1918B, 899.

4. — gaining jurisdiction by. Acquiring jurisdiction over foreign corpora-tion by. 70 L.R.A. 536. Begin with this book on every law question.

APPEARANCE—cont'd

Effect of, by nouresident to give jurisdiction of divorce case. 23 L.R.A. 287.

Effect of, upon local jurisdiction of action

against foreign corporation. 70 L.R.A. 701.

§ 5. Withdrawal of.

Power of defendant's attorney to withdraw answer or appearance and permit default judgment. 33 L.R.A. 515.

#### APPENDICITIS.

Effect of, on recovery for negligent injury to person. 48 L.R.A.(N.S.) 97.

#### APPLIANCES.

Master's duty as to safety of, see MASTER and Servant, III. a, 6.

### APPLICATION.

Of deposits, see BANKS, §§ 17-19. For insurance, see Insurance, V. b. Of payments, see PAYMENTS, §§ 20-22.

### APPOINTMENT.

Of personal representative, see EXECUTORS AND ADMINISTRATORS, §§ 3-7.

Of guardian, see GUARDIAN AND WARD, §§ 2-4.

To office, see MUNICIPAL CORPORATIONS, § 115; OFFICERS, §§ 10-14.

Of receiver, see RECEIVERS, §§ 2-10. Of school teacher, see Schools, § 15. Power of, see Powers.

Constitutionality of statute permitting court to appoint expert witnesses. 33 L.R.A.(N.S.) 917.

### APPORTIONMENT.

Generally.

Of election districts, see Election Dis TRICTS.

Between insurance companies, see Insur-ANCE, § 200.

Of assessment for public improvements, see PUBLIC IMPROVEMENTS, §§ 24-26.

Of grand jurors. 28 L.R.A. 198.

Of rents of intestate's property. 40 L.R.A. 340, 345.

Effect, on transfer tax, of apportioning property of nonresident decedent within state to payment of debts or legacies which are exempt or subject to a reduced rate. 18 L.R.A.(N.S.) 946.

APPORTIONMENT—cont'd

Apportionment of taxes which covenant in lease requires tenant to pay. L.R.A. 1915A, 360.

### § 2. Of income or dividends. Of annuity, see Annuity, § 2.

Apportionment of income upon death of life beneficiary between distribu-tion periods. 27 L.R.A.(N.S.) 449.

Of dividends on transfer of stock. L.R.A. 396; L.R.A.1917B, 326.

Of dividends or distributions between life tenant and remainderman. 12 L.R.A. (N.S.) 768; 50 L.R.A.(N.S.) 510,

#### APPRAISAL.

Of insurance loss, see INSURANCE, §§ 151, 152.

Of valuation of property of public service corporation, see Public SERVICE CORPO-BATIONS, § 5.

For purpose of succession tax, see TAXES, § 102.

Irregularity in, as ground for injunction against judicial sale. 30 L.R.A. 139. Estoppel of one acting as appraiser upon sale as property of another, to set up title as against purchaser. 48 L.R.A. (N.S.) 758.

Specific performance of provisions for appraisal of property preliminary to exercise of option. L.R.A.1917C, 813.

# APPRECIATION.

Appreciation in value of capital assets as fund distributable as dividend without reference to losses. 1 B. R. C. 965.

### APPREHENSION.

As element of damages for injury by dog. 37 L.R.A. (N.S.) 866.

### APPRENTICES.

Effect of death on contract of. 23 L.R.A. 707.

Proprietary interest of master in earnings of. 5 L.R.A.(N.S.) 1154.

Damages recoverable in action by master for injury to. 32 L.R.A.(N.S.) 38. Duty to furnish medical aid to. 28 L.R.A.

555; 4 L.R.A.(N.S.) 49.

Effect of failure to provide medical attendance for, to render master guilty of manslaughter. 6 L.R.A.(N.S.) 685.

Homicide by excessive chastisement of. 60 L.R.A. 804.

Consult also L.R.A. Digests of Cases.

#### APPROACHES.

§ 1. Generally.

Duty of carrier as to, see CARRIERS, §§ 70-

Injunction to protect approach to burial ground. 3 L.R.A.(N.S.) 483.

Compensation for making, as element of damages for laying out street across railway property. 24 L.R.A.(N.S.) 1233.

Duty of street railway as to condition of approaches to cars. 32 L.R.A.(N.S.) 881; 48 L.R.A.(N.S.) 974.

§ 2. To bridge.
Approaches of a bridge as part of it. 20 L.R.A. 416.

To bridge, liability of county for torts and negligence as to. 39 L.R.A. 33.

Liability of county or town for injury by unguarded approach. 42 L.R.A. (N.S.) 275; L.R.A.1915F, 975.

Rights and duties of toll bridge proprietors as to. 30 L.R.A.(N.S.) 362.

Municipal liability for injury to abusting owner from approach to bridge under constitutional provision against "damaging" private property for public use without compensation, 36 L.R.A. (N.S.) 1198.

#### APPROPRIATIONS.

1. Generally.

Of property for public purpose, see EMINENT DOMAIN, §§ 9-23.

Of payments, see PAYMENTS, §§ 20-22.

For what purposes public money may be appropriated, see Public Money, § 4; Taxes, § 13.

By town, see Towns, § 6.

Of water, see WATERS, §§ 86-91.

Necessity and sufficiency of reference in title of statute to appropriations to put its purpose into effect. L.R.A.1917B, 812.

Self-executing constitutional provision as to. 16 L.R.A. 285.

Agreement to accept less then amount of appropriation. 36 L.R.A. (N.S.) 244; propriation. 36 L.R.A.1917B, 190.

Validity of statute or ordinance authorizing appropriation of money for two or more purposes. 14 L.R.A.(N.S.) 519.

§ 2. Necessity and requisites of.
Requisites of appropriation for official salary or expenses. 16 L.R.A. (N.S.) 631; 27 L.R.A. (N.S.) 537; 49 L.R.A. (N.S.) 67.

### APPROVAL.

See also Satisfaction.

APPROVAL—cont'd Of bond in Federal Supreme Court. 66 L.R.A. 860.

Remedies of parties under a contract for the sale of an article on approval. L.R.A.1918B, 873.

#### APPURTENANCES.

Easements as, see Easements, §§ 10-15. Personal property passing as appurtenance, see PERSONAL PROPERTY, § 3.

What passes as appurtenant to sale of personalty, see SALE, § 8.

Ponds as. 58 L.R.A. 489. Corporeal appurtenances to realty. L.R.A. 652.

Taking of land for appurtenances for railroad as a public use. 22 L.R.A. (N.S.)

What are articles included in such general terms as appurtenances and the like employed in chattel mortgage. 46 L.R.A. (N.S.) 206.

### AQUEDUCT.

As an appurtenance. 15 L.R.A. 653.

### ARBITRATION.

1. Generally.

Of infant's cause of action, see INFANTS,

Of insurance loss, see INSURANCE, §§ 151,

Claims against building and loan association. 35 L.R.A. 294.

Arbitration of infant's cause of action. 70 L.R.A. 170.

Provision for, in workmen's compensation act. L.R.A.1916A, 174.

Effect of prior arbitration in determining compensation to be paid public utility company upon taking its plant. 47 L.R.A.(N.S.) 788.

2. Submission to; agreements for. Arbitration agreements, their validity and binding force. 47 L.R.A. (N.S.) 337.

Effect of submission to, on account stated. 27 L.R.A. 818.

Validity of rule of board of trade requiring submission of disputes to. 2 L.R.A. (N.S.) 672.

3. — revocation of submission. General right of revocation. 47 L.R.A. (N.S.) 400.

When stipulated to be irrevocable. L.R.A. (N.S.) 402.

Sulmissions made rules of court. 47 L.R.A. (N.S.) 403.

Begin with this book on every law question.

ARBITRATION—cont'd

Submissions of preliminary and collateral questions. 47 L.R.A.(N.S.) 404.

Revocability as affected by statute. L.R.A.(N.S.) 405.

Implied revocations. 47 L.R.A.(N.S.) 406. Revocation as affected by the consideration for the submission. 47 L.R.A.(N.S.)

Bringing suit before award as revocation of submission to arbitration. 31 L.R.A.

(N.S.) 679.

Right of arbitrators to rehear, or of a party to revoke submission, where award is not coextensive with the submission. 18 L.R.A.(N.S.) 1247.

Right to withdraw from arbitration under a submission by rule or order of court. 43 L.R.A.(N.S.) 711.

§ 3a. — breach of agreement to arbitrate.

Breaches of agreements to arbitrate. 47 L.R.A. (N.S.) 408.

Effect upon character of sum agreed upon for breach of agreement as penalty or liquidated damages, of single or multiple stipulations in contract. L.R.A. 1916E, 388.

4. Arbitrator; umpire.

Right of woman to hold office of arbitrator. 38 L.R.A. 210.

Characteristics and qualifications of arbiters. 47 L.R.A.(N.S.) 340.

Powers and functions of arbitrators under workmen's compensation act. L.R.A. 1916A, 177.

Appointment and remuneration of arbitrators under workmen's compensation act. L.R.A.1916A, 111.

Necessity of notice of appointment of um-pire or third arbitrator, and of proceedings before him. 19 L.R.A. (N.S.) 696.

§ 4a. — personal liability of. Arbitrator chosen by both parties. 42 L.R.A.(N.S.) 277.

Arbitrator selected by one party. 42 L.B.A. (N.S.) 282.

§ 5. Award.

Provision in contract for conclusiveness of decision of person appointed arbitrator, see CONTRACTS, § 142.

Effect on contract of leaving price dependent on amount of award. 53 L.R.A. 294.

Validity of award under parol submission involving title to real property. 22 - L.R.A.(N.S.) 716.

Effect of award upon claim arising out of illegal transaction. 58 L.R.A. 181. Awards after revocations. 47 L.R.A. (N.S.)

Need of unanimity. 47 L.R.A.(N.S.) 442. Finality. 47 L.R.A.(N.S.) 442.

Enforcement. 47 L.R.A.(N.S.) 445.

Enforcement of awards and agreements under workmen's compensation acts.

L.R.A.1916A, 488.

ARBITRATION—cont'd

Effect upon character of sum agreed upon for failure to keep arbitration award as penalty or liquidated damages of single or multiple stipulations in contract. L.R.A.1915E, 388.

6. — relief from; setting aside. Setting aside award in condemnation proceedings, see EMINENT DOMAIN, § 35. Effect of mistake, see MISTAKE, § 15.

Right of arbitrators to rehear or of a party to revoke submission, where award is not coextensive with submission. 18 L.R.A.(N.S.) 1247.

Appeal from award of arbitrators under workmen's compensation act. L.R.A. 191**6A**, 178.

Annulling award by arbiters. 47 L.R.A. (N.S.) 446.

#### ARBITRATORS.

See Arbitration, §§ 4, 4a.

#### ARCHITECTS.

Certificate of, see Contracts, §§ 140-142. License of, see LICENSE, § 21.

Mechanics' lien for services of, see MECHAN-108' LIENS, § 13.

Authority of, to contract for services of other persons. L.R.A.1918F, 72, 75,

As independent contractors. 65 L.R.A. 465; 17 L.R.A.(N.S.) 374.

Regulation of architects. 36 L.R.A. (N.S.)

Right to mechanics' lien for labor or material furnished on order of architect before abandonment of contract by contractor. 20 L.R.A.(N.S.) 89.

Architect's underestimate of cost of structure as basis of a claim or defense against him. 42 L.R.A.(N.S.) 125.

Waiver by, of stipulation in building contract that alterations or extras must be ordered in writing. 48 L.R.A.(N.S.) 582, 590, 595.

Right of architect in plans prepared by him. 3 B. R. C. 464.

Liability of architect to owner in regard to plans. L.R.A.1918D, 893.

Liability of architect or engineer for negligence in issuing certificates. 4 B. R. C. 859.

### AREA.

Right of witness to express opinion as to. L.R.A.1918A, 688.

### AREAWAYS.

In sidewalk, see HIGHWAYS, §§ 14, 62.

1. Rental for.

Power of municipality to exact fee or rental for. 31 L.R.A.(N.S.) 868.

Consult also L.R.A. Digests of Cases. 4

AREAWAYS—cont'd

§ 2. Liability as to.

Municipal liability for injury by. 61 L.R.A. 583; 7 L.R.A. (N.S.) 424; 19 L.R.A. (N.S.) 516; 20 L.R.A. (N.S.) 635; 43 L.R.A. (N.S.) 1116.

Liability of landlord to third persons for condition of. 23 L.R.A. 157; 26 L.R.A.

198; 50 L.R.A.(N.S.) 305.

Liability of abutting owner for failure to guard opening in sidewalk for commercial purposes while in use by third person. 11 L.R.A.(N.S.) 993.

Employer's liability for negligence of inde-pendent contractor in construction of area under footpath. 65 L.R.A. 846.

#### ARGARIC.

Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 316.

#### ARGUMENT.

Of counsel, see APPEAL AND ERBOR, \$ 87; TRIAL, §§ 15-17.

#### ARMS.

See WEAPONS.

### ARMY AND NAVY.

§ 1. Generally.
As to militia, see MILITIA.

Secretary of Navy, see Secretary of Navy.

Use of municipal funds to provide soldiers. 14 L.R.A. 476.

Exemption of consul from military service. 45 L.R.A. 587.

Occupation of premises by persons in Army. 4 L.R.A.(N.S.) 714, 719, 725.

Rights of master in earnings of servant who has enlisted in Army. 5 L.R.A. (N.S.)

Purchase of substitute for husband in army as a family expense or necessary with-in statute rendering wife or her prop-erty liable therefor. L.R.A.1917F, 864. Civil and criminal responsibility of soldiers.

L.R.A.1915A, 1141.

Power of state under Federal Constitution

to legislate with respect to army and navy. L.R.A.1918C, 307. Validity of statute making military service compulsory. 7 B. R. C. 593.

Decisions under the Espionage Act of June 15, 1917. L.R.A.1918F, 410.

Court decisions under Selective Service Act of May 18, 1917. L.R.A.1918E, 1018. Exclusion of seditious matter from the

mails under the Espionage Act. L.R.A. 1918C, 89.

§ 2. Enlistment of infant.

Enlistment of minor without parent's consent in army, navy, or militia. 39 L.R.A.(N.S.) 454. ARMY AND NAVY—cont'd

Right of minor unlawfully enlisted in Army | Right of private persons to make or cause or Navy to discharge on habeas corpus from custody of court-martial on charge of desertion or fraudulent enlistment. L.R.A. (N.S.) 956; L.R.A. 1917D, 1059.

#### ARRAIGNMENT.

See CRIMINAL LAW, § 55.

### ARREARS.

In instalment due on mortgage, see MORT-GAGE, § 65.

Of dividends on preferred, guaranteed, and interest-bearing stocks. 27 L.R.A. 147.

### ARREST.

§ 1. Generally. Of judgment, see ABREST OF JUDGMENT. Of passenger, see CARRIERS, III. f.

Release from, on bail, see BAIL AND RECOG-NIZANCE.

Escape from, see ESCAPE.

Reward for, see REWARD.
Privilege from, see WRIT AND PROCESS, §§ 30-37.

Swearing out warrant of, as condition precedent to action on burglary insurance policy. 46 L.R.A.(N.S.) 567.

Order of, as condition of right to body execution. L.R.A.1915A, 706.

Arrest of witness as contempt of court. L.R.A.1915D, 569.

Validity of marriage under compulsion of arrest or imprisonment. 43 L.R.A. 816. First and last days in computing time on. 49 L.R.A. 223.

Robbery by officers after making. 1 L.R.A. (N.S.) 1024.

Complaint or information based on information and belief as basis for issuance of warrant or for examination preliminary thereto. 10 L.R.A. (N.S.) 159; 25 L.R.A. (N.S.) 60.

Arrest of person as a condition of an action for the malicious prosecution of a civil action. L.R.A.1918D, 550.

Right to have record of arrest canceled. L.R.A.1917E, 777.

§ 2. Right to make.

Power of governor, in exercise of power to suppress insurrection, to authorize arrest and detention of persons without turning them over to the civil authorities. 12 L.R.A.(N.S.) 979.

§ 3. — without warrant.

PEACE, § 2.

ARREST—cont'd

arrest without warrant. 7 B. R. C. 679. Arrest without warrant of woman soliciting or accosting men. L.R.A.1917D, 697.

Right of officer to arrest without a warrant one using abusive language to-ward him, or interfering with him in the performance of his duty. 13 L.R.A. (N.S.) 881.

Necessity to prevent escape, as condition of right to make arrest without a warrant. 2 L.R.A.(N.S.) 730.

Innocence of one arrested as affecting right to arrest without a warrant, under a statute authorizing such an arrest when the offender shall be taken or apprehended in the act, etc. 34 L.R.A. (N.S.) 1182.

Right of peace officer to enter dwelling to make arrest without warrant. 16

L.R.A. 500.

§ 4. How made, rights and powers of person making.

Right of peace officer to enter dwelling to make arrests. 16 L.R.A. 500.

What information is an accused person entitled to at the time of his arrest. 42 L.R.A. 673.

Right of surety on bail bond to pursue principal into another state for the purpose of arresting him. 14 L.R.A. 605.

§ 5. — homicide in making. See Homicide, § 12.

§ 6. Liability for making.

As to liability for making, see infra, § 6. Liability of carriers, see Carriers, §§ 15, 15a.

Master's liability for arrest by servant, see MASTER AND SERVANT, § 173.

Liability for wrongfully making generally, see FALSE IMPRISONMENT.

Liability of officer who uses criminal process to collect a debt. 24 L.R.A. (N.S.) 301.

Liability of peace officer or his bond for shooting a person while attempting to arrest him. 51 L.R.A.(N.S.) 1179. Liability of principal for false arrest by

agent authorized to collect a debt. 51 L.R.A.(N.S.) 471.

§ 7. Resisting. Escape from arrest, see ESCAPE.

What constitutes resistance to arrest. 24 L.R.A.(N.S.) 199.

Evidence of resisting arrest to show motive for crime. 62 L.R.A. 211.

Right of officer to arrest without warrant one interfering with him in the performance of his duty. 13 L.R.A. (N.S.) 881.

§ 8. — crime while resisting. Homicide, see Homicide, § 11.

For breach of the peace, see BREACH OF THE Assault in resisting unlawful arrest. 33 L.R.A.(N.S.) 150.

ARREST-cont'd

Evidence of crime committed in resisting arrest after commission of crime charged. 62 L.R.A. 338.

9. In civil action.

Right to, in breach of promise case. 59 L.R.A. 957.

Effect of bankruptcy law on proceedings for arrest in state insolvent proceedings. 45 L.R.A. 188.

Arrest under civil process for breach of warranty. 20 L.R.A.(N.S.) 844.

Right to arrest partner in civil action or

proceeding. 4 L.R.A.(N.S.) 130. Effect on suit for discharge from wrongful arrest. 19 L.R.A. 560.

§ 10. In extradition proceedings. Without warrant, awaiting arrival of extradition papers. 26 L.R.A. 34.

Necessity of warrant for purposes of extradition. 28 L.R.A. 804.

### ARREST OF JUDGMENT.

In criminal prosecution, see CRIMINAL LAW, § 58. Motion in, see JUDGMENT, § 19.

### ARSON.

§ 1. Generally.

By tenant or other person in possession of another's property. L.R.A.1918E, 484. Criminal liability of children for. 36 L.R.A. 201.

Solicitation to. 25 L.R.A. 437.

Cruel and unusual punishment for. L.R.A. 569.

Evidence of other crimes in prosecution for. 62 L.R.A. 208, 238, 289, 319, 325; L.R.A.1915A, 809.

Necessity and sufficiency of description of offense in bail bond or recognizance. 38 L.R.A.(N.S.) 317.

2. Of one's own, or spouse's, building.

Arson in setting fire to one's own building. 32 L.R.A. 647.

Arson by one spouse burning property of the other. 21 L.R.A.(N.S.) 27.

3. Of insured property.

Liability of insurance company in case of

intentional destruction of property by insured. 17 L.R.A.(N.S.) 189.

Indications that building may be intentionally set on fire as an increase of risk. 31 L.R.A.(N.S.) 603.

Arson in setting fire to one's own building to injure insurer. 32 L.R.A. 648.

4. Attempt to commit.

What constitutes attempt. 4 L.R.A.(N.S.) 417; 41 L.R.A.(N.S.) 439.

Procuring or providing instrumentalities for commission of arson as an attempt to commit the same. 6 L.R.A.(N.S.) 804.

Consult also L.R.A. Digests of Cases.

ARSON—cont'd

§ 5. Corpus delicti in. Generally. 16 L.R.A.(N.S.) 285. Proof of. 68 L.R.A. 41, 49, 55, 69, 71, 78; L.R.A.1916D, 1299.

#### ART.

Art criticism as libel. 28 L.R.A. 672. Validity of bequest for education in. L.R.A.(N.S.) 1007.

Specific performance of contracts in relation to works of. L.R.A.1918E, 616.

#### ARTICLES OF ASSOCIATION.

Restricting transfer of stock by. 27 L.R.A. 271.

### ARTICLES OF WAR.

Are state militias subject to the articles of war of the United States. 40 L.R.A. (N. S.) 354.

# ARTIFICE.

Voluntariness of confession procured by. 18 L.R.A. (N.S.) 840; 50 L.R.A. (N.S.) 1088.

# \*\*\* ARTIFICIAL BODY OF WATER.

Rights in, see WATERS, § 27.

#### ARTIFICIAL CHANNELS.

See also Canals.

Navigability of. 42 L.R.A. 323.

Right to use for floating logs. 41 L.R.A. 376.

Boundary on artificial body of water. 51 L.R.A. 178.

Effect of bounding grant on. 42 L.R.A. 509.

Rights acquired in artificial condition of body of water. 50 L.R.A. 836.

Reciprocal casement as to. 17 L.R.A. (N.S.)

Conversion into natural water course. 16 L.R.A.(N.S.) 280.

Duty as to protection of banks of water course diverted into an artificial chan-

nel. L.R.A.1916F, 1302. Liability for overflow from artificial channel by which a stream is diverted from its natural channel. 36 L.R.A. (N.S.) 1158; L.R.A.1916F, 1291.

### ARTISTIC WORK.

Common-law right in unpublished pictures. 1 B. R. C. 195.

Employer's rights in respect to artistic work performed by employee. 5 L.R.A. (N.S.) 1187.

Rights of employer and employee with respect to literary or pictorial work of employee. 1 B. R. C. 324.

### ARTISTS.

Right of artist to use picture for his own purposes. 42 L.R.A. (N.S.) 386.

# ASEXUALIZATION.

Of criminals or defectives. 41 L.R.A.(N.S.) 419; L.R.A.1918D, 236.

#### ASHES.

Municipal liability as to, see MUNICIPAL CORPORATIONS, § 78.

Doctrine of "attractive nuisance" as applied to injury from hot ashes, see NEGLI-GENCE, § 23a.

### ASPHYXIATION.

See INSURANCE, § 161a.

#### ASPORTATION.

What constitutes, see LARCENY, § 3.
Bringing stolen property into the state, see
BRINGING STOLEN PROPERTY INTO THE
STATE.

# ASSAULT AND BATTERY.

§ 1. Generally.

On passenger, see Carriers, §§ 11-14.

Master's liability for assault by servant, generally, see MASTER AND SERVANT, § 172.

Damages for, see Damages, §§ 8, 52.
Indictment for, see Indictment, Information, and Complaint, § 14.

With intent to commit rape, see RAPE.

Question for jury on trial for, see TRIAL,

§ 55.

Provision in insurance policy against liability in event of death or injury in consequence of violation of law, as applied to death or injury resulting from a personal encounter. L.R.A.1917C, 199.

Liability of master for intentional injury to servant by third person. L.R.A.1917F,

ASSAULT AND BATTERY—cont'd Solicitation to commit. 25 L.R.A. 438.

Several offenses growing out of same facts. 31 L.R.A.(N.S.) 693, 732.

In removing servant from premises after termination of service. 41 L.R.A. (N.S.) 761.

By negligent operation of automobile. L.R.A.1917D, 950.

Internal hemorrhage as evidence of statutory wounding. 28 L.R.A.(N.S.) 965.

Assault on witness as contempt of court.

L.R.A.1915D, 570.

On judge after retiring from courtroom, as a contempt. 2 L.R.A.(N.S.) 603.

Recovery for, under workmen's compensation act. L.R.A.1916A, 309; L.R.A. 1917D, 112, 123; L.R.A.1918F, 498.

Right of action for, as asset of bankrupt.
43 L.R.A.(N.S.) 941.

Effect of discharge in bankruptcy on liability for. 3 L.R.A.(N.S.) 702.

Former jeopardy in case of. L.R.A.1915A, 256.

What weapons may be considered deadly under law of. 21 L.R.A.(N.S.) 497.

Liability of sureties on constable's bond for assault made in serving or executing civil writ or process. 8 L.R.A.(N.S.) 1223.

Homicide in commission of. 63 L.R.A. 375, 391; 45 L.R.A. (N.S.) 219.

Conviction on charge of, as bar to subsequent prosecution for homicide following death of victim. 14 L.R.A.(N.S.) 209.

Liability of servant or agent for, when acting under orders. 50 L.R.A. 646.

Liability for performing surgical operation without consent of patient. I L.R.A. (N.S.) 439; 7 L.R.A.(N.S.) 609; 50 L.R.A.(N.S.) 880.

Necessity and sufficiency of description of offense in bail bond or recognizance, 38 L.R.A.(N.S.) 312, 320.

Civil liability of insane person for. 42 L.R.A.(N.S.) 84.

Withdrawal from combat as affecting civil liability for assault. L.R.A.1915C, 893.

When verdict in action for, set aside for inadequacy for damages. 39 L.R.A. (N.S.) 487.

§ 2. What constitutes.

Solicitation as. 25 L.R.A. 434.

Pointing unloaded firearm as. 15 L.R.A. (N.S.) 1272; 41 L.R.A. (N.S.) 181.

Demonstration of force or violence outside of range of actual injury. 33 L.R.A. (N.S.) 982.

Removing one from defendant's premises. L.R.A.1918E, 1054.

What constitutes an attempt to commit homicide as distinguished from assault with intent to kill. 21 L.R.A.(N.S.) 898.

Forcing one to do an act under threat to kill as an assault with intent to kill. 39 L.R.A.(N.S.) 143.

ASSAULT AND BATTERY-cont'd Negligent operation of automobile. L.R.A. Resisting seizure of property under process. 1917D, 950. L.R.A.1916B, 957.

Striking or frightening animal as assault upon one in control. L.R.A.1915E, 812. Taking liberties with woman as an assault. L.R.A.1917A, 142.

§ 3. Excuse; justification; defense. Right to plead inconsistent defenses in ac-

tions for assault. 48 L.R.A. 197. What intoxication will excuse. 36 L.R.A. 477.

Withdrawal from combat as affecting civil liability. L.R.A.1915C, 893.

Assault with intent to murder or kill by unlawful act aimed at another than the one injured. 37 L.R.A. (N.S.) 172.

Provocation less than an assault, as a defense to a civil action for an asbattery. 38 L.R.A. sault and (N.S.) 516.

Assault to prevent seduction of, or commission of adultery with, wife, in the future. 18 L.R.A. (N.S.) 688.

Assault as affected by beneficent purpose. 45 L.R.A.(N.S.) 455.

Assault to prevent one from taking a child. L.R.A.1915A, 73.

#### 4. — consent.

Consent as justification for assault. L.R.A. 853.

Effect of fact that combat was by agreement or mutual consent of parties upon civil liability for assault. 20 L.R.A. (N.S.) 907.

Implied consent to performance of surgical operation. 1 L.R.A.(N.S.) 441; 50 L.R.A.(N.S.) 880.

### 🛔 4a. — self-defense.

Admissibility of evidence of turbulent and dangerous character of victim of assault on issue of self defense. L.R.A. 1916A, 1245.

Civil liability for killing or injuring one person while acting in self-defense against a third person. 50 L.R.A.(N.S.) 1069.

Right of self-defense against assault provoked by abusive language. 51 L.R.A. (N.S.) 838.

Effect of withdrawal from combat on doctrine of self-defense. L.R.A.1915C, 893.

As defense to carrier in action for assault by employee on passenger. 32 L.R.A. (N.S.) 1203; L.R.A.1915E, 673.

Right of self-defense by one pursued and assaulted after leaving premises which . he had entered for an unlawful purpose. 26 L.R.A.(N.S.) 621.

In resisting unlawful arrest. 33 L.R.A. (N.S.) 150.

§ 5. - protecting or recovering possession of property.

Force permissible in resisting or aiding the attempt of public service corporation to plant poles, lay tracks, etc. 45 L.R.A. (N.S.) 601.

Consult also L.R.A. Digests of Cases.

ASSAULT AND BATTERY—cont'd

Use of force to protect possession of real property by one not in actual possession. L.R.A.1918C, 532.

Right to employ force in retaking property sold conditionally. L.R.A.1915F, 673. Assault in recapture of property. 14 L.R.A. 317.

Civil liability for assault committed in regaining possession of land, by one entitled to possession. 17 L.R.A. (N.S.)

Criminal liability for assault committed in regaining possession of land by one entitled to possession. 22 L.R.A.(N.S.) 728.

Right to use force to recover possession of chattel. 3 L.R.A.(N.S.) 251; 19 L.R.A. (N.S.) 606.

Right to use deadly weapon in resisting trespass. 22 L.R.A.(N.S.) 724.

#### 6. - mistake in identity.

Mistaken identity as justification for. 67 L.R.A. 565; 37 L.R.A. (N.S.) 172.

Assault or homicide as affected by mistake as to identity of person assaulted. 33 L.R.A.(N.S.) 1070.

# § 7. Criminal responsibility of children

Assault with intent to inflict great bodily harm. 36 L.R.A. 201.

Assault with intent to rape. 36 L.R.A. 204, 205.

Common assault upon female. 36 L.R.A. 205.

Indecent assault. 36 L.R.A. 205.

Assault and battery upon female. L.R.A. 206.

# § 8. By parent or teacher.

Liability of parent or custodian for assault by punishment of child. 21 L.R.A.(N.S.) 216.

Right of teacher to inflict corporal punishment on pupil. 1 B. R. C. 718.

#### § 9. Responsibility of one aiding or encouraging another in.

Is one assisting relative in peril bound by the latter's act in bringing on the difficulty. 45 L.R.A. 703; 15 L.R.A. (N.S.) 1013; 39 L.R.A.(N.S.) 671. Civil liability of member of a mob which

makes hostile demonstration against a person. 38 L.R.A.(N.S.) 404.

Civil liability of one who encourages an assault without physically participating therein. 51 L.R.A. (N.S.) 718.

Criminal responsibility of one who aids another in assault in which the latter, without his knowledge or consent, uses a deadly weapon. 23 L.R.A.(N.S.) 273.

# 10. Homicide in resisting.

Homicide in resisting. 67 L.R.A. 532, 541. Insulting words or conduct combined with assault as provocation for homicide. 4 L.R.A.(N.S.) 158. ASSAULT AND BATTERY-cont'd § 11. Intent in committing.

Intent as an element of simple assault or assault and battery. 14 L.R.A.

Right of one to testify as to his intent. 23 L.R.A. (N.S.) 389.

Charging assault with intent to kill when actual intent is directed against another. 7 L.R.A.(N.S.) 630.

§ 12. Charge of, included in prosecution for homicide.

Charge of assault and battery included in prosecution for homicide. 21 L.R.A. (N.S.) 11; 43 L.R.A.(N.S.) 813.

13. Evidence on trial for.

Effect of admission to change burden of proof and right to open and close in action for assault. 61 L.R.A. 539, 548, 558.

Burden of proving that weapon was not loaded in prosecution for assault with

firearms. 42 L.R.A.(N.S.) 975.

Admissibility of declarations of infant female too young to be sworn as a witness at the trial form. ness at the trial. 65 L.R.A. 317.

Proof of corpus delicti in prosecution for. 68 L.R.A. 50, 70.

Evidence of other crimes in prosecution for.

62 L.R.A. 207, 228, 278, 313, 314. Evidence of other assaults made at about the time of one for which action for damages is brought. 44 L.R.A. (N.S.) 1173.

Evidence of plaintiff's character in action for. 14 L.R.A.(N.S.) 753.

Admissibility of evidence of turbulent and dangerous character of victim of assault on issue of self defense. I.R.A.

1916A, 1245. Evidence of specific instances to prove character of victim in prosecution for. 14 L.R.A. (N.S.) 713.

Evidence of provocation to mitigate damages in civil action for. 1 L.R.A. (N.S.) 137; 11 L.R.A.(N.S.) 670.

Admissibility for purpose of impeachment in action for criminal assault on woman of evidence that prosecuting witness has made similar charges against other persons. 41 L.R.A. (N.S.) 216.

Husband or wife as witness against the other in prosecution for. 2 L.R.A. (N.S.) 862; L.R.A.1917E, 1133.

14. Damages for. See DAMAGES, § 52.

§ 15. Punishment for.

Enforcing judgment for damages for, by imprisonment. L.R.A.1915B, 646.
Cruel and unusual punishment for. 35
L.R.A. 569; L.R.A.1915C, 565.

# ASSEMBLAGE.

Power of municipality to prevent gathering or assembling of persons on street or on sidewalk. 52 L.R.A.(N.S.) 999.

#### ASSEMBLY DISTRICTS.

Effect of ordinance of 1787 upon apportionment of state into senatorial and assembly districts. 52 L.R.A. (N.S.) 311.

### ASSEMBLY HALL.

Power of municipality to construct. 26 L.R.A. (N.S.) 425.

#### ASSENT.

See Consent.

# ASSESSMENT.

By building and loan association, see Building and Loan Association, § 6. Impairment of obligation of contracts as to, see Constitutional Law, § 32. Constitutionality of statutes as to, gener-

ally, see Constitutional Law, § 43. corporate stockholders, see Corpora-TIONS, §§ 109-111.

Of damages, see Damages, § 121.

As a taking of property, see EMINENT Do-MAIN, § 42.

Estoppel as to, see ESTOPPEL, §§ 7, 19. For insurance, see INSURANCE, §§ 110-118. For drains and sewers, see DRAINS AND

SEWERS, §§ 12-14.

For public improvements generally, see Public Improvements, IV. For taxation, see Taxes, IV.

### ASSESSMENT COMPANY.

See Insurance, § 12.

### ASSESSMENT PLAN.

Measure of damages for wrongful cancelation of policy issued on. 7 L.R.A. (N.S.) 1163; L.R.A.1917E, 1035.

#### ASSESSMENT WORK.

On mining claim, see MINES, §§ 16, 25.

#### ASSETS.

In case of assignment for creditors, see ASSIGNMENT FOR CREDITORS. § 10. Of bankrupt, see BANKRUPTCY, §§ 18-22.

Of decedent's estate, see EXECUTORS AND ADMINISTRATORS, §§ 30-32.

Of insolvent, see INSOLVENCY, § 4. Begin with this book on every law question.

ASSETS-cont'd

Distribution of assets of insolvent insurance company, see INSURANCE, § 10.

### ASSIGNMENT.

§ 1. Generally.

For creditors, see Assignment for CRED-TTORS.

By bankrupt, see BANKRUPTCY, §§ 13-17. Of bank deposit, see BANKS, § 13.

Of bills or notes, see BILLS AND NOTES, §§ 26-42

Of bill of lading, see BILLS OF LADING.

Of chattel mortgage, see CHATTEL MORT-GAGE, § 29.

Of check, see CHECKS, § 6.

Of copyright, see COPYRIGHT, § 6.

Of corporate stock, see CORPORATIONS, §§ 82-95.

cotenant's interest, see COTENANCY, §§ 11, 12.

Of easement, see EASEMENTS, § 16.

Of expectancy, see EXPECTANCIES, § 3.

Of franchise, see FRANCHISES, § 4.

Of good will, see Good WILL, § 2.

Of policy, or interest therein, see INSUB-ANCE, VI.

Of judgment, see JUDGMENT, § 78.

Of lease, see LANDLORD AND TENANT, §§ 19, 36, 37.

Of mortgage on land, see MORTGAGE, V.

Of patent or patented article, see PATENTS,

§ 14. Of vendor's lien, see VENDOR AND PUR-

CHASER, § 33. Federal jurisdiction of action by assignee,

see Courts, § 41. Fraudulent assignments, see FRAUDULENT

CONVEYANCES. Effect of, on proper party to bring suit, see

PARTIES, § 18. Pledge of chattels, see PLEDGE AND COLLAT-

ERAL SECURITY. Sale of chattels generally, see SALE.

Set-off of or against assigned claims, see SET-OFF AND COUNTERCLAIM, §§ 11, 14, 15, 20, 21, 23.

Of trademark, see TRADEMARK, §§ 4, 5. Of tradename, see TRADENAME, § 3.

Parol evidence to vary written assignment in favor of or against a stranger to the contract. L.R.A.1916A, 599, 610. Transfer of right to use water for irriga-

tion. 65 L.R.A. 407.

Of purchaser's interest under a conditional

sale. 40 L.R.A.(N.S.) 873. Law governing assignment of claim for damages for death or bodily injury. 56 L.R.A. 223.

What amounts to a violation of covenant in lease against. 14 L.R.A.(N.S.) 1200.

Right of one partner to acquire individual claim against the other. 28 L.R.A. (N.S.) 619.

Obligation of public corporation to pay for services rendered under contract assigned to officer. 34 L.R.A. (N.S.) 140. Consult also L.R.A. Digests of Cases.

ASSIGNMENT—cont'd

Injunction against enforcement of betting and gambling contracts in case of assignment. 48 L.R.A. 845.

Survival of primary obligation on payment by surety in case of assignment. L.R.A. 552.

Provability of partnership debts in individual proceedings where partnership assets have been assigned to bankrupt. 69 L.R.A. 777.

Necessity of, to surety's right of subrogation to judgment against principal. 68 L.R.A. 572.

Effect of discharge in bankruptcy upon assignment of wages to be earned in the future under contract terminable at will. 14 L.R.A. (N.S.) 1025; 30 L.R.A. (N.S.) 375; L.R.A.1916E, 248.

Effect of permitting assignor of a contract to receive non-negotiable instrument issued in payment thereof, to estop assignee, as against a subsequent assignee of such instrument. 11 L.R.A. (N.S.) 472.

Estoppel to set up original obligee's breach of condition to make future advances as against assignee of contract for payment of money not protected by the law merchant. 23 L.R.A.(N.S.) 178.

Effect upon lien of mortgage securing negotiable instrument assigned before maturity, of payment to payee without knowledge of assignment. 41 L.R.A. (N.S.) 462.

When may assignment executed with the formalities of a will, but not couched in formal testamentary phraseology, be given effect as a will. 41 L.R.A. (N.S.)

Admissibility of declarations by assignor made out of court as to his purpose in making a transfer attacked as fraudulent against creditors. (N.S.) 1. 41 L.R.A.

Competency of assignor of claim to testify as to transactions with, or statements by, deceased person when not expressly excluded by terms of statute. L.R.A.(N.S.) 316.

Federal courts following state decisions as to construction and effect of state statutes as to. 40 L.R.A.(N.S.) 431.

§ 2. How made.

How future crops assignable. 23 L.R.A. 449.

Manner of pledging or assigning book accounts. 27 L.R.A. (N.S.) 666.

§ 3. Assignability.

Of railroad ticket, see Carriers, §§ 21, 148.

Forbidding transfer of license to operate

jitney bus. L.R.A.1918B, 916.
Assignment of future book accounts not arising out of existing contract. L.R.A. 1918A, 126.

Of privilege to use streets for telegraph, telephone or other quasi public purpose. L.R.A.1917D, 707.

ASSIGNMENT—cont'd

Assignment as ground of action. 36 L.R.A. 582; 47 L.R.A. (N.S.) 689.

Assignees of instalment notes as parties to proceeding to enforce mortgage for part of debt. 37 L.R.A. 742.

### ASSIGNMENT FOR CREDITORS.

I. In general, \$\$ 1-6.

II. What constitutes, \$

III. Effect of, \$\$ 8-10.

IV. Rights and duties of assignee, **\$\$** 11-13.

V. Validity, \$ 14.

VI. Preferences and priorities, \$\$ 15-17.

VII. Rights and duties of creditors, å 1*8*.

VIII. Rights against assignor, \$ 19.

#### I. In general.

§ 1. Generally.

For conflict of laws as to, and effect of, foreign assignments, see Conflict or

LAWS, § 25.
As to bankruptcy, see BANKRUPTCY.

As to insolvency, generally, see INSOLVEN-

Liability for rent of premises occupied by assignee, see Landlord and Tenant, 8 8ñ.

Liability to levy, of property in hands of assignee, see LEVY AND SEIZURE, § 7.

Effect of bankrupt law on assignment for creditors under state laws. 45 L.R.A. 177.

Effect of re-entry by landlord after assignment for creditors by tenant upon latter's liability for subsequent rent. L.R.A.1917A, 208.

First and last days in computing time in matters of. 49 L.R.A. 240.

When limitations begin to run against balance of stock subscription in suit by assignee for creditors. 1 L.R.A. (N.S.) 903.

Effect of assignee's possession of property out of state on transfer by bankruptcy or insolvency proceedings. 23 L.R.A. 49

Preliminary injunction which would have effect of transferring possession of property from defendant to trustees. 39 L.R.A.(N.S.) 34.

Garnishment of claim to surplus under assignment for creditors. 59 L.R.A. 372.

Garnishable character of claim of creditor in estate created by voluntary assignment of debtor. L.R.A.1918F, 443.

Presumption as to time of alteration in.

39 L.R.A.(N.S.) 108.

§ 2. By partnership.

Power of one partner to assign partnership real estate for benefit of creditors. 28 L.R.A. 97.

§ 3. As violation of covenant against assignment.

General assignment for creditors as. L.R.A. (N.S.) 1202.

ASSIGNMENT FOR CREDITORS, Lcont'd

§ 4. Necessity of acceptance.

Assent and presumption. 24 L.R.A. 369.

Assent presumed. 24 L.R.A. 370.

Statutory presumption. 24 L.R.A. 373. Extent of presumption. 24 L.R.A. 374. Rebuttal of presumption. 24 L.R.A. 374. Express assent. 24 L.R.A. 376.

Sufficiency of assent. 24 L.R.A. 378.

Time of assent. 24 L.R.A. 379. Effect of assent. 24 L.R.A. 379.

Effect of assignment. 24 L.R.A. 380. The Massachusetts doctrine. 24 L.R.A. 381. English decisions. 24 L.R.A. 384.

§ 5. Schedule. Sufficiency of. 3 L.R.A. 140\*; 6 L.R.A. 109\*

6. Inventory.

Effect of failure to file on right to attach property in hands of assignee. 26 L.R.A. 594.

### II. What constitutes.

7. Generally.

Is a preference by mortgage or sale an assignment for creditors. 37 L.R.A. 337. Conveyance or transfer to indemnify sureties or indorsers as a voluntary assignment for creditors. 31 L.R.A. (N.S.) 332.

# III. Effect of.

§ 8. Generally.

Interruption of running of limitations by, see Limitation of Actions, § 61.

Effect generally. 24 L.R.A. 380.

Effect of appointment of assignee of corporation on compensation of officers, agents, or employees for unexpired term. 51 L.R.A. 146.

Effect of, on fire insurance. 15 L.R.A. (N.S.) 827.

Assignment of judgment for benefit of creditors as affecting attorney's lien thereon. 37 L.R.A.(N.S.) 228.

Effect of foreign assignment on personal property, where no rights of creditors are involved. 17 L.R.A.(N.S.) 173.

To whom notice of protest or nonpayment of bill or note should be given after appointment of assignee. 61 L.R.A. 900.

§ 9. On right of set-off.

Assignee's right of set-off in case of bankruptcy. 55 L.R.A. 54.

Right of bank to set off unmatured claim against deposit account of insolvent debtor. 15 L.R.A. 710.

Effect of immaturity of claim at time insolvency occurs upon right of set-off. 17 L.R.A. 456.

Right to set off, against insolvent, claims purchased after insolvency. 21 L.R.A. 280.

Right to set off insolvent's claim in hands of assignee for creditors. 23 L.R.A. 313.

ASSIGNMENT FOR CREDITORS, III.— ASSIGNMENT FOR CREDITORS, IV.cont'd

10. What passes by; assets. Transfer of trademark by, see TRADEMARK,

Transfer of property out of state by. 23 L.R.A. 33; 65 L.R.A. 353.

Whether cause of action for personal injuries passes to assignee. 44 L.R.A. **180.** 

Effect of assignment by husband upon wife's right of dower. 18 L.R.A. 77.

Will right of action for malicious attachment of property pass to trustee in bankruptcy or assignee for creditors.

21 L.R.A.(N.S.) 727.

Land charged with the payment of a legacy. 30 L.R.A.(N.S.) 822.

Life insurance as assets of bankrupt. 50 L.R.A. 33; 46 L.R.A. (N.S.) 148.

Option to receive cash-surrender value or policy having a cash-surrender value as an asset passing to assignee for creditors. 16 L.R.A.(N.S.) 318.

# IV. Bights and duties of assignee.

§ 11. Generally.

Right of assignee for creditors to notice to redeem from tax sale. 44 L.R.A. (N.S.) 668.

Right of lessor as against assignee for creditors of lessee to declare forfeiture for breach of conditions or covenants prior to appointment. L.R.A.1915B, 998.

Right of assignce for creditors to compromise claims. 23 L.R.A. 578.

Power to accept notice of protest. L.R.A. 900.

Liability for rent of premises occupied by receiver or assignee for creditors. L.R.A. 673.

Right of assignee for creditors to question validity of attachment. 35 L.R.A. 776. Right of assignee to have judgment against assignor set aside. 54 L.R.A. 762.

Right of assignee for creditors to complain of failure to record contract of conditional sale. L.R.A.1917C, 442.

Right of assignee for creditors of purchaser of goods sold for cash but delivered without payment. 13 L.R.A. (N.S.) 704.

Right of assignor to complain of sale made by assignee for creditors. 19 L.R.A. (N.S.) 682.

Right of seller to reclaim goods as against assignee for creditors of buyer, who procured them by false representations. 17 L.R.A.(N.S.) 1032.

§ 12. Actions by assignee. To enforce stockholders' liability, see Con-PORATIONS, § 116a.

Assignee for creditors as real party in interest by whom action must be brought. 64 L.R.A. 610.

Right of assignee to sue in other state. 23 L.R.A. 42.

Right of assignee for creditors to maintain partition. 20 L.R.A.(N.S.) 105. Consult also L.R.A. Digests of Cases.

cont'd

Injunction in favor of assignee for creditors to prevent execution sale. L.R.A. 124.

Collection of notes by assignee of creditors of mutual fire insurance company. 32 L.R.A. 486.

Right of assignee to recover statutory added liability of corporate shareholder. 31 L.R.A.(N.S.) 365.

Right of assignee to enforce stockholder's liability outside state of incorporation 33 L.R.A.(N.S.) 897.

13. Bond of assignee.

Effect upon surety on bond of assignee, of judgment against principal. 40 L.R.A. (N.S.) 720.

### V. Validity.

§ 14. Generally.

Law governing validity. 17 L.R.A. 84. Necessity of participation of assignee or beneficiaries in fraud of assignor to invalidate assignment. 32 L.R.A. 44.

Admissibility of declarations by assignor made out of court as to his purpose in making the assignment attacked as fraudulent as against creditors. L.R.A. (N.S.) 1.

14a. Effect of provision for release. The rule in general. 50 L.R.A. (N.S.) 715. As a condition of preference. 50 L.R.A. (N.S.) 730.

Release given prior to or with assignment. 50 L.R.A.(N.S.) 733.

Assignment of part only of property. 50 L.R.A.(N.S.) 734.

Effect of debtor's relinquishment of benefit of release clause of execution of new assignment. 50 L.R.A. (N.S.) 743.

Time for assent and execution of release. 50 L.R.A.(N.S.) 744.

Construction of particular provisions of assignments or of statutes. 50 L.R.A. (N.S.) 746.

### VI. Preferences and priorities.

15. Preferences by debtor.

Preferences by insolvent generally, see In-SOLVENCY, § 3.

Right of insolvent debtor to make preferences, generally. 11 L.R.A. 466.

Assignment with preferences. 6 L.R.A. 571; 12 L.R.A. 808.

In case of partnership assignment, L.R.A. 523.

Necessity of naming preferred creditors in an assignment. 8 L.R.A. 693.

Preference by mortgage or sale as an assignment. 37 L.R.A. 337.

Law determining validity of preference. 65 L.R.A. 360; L.R.A.1916A, 1041.

Law determining validity of discrimination between residents and nonresidents. 65 L.R.A. 354.

ASSIGNMENT FOR CREDITORS, VI.cont'd

§ 16. Effect of preferring usurious debt in assignment.

General doctrine. 41 L.R.A. 707.

Deed of assignment rendered void. 41 L.R.A. 708.

Preference of actual debt sustained, but usury rejected. 41 L.R.A. 709.

Preference of usurious debt sustained generally. 41 L.R.A. 710.

Who may, and who may not, urge the usurious character of the debt preferred. 41 L.R.A. 711.

17. Claims entitled to priority. Against insolvent estate generally, see In-SOLVENCY, §§ 6-8.

Of claims of laborers. 18 L.R.A. 305. Deposit by broker or factor to his own account of proceeds of sale of customer's stock or property as creating a trust entitled to a preference. 27 L.R.A.(N.S.) 808.

Priority of foreign attachment over foreign assignment for creditors.

L.R.A. 88.

Sufficiency of assignment to confer priority on claim of United States. 29 L.R.A.

### VII. Rights and duties of creditors.

§ 18. Generally.

Garnishable character of claim of creditor in estate created by voluntary assignment of debtor. L.R.A.1918F, 443.

Attachment of property in hands of assignee for creditors. 26 L.R.A. 593.

When creditor has successfully assailed assignment or deed of trust. 54 L.R.A. 343.

Right of creditor to participate under as-signment or deed of trust for the benefit of creditors which he has repudiated. 54 L.R.A. 343.

When creditor's attack on assignment or deed of trust has failed. 54 L.R.A. 345.

When creditor's attack on assignment or deed of trust is still pending and undetermined. 54 L.R.A. 350.

Right of simple contract creditor to the appointment of a receiver of the property of his debtor where the assignee to whom the debtor has made an assignment is insolvent. L.R.A.1918C, 638.

Treatment of collateral held by creditor. L.R.A.1918B, 1024.

When may local venue for suit against as-signee for benefit of creditors joined with suit against debtor, be disregarded upon the ground that the action is ancillary or incidental. L.R.A.1916D, 1135.

# VIII. Rights against assignor.

§ 19. Generally. Right to maintain action to recover property in specie against one who has made an assignment for his creditors. 18 L.R.A.(N.S.) 1272.

Fraudulent assignment for creditors as Liability of physician or surgeon for actsground of attachment. 30 L.R.A. 480. of. 42 L.R.A. (N.S.) 785. Begin with this book on every law question.

ASSIGNMENT OF ERROR.

On appeal, see APPEAL AND ERROR, §§ 23b.

As part of record on writ of error to state court from United States Supreme Court. 63 L.R.A. 333.

#### ASSIGNMENT WITHOUT RECOURSE.

Effect of, on right of set-off against assignee of commercial paper. 23 L.R.A. 221.

### ASSISTANCE.

To passenger, see Carriers, § 68.

Issuance of writ of assistance to put purchaser at execution sale in possession. 52 L.R.A.(N.S.) 697.

#### ASSISTANTS.

To prosecuting attorney, see DISTRICT AND PROSECUTING ATTORNEY, § 2.

See also DEPUTY.

Implied power of municipality to create office of assistant to incumbent to office which is expressly authorized. 26 L.R.A. (N.S.) 660.

Does privilege as to communication or information acquired by physician extend to assistant physician. 16 (N.S.) 887; L.R.A.1915F, 891. 16 L.R.A.

Improper influence or interference with grand jury by assistant prosecutors. 28 L.R.A. 370.

#### ASSISTING.

Criminal responsibility for assisting in crime, see CRIMINAL LAW, § 25. To assisting voter, see Elections, § 14a.

In preparing ballots rendered by unauthorized person as affecting their validity. 29 L.R.A.(N.S.) 1170.

Effect of assisting physically in creation of condition, on right to recover for damages to property caused thereby. 42: L.R.A. (N.S.) 709.

### ASSOCIATE.

§ 1. Generally.

Proof of one's intent by his associate. 23 L.R.A.(N.S.) 401.

ASSOCIATE—cont'd

§ 2. Associate counsel.

Attorney's right to withdraw from suit because of employment of associate coun-

sel. 35 L.R.A.(N.S.) 962. Attorney's implied power to employ associate counsel. 23 L.R.A.(N.S.) 705. Right of accused to complain because prosecution is conducted or assisted by un-official member of bar. 24 L.R.A. (N.S.) 564; 47 L.R.A.(N.S.) 1106.

# ASSOCIATE COUNSEL.

See Associate, § 2.

#### ASSOCIATIONS.

1. Generally.

Bar associations, see BAR ASSOCIATIONS. Benevolent associations, see BENEVOLENT SOCIETIES.

For purpose of insurance, see INSURANCE,

Patriotic societies, see Patriotic Society. Relig ous societies, see Religious Socie-TIES.

As to clubs, see CLUBS.

Labor organizations, see CONSPIRACY, §§ 4-8: LABOR ORGANIZATIONS.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 45.
Validity of contracts with or as to, see

CONTRACTS, § 93-96.

Jurisdiction over, see COURTS, §§ 11, 12. Restriction on power to take under will, see WILLS, §§ 72, 73.

Effect of agreement to share profits to create. 18 L.R.A.(N.S.) 1093.

Unincorporated, right of action against.

2 L.R.A. (N.S.) 789.

Failure to account for funds of, as theft, larceny, or embezzlement: 31 L.R.A. (N.S.) 823.

Liability of corporation formed by association for debts of old concern in absence of express assumption or fraud. 29 L.R.A. (N.S.) 589.

Taxation of capital stock of. 58 L.R.A. 526.

Restrictions on insurance by unincorporated associations. 25 L.R.A. 238.

Conclusiveness of decisions of tribunals of. 49 L.R.A. 353; 2 L.R.A.(N.S.) 672.

Relationship to private corporation or association for profit which will disqualify juror. 978. 40 L.R.A.(N.S.) 973,

Right of benevolent, fraternal, or social order to protection against use of name, insignia, ritual, etc., by another organization. L.R.A.1915B, 1074.

§ 2. As trustee or beneficiary of charity.

As trustee of charitable bequest. 32 L.R.A. 630; 14 L.R.A.(N.S.) 114. Consult also L.R.A. Digests of Cases.

ASSOCIATIONS—cont'd

beneficiary of charitable bequest. 14 L.R.A.(N.S.) 142; 37 L.R.A.(N.S.) 1019.

Validity of gift to unincorporated charity. 32 L.R.A. 625.

Effect of subsequent incorporation to make valid gift to an unincorporated association. 14 L.R.A. 410.

§ 3. Members.

In benevolent society, see BENEVOLENT So-CIETIES, § 3; INSURANCE, § 105. Members of club, see Clubs, § 2.

Of religious societies, see RELIGIOUS So-CIETIES, §§ 11-13.

Infant as member of co-operative insurance company. 17 L.R.A. 547.

Relations and rights of syndicate members. 40 L.R.A. 216.

Membership in association as condition of right to transact particular kind of business. 6 L.R.A. (N.S.) 433.

Forbidding student's affiliations with secret society. 7 L.R.A.(N.S.) 352; cret society. 7 L.R.A.1915D, 588.

Liability of members of mutual fire insurance companies. 32 L.R.A. 481.

Qualified privilege of communication be-tween members of association or private corporation. 26 L.R.A.(N.S.) 1080.

Right to prohibit wearing of badge by non-member. 24 L.R.A.(N.S.) 795.

Acquittal in criminal court as bar to expulsion of member of association for same acts. 50 L.R.A.(N.S.) 579.

Wrongful expulsion or violation of property rights of member as ground for dissolution of association. L.R.A.1918B, 310. -

#### ASSUMED NAME.

See NAME, § 8.

#### ASSUMPSIT.

I. In general, \$ 1. II. Recovery back of money paid, \$\$ 2-10.

# I. In general.

§ 1. Generally.

Election to sue in, see Election of Reme-DIES, § 3. Right to sue on contract with third per-

son generally, see Parties, §§ 12-17.

Necessity of pleading statute of frauds in action of assumpsit. 49 L.R.A.(N.S.) 43.

Sufficiency of common counts under the Code. 34 L.R.A.(N.S.) 364.

Admissibility of proof that money or property was obtained by fraud, under the common-law count for money had and received. L.R.A.1918F, 439.

On contract with third person. 25 L.R.A. 262.

On partly performed contract for services. 24 L.R.A. 233.

ASSUMPSIT, I.—cont'd

452, 459.

Against cotenant for use and occupation or rents and profits. 28 L.R.A. 844; 29 L.R.A. (N.S.) 231.

By administrator de bonis non for money

and balance due from predecessor. 40 L.R.A. 73, 74.

Recital of money consideration in deed as contractual in action of. 68 L.R.A.

Effect of admission to change burden of proof and right to open and close. L.R.A. 534, 540.

Right of one whose property has been taken for public use without his consent and without condemnation proceedings to maintain action for compensation. 28 L.R.A.(N.S.) 968.

Right of party to ultra vires contract of corporation to maintain action for money had and received. L.R.A.1917A,

1028.

Action for money had and received by true owner of a check against the drawee bank which has paid it on a ferged indorsement. L.R.A.1918C, 614.

Action for money had and received as proper remedy to recover damages for breach of contract. L.R.A.1918E, 781.

Right of mortgagor or owner of equity of redemption to maintain action for money had and received for surplus received by mortgagee on sale of property. 44 L.R.A.(N.S.) 1041.

inst guardian after termination of guardianship, but before settlement of account. 26 L.R.A. (N.S.) 789.

# II. Recovery back of money paid.

2. Generally.

Recovery back of money paid out by bank,

see Banks, § 28, 29.

Recovery back of payments made on bills or notes, see BILLS AND NOTES, § 73.

Recovery back of over payment of debts due by decedent's estate, see EXECUTORS AND ADMINISTRATORS, § 46.

Recovery back of insurance premiums or assessments, see Insurance, §§ 116-118. Money paid on judgment, see JUDGMENT, § 77.

Protest as condition, see Protest, § 3.

Recovery back of purchase money, see Pur-CHASE MONEY, § 4; SALE, §§ 47, 52; VENDOR AND PURCHASER, § 14.

Assumpsit not prosecuted to judgment as conclusive election of remedies, L.R.A.1917D, 658.

Right in absence of statutory provision therefor to recover back usurious payments. L.R.A.1918B, 585.

Recovery back of premiums or assessments paid after insured's death or disappearance. L.R.A.1918D, 1188.

Recovery back of money paid on rescission or abandonment of contract. 30 L.R.A. 50.

Money paid to a corporation in expectation of receiving corporate stock which is never issued. L.R.A.1918E, 754.

Right to recover back tax voluntarily refunded. 45 L.R.A.(N.S.) 753.

ASSUMPSIT, II.—cont'd

For repairs and improvements. 29 L.R.A. Destruction of premises as affecting rent paid or payable in advance. 33 L.R.A. (N.S.) 540.

Liability of creditor who accepts as payment from debtor, check of third person which has been wrongfully pro-cured by debtor. 13 L.R.A.(N.S.) 273.

Drawee's right to recover money paid on forged cheek or draft. 10 L.R.A.(N.S.) 49; 25 L.R.A.(N.S.) 1308; 29 L.R.A. (N.S.) 100.

Right of drawer of forged check or draft to recover money paid thereon. 1915A, 77.

Recovery back of money paid under contract to a foreign corporation which had not complied with conditions of doing business in the state. 38 L.R.A. (N.S.) 210.

Right of first assignee of claim to recover from second assignee the amount collected by latter on the claim. L.R.A.(N.S.) 807.

Right of purchaser to compel return of advance payment on resale by vendor after purchaser's default. 35 L.R.A. (N.S.) 532.

Admissibility of books of account to show money paid out. 52 L.R.A. 703.

§ 3. For money paid under mistake. Recovery back of payment made in ignorance of insolvency, see Insolvency.

Right to recover back money paid under a mistake, where the money was legally collectable at the time of payment. L.R.A.1916F, 538. Right to recover back overpayment made

in ignorance or forgetfulness of previous payments. 24 L.R.A.(N.S.) 517.

Right of insurance company to recover back money paid in settlement of policy on life of one erroneously supposed to be dead. 11 L.R.A.(N.S.) 234.

Right of agent to recover money erroneously paid to third person. (N.S.) 363. 4 L.R.A.

Right of bank to recover amount paid on check or other paper drawn upon it or payable at it under mistaken belief that there were sufficient funds to meet it. 23 L.R.A.(N.S.) 1092; 33

L.R.A.(N.S.) 1023; L.R.A.1918F, 811. Right to recover payment made to third person under a mistake as to the validity of the obligation of the payer to the party in whose behalf it was made. L.R.A.1918C, 177.

Alteration of position by payee as affecting right to recover back money paid under mistake. L.R.A.1917E, 349.

When limitations begin to run against action to recover money paid by mistake. 11 L.R.A.(N.S.) 1191.

Right to recover back license fee voluntarily paid under mistake of law. L.Ř.A. (N.S.) 863; 49 L.R.A. (N.S.) 387.

§ 4. For money paid under compulsion.

Right to recover back money paid to suppress a threatened prosecution for a crime. L.R.A.1918C, 73.

ASSUMPSIT, II.—cont'd

Recovery of money paid to labor union to avoid boycott. 4 L.R.A.(N.S.) 1198.

Recovery by member of labor union of unlawful fine paid under duress. 45
L.R.A.(N.S.) 355.

Right to recover back amount deposited for release of person illegally detained. 2 L.R.A.(N.S.) 563.

Right of purchaser to recover amount paid to relieve land from tax from one who should have paid the same but with whom he had no contractual relationship. 22 L.R.A. (N.S.) 562.

Money paid under duress of real property L.R.A.1915B, 498.

Right to recover back license fee unlawfully enacted under color of authority.
22 L.R.A.(N.S.) 862; 49 L.R.A.(N.S.) 387.

§ 5. In case of fraud. See FRAUD AND DECEIT, § 39.

§ 6. Recovery from agent or attorney. Against one who, without authority, assumes to contract as agent for another. 34 L.R.A.(N.S.) 535.

Right to recover from agent money paid him for his principal. 23 L.R.A. (N.S.) 553.

Right of principal to recover from broker or other agent commissions which latter received from other party to the contract. 28 L.R.A.(N.S.) 952.

Liability of auctioneer or clerk of auction for return of money. 35 L.R.A.(N.S.)

Right of third person to recover from agent money paid him for his principal. L.R.A.1916D, 1041.

When limitations begin to run against action to r over money collected by agent. 17 L.R.A.(N.S.) 660.

When limitations begin to run against action to recover money collected by attorney. 17 L.R.A.(N.S.) 667; 51 torney. L.R.A. (N.S.) 279.

§ 7. Recovery from public service corporation.

Recovery back of overcharge for water, see WATERS, § 123.

Recovery back of excessive payments to public service corporation. 18 L.R.A. (N.S.) 124.

Right of shipper to recover back charge in excess of contract rate. 38 L.R.A. (N.S.) 353.

§ 8. Recovery from public or officer. Recovery back of compensation paid to public officer, see Officers, § 36.

Recovery back of taxes paid, see Taxes, §§ 86, 87.

Right to withdraw bid for public contract and recover deposit. L.R.A.1915A, 225. To recover back money paid for drains Of and sewers. 60 L.R.A. 248.

Consult also L.R.A. Digests of Cases.

ASSUMPSIT, II.—cont'd

Recovery of money loaned a county on invalid contract to pay its indebtedness. 15 L.R.A. (N.S.) 567.

Claim against state for money paid. 42 L.R.A. 69.

Recovery of fees exacted by public officer for performing act for which he was not authorized to demand compensation. 15 L.R.A.(N.S.) 183.

9. — license fees.

Fee for liquor license, see Intoxicating LIQUORS, § 16.

Recovery back of license fee paid for use of streets by vehicles. 36 L.R.A. 416.

Right to recover back license fee unlawfully exacted under color of authority. 22 L.R.A. (N.S.) 862; 49 L.R.A. (N.S.) 387.

Voluntariness of payment of license fee unlawfully exacted under color of authority. 22 L.R.A.(N.S.) 872.

10. Recovery by public.

Right of municipal corporation to recover back money paid out in violation of the Constitution. 13 L.R.A.(N.S.) 157.

Right to recover back public money appropriated to sectarian institution. L.R.A.(N.S.) 171.

# ASSUMPTION OF DEBTS.

Of mortgage, see Mortgage, §§ 40-46. By partnership of individual debts of partners, see Partnership, § 13.

On dissolution of partnership, see PART-NERSHIP, § 37.

Assumption of other debts by grantee as participation in debtor's fraudulent intent. 31 L.R.A. 621.

By purchaser from insolvent debtor. L.R.A. 66.

Right of creditor after promisor's bank-ruptcy to adopt and enforce his assumption of another's debt. 39 L.R.A. (N.S.) 874.

Assumption by grantee of obligation to contribute to cost of party wall. 66 L.R.A. 701.

By agent as payment. 17 L.R.A. (N.S.) **6**07.

Right of creditor after promisor's bank-ruptcy to adopt and enforce his as-sumption of another's debt. 39 L.R.A. (N.S.) 874.

Parol evidence to show that grantee of deed assumed existing liens. 25 L.R.A. (N.S.) 1202.

Relief from mistake of law as to assumption of encumbrance. 28 L.R.A. (N.S.) 819.

Effect of assumption of obligation before notice of defective title to sustain bona fide character of purchaser of realty. 7 L.R.A.(N.S.) 1020.

predecessor, by consolidated railroad company. 23 L.R.A. 231.

ASSUMPTION OF DEBTS-cont'd What unsecured claims are covered by express assumption by one corporation of indebtedness of another on consolidation, merger, or absorption. 26 L.R.A.(N.S.) 1101.

Right of one who purchases property and agrees to assume the debts of the vendor to claim exemption as to property purchased. L.R.A.1918D, 885.

# ASSUMPTION OF RISK.

By passenger, see CARRIERS, §§ 84a, 85. By infant, see Infants, § 41. By servant, see Master and Servant, Вy III. b.

Of safety of wharf or dock. 61 L.R.A. 955.

#### ASTROLOGY.

Prohibition of fortune telling by. 43 L.R.A. (N.S.) 203.

#### ASYLUM.

For insane, see Insane Asylum. See also EXTRADITION.

# ATHLETIC PERFORMANCES.

Homicide while engaged in. 63 L.R.A. 383.

#### ATTACHMENT.

I. In general, § 1. II. When lies, §§ 2-6. III. Effect; lien; priority, §§ 7-9. IV. Procedure, §§ 10-20.

#### I. In general.

§ 1. Generally. Levy of, see LEVY AND SEIZURE. Liability for wrongful attachment, see ABUSE OF PROCESS; LEVY AND SEIZURE, §§ 10-15; MALICIOUS PROSECUTION. Conflict of laws as to, see Conflict or LAWS, § 40. As condition precedent to equitable remedy of creditors, see CREDITORS' BILL, § 2. Property subject to levy, see LEVY AND SEIZURE, §§ 2-7. Exemption from, see EXEMPTIONS, II. As to garnishment, see GAENISHMENT.

When statute begins to run against action by private person based on breach of duty by public officer in connection with attachment. 52 L.R.A.(N.S.) 707. Corporations as persons under laws relating to attachment. 19 L.R.A. 224.

Begin with this book on every law question.

ATTACHMENT, I.—cont'd
Notice sufficient to put purchaser pending,
on inquiry as to vendor's fraudulent
intent. 32 L.R.A. 61.

Availability of defense of, to maker against transferee after maturity. 46 L.R.A.

First and last days in computing time on. 49 L.R.A. 223.

Failure to comply with surety's demand to attach property of the debtor. L.R.A. 1918C, 51.
Release of indorser of note by failure to

take out attachment against maker.
18 L.R.A.(N.S.) 550.
Appointment of receiver to preserve status

quo pending attachment proceedings. 38 L.R.A.(N.S.) 232.

Does the right to attach property fraudu-

lently conveyed start the statute of limitations as against the right to file a creditors' bill. 2 L.R.A.(N.S.) 988.

Foreign attachment as condition precedent to equitable remedy against debtor. 23

L.R.A.(N.S.) 121. Liability of officer's bond for failure to return money deposited to avoid execution of writ. 39 L.R.A.(N.S.) 577.
Liability of judicial officer for issuing. 44
L.R.A.(N.S.) 172.

Against state officer, as suit against the state. 44 L.R.A.(N.S.) 218.

Federal courts following state decisions as to construction and effect of attachment laws. 40 L.R.A.(N.S.) 436.
Loss of profits as element of damages for

wrongful attachment. 46 L.R.A.(N.S.) 470.

# II. When lies.

§ 2. Generally.

Right to attachment or order of arrest in breach of promise case. 59 L.R.A. 954.

§ 3. Against whom generally. Against firm or partner, see PARTNERSHIP, § 11.

Against one having legal title to land in name of another. 22 L.R.A. 258.

Against executor or administrator. 47

L.R.A. 356.

Against stakeholder or depositary of funds to be held in connection with an illegal transaction. L.R.A.1918F, 972.

Right of creditor, who is also a stockholder of an insolvent corporation, to attach property of corporation, as affected by his own statutory liability. 41 L.R.A. (N.S.) 987.

§ 4. In case of nonresidence.

Attachment proceeding against alien enemy. 5 B. R. C. 597; L.R.A.1918B, 198.

What is nonresidence for the purpose of attachment. 19 L.R.A. 665; L.R.A. 1915A, 400.

When does nonresidence of person intending to leave permanently, begin. 1 L.R.A.(N.S.) 778. Determination of status by residence of

debtor in case of foreign attachment. 17 L.R.A. 87.

ATTACHMENT, II.—cont'd

Against foreign corporation. Liability of foreign corporation which has complied with conditions of doing business in state to attachment as non-resident. 31 L.R.A. (N.S.) 278; L.R.A. 1915D, 116.

6. For fraud.

What intent to defraud will sustain an attachment. 30 L.R.A. 465.

Right of creditors to attack attachment for fraud and collusion. 35 L.R.A. 779. Liability of property of one partner for fraud of copartner. 25 L.R.A. 645.

# III. Effect; lien; priority.

7. Effect of, generally. Loss of lien by issuing, see LIENS, § 19.

Waiver of lien of chattel mortgage by attachment. 24 L.R.A. (N.S.) 490; 51 L.R.A. (N.S.) 1068.

Effect of attachment and sale of stranger's property. L.R.A.1917B, 400.

Effect of attachment to change character of action set forth in complaint. 50 L.R.A. (N.S.) 32.

Effect of foreign attachment. 17 L.R.A. 88. Effect of, on marketability of title. 38 L.R.A.(N.S.) 32.

Effect of, as election of remedies in case of fraudulent purchase. 15 L.R.A. 90.

Attachment not prosecuted to judgment as a conclusive election of remedies. 34 L.R.A.(N.S.) 309.

Of insured property as change of interest, title or possession. 24 L.R.A. (N.S.)

Taking of property from bailee by, as defense to him against bailor. 33 L.R.A. (N.S.) 689.

Effect of attachment of real estate to defeat the right of receiver, subsequently appointed by another court, to possession. 3 L.R.A.(N.S.) 1073.

Right of attachment lien holder to set up Statute of Limitations against other creditors of his debtor. L.R.A.1918C, 1021.

8 8. Priorities.

Pre-existing debt as consideration for mortgage as against attachment. 33 L.R.A. 309.

Priority as between unrecorded deed or mortgage of real estate and lien acquired by attachment. L.R.A.1918A, **1089.** 

Priority as between true owner and attachment creditors of one in whose name he has placed stock on the books of the corporation. 49 L.R.A.(N.S.) 1159.

Priority between assignee for creditors and attaching creditors. 26 L.R.A. 593.

Right of possession as between receiver and creditor levying attachment on property. 20 L.R.A. 392.

Effect as against attachment, of pledge or other transfer of corporate stock not made in books of company. 67 L.R.A. 656.

Consult also L.R.A. Digests of Cases. 5

ATTACHMENT, III.—cont'd

Sufficiency of attachment to confer priority of claim of United States. 29 L.R.A. 234.

9. - proceedings in other states.

Right of attachment as affected by appointment of foreign receiver. 23 L.R.A. 52. Priority of foreign attachment over foreign assignment. 17 L.R.A. 88.

Priority of foreign assignment over subsequent domestic attachment. 17 L.R.A. **85.** 

Effect of insolvency proceedings in other state. 23 L.R.A. 35.

# IV. Procedure.

10. Generally.

Effect of failure to index. 14 L.R.A. 395. Right to break and enter dwelling to serve

writ of attachment. L.R.A.1916D, 283. Is issue upon grounds of attachment for court or jury. L.R.A.1918B, \$44.

§ 11. Jurisdiction.

Jurisdiction of actions, aided by attachment, against a resident of the state. L.R.A. (N.S.) 548.

May a state court protect an inchoate interest in real property under an attachment in a suit pending in a Federal court, or vice versa. 6 L.R.A. (N.S.)

§ 12. Who may question validity of attachment.

Right of obligor in bond for release of attached property to attack attachment. 32 L.R.A.(N.S.) 401.

13. - creditors.

What creditors may question the validity of attachment. 35 L.R.A. 766.

How creditors may question the validity of attachment. 35 L.R.A. 771.

For what creditors may question the validity of attachment. 35 L.R.A. 775.

At what stage of the proceeding creditors may question the validity of the attachment. 35 L.R.A. 782.

14. Affidavit.

Requisites of affidavit for foreign attachment. 17 L.R.A. 88.

Questioning validity of attachment for insufficiency of affidavits. 35 L.R.A. 778.

14a. — by agent or corporate officer. Necessity that affidavit in attachment, made by agent or attorney of plaintiff, shall show personal knowledge. 14 L.R.A. (N.S.) 1126.

Does the description of affiant in affidavit for attachment as a specified officer of a corporation import that he is an agent of the corporation as required by statute. 14 L.R.A. (N.S.) 1135.

Is affidavit by officer of corporation to be regarded as made by its agent. 16 L.R.A.(N.S.) 703.

ATTACHMENT, IV .-- cont'd § 15. - right to amend. Generally. 31 L.R.A. 422.

16. Judgment.

Possibility of appeal from dismissal of attachment as affecting right to with-hold property from debtor. L.R.A. 1917B, 591.

Extent of relief when process served constructively against nonresident. L.R.A. 583.

Judgment in attachment as res judicata against chattel mortgagee. 64 L.R.A.

§ 17. Bond: damages for wrongful attachment.

Filing bond to secure release of property as an appearance. L.R.A.1916F, 587.

Effect of bond or receipt given to secure surrender of property by officer as an estoppel after it has been returned to officer. L.R.A.1916F, 942.

Liability of sureties on attachment bond where judgment is in favor of one principal and against another. 51 L.R.A. (N.S.) 659.

Effect of insertion of unauthorized provisions in bond. L.R.A.1917B, 990.

Execution of bond on condition that others

shall sign. 45 L.R.A. 334.

Form of judgment on attachment bond. 62 L.R.A. 442.

Who is real party in interest who must bring action on attachment bond. L.R.A. 605.

Discharge of principal in bankruptcy as releasing surety on attachment bond. 14 L.R.A.(N.S.) 507; 28 L.R.A.(N.S.)

Amendment of claim or pleading as discharge of sureties on bonds given to dissolve attachments. 42 L.R.A. (N.S.)

Right of obligor in bond for release of attached property to attack attachment. 32 L.R.A. (N.S.) 401.

Loss of profits as element of damages by seizure under wrongful attachment. 52 L.R.A. 54; 46 L.R.A. (N.S.) 470.

Recovery of exemplary damages in action on attachment bond for malicious prosecution or abuse of process in suing out attachment for collection of debt. 29 L.R.A. (N.S.) 275.

Exemplary damages for suing out attachment for collection of debt only. 29 L.R.A. (N.S.) 272.

Under what circumstances the wrongful levy of several attachments will render the attaching creditors jointly liable. 6 L.R.A.(N.S.) 598.

Effect upon surety on attachment bond, of judgment against principal. 40 L.R.A. (N.S.) 743; L.R.A.1918E, 820.

§ 18. Dissolution; abatement; termination.

Issuance and quashing of writ for foreign attachment. 17 L.R.A. 87.

ATTACHMENT, IV.—cont'd

Law governing effect of fraudulent assignment for creditors to avoid previous attachment. 65 L.R.A. 365.

Adjudication of bankruptcy of member of firm as affecting rights under an attachment by firm creditors. 30 L.R.A. (N.S.) 787.

Abatement by dissolution or expiration of charter of corporation. 32 L.R.A. (N.S.) 449.

When action in which malicious attachment was issued is terminated so as to support suit for malicious prosecution. 2 L.R.A. (N.S.) 950.

Nonownership of attached property ground for dissolution. 47 L.R.A. (N.S.) 1127.

Motion to quash attachment as extending

time to plead. 47 L.R.A.(N.S.) 856. Possibility of appeal from dismissal of attachment as affecting right to with-hold property from debtor. L.R.A. 1917B, 591.

Power of attorney to bind client by release of attachment. L.R.A.1918D, 809.

19. Injunction against or in aid of. Injunction in aid of attachment. 20 L.R.A. 446.

Injunction in favor of attaching creditors against sale under execution or subsequent attachment. 30 L.R.A. 127.

Against attachment in other state. 21 L.R.A. 75.

. Intervention.

Rights of creditors to question validity of attachment by intervention and defense. 35 L.R.A. 772.

Right of third persons who claim property to intervene in attachment action. 23 L.R.A.(N.S.) 536.

Right of intervener in attachment to attack validity of service of process. 23 L.R.A.(N.S.) 1084.

#### ATTACHMENT CREDITORS.

Right of, to question validity of attachment. 35 L.R.A. 767.

#### ATTAINDER.

Effect of forfeiture of property by attainder on rights of innocent persons therein. L.R.A.1916E, 344.

#### ATTEMPT.

To commit crime, see CRIMINAL LAW, §§ 16,

What constitutes an attempt to entice servant to quit. 5 L.R.A.(N.S.) 1095.

Unsuccessful attempt to collect premium as waiver of forfeiture. 18 L.R.A. (N.S.) 902; 44 L.R.A.(N.S.) 371,

#### ATTEMPT—cont'd

To enforce lien under clause in lease giving landlord lien on crops and chattels as election preventing its enforcement as a chattel mortgage. 20 L.R.A.(N.S.) 259.

# ATTENDANCE.

Securing attendance of witnesses, see WIT-NESSES, § 4.

What constitutes attendance by a physician within meaning of an application for life insurance. 18 L.R.A. (N.S.) 362.

### ATTENDANTS.

Liability for negligence of attendants furnished by relief department toward which employees contribute. 17 L.R.A. (N.S.) 1167; 30 L.R.A.(N.S.) 1207; 48 L.R.A.(N.S.) 531.

# ATTESTATION.

Of deeds, see DEEDS, § 4. Of will, see WILLS, §§ 26-32.

Estcopel of one attesting conveyance to set up his own title to the property as against third persons. 48 L.R.A. (N.S.) 758.

Sufficiency of abbreviation of officer's name in. 14 L.R.A. 815.

By mark. 22 L.R.A. 370, 372.

Necessity for calling subscribing witnesses to prove attested instrument. 35 L.R.A. 321.

# ATTESTATION CLAUSE.

To will, see WILLS, § 32.

# ATTESTED INSTRUMENTS.

Admissibility in evidence, see EVIDENCE, § 123. See also DEEDS, § 4; WILLS, §§ 26-32.

# ATTESTING WITNESS.

To wills, see WILLS, 15, 24, 26-31.

Necessity of calling to prove instrument. 35 L.R.A. 321.

Estoppel of, to assert title to land conveyed. 3 L.R.A.(N.S.) 879.

Addition of name of, to instrument, as an alteration. 24 L.R.A. (N.S.) 1155; L.R.A.1917D, 828.

Weight of testimony of, against competency of testator. 6 L.R.A. (N.S.) 575.

Consult also L.R.A. Digests of Cases.

# ATTORNEY GENERAL.":

Power to dismiss prosecution, see CRIMINAL LAW, § 40.

See also STATE.

Power of courts to enforce ministerial duties of. 52 L.R.A.(N.S.) 442.

Suit against, as suit against the state. 44 L.R.A.(N.S.) 196.

Quo warranto as matter of right by. 1 L.R.A.(N.S.) 826.

Scope of discretion of, with respect to institution of proceedings in nature of quo warranto. 15 L.R.A.(N.S.) 603.

Right of attorney general, or other representative of state, to maintain suit or proceeding to remove officers of private corporations. 18 L.R.A.(N.S.) 672.

Right of attorney general, or other representative of state, to maintain action to enforce or prevent the violation of statutory regulations affecting rates, etc. 18 L.R.A.(N.S.) 664.

#### ATTORNEYS.

I. In general, § 1.

II. Relation to court and public, §\$ 2-

III. Relation to client, §\$ 7-22.

# I. In general.

§ 1. Generally.

Prosecuting attorneys, see DISTRICT AND PROSECUTING ATTORNEYS.

Privileged communications to, see Evi-DENCE, § 222.

Advice of, as defense to action for malicious prosecution, see MALICIOUS PROSECUTION, § 8.

Opening statement by, see OPENING STATE-MENT.

Argument of, during trial, see TRIAL, §§ 15-17.

Specific performance of contract for sale of practice. L.R.A.1918E, 628.

Misconduct of plaintiff's attorney as basis of attack on divorce decree. L.R.A. 1917B, 456.

Disqualifications as judge by prior connection with case. 25 L.R.A. 114.

Relationship to attorney in case as disqualifying judge. L.R.A.1918F, 1036.

Effect of advice of attorney on personal liability of a trustee for losses to trust estate from investments. 44 L.R.A. (N.S.) 978.

Right of attorney to testify in his own behalf or in behalf of client. 49 L.R.A. (N.S.) 422.

Is imputation of insolvency against lawyer actionable per se. 3 B. R. C. 61.

Privilege of defamatory statement made by one attorney concerning another in course of judicial proceedings. L.R.A. 1916E, 782.

Privilege of attorney as to communications regarding matters relating to the subject of his actual or prospective employment. L.R.A.1918B, 837.

ATTORNEYS, I.—cont'd

Exemption of attorney from service of summons while in jurisdiction on legal business. L.R.A.1917B, 893.

# II. Relation to court and public.

§ 2. Generally.

Champertous contracts, see infra, § 21. What constitutes contempt by, see Con-TEMPT, II.

As public officers. 17 L.R.A. 244. Right of attorney at law to solicit business. 9 L.R.A. (N.S.) 282; L.R.A. 1917B, 1128.

Validity of restrictive agreement ancillary to sale of practice. 24 L.R.A.

(N.S.) 926. Validity of contract restraining practice of profession after expiration of term of service with another. 26 L.R.A. (N.S.) 961.

Validity of contract to procure legislative action. 4 L.R.A.(N.S.) 213.

Validity of contract by attorney to secure suspension of criminal law as to offenses thereafter committed. 38 L.R.A.

(N.S.) 842.
Improper influence or interference with grand jury by attorneys. 28 L.R.A. 370.

§ 8. Right to practise law.

Constitutional privilege to practise law. 14 L.R.A. 581.

Right of women to practise law. 21 L.R.A. 701.

Practice of law by corporation. 32 L.R.A. (N.S.) 56.

Power of legislature to prescribe qualifications of. 10 L.R.A. (N.S.) 289.

§ 4. Disbarment; suspension; discipline.

Constitutionality of statutes relating to disbarment of attorneys. 44 L.R.A. (N.S.) 1195.

Disbarment as cruel and unusual punishment. L.R.A.1915C, 565.

Effect of pardon on right to disbar attorney

convicted of felony. 16 L.R.A. (N.S.)

Extent of restriction on right of disbarred or suspended attorney to transact legal business for another. L.R.A.(N.S.) 755.

Disqualification of judge to preside at dis-barment proceedings because of membership in bar association instituting the proceedings. 39 L.R.A. (N.S.) 116.

Eligibility of suspended or disbarred attorney to judicial office. L.R.A.1917B,

§ 5. — grounds for.

Necessity of bad or fraudulent motive to justify. 18 L.R.A. 401.

Want of due respect toward court in legal papers. 15 L.R.A.(N.S.) 525.

Criticism of decision or opinion after case has been determined. 17 L.R.A. (N.S.) 572

Withholding client's money or property.

19 L.R.A.(N.S.) 414.

Begin with this book on every law question.

ATTORNEYS, II.—cont'd

Solicitation of business. 282; L.R.A.1917B, 1131. 9 L.R.A. (N.S.)

Advertising. 33 L.R.A.(N.S.) 941.

Conviction or commission of crime or misconduct by attorney in another state. 19 L.R.A. (N.S.) 892.

Disbarment in other state or concealment of that fact. 24 L.R.A.(N.S.) 531.

Concealment or failure to produce document. L.R.A.1917B, 384.

Imputation in course of legal proceedings

of prejudice to court or judge. L.R.A. 1918D, 450.

Offering to pay witness as a ground for disbarment or suspension of attorney. L.R.A.1915A, 514.

Violation of liquor law. L.R.A.1918A, 1192. Disbarment or suspension of attorney for misconduct in an official capacity other than his attorneyship itself. L.R.A. 1915A, 663.

Improper advice to client, with no intention to wrong him, as ground for disbarment or suspension. L.R.A.1916A, 1175.

Acting with mob as a ground for disbarment, suspension, or other discipline. L.R.A.1915C, 259.

Disbarment or suspension for aspersing another attorney. L.R.A.1916F, 396.

Disberment of prosecuting attorney attempting to represent individuals having an interest adverse to or dissociated from the public interest. L.R.A.1918F, 832.

§ 6. License. License tax on. 18 L.R.A. 409.

License to practise as a vested right to continue in practice. 8 L.R.A. (N.S.) 1272. Validity of contract by unlicensed attorney. 12 L.R.A.(N.S.) 614.

Extent of restriction on right of unlicensed person to transact legal business for another. 24 L.R.A.(N.S.) 750.

Statute of limitations as a defense to revocation of attorney's license. 11 L.R.A. (N.S.) 557; L.R.A.1915D, 1218.

#### III. Relation to client.

§ 7. Generally.

Effect of death of person employing attorney, see DEATH, § 18.

Privileged communications to, see Evi-DENCE, § 222.

Advice of counsel as defense to action for malicious prosecution, see Malicious PROSECUTION, § 8.

Denial of relation as affecting right to summary order on attorney to produce papers. 38 L.R.A.(N.S.) 207.

Determination of disputed questions in summary proceedings to compel attorney to surrender money or property. L.R.A. 1918D, 830.

Sickness or death of, as ground for injunction against judgment. 30 L.R.A. 795. Validity of contract with, upon condition of procuring divorce. 44 L.R.A.(N.S.) 383.

Misconduct of counsel for defeated spouse as ground for relief from divorce. L.R.A.1917B, 464. ATTORNEYS, III.—cont'd

Consideration for note or obligation given by attorney to cover loss on transactions conducted by him for principal. L.R.A.1917B, 696.

Disqualification of judge through relationship to attorney in case. (N.S.) 1172. 42 L.R.A.

Admissibility in evidence of entries in account book by attorney. 53 L.R.A. 528. Taking of commercial paper by attorney as payment. 35 L.R.A. (N.S.) 53.

Appearance of special attorney or private counsel before grand jury. 33 L.R.A.

(N.S.) 568.

Addressing letter to plaintiff's attorney as publication for purposes of libel. 21 L.R.A.(N.S.) 33.

Conclusiveness of judgment as between plaintiff and attorney who has charge of the defense. 37 L.R.A. (N.S.) 964.

Rebuking or fining attorney during trial as prejudicing rights of party. L.R.A. (N.S.) 428.

Necessity that affidavit in attachment made by plaintiff's attorney shall show per-14 L.R.A. (N.S.) sonal knowledge. 1126.

Attacks on opposing counsel in argument to jury as ground for reversal. L.R.A.1918D, 97.

Prosecuting attorney's attack on defendants' counsel. 46 L.R.A. 655.

Treating of jurors by, as ground for new trial or reversal. 19 L.R.A.(N.S.) 733; 49 L.R.A.(N.S.) 889.

8. Right to counsel.

Right of prisoner to opportunity to consult with his attorney. 44 L.R.A. sult with his attorney. (N.S.) 1083.

Right of insured to have attorney present at examination as to loss. 52 L.R.A. 426.

Stockholder's right to assistance of, in inspection of books. 45 L.R.A. 449; 20 L.R.A.(N.S.) 197.

Right of prosecutrix in bastardy proceed-33 L.R.A. ings to private counsel. (N.S.) 463.

Necessity for representation by counsel at preliminary examination to make testi-mony given thereon admissible against accused. 25 L.R.A.(N.S.) 871.

§ 9. Employment of attorney.

Creation of precatory trust by recommending employment of attorney. 37 L.R.A. (N.S.) 685.

Right of governor to employ for state. 55 L.R.A. 493.

Right of public body entitled to services of official attorney to employ other attorney in civil matters. L.R.A.1917D, 251.

Power of municipal body to employ attorney. L.R.A.1917D, 241.

Power of public officers to bind successors

by employment of attorney for term of years. 16 L.R.A. £57.

Power of president and vice president of corporation to employ attorneys. 14 L.R.A. 360.

Consult also L.R.A. Digests of Cases.

ATTORNEYS, III.—cont'd

Power of municipal board or committee to employ one of its own members as. L.R.A.(N.S.) 849.

Effect of statute of frauds on parol contract for employment of attorney which may, but is not intended to, be performed within a year. 15 L.R.A.(N.S.) 326.

10. Fiduciary relation.

Fiduciary relation between principal and agent, see PRINCIPAL AND AGENT, § 33.

Right of client to recover property placed in the name of his attorney in order to defraud creditors. 37 L.R.A. (N.S.) 161.

Independent advice as a condition of a valid gift inter vivos between parties occupy ing confidential relations. 16 L.R.A. (N.S.) 1087.

Right of attorney to purchase subject-matter of litigation or of retainer from client and his duty in relation thereto. 23 L.R.A. (N.S.) 679; 28 L.R.A. (N.S.) 723.

Right of attorney to purchase or lease in his own behalf property which he was under no duty to purchase or lease for his principal. 47 L.R.A. (N.S.) 567.

§ 11. Duty and liability of attorney. Liability of attorney to client for mistake. 52 L.R.A. 883.

Liability for interest on money collected for client. 18 L.R.A. 457.

Right of client to maintain trover or case for money collected by attorney. 20 L.R.A. (N.S.) 35.

When statute of limitations begins to run against an action for negligence or misconduct of an attorney in performance of professional duties. 12 L.R.A. (N.S.) 1005; 51 L.R.A. (N.S.) 279. When statute of limitations commences to

run against action to recover money collected by attorney. 17 L.R.A.(N.S.) 667.

Duty of attorney to pay or secure costs in an action which he takes on a contingent fee. 11 L.R.A.(N.S.) 1153.

12. Authority of attorney.

Presumption and burden of proof as to authority of, see EVIDENCE, § 35. Ratification by client, see RATIFICATION, § 6.

Right to contest will. L.R.A.1918A, 467. Right to take acknowledgment. 33 L.R.A. 337.

Power to bind client by release of person or property of debtor from process to enforce judgment. L.R.A.1918D, 808.

Effect of death on contract with attorney.

23 L.R.A. 710.

Authority of, to contract for services of other persons. L.R.A.1918F, 15

Authority of attorney to waive privilege as to communications between physician and patient. 48 L.R.A. (N.S.) 421.

Extension of time by attorney as discharge of surety. 39 L.R.A.(N.S.) 62.

13. - over action generally.

Power as to dismissal or discontinuance, sec DISMISSAL AND DISCONTINUANCE, § 5.

ATTORNEYS, III.—cont'd

To satisfy judgment in favor of minor. 3 L.R.A.(N.S.) 72.

Power of attorney to bind client by consent decree. 46 L.R.A.(N.S.) 750. Implied power of attorney to bind client

for expenses incidental to trial including associate counsel fees. 23 L.R.A. (N.S.) 702.

Right of attorney to continue on account of his compensation after collusive dismissal to defeat it. 5 L.R.A.(N.S.) 390.

Client's death as affecting attorney's authority to proceed with suit. 34 L.R.A. (N.S.) 1189.

§ 14. — to compromise cause of action. Implied power of attorney to compromise cause of action. 31 L.R.A.(N.S.)

Power of actorney to submit infant's cause of action for arbitration. 70 L.R.A. 175.

§ 15. — authority to appear in action. To enter appearance in case in behalf of infant or incompetent. 32 L.R.A. 681.

Effect of unauthorized appearance of attorney in an action. 21 L.R.A. 848. Effect of failure to object before judgment to unauthorized appearance by an attorney upon right to relief from judgment. L.R.A.1918B, 899.

16. - right to withdraw.

Power of defendant's attorney to withdraw answer or appearance and permit a default judgment. 33 L.R.A. 515.

Right to withdraw from suit because of client's misconduct. 35 L.R.A. (N.S.) 960.

§ 17. Client's responsibility for attorney's acts or neglect.

Negligence in employing attorney as bar to injunction as against judgment. 31 L.R.A. 35.

Negligence of attorney, as a bar to injunction against judgment. 31 L.R.A. 36.

Loss of defenses by reason of negligence or unskilfulness of attorney as ground for enjoining judgment. 9 L.R.A. (N.S.)

Is neglect of counsel imputed to party under statute for relief from judgment taken

by inadvertence, surprise, or excusable neglect. 27 L.R.A.(N.S.) 858.

'Guardian's liability for misappropriation of ward's funds by attorney. 5 L.R.A. (N.S.) 575.

Personal liability of executor or adminis-trator to distributees for interest where settlement of estate is delayed by advice or negligence of attorney. L.R.A. (N.S.) 359.

Liability of principal for malicious prosecution, false arrest, or false imprisonment by attorney authorized to collect a debt. 51 L.R.A. (N.S.) 474.

ATTORNEYS, III.—cont'd § 18. Compensation; lien.

Recovery back of money paid to attorney, see Assumpsit, § 6.

Attorneys' fees generally, see ATTORNEYS' FEES; COSTS AND FEES, § 7.

Suit money and counsel fees in divorce suit, see Divorce and Separation, §§ 39, 40.

Liability of decedent's estate to attorney employed by personal representative, see Executors and Administrators, § 34.

Right of executor to allowance for attorneys' fees, see EXECUTORS AND ADMINISTRATORS, § 53.

Use of public money to pay counsel fees in-curred by officer or citizen in litigation.

L.R.A.1916D, 92. What court has jurisdiction to fix attorneys' fees for services in suit by or against receiver. L.R.A.1915F, 1219.

Statement of account by attorney. L.R.A. 821.

Damages for breach of contracts with. 53 L.R.A. 57, 79.

Remedy of attorney discharged without cause before completing service, or before expiration of time for which he was employed. L.R.A.1917F, 406.

Extent of recovery by attorney wrongfully discharged. 6 L.R.A. (N.S.) 92.

Right of ...ttorney not admitted to practice to recover for services of attorney who had been admitted. 2 L.R.A. (N.S.) 392.

Claims against state for fees of. 42 L.R.A. 51.

Validity of agreement by which compensation is dependent on success in procuring contract with public officer or board. L.R.A.1915C, 823.

Right of client to recover from third person for services rendered by attorney which benefit both. L.R.A.1915B, 856.

Right of attorney to compensation from private employer for assisting in prosecution of criminal case. L.R.A.1916D, 462.

Liability of infant for legal services. 44 L.R.A. (N.S.) 411.

Right to recover against incompetent or his estate for legal services in attempting to secure his freedom or in resisting lunacy proceedings. 45 L.R.A.(N.S.) 67.

Stipulation in contract for att rneys' fees as measure of compensation to which attorney is entitled. L.R.A.(N.S.) 594.

Constitutionality of statute requiring attorney to perform services for public without remuneration. 42 L.R.A. (N.S.) 527.

Right of counsel assigned to defend indigent person, to compensation from public, in absence of statute. 36 L.R.A. (N.S.)

Services of attorney as a family expense or necessary within statute rendering wife or her property liable therefor. L.R.A. 1917F, 863.

ATTORNEYS, III.—cont'd

Recovery for services to wife in divorce suit. 24 L.R.A. 629; L.R.A.1915C, 467; L.R.A.1917F, 362.

Liability of estate to attorney employed by executor or administrator. 25 L.R.A. (N.S.) 72.

Right of attorney, in the absence of express agreement, to compensation for debarring himself from representing antagonistic interests. 19 L.R.A.(N.S.) 960.

Loss of compensation by compromising case without authority. 42 L.R.A. (N.S.)

Effect of assignment of judgment to attornevs for their services on set-off against judgment in hands of assignee. L.R.A. 1917F, 1012.

Priority of claim for services, against property in hands of receiver over recorded

liens. 2 L.R.A.(N.S.) 1036, 1050, 1060, 1067; 41 L.R.A.(N.S.) 700, 710.

Conclusiveness of expert opinion as to value of services. 42 L.R.A. 768; 45 L.R.A.(N.S.) 181.

Libel in charging attorney with exacting excessive fees. 40 L.R.A.(N.S.) 79.

§ 19.—as between members of law partnership.

Effect of failure of member of law partnership to render services to exclude him from participation in the profits thereof. L.R.A.1918B, 678.

Rights of estate of law partner in compensation for business unfinished at time of his death. 66 L.R.A. 821.

Right of surviving member of law partnership to compensation for services. 17 L.R.A.(N.S.) 402; L.R.A.1917F, 577.

Right of liquidating member of law partnership to compensation for services. L.R.A.(N.S.) 398; L.R.A.1917F, 577.

20. - contingent fees.

Power of public body to employ attorney on contingent fee. L.R.A.1917D, 263.

Contingent attorney's fee in representative suit. 15 L.R.A.(N.S.) 729.

Power of court to protect attorney who has taken case on contingent fee, against voluntary dismissal by client without his consent. 14 L.R.A.(N.S.) 1095.

Validity of provision, in contract for contingent fee, forbidding client to settle the claim without attorney's consent. 14 L.R.A.(N.S.) 1101.

Basis for computing share of attorney entitled to certain proportion of recovery, where suit is compromised for certain sum and attorney's fee. 22 L.R.A. (N.S.) 776.

Rights and remedies of attorney whose client compromises cause of action without his consent before action brought. 45 L.R.A.(N.S.) 750.

Death of attorney employed on a contingent fee, or his withdrawal with-out client's fault, before final adjudication or settlement, as affecting compensation. 52 L.R.A. (N.S.) 380.

Consult also L.R.A. Digests of Cases.

ATTORNEYS, III.—cont'd

Validity of agreement to pay attorney a percentage of amount obtained as alimony: 33 L.R.A.(N.S.) 1074.

Right of attorney who takes case on con-tingent fee or for certain percentage to implied or equitable lien on fund recovered. 27 L.R.A.(N.S.) 634.

Right to discharge attorney employed for contingent fee. 38 L.R.A.(N.S.)

389.

Remedy of attorney employed on a contingent fee and discharged without cause before completing service or before expiration of 'ime for which he was employed. L.R.A.1917F, 406.

Duty of attorney to pay or secure costs in action which he takes on. 11 L.R.A. (N.S.) 1153.

21. — champerty; maintenance.

Taking case on contingent fee, see supra,

Right of attorney to recover for services performed under contract procured by solicitation. L.R.A.1917B, 1129.

Right to recover upon quantum meruit for services rendered under illegal or champertous contract. 2 L.R.A. (N.S.) 261; 38 L.R.A. (N.S.) 1202.

Right of attorney to purchase subject-matter of litigation or of retainer from client and his duty in relation thereto. 23 L.R.A.(N.S.) 679; 28 L.R.A.(N.S.) 723.

Right of attorney who has made champertous agreement with his client against opposite party to suit after settlement by client. 35 L.R.A.(N.S.) 518.

**22.** — lien.

Lien on cause of action for tort. 3 L.R.A. (N.S.) 379.

Attorney's lien on fund in bastardy proceedings. 11 L.R.A.(N.S.) 630.

Effect of agreement giving attorney employed by personal representative lien on subject-matter in litigation, on liability of estate to him. 25 L.R.A. (N.S.) 75.

Right of attorney, under local statute, to a lien upon money in the hands of an adverse party to a suit in proceeding in another state. 31 L.R.A. (N.S.) 1215.

Right of attorney who takes case on contingent fee or for certain percentage to implied or equitable lien on fund recovered. 27 L.R.A.(N.S.) 634.

Constitutionality of statutes providing for attorneys' liens. 40 L.R.A. (N.S.) 529.

Dismissal of suit to defeat attorney's lien or claims to compensation. 5 L.R.A. (N.S.) 390.

Waiver of attorney's lien by taking security. 2 B. R. C. 58.

Assignment of judgment to attorney defeat. ing lien. 23 L.R.A. 339.

ATTORNEYS, III.—cont'd
Assignment of judgment as affecting attorneys' lien thereon. 37 L.R.A. (N.S.) 226.

# ATTORNEYS' FEES.

§ 1. Generally.

Right of attorney to recover fees from his own client, see ATTORNEYS, §§ 18-22. Constitutionality of statutes as to, see Con-

STITUTIONAL LAW, § 180.
As element of costs or damages without any stipulation therefor, see Costs AND FEES, § 7.

affecting jurisdictional amount, see Courts, § 27.

In divorce suit, see DIVORCE AND SEPARA-TION, 88 34-49.
Recovery of, upon injunction bond, see In-

JUNCTION, § 87. action to enforce mechanics' lien, see

MECHANICS' LIENS, § 25. In action to enforce tax, see Taxes, \$ 71.

Stipulation in contract for attorneys' fees as measure of compensation to which attorney is entitled. 51 L.R.A.(N.S.) 594.

Is the amount of attorney's fees expressly stipulated for to be included in computing amount involved, for purpose of ascertaining jurisdiction. 27 L.R.A. (N.S.) 167; 49 L.R.A. (N.S.) 600.

2. Validity and effect.

Validity of stipulation for attorneys' fees. L.R.A.1915B, 928.

Conflict of laws as to stipulation for, in contract relating to real property.

L.R.A.1916A, 1040.

Validity of statutory provision for attorn v's fees. 17 L.R.A.(N.S.) 910: n v's fees. 17 L.R.A.1915E, 943. L.R.A. (N.S.) 910;

Validity of statutory provision for attorney's fees in proceedings involving collection of taxes or special assessments. 28 L.R.A.(N.S.) 1002.

Constitutionality of provision for, in case of failure to fence railroad tracks. 31 L.R.A. (N.S.) 864.

§ 8. — effect on negotiability.

Effect of stipulation for, upon negotiability. L.R.A.1916B, 675.

Effect of stipulation for, in mortgage upon negotiability of note secured thereby. 26 L.R.A. (N.S.) 217.

# ATTORNEYS IN FACT.

Form of execution of deed by. 41 L.R.A. | Right of auctioneer or officer conducting a (N.S.) 805.

#### ATTORNMENT.

By lessee generally, see LANDLORD AND TENANT, § 3.

By tenant to transferee of reversion. L.R.A. 1915C, 201, 203.

# ATTRACTIVE NUISANCA

See NEGLIGENCE, §§ 23, 23a.

#### AUCTION.

§ 1. Generally.
Oral or implied building restrictions as to other lots in tract on sale of lots at auction. 45 L.R.A.(N.S.) 969.

Implied exception in statute as to. L.R.A. 569.

Delegation of municipal power as to license of. 20 L.R.A. 724. Right of executor or administrator to em-

ploy auctioneer. 64 L.R.A. 557.

Binding effect of conditions announced by auctioneer. 24 L.R.A.(N.S.) 488.

Liability of goods in hands of auctioneer to distress. 25 L.R.A. (N.S.) 795.

Right to resell property after it has been struck off to a bidder. 36 L.R.A. (N.S.) 927.

Discrimination against nonresidents by statute or ordinance imposing license tax on auctioneers. 40 L.R.A. (N.S.) **29**0.

§ 2. As a nuisance.

Generally. 20 L.R.A. (N.S.) 972.

In street, as a nuisance, subject to city control. 39 L.R.A. 678.

§ 3. Right to withdraw property from sale.

Right to withdraw property from an auction sale after it has been offered. 57 L.R.A. 784; 20 L.R.A. (N.S.) 1133; L.R.A.1917A, 74.

§ 4. Validity.

Effect of preventing or checking bids upon the validity of sales at auction. 20 L.R.A. 545.

§ 5. Rights of purchaser.

Relief from purchase at auction on ground of mistake. 34 L.R.A.(N.S.) 927.

§ 6. Rights and liabilities of auctioneer.

Effection of insertion of unauthorized provisions in auctioneer's bond. L.R.A. 1917B, 1013.

Validity of license fee exacted of auctioneer affected by amount. 51 L.R.A. (N.S.) 40.

sale to make bids. 20 L.R.A. 503.

AUCTION—cont'd

Liability for conversion of property. 50 Relevancy of evidence as to, see EVIDENCE, L.R.A. 654.

Liability of auctioneer or clerk of auction for return of money. 35 L.R.A. (N.S.) 481.

§ 7. Bids at.

Effect of preventing or checking bids on validity of sales at auction. 20 L.R.A. 545.

Withdrawal of property from auction sale after. 57 L.R.A. 784; 20 L.R.A. (N.S.) 1133; L.R.A.1917A, 74. Right of auctioneer or officer conducting a sale to make. 20 L.R.A. 503.

#### AUDITOR.

See also ACCOUNTANT.

Power of courts to enforce ministerial duties of state auditor. 52 L.R.A. (N.S.) 439.

# AUGUR BIT.

Master's liability for injury by defects in. 51 L.R.A. (N.S.) 338.

### AUNT.

Insurable interest in life of. 54 L.R.A. 233. Implied agreement to pay for services rendered to. 11 L.R.A.(N.S.) 884.

# AUSTRALIAN BALLOT.

Constitutionality of Australian ballot statutes. 16 L.R.A. 764.

# AUTHENTICATION.

Of documents introduced in evidence, see EVIDENCE, V.

Of papers used for purposes of extradition. 28 L.R.A. 804.

# AUTHORITY.

Of attorneys, see Attorneys, §§ 12-16. To execute commercial paper, see BILLS AND

NOTES, § 11. To pay negotiable instruments, see BILLS AND NOTES, § 60.

Of broker, see Brokers, §§ 2-4.

Of employee, see MASTER AND SERVANT, §§ 17-18a.

Of agent, see PRINCIPAL AND AGENT, IV. Presumption and burden of proof as to, see EVIDENCE, §§ 34, 35.

Consult also L.R.A. Digests of Cases.

AUTHORITY—cont'd

§ 282.

Question for jury as to, see TRIAL, § 36.

#### AUTHORS.

Copyrights of works of, see Copyright. Rights in literary work as between master and servant, see MASTER AND SERV-ANT, § 14.

Common-law rights on, in intellectual productions. 51 L.R.A. 353; 43 L.R.A.

(N.S.) 639.

Validity of contract in restraint of trade in publications of. 22 L.R.A. 674.

Rights and remedies of author who has parted with property rights in work. 3 L.R.A.(N.S.) 629.

### AUTHORSHIP.

As to authors, see Authors.

Competency of nonexpert to testify as to, when basing his opinion on letters purporting to come from the person whose handwriting is in question. 7 L.R.A. (N.S.) 557.

# AUTOMATIC COUPLERS.

State statute requiring automatic couplers on cars as interference with interstate commerce. 52 L.R.A. (N.S.) 269.

# \*\*\* AUTOMATIC DEVICE.

Requiring passenger to put coin in automatic registering device. 32 L.R.A. (N.S.) 695.

# AUTOMATIC MOVEMENTS.

Duty of master to warn servant of danger from automatic movement of bodies. 44 L.R.A.(N.S.) 779.

# AUTOMATIC OPERATION.

Of option provisions in life insurance policy. 25 L.R.A. (N.S.) 803.

### AUTOMATIC SIGNALS.

At railroad crossing, see RAILBOADS, § 66.

#### AUTOMOBILES.

§ 1. In general.

As to motorcycles, see MOTORCYCLES.

Person or company operating passenger automobile for hire as a common carrier. L.R.A.1918F, 468.

Exemption of automobile from seizure for debt. 49 L.R.A.(N.S.) 691.

Constitutionality of statutes giving lien on automobile for injuries done by it. L.R.A.1917E, 928.

Lien upon automobile for repairs or storage. L.R.A.1918D, 330.

Liability of manufacturer to servant with respect to automobile testing track. 49 L.R.A.(N.S.) 883.

Validity of agreement in restraint of trade ancillary to sale of business by dealer in automobiles and accessories as affected by its territorial scope. L.R.A. 1916C, 631.

Measure of damages for damage to automobile used for pleasure. L.R.A.1915C,

Right to use automobile on private right of way. L.R.A.1918A, 263.

Right to take toll for use of road or bridge by automobile. L.R.A.1917E, 562.

Liability for striking one engaged about an automobile in a highway. L.R.A.1917B,

§ 1a. Regulation and control by public.

As to regulation of jitney busses, see JITNEY BUSSES.

Power of municipality over interurban vehicles used for hire. L.R.A.1918B, 891.

Registration. 1 L.R.A. (N.S.) 215. Numbering. 1 L.R.A. (N.S.) 215.

Tax. 1 L.R.A.(N.S.) 215.
License. 1 L.R.A.(N.S.) 215; 21 L.R.A.
(N.S.) 41; 37 L.R.A.(N.S.) 440;
52 L.R.A.(N.S.) 949; L.R.A.1915D,

Operating without license. 23 L.R.A. (N.S.) 561; 25 L.R.A.(N.S.) 734; \$5 L.R.A. (N.S.) 699; 41 L.R.A. (N.S.) 308; 52 L.R.A. (N.S.) 801; L.R.A.1915D, 628; L.R.A.1916E,

Regulation of automobiles used for hire. 1 L.R.A.(N.S.) 222.

Power to prescribe qualifications of chauf-feurs. 37 L.R.A.(N.S.) 303. Safety appliances. 1 L.R.A.(N.S.) 219.

Speed. 1 L.R.A.(N.S.) 219; L.R.A.1918D,

132. Lights. L.R.A.1918B, 828.

Prohibited hours and places. 1 L.R.A. (N.S.) 219; 26 L.R.A. (N.S.) 502.

Restrictions as to transportation of gasolene. 1 L.R.A. (N.S.) 223.

Regulation as to parking or leaving automobiles standing in street. L.R.A. 1917F, 352.

Power to require one who has caused injury to identify himself. 40 L.R.A. (N.S.) 622.

AUTOMOBILES—cont'd

Power to prohibit use of automobile upon public thoroughfares. 264. L.R.A.1915E,

Private action for violation of statute regulating use of motor vehicles. L.R.A. 1915E, 540.

§ 2. Duty and negligence of operator. Contributory negligence of operator, see infra, § 7.

Rule of the road generally, see NEGLIGENCE, § 25.

Assault by negligent operation of automo-

bile. L.R.A.1917D, 950. Homicide by negligent operation of automobile. 30 L.R.A.(N.S.) 458; 33 L.R.A. (N.S.) 403; L.R.A.1918B, 954.

Intoxication of person operating automobile. L.R.A.1917A, 313.

Duty owed to others by one blinded by light on highway. L.R.A.1917E, 1045.

Duty to stop to avoid collision with pedestrian. 24 L.R.A. (N.S.) 557.

Liability for collision with bicyclist. 28 L.R.A. (N.S.) 944.

Duty when horses encountered on highway. 1 L.R.A.(N.S.) 223; 224; 14 L.R.A. (N.S.) 251; 48 L.R.A.(N.S.) 946.

Reciprocal duty of operator and pedestrian to use care. 38 L.R.A.(N.S.) 487; 42 L.R.A. (N.S.) 1178; 51 L.R.A. (N.S.)

Reciprocal duty of driver and children in street. L.R.A.1918A, 245.

Signal of traffic officer as affecting duty of travelers to exercise care. L.R.A. 1917B, 137.

Liability for crowding automobile off the road. 51 L.R.A. (N.S.) 453.

Liability for collision between automobiles or an automobile and another vehicle at or near corner of streets or highways. L.R.A.1916A, 745.

§ 2a. Liability generally for injury by

Liability for injuries by automobile set in motion by stranger. L.R.A.1917D,

Responsibility of guest for injury to third person through negligence of person driving car. L.R.A.1915E, 439.

Liability of one other than owner, operator, or guest, for injury by car. L.R.A. 1915E, 436.

Injury by skidding due to oiling streets. L.R.A.1917F, 712.

§ 3. Responsibility of owner when car operated by another.

Liability of co-owners. L.R.A.1916E, 1301. Liability of joint owners of automobile for torts of common servant. 51 L.R.A. (N.S.) 1116.

Validity of statute making owner liable for injuries by automobile being used by another. 45 L.R.A. (N.S.) 699; L.R.A. 1918A, 918.

AUTOMOBILES—cont'd

Making prima facie case of responsibility for negligence of driver of automobile by proof of defendant's ownership of car or employment of driver. 46 L.R.A. (N.S.) 1091; L.R.A.1918D, 924.

When car is being used by servant or another for his own pleasure or business. 1 L.R.A.(N.S.) 235; 9 L.R.A. (N.S.) 1033; 14 L.R.A.(N.S.) 216; 21 L.R.A.(N.S.) 93; 26 L.R.A.(N.S.) 382; 33 L.R.A.(N.S.) 79; 37 L.R.A. (N.S.) 834; 47 L.R.A.(N.S.) 662; 1 R.A.(1914) 157 L.R.A.1916A, 957.

Liability of owner upon the ground of dan-gerous agency, or of negligence in intrusting car to incompetent or negligent person, for injuries in-flicted while latter is operating car for his own purpose. L.R.A.1915D, 691; L.R.A.1916E, 1295; L.R.A. 1917**F**, 384.

Liability of owner for injury inflicted by car while being run by one to whom it has been intrusted for storage or repairs. 51 L.R.A.(N.S.) 772; L.R.A. 1916B, 762.

Liability of master for injury to person riding with servant by latter's invitation or permission. L.R.A.1917F, 425.

When car is being used by borrower or hirer. 33 L.R.A.(N.S.) 81.

Liability of automobile owner for negligence of chauffeur furnished by third person. 39 L.R.A.(N.S.) 933; L.R.A. (N.S.) 424.

Liability where automobile is being used by a member of owner's family. 41 L.R.A. (N.S.) 775; 50 L.R.A. (N.S.) 59; L.R.A.1916F, 223; L.R.A.1917F, 365; L.R.A.1918F, 297.

Who is responsible for negligence of chauffeur operating a leased or demonstrat-ing car. 40 L.R.A.(N.S.) 457; 44 L.R.A.(N.S.) 113; 51 L.R.A.(N.S.)

§ 3a. Liability of one giving instruc-tions in driving.

Liability of one undertaking to give instruction in driving automobile for negligent operation during instruction. L.R.A.1917A, 397.

§ 4. Duty and liability to operator or person using.

Generally. 1 L.R.A.(N.S.) 237.

Automobile owner's liability for injury to servant. 46 L.R.A. (N.S.) 1183; L.R.A. 1917D, 116; L.R.A.1918E, 416.

Duty as to condition of highway. 1 L.R.A.(N.S.) 237; 14 L.R.A.(N.S.) 816.

Municipal liability for injury to persons using automobiles by defect or obstruction in street. 20 L.R.A.(N.S.) 756. Liability in case of collision of automobile with car standing on railroad crossing. L.R.A.1918E, 792.

Idability for injury to occupant by skid-ding of automobile due to oiling street. L.R.A.1917F, 712.

Liability of manufacturer or dealer for personal injuries caused by defects in au-Consult also L.R.A. Digests of Cases.

AUTOMOBILES—cont'd tomobile. 37 L.R.A. (N.S.) 560; L.R.A. 1915E, 287; L.R.A.1916F, 704.

§ 5. Speed; evidence. Speed at which driver approaches railroad crossing as contributory negligence, see infra, § 7.

Public regulations as to. 1 L.R.A. (N.S.) 219; L.R.A.1918D, 132.

Effect of speed and application of speed regulations on liability for collision between automobiles, or an automobile and another vehicle, at or near corner of streets or highways. L.R.A.1916A, 747.

Speed of automobile as negligence. 25 L.R.A. (N.S.) 40; 38 L.R.A. (N.S.) 488; 51 L.R.A. (N.S.) 993.

Res ipsa loquitur. 32 L.R.A. (N.S.) 1177.

Evidence as to speed of automobile. 34 L.R.A.(N.S.) 778. Opinion evidence. L.R.A.1918A, 705.

Admissibility, in prosecution for driving at dangerous speed, of evidence of traffic reasonably to be expected upon highway. 2 B. R. C. 201.

§ 6. Contributory negligence.

Contributory negligence in violating rule of the road generally, see Negligence, § 40.

Effect of contributory negligence on homicide by negligent operation of automobile. L.R.A.1918B, 957.

Reciprocal duty of driver of automobile and children in street. L.R.A.1918A, 245.

Reciprocal duty of operator of automobile and pedestrian to use care. 51 L.R.A. (N.S.) 990.

Duty of pedestrians to look out for automobiles. 3 L.R.A.(N.S.) 345; 20 L.R.A.(N.S.) 232; 38 L.R.A.(N.S.) 488; 42 L.R.A.(N.S.) 1179.

Signal of traffic officer as affecting duty of travelers to exercise care. L.R.A.1917B. 137.

Negligence of child running in front of automobile. 26 L.R.A. (N.S.) 435.

Attempting to pass automobile with fright-ened horse. 1 L.R.A.(N.S.) 228; 31 L.R.A.(N.S.) 1137.

Contributory negligence of driver of horse encountering automobile on highway. 50 L.R.A. (N.S.) 566.

Contributory negligence of passenger riding in automobile driven by another precluding recovery against third person for injury. L.R.A.1915B, 953.

Violation of statute or ordinance by plaintiff as precluding recovery. L.R.A. 1915E, 961.

Defendant's violation of law as affecting defense of contributory negligence. L.R.A. 1915D. 968.

67. - of operator.

Care required of driver of automobile at railroad crossing. 21 L.R.A. (N.S.) 794; 29 L.R.A. (N.S.) 924; 46 L.R.A. (N.S.) 702.

Intoxication of person operating automobile. L.R.A.1917A, 313.

AUTOMOBILES—cont'd

Violation of statute or ordinance by plaintiff as precluding recovery for negli-gence in action by driver or owner of automobile. L.R.A.1915E, 960.

Imputed negligence of passenger riding in automobile driven by another preclud-ing recovery against third person for injury. L.R.A.1915B, 953.

§ 8. Injury to guest or passenger, or servant riding in car.

Regulation of automobiles for hire. 1 L.R.A.

(N.S.) 222. Liability for Liability for injury to passenger. 21 L.R.A.(N.S.) 81; 85 L.R.A.(N.S.) 658. Owner's liability for injury to servant riding in car. 46 L.R.A.(N.S.) 1183; L.R.A.1918E, 416.

Liability of owner or operator for injury to guest. 50 L.R.A. (N.S.) 1100; L.R.A. 1916E, 1193; L.R.A.1918C, 276.

Applicability of doctrine of res ipsa loquitur where accident to passenger is occasioned by skidding of vehicle. 3 B. R. C. 97.

9. Garage; gasolene stations.

Right of owner of garage to lien. 1 L.R.A. (N.S.) 240.

As within restrictive covenant. 34 L.R.A. (N.S.) 730.

Prohibition or regulation of garage. L.R.A. 1915D, 603.

Garage as a nuisance. L.R.A.1917E, 369. Duty and liability of garage keeper to owner of cars. 45 L.R.A.(N.S.) 314; 48 L.R.A.(N.S.) 561. Gasolene stations. L.R.A.1917F, 1005.

l 10. Insurance. See Insurance, § 221.

§ 11. Automobile distribution contract. Whether contract of agency or sale. L.R.A. 1915B, 110.

Validity as affected by provision for canceling. L.R.A.1915B, 110.

Validity as affected by indefinite description of machines to be furnished under the contract. L.R.A.1915B, 113.

Validity under antimonopoly laws. L.R.A. 1915B, 113.

Breach of contract by dealer. L.R.A.1915B, 113.

Breach by manufacturer by selling autodealer's mobiles in territory. L.R.A.1915B, 114.

Measure of damages for breach by manufacturer. L.R.A.1915B, 114.

Measure of damages for breach by dealer. L.R.A.1915B, 117.

# AUTOPSY.

Provision in insurance policy as to, see In-SURANCE, § 91a.

See also Post Mortem.

Power of coroner to order. 31 L.R.A. 540. Right of court to order disinterment of corpse for evidential purposes. L.R.A. (N.S.) 513.

AUTOPSY—cont'd

Privilege as to information acquired by. 38 L.R.A.(N.S.) 1186.

Liability for damages for performing autopsy. L.R.A.1918D, 404.

# AVERAGE.

Admiralty jurisdiction of. 66 L.R.A. 234. Maritime lien for. 70 L.R.A. 363, 375.

# AVERAGE EARNINGS.

To which injured workman is entitled under workmen's compensation act. L.R.A. 1916A, 149, 373; L.R.A.1917D, 175.

#### AVOIDANCE.

Of contract by infant, see INFANTS, §§ 21-

#### AWARD.

Of arbitrators, see Arbitration, \$5 5, 6. In condemnation proceedings, see EMINENT DOMAIN, § 31.

#### · AWNINGS.

1. Generally.

Right to maintain in streets. 26 L.R.A.

Power of municipal corporation to compel removal of awnings encu aching on street. 20 L.R.A.(N.S.) 146; L.R.A. 19160, 564.

Municipal regulation of, as nuisances. 39 L.R.A. 667.

Special damage from awning or structure overhanging street which will sustain action by private person to abate or enjoin it as a nuisance. 48 L.R.A. (N.S.) 173.

Extension of, beyond line as violation of building restriction. 52 L.R.A. (N.S.) 1052.

§ 2. Liability for injury by.

As causes contributory to injury by ice on street or sidewalk. 21 L.R.A. 276.

Liability of landlord to third persons for condition of. 26 L.R.A. 200.

Liability for injury from fall of awning. 12 L.R.A.(N.S.) 721; 24 L.R.A.(N.S.)

Municipal liability for injury by overhanging awnings. 20 L.R.A.(N.S.) 645.

Violating ordinance as to, as ground for private action. 5 L.R.A. (N.S.) 261.

AX.

AYES AND NAYS.

Master's liability for injury by defect in. See YEAS AND NAYS. 13 L.R.A.(N.S.) 673.

As deadly weapon. 21 L.R.A. (N.S.) 506.

В

# BACK FIRE.

Is employee chargeable with knowledge of danger of back fire from furnace. L.R.A.(N.S.) 658.

# BAD CHARACTER.

In general, see OMARACTER.

Right to reject passenger because of. 43 L.R.A.(N.S.) 921.

# BAD FAITH.

See also GOOD FAITH.

Effect of bailee's bad faith on his right to assert against bailor hostile, adverse, paramount title of third person. 33 L.R.A.(N.S.) 694, 697. Effect of bad faith in assignment on as-

signor's right to testify as to transactions with or statements by deceased person. 42 L.R.A. (N.S.) 320.

Effect of complainant's bad faith on right to injunction against nuisance.

L.R.A.(N.S.) 897. Right to maintain action to recover property in specie against one who has parted with it in bad faith. 18 L.R.A. (N.S.) 1269.

Bad faith of assured as affecting estoppel of insurer to set up falsity of answers in application because of agent's knowledge of such falsity. 14 L.R.A. (N.S.) 28Ŏ.

In exercise of power of sale as affecting of title. 38 L.R.A. marketability (N.S.) 18.

#### BADGE.

Right to prohibit wearing of badge of society by nonmember. 24 L.R.A.(N.S.) 795.

# BAD MOTIVE.

See MOTIVE. Consult also L.R.A. Digests of Cases.

# BAGGAGE.

In general, see CARRIERS, \$\$ 86-92; INN-

Porfeiture of dutiable articles in. 56 L.R.A. (N.S.) 130.

#### BAGGAGE CAR.

Passenger's riding in, as contributory negligence. 16 L.R.A. 631.

# BAGGAGE CHECK.

Delivery of, to carrier, as delivery of baggage. 14 L.R.A. (N.S.) 859.

# BAGGAGE MASTER.

Carrier's liability for malicious acts of, towards passengers. 4 L.R.A. (N.S.) 498.

# BAGGAGE MEN.

As fellow servants. 50 L.R.A. 456. How far carrier is bound by baggage man's acts in receiving articles as baggage. 10 L.R.A.(N.S.) 1119.

# BAGGAGE TRANSFER COMPANY.

Liability of, see CARRIERS, § 106.

Right of carrier to grant exclusive train privilege to baggage or transfer companies. 32 L.R.A. (N.S.) 1181.

## BAIL AND RECOGNIZANCE.

§ 1. Generally.

Special, in suit for slander by wife. 30 L.R.A. 530.

For future appearance in case of excessive sentence. 45 L.R.A. 149, 158.

Delay of prosecution as ground for discharge where accused out on bail. 56 L.R.A. 533. BAIL AND RECOGNIZANCE—cont'd Appearance by counsel on charge of misdemeanor as satisfaction of condition of bail bond or recognizance. 27 L.R.A.(N.S.) 943.

What constitutes breach of ne exeat bond. 20 L.R.A.(N.S.) 76.

Form of judgment on bail bond. 62 L.R.A. 443.

Penalty as limit of liability on bail bond. 55 L.R.A. 391.

Right of nonresident to exemption from service of process while within jurisdiction pursuant to condition of bail bond. 27 L.R.A.(N.S.) 333; 51 L.R.A. (N.S.) 328.

Witness fees to persons under detention or 20 L.R.A. 57.

recognizance. 20 L.R.A. 57. Right to recover back deposit for release of person illegally detained. 2 L.R.A. (N.S.) 563.

Liability of officer's bond for failure to return money accepted in lieu of bail bond. 39 L.R.A. (N.S.) 578.

Presumption as to time of alteration in bail bond. 39 L.R.A. (N.S.) 111, 115.

Deposit of cash in lieu of bail in criminal cases, in absence of statutory authority. 44 L.R.A.(N.S.) 1150.

Time and place covered by recognizance or bail bond in criminal case. L.R.A. 1916F, 363.

la. In capital case. 39 L.R.A. (N.S.) Bail as matter of right. 752.

Who may admit to bail. 39 L.R.A. (N.S.) 758.

Bail before indictment. 39 L.R.A. (N.S.) 759.

Bail upon indictment. 39 L.R.A. (N.S.) 760. Bail after indictment. 39 L.R.A. (N.S.) 766. Application for bail on special grounds. 39

LR.A.(N.S.) 769. Burden of proof. 39 L.R.A.(N.S.) 772. Amount of bail. 39 L.R.A.(N.S.) 782.

Rules governing appellate court on application for bail. 39 L.R.A. (N.S.) 784.

§ 2. Right to; when admitted to. Danger to health from confinement as ground for removal, or release on bail. 31 L.R.A.(N.S.) 916.

Right of a Chinese person to bail in deportation proceedings. 31 L.R.A.(N.S.) 1088.

Right to release on bail pending appeal under a general statute. 37 L.R.A. (N.S.)

Bail in capital case as a matter of right. 39 L.R.A. (N.S.) 752.

Right to release pending appeal from conviction, upon taking pauper's oath. L.R.A.1916F, 106.

Right to bail pending attempt to avoid body execution. L.R.A.1915E, 340.

§ 3. Who may take. Power of clerk of court to take. 1 L.R.A. (N.S.) 849.

Who may admit to bail in capital case. 39 L.R.A.(N.S.) 758. Begin with this book on every law question.

BAIL AND RECOGNIZANCE—cont'd

§ 4. Execution of.

Effect of insertion of unauthorized provisions in bond. L.R.A.1917B, 990.

Execution of bail bond on condition that others shall sign. 45 L.R.A. 334.

Effect of delivery of bail bend unsigned by principal obligor. 12 L.R.A.(N.S.) 1118.

§ 5. Necessity and sufficiency of description of offense in.

Necessity of description. 38 L.R.A. (N.S.) 310.

Sufficiency of description in states other than Texas. 38 L.R.A.(N.S.) 312. decisions under early statute. 38 Texas

L.R.A. (N.S.) 319. Texas decisions under later statute. 38 L.R.A.(N.S.) 324.

38 L.R.A. (N.S.) 325. Variance. Charging offense in alternative, duplicity. 38 L.R.A.(N.S.) 328.

6. Effect of release on.

Release on bail as affecting right to habeas corpus. 35 L.R.A.(N.S.) 882.

Release upon defendant's own recognizance or on bail as affecting damages recoverable in action for false imprisonment. 22 L.R.A.(N.S.) 1196.

§ 7. Liability of sureties. Effect of granting new trial after a conviction, to extend the liability of accused's

bond. 20 L.R.A.(N.S.) 861. Liability of sureties on bail bond where judgment is in favor of one principal and against another. 51 L.R.A. (N.S.) 661.

Liability of bail where principal fails to appear for no fault of his own. 23 L.R.A.(N.S.) 137; 30 L.R.A.(N.S.) 211; 50 L.R.A. (N.S.) 252.

Effect upon surety on bail bond or recognizance of judgment against principal. 40 L.R.A. (N.S.) 746.

§ 8. Rights of sureties; release. Right of sureties on bail bond to pursue their principal into another state for the purpose of arresting him. L.R.A. 605.

Discharge of, as terminating prosecution so as to support suit for malicious prosecution. 2 L.R.A.(N.S.) 940.

Amendment of claim or pleading as discharge of surety on bail bond in civilactions. 42 L.R.A.(N.S.) 484.

Taking accused into custody as release of surety. 44 L.R.A.(N.S.) 1065.

§ 9. Indemnity to sureties.

Indemnity to, in criminal cases. 14 L.R.A.

Validity of agreement to indemnify bail in a criminal case. 20 L.R.A.(N.S.)

10. Forfeiture of bond.

§ 10. Forfeiture or bond.

Necessity of calling accused and entering his default in order to sustain forfeiture of recognizance. 5 L.R.A. (N.S.) 402.

#### BAILIFF.

Coercion of disagreeing jury by. 16 L.R.A.

Improper influence or interference with grand jury by. 28 L.R.A. 371.

Unauthorized presence of, in grand jury room, as affecting indictment. L.R.A. 1916D, 1125.

#### BAILMENT.

§ 1. Generally.

Embezzlement by bailee, see EMBEZZLE-MENT, § 3.

As to warehouseman, see WAREHOUSEMAN. See also INNKEEPERS.

Power of officer or employee to bind bank by agreement for bailment other than one conceded to be a special deposit. L.R.A. 1915B, 542.

Insurance on property held by bailees. 52 L.R.A. 341.

Reservation of title, as against creditors in bailment for sale. 22 L.R.A. 850.

Person in charge of a vehicle under a con-

Person in charge of a vehicle, under a contract purporting to be a bailment or lease, as a servant of the owner as to third persons injured by the vehicle.

6 L.R.A.(N.S.) 544.

Interpleader between bailor and bailes. 10 L.R.A. (N.S.) 756.

Laying ownership in bailee in indictment for obtaining property by false pretenses. 22 L.R.A.(N.S.) 645.

Effect of bailee's consent to taking of property on crime of larceny. 7 L.R.A. (N.S.) 1149.

Garnishment of negotiable paper in custody of bailes. L.R.A.1918C, 755.

§ 2. What constitutes.

Construction of contract having some provisions peculiar to consignment and agency contracts and others to sale contracts. L.R.A.1917B, 626.

Distinction between bailment and loan of money. L.R.A.1916F, 92.

Distinguished from special deposit within rule that national bank may receive special deposits. L.R.A.1918Å, 75.

Public officer depositing funds in bank which fails as bailee. 36 L.R.A. (N.S.) 290.

§ 3. Rights of bailor.

Apparent ownership of bailee as affecting right of bailor to claim title against bailee's vendees or creditors. 25 L.R.A.(N.S.) 761, 776.

4. Rights of bailee.

Right of ballee to assert against his bailor the hostile, adverse, paramount title of a third person. 33 L.R.A. (N.S.) 681; L.R.A.1918B, 662.

Consult also L.R.A. Digests of Cases.

BAILMENT-cont'd

Right of one in possession of another's property to appropriate it to an executory contract with the latter. 36 L.R.A. (N.S.) 622.

Right of bailee to recover for damage to or conversion of property. 3 B. R. C. 388.

§ 5. Duty and liability of bailee. Duty and liability of garage keeper, see

AUTOMOBILES, § 9. Liability of warehouseman, see WAREHOUSE

MEN, § 4.

Presumption and burden of proof as to care

or negligence in respect to subject of,
43 L.R.A. (N.S.) 1168.

Right of action for negligent breach of / gratuitous undertaking. 12 L.R.A. (N.S.) 929, 931.

Duty and liability of owner of boat livery. L.R.A.1917F, 860.

Liability of carrier for lost property in check room. 29 L.R.A. (N.S.) 834.

Duty of bank as to payment of money held as bailee. 21 L.R.A. (N.S.) 816.
Liability of bailee of bicycle. 47 L.R.A.

305.

Care required of keeper of boarding stable.

23 L.R.A.(N.S.) 188.
Liability of livery-stable keeper for loss of property of patron. 3 L.R.A.(N.S.) 348.

Liability of pledgee of stock as a shareholder. 36 L.R.A. 139.

Liability of keeper of bath house for loss of guest's valuables. 6 L.R.A.(N.S.) 828.

Liability of storekeeper for property stolen from customer. 10 L.R.A.(N.S.) 314.

Liability for negligent performance by seller of agreement to ship goods, by reason of which they are lost. 12 L.R.A. (N.S.) 679.

(N.S.) 679.

Liability of a bailee under a contract requiring him to return or pay for the subject of the bailment, in case of its loss or destruction without fault on his part. 14 L.R.A. (N.S.) 1090.

Liability of bailee for interest. 28 L.R.A. (N.S.) 6.

Duty of bailee as to repair of subject of bailment for use. 52 L.R.A.(N.S.) 412. Liability for loss of, or injury to, property upon exhibition. L.R.A.1915A, 594.

Liability of bailes under special terms of contract for care or return of subject of bailment. L.R.A.1915B, 295.

§ 6. — of horse or vehicle.

Presumption and burden of proof as to care or negligence in case of hire or loan of horses and carriages. 43 L.R.A.(N.S.) 1181.

Liability of hirer of horse under special terms of contract for its care or return. L.R.A.1915B, 304.

BAILMENT-cont'd

Liability of hirer of team for damage to Duty of bailor as to repair of subject of team or wagon by negligence of driver in general employ of owner. L.R.A. 1916F, 1039.

Liability of hirer for driving team to place where it was not hired to go. L.R.A. 366.

Liability of hirer for injury to horse while being used for a purpose other than that for which it was hired. 28 L.R.A.(N.S.) 1106.

Who is responsible for acts of driver furnished with a hired vehicle. 13 L.R.A. (N.S.) 1122; 16 L.R.A. (N.S.) 816; 25 L.R.A. (N.S.) 33; 38 L.R.A. (N.S.) 973; 44 L.R.A. (N.S.) 113; 51 L.R.A. (N.S.) 1164; L.R.A.1918E, 121.

§ 7. — of goods in cold storage. Liability of balles for damages to goods received for cold storage. 52 L.R.A. 106; 38 L.R.A.(N.S.) 994.

Presumption and burden of proof as to care or negligence in respect to goods in cold storage. 43 L.R.A. (N.S.) 1188.

Biability under special terms of contract for care or return of subject of bailment. L.R.A.1915B, 304.

8. - of infant bailee.

Criminal responsibility of child for larceny while bailee. 36 L.R.A. 202.

Liability of infant bailee for negligence or wilful injury. 57 L.R.A. 680.

§ 9. — delivery to third person.

Duty of carrier to recognize demands of stranger on property delivered to it for transportation. 12 L.R.A. (N.S.) 254.

§ 10. — liability for conversion. Conversion of coin by bailee, payment for in coin. 29 L.R.A. 522.

Liability of bailee for wrongful appropriation by his servant of thing bailed. 29 L.R.A. 92.

Liability of bailee (other than a common carrier or innkeeper) for theft committed by servant. 4 B. R. C. 562.

Liability of bailee for articles which accidentally come into his possession with subject of bailment. L.R.A.1915C, 712.

11. Duty and liability of bailor.

§ 11. Duty and Harristy of Liability to servants of bailee for injuries caused by condition of thing bailed. 46 L.R.A. 115.

Responsibility of lender of chattel for injuries to the borrower or a third person due to its unsafe condition. 12 L.R.A. (N.S.) 632.

Imputing bailee's negligence to bailor in action by latter against third person for

destruction of property. 17 L.R.A.
(N.S.) 925; 27 L.R.A.(N.S.) 690.
Improvement of personal property at request of bailee as creating liability against the bailor or the property. L.R.A.(N.S.) 97.

Begin with this book on every law question.

# BAILMENT—cont'd

bailment for use. 52 L.R.A.(N.S.)

12. — of horse or vehicle. Implied warranty of horse or vehicle. 19 L.R.A. 283.

Duty to inform bailee as to character of horse. 12 L.R.A. 397.

Duty of livery stable keeper as to character of horse. 25 L.R.A.(N.S.) 372.

Who responsible for acts of driver of hired vehicle. 13 L.R.A.(N.S.) 1122; 16 L.R.A.(N.S.) 816; 25 L.R.A.(N.S.) 33; 44 L.R.A.(N.S.) 113; 51 L.R.A.(N.S.) 1164; L.R.A.1918E, 121.

Liability of owner for negligence of borrower or hirer of automobile. L.R.A. (N.S.) 81.

#### BAKERIES.

Constitutionality of statutes regulating, see Constitutional Law, § 48.

Municipal control over, see MUNICIPAL Con-PORATIONS, § 43.

Validity of restrictive agreement ancillary sale of business of. 24 L.R.A.

(N.S.) 929; L.R.A.1916C, 630.

Law prohibiting operation of bakery upon certain premises. 44 L.R.A.(N.S.) 48.

# BALES.

Sufficiency of delivery of cotton sold in bales out of a larger lot. 26 L.R.A. (N.S.) 32.

# BALLOON ASCENSION.

Liability of one maintaining place of amusement for injury to patron in connection with. 14 L.R.A. (N.S.) 285; 32 L.R.A. (N.S.) 717; L.R.A.1915F, 690.

#### BALLOT BOXES.

Protection of, see Elections, § 22.

Power of courts to require ballot boxes to be produced and opened in proceedings other than election contests. 33 LR.L. 386.

# BALLOT MACHINES.

See Elections, § 23.

#### BALLOTS.

See Elections, §§ 19-23.

# BALL PLAYING.

# See also BASE BALL.

Reciprocal duty of driver of automobile and child playing ball in street. L.R.A. 1918A, 258.

#### BANK BILLS.

Right to set off against insolvent bank, bills purchased after insolvency. 21 L.R.A. 282.

### BANK BOOK.

Gift of, see BANKS, \$\$ 12, 12a.

Admissibility in evidence of entries in, 53 L.R.A. 528, 536.

# BANK EXAMINER.

Validity of obligation given bank as affected by concealment of illegal transactions from 26 L.R.A. (N.S.) 993; 34 L.R.A. (N.S.) 105; L.R.A.1916A, 1218.

# BANK GUARANTY LAW.

See DANKS, \$ 52.

# BANKING PAPER.

Set-off of, in bankruptcy cases. 55 L.R.A. 40.

# BANKRUPTCY.

- I. In general, §§ 1-7.
- II. Jurisdiction, \$ 8.
- III. Relation of bankrupt law to assignments and insolvency proceedings under state laws, \$ 9.
- IV. Effect of bankruptcy proceedings,
- §§ 10, 11. V. Priority of rights, § 12. VI. Preferences and transfers by bankrupt, §§ 13-17.
- collection, VII. Assets and their §§ 18-22.
- VIII. Rights and liability of trustee generally, \$ 23.
  - IX. Claims against estate; distribution, §§ 24-31.
  - X. Discharge and its effect, §§ 32-26.

Consult also I.R.A. Digests of Cases.

# BANKRUPTCY-cont'd

# I. In general.

1. Generally.

Of corporation, see Corporations, §§ 134-137.

Self-crimination of bankrupt, see CRIMINAL

LAW, § 49. Effect of fraud in bankruptcy matters, see FRAUD AND DECEIT, § 31.

Insolvency, see Insolvency.

Transfer of insurance policy in case of, see Insurance, § 123.

Who is within protection of provision of Bankruptcy Act as to use in criminal proceeding of testimony given by bankrupt. L.R.A.1917B, 614.

Method of review of controversies arising in bankruptcy proceedings. 10 L.R.A. (N.S.) 765.

First and last days in computing time for matters of. 49 L.R.A. 240.

Right of bankrupt or creditors of bankrupt to intervene in an action to which the trustee is a party. L.R.A.1916C, 639.

Dower in land subject to purchase money mortgage sold in bankruptcy proceedings against husband. 52 L.R.A.(N.S.) 549.

Debts to be considered in determining existence of amount of indebtedness necessary to adjudge one an involuntary bankrupt. L.R.A.1916E, 631.

Liability for instituting bankruptcy proceedings against one not subject thereto. 34 L.R.A. (N.S.) 456.

Right to examine alleged bankrupt prior to adjudication. 24 L.R.A.(N.S.) 985.

Necessity to follow bankrupt's estate pro rata to hold indorser of note. 18 L.R.A. (N.S.) 539.

Sustaining equitable rights of wife in Federal court which were not recognized by local law. 1 L.R.A. (N.S.) 321.

Enjoining foreclosure proceedings pending bankruptcy. 2 L.R.A.(N.S.) 560.

Collateral attack for fraud not affecting jurisdiction on judgments in. 36 L.R.A.(N.S.) 981.

Sufficiency of service of notice necessary to fix contract rights upon bankrupt after initiation of bankruptcy proceedings, but before appointment of trustee. 41 L.R.A. (N.S.) 276.

§ 2. Acts of bankruptcy.

Assignment for creditors as. 45 L.R.A. 177. Preference of firm creditor by partner out of his own property as. 16 L.R.A. (N.S.) 656.

§ 3. Who subject to involuntary proceedings.

Involuntary proceedings against publicservice corporations. 33 L.R.A.(N.S.)

Engaging in other business as affecting exemption of farmer from involuntary proceedings in bankruptcy. 20 L.R.A. (N.S.) 148.

BANKRUPTCY, I.—cont'd

Construction on ground as manufacturing within provision defining corporations which may be adjudged involuntary bankrupts. 26 L.R.A.(N.S.) 475.

Effect upon state insolvency laws of provisions of Federal Bankruptcy Act excepting farmers, wage earners, and small debtors from involuntary bankruptcy. L.R.A.1917A, 109.

§ 4. Foreign proceedings. Conclusiveness of foreign adjudications in bankruptcy. 20 L.R.A. 673.

Transfer of property by foreign bankrupt and insolvent assignments. 23 L.R.A. 33; 65 L.R.A. 353.

Effect of foreign bankruptcy assignment on personal property, where no rights of creditors are involved. 17 L.R.A. (N.S.) 173.

§ 5. Partnership bankruptcy.

Effect of bankruptcy proceedings, see infra,

Bankruptcy of partnership generally, see PARTNERSHIP, §§ 15-17.

Preference of firm creditor by a partner out of his own property as an act of bank-ruptcy by the firm. 16 L.R.A.(N.S.)

Application of partnership assets with consent of all partners to payment of individual debt of partner as a voidable preference. 17 L.R.A.(N.S.) 1040.

Right of claim based on tort of a partnership to share with creditors of individual partners. 41 L.R.A. 1223.

Claim in bankruptcy as remedy for breach of agreement to assume debts on dissolution of partnership. 9 L.R.A. (N.S.) 114.

Must individual partners, as well as firm, be insolvent in order to render the firm bankrupt, or to avoid a payment of a firm debt as a preference. 21 L.R.A. (N.S.) 960.

Provability of partnership debts in individual proceedings. 69 L.R.A. 772.

Discharge of partnership liability in individual proceedings. 69 L.R.A. 771; L.R.A.1918E, 470.

§ 6. Running of limitations.

Limitation of action against bankrupt. 26 L.R.A. 738.

Interruption of limitations as to fund obtained under bankruptcy act. 26 L.R.A. 738.

When statute of limitations begins to run in action by assignee or trustee for unpaid stock subscription. 1 L.R.A. (N.S.) 909.

7. Costs and expenses.

What fund is chargeable with costs and expenses of sale when encumbered property is sold in bankruptcy, free of liens. 29 L.R.A.(N.S.) 737.

Allowance of attorneys' fees in bankruptcy cases. 54 L.R.A. 826,

Begin with this book on every law question.

#### BANKRUPTCY—cont'd

#### II. Jurisdiction.

8. Generally.

Of state courts over actions by or against assignee in bankruptcy. 48 L.R.A. 36. Question relating to bankruptoy as Federal question. 62 L.R.A. 535.

Is state court's jurisdiction of creditor's attack on preference ousted by bankruptcy proceedings commenced more than four months after preference. L.R.A.(N.S.) 363.

Equity jurisdiction of suit by trustee in bankruptcy to recover sum of money from one who has received fraudulent transfer or unlawful preference.

L.R.A.(N.S.) 414.

III. Relation of bankrupt law to assignments and insolvency proceedings under state laws.

9. Generally.

Provisions of the various bankrupt laws. 45 L.R.A. 177.

An assignment for creditors as an act of bankruptcy. 45 L.R.A. 177.

Effect of bankrupt law on assignments for creditors. 45 L.R.A. 178.

Effect of bankrupt law on insolvent proceedings under state laws. 45

Proceedings for a receiver as affected by bankrupt law. 45 L.R.A. 190.

Effect of creditor's bill or supplementary proceedings as against bankrupt pro-45 L.R.A. 193. ceedings.

Effect of an assignment for creditors on the right to a discharge in bankruptcy. 45 L.R.A. 194.

IV. Effect of bankruptcy proceedings.

§ 10. Generally.

Transfer of trademark, see TRADEMARK, § 5.

On prior action to rescind sale for fraud. 8 L.R.A.(N.S.) 1204.

Suspension of running of limitations by bankruptcy proceedings. L.R.A.1915B,

Effect of foreign bankruptcy assignment on personal property, where no rights of creditors are involved. 17 L.R.A. (N.S.) 173.

Effect of adjudication based on preference of creditor by judgment, as conclusive adjudication against such creditor in other proceedings. 1 L.R.A. (N.S.) 386.

Payment voidable under bankruptcy act as discharge of surety, guarantor, or in-dorser. 9 L.R.A.(N.S.) 581.

Bankruptcy of maker of note as excuse for delay in enforcing liability. 18 L.R.A. (N.S.) 559.

Bankruptcy of corporation as excusing creditors from exhausting remedies against it before enforcing stockholder's liability. 24 L.R.A. (N.S.) 628.

Effect of bankruptcy of employer on rights of employee under workmen's compensa-

tion acts. L.R.A.1916A, 98.

BANKRUPTCY, IV.—cont'd

Effect of bankruptcy of mortgagor before acquiring outstanding title on his right to set up outstanding title to defeat the mortgage. L.R.A.1918B, 768.

Effect of bankruptcy of property owner on mechanics'. liens. L.R.A.1915F, 1132

Effect of bankruptcy of principal contrac-tor upon lien rights of subcontractors or materialmen. 51 L.R.A. (N.S.) 68; L.R.A.1916F, 113. tors or materialmen.

Effect of bankruptcy of contractor on right of laborer or materialman to enforce mechanics' lien against property im-proved. 26 L.R.A.(N.S.) 409.

Effect of bankruptcy on dower rights of bankrupt's wife. 18 L.R.A. 77; 26 L.R.A. (N.S.) 1180; 52 L.R.A. (N.S.) 549.

Effect of re-entry by landlord after bankruptcy of tenant upon latter's liability for subsequent rent. L.R.A.1917A, 208.

Effect of bankruptcy of mortgagor before acquiring outstanding title on his right to set up outstanding title to defeat the mortgage. L.R.A.1918B, 768.

Rights of trustee with respect to executory contracts of bankrupt. L.R.A. 1917F, 657.

Bankruptcy proceedings as violation of covenant in lease against assignment or sale. 14 L.R.A.(N.S.) 1201.

Effect of bankruptcy proceedings, on fire insurance. 15 L.R.A. (N.S.) 827.

Right of vendor under conditional sale as affected by bankruptcy of purchaser. 38 L.R.A.(N.S.) 554.

§ 11. In case of partnership.

Adjudication of bankruptcy of member of firm as affecting rights of firm creditors against firm property. 30 L.R.A. (N.S.) 787.

Effect of adjudication of bankruptcy of partnership to subject the separate estates of the partners to administration in bankruptcy. 5 L.R.A. (N.S.) 654.

# V. Priority of rights.

§ 12. Generally.

Common-law priority of state or United States in payment from assets of debtor. 46 L.R.A. (N.S.) 260; L.R.A.1918A, **398.** 

Law governing discrimination between residents and nonresidents. 65 L.R.A. 368. Priority of rights to fund as between as-

signees in bankruptcy and prior assignees. 66 L.R.A. 760.

Right of claim based on tort of a partnership to share with creditors of individual partners. 41 L.R.A. (N.S.) 1223.

Respective rights of receiver and assignee in bankruptcy. 20 L.R.A. 391.

Priority as between taxes and costs and fees. 31 L.R.A.(N.S.) 988.

Consult also L.R.A. Digests of Cases.

BANKRUPTCY, V.-cont'd

Right of seller to reclaim goods as against trustee in bankruptcy of buyer who procured them by false representations. 17 L.R.A.(N.S.) 1032.

# VI. Preferences and transfers by bankrupt.

13. Generally.

Transfer of trademark by bankruptcy or insolvency assignment. 46 L.R.A. 541.

Must individual partners, as well as firm, be insolvent in order to render the firm bankrupt, or to avoid a payment of a firm debt as a preference. 21 L.R.A. (N.S.) 960.

Is state court's jurisdiction of creditor's attack on preference ousted by bankruptcy proceedings commenced more than four months after preference. L.R.A.(N.S.) 363.

Preference of firm creditor by a partner out of his own property as an act of bank-ruptcy by the firm. 16 L.R.A.(N.S.) 656.

Composition with creditors: preference by act or undertaking of third party. B. R. C. 460.

Effect of adjudication based on preference of creditor by judgment, as conclusive adjudication against such creditor in other proceedings. 1 L.R.A.(N.S.) 386.

Is notice, actual or constructive, of a transfer not required to be recorded or registered necessary to start the four months' period relatively to preferences under § 60 of the bankruptcy act. 9 L.R.A.(N.S.) 585.

14. What constitutes a preference.

Delivery of property on eve of bankruptcy to one holding executory contract therefor made within the four months' period, as. 21 L.R.A.(N.S.) 901.

Set-off by bank against bankrupt's deposit, as. 20 L.R.A.(N.S.) 863.

Payment of debt by a bankrupt as a preference to a surety therefor. 18 L.R.A. (N.S.) 660; 45 L.R.A. (N.S.) 1068.

Application of partnership assets, with consent of all partners, to payment of individual debt of partner as a voidable preference under the bankruptcy act. 17 L.R.A. (N.S.) 1040.

Judgment obtained within four months period as affected by \$ 60, subdivisions a and b, and \$ 67, subdivisions c and f. 41 L.R.A.(N.S.) 204.

Conditional sale contract executed prior to, but filed within the four months period as a voidable preference. 47 L.R.A. (N.S.) 1223.

§ 15. Validity or voidability.

Effect of creditor's participation in fraud-ulent intent of debtor in making transfer by way of preference. 31 L.R.A. 647.

Validity of lien given to secure loan used by bankrupt to give one creditor a preference. 24 L.R.A.(N.S.) 184. BANKRUPTCY, VI.—cont'd

Validity of transfer to secure pre-existing debt within four months of bankruptcy, in absence of any intent on the part of the debtor to hinder, delay, or defraud creditors, or of reasonable cause on the part of the creditor to believe that it was intended as a preference. 15 L.R.A.(N.S.) 372.

Voidability of transfer within four months' period, pursuant to executory agreement antedating that period. 17 L.R.A.(N.S.) 935; 40 L.R.A.(N.S.)

Voidability as preference of transfer made in satisfaction of claim for misappropriation of property. 30 L.R.A.(N.S.)

'Intent on part of bankrupt to create a preference as a condition of a voidable preference under § 60b. 33 L.R.A. (N.S.) 558.

Insurance on property which is the subject of a voidable preference under the bankruptcy act. 41 L.R.A.(N.S.) 1012.

Sale under execution as a transfer of property by the debtor within § 60, subds. a and b. 43 L.R.A.(N.S.) 427.

May a lien which is voidable under § 60, subdivisions a or b, or void under § 67, subdivisions c or f, be allowed any effect under § 64b (5). L.B.A.1915B, 148.

16. Recording of transfer.

When local law deemed to require the registering or recording of a transfer, within the meaning of \$ 60a of the bank-ruptcy act of 1898 as amended by the act of 1903. 5 L.R.A.(N.S.) 148; 18 L.R.A.(N.S.) 1233.

Effect of recording, within four months' period prescribed in bankruptcy act of 1898, mortgage given for a present loan or future advances.

25 L.R.A. (N.S.) 144.

§ 17. Setting aside.

Effect of bankruptcy proceedings upon prior action to rescind sale for fraud. 8 L.R.A. (N.S.) 1204.

Right of creditor of bankrupt to set aside transfer in fraud of creditors. 10 L.R.A. (N.S.) 305.

Equity jurisdiction of suit by trustee in bankruptcy to recover sum of money from one who has received fraudulent transfer on unlawful preference. 16 LRA(NS.) 414.

L.R.A. (N.S.) 414.

Is state court's jurisdiction of creditor's attack on preference ousted by bankruptcy proceedings commenced more than four months after preference. 28 L.R.A. (N.S.) 363.

Effect of failure to allege and prove filing of claims by creditors and insufficiency of assets in action by trustee to set aside preference or recover property fraudulently transferred. 17 L.R.A. (N.S.) 350.

BANKRUPTCY-cont'd

VII. Assets and their collection.

§ 18. Generally.

In case of insolvency, see Insolvency, § 4.

Does trustee in bankruptcy who succeeds an assignee for creditors acquire right or interests which were available to the assignee, but did not exist in the assignor. 26 L.R.A.(N.S.) 433.

signor. 26 L.R.A.(N.S.) 433.
Vesting of title to leasehold in lessor's trustee as dependent upon acceptance by trustee. 33 L.R.A.(N.S.) 745.

Validity as against trustee in bankruptcy of conditional sale purchaser, of conditional sale contract permitting purchaser to resell in the ordinary course of business. L.R.A.1917B, 660.

#### § 19. What are assets.

Of insolvent estate, see Insolvency, § 4.

Interest of cestui que trust in spendthrift trust as assets passing to trustee in bankruptcy. L.R.A.1917A, 989.

Causes of action for personal injuries as. 44 L.R.A. 180.

Seat of exchange, or funds derived from transactions on exchange, as. 27 L.R.A.(N.S.) 613.

Interest in public lands before issuance of patent as. 34 L.R.A.(N.S.) 405.

Does right of action for personal injuries pass to trustee in bankruptcy. 12 L.R.A.(N.S.) 1173.

Right of action for tort for injury to person other than physical as asset. 43 L.R.A.(N.S.) 940.

Will right of action for malicious attachment of property pass to trustee in bankruptcy or assignee for creditors. 21 L.R.A.(N.S.) 727.

Estates in remainder as assets which will pass to the trustee in bankruptcy. 47 L.R.A.(N.S.) 284.

Contracts for personal services, earnings thereunder, and causes of action for their breach, as assets in bankruptcy. 5 B. R. C. 268.

Agreement between landlord and tenant for removal of fixtures by latter as affecting right thereto of his trustee in bankruptcy. L.R.A.1915E, 830.

§ 20. — life insurance.

Generally. 50 L.R.A. 33; 26 L.R.A. (N.S.) 451; 30 L.R.A. (N.S.) 990; 41 L.R.A. (N.S.) 123; 46 L.R.A. (N.S.) 148.

Bankruptcy or insolvency of insured or assignor of policy. 50 L.R.A. 33.

Bankruptcy or insolvency of beneficiary or assignee. 50 L.R.A. 46.

Policies exempt under state laws. 26 L.R.A.(N.S.) 454; 41 L.R.A.(N.S.) 123.

BANKRUPTCY, VII.—cont'd

Policies not exempt under state laws. 26 | L.R.A. (N.S.) | 455; 41 L.R.A. (N.S.)

Option to receive cash-surrender value of policy, or policy having a cash-surrender value as assets. 16 L.R.A. (N.S.) 320.

§ 21. Concealment or nondelivery of assets.

Concealment of assets in violation of bankruptcy act as continuing offense. 43 L.R.A.(N.S.) 278.

Admissibility of schedules filed in Federal bankruptcy proceedings in a prosecution against a bankrupt for concealment of property. 18 L.R.A. (N.S.) 1194.

Failure or refusal of bankrupt, or person having money or property belonging to bankrupt, to deliver it to trustee as a contempt of court. 23 L.R.A. (N.S.) 255.

§ 22. Recovery of assets.

When may local venue of summary proceeding by trustee be disregarded upon the ground that the proceeding is ancillary or incidental. L.R.A.1916D, 1134.

Equity jurisdiction of suit by trustee in bankruptcy to recover a sum of money from one who has received a fraudulent transfer or unlawful preference. 16 L.R.A.(N.S.) 414.

Effect of failure to allege and prove filing of claims by creditors and insufficiency of assets in action by trustee in bankruptcy to recover assets of estate, or to set aside preference, or recover property fraudulently transferred by bank-rupt. 17 L.R.A.(N.S.) 350.

Right of trustee in bankruptcy to enforce liability of stockholders who received dividends paid out of capital. L.R.A. 1917C, 405.

Liability of trustee in bankruptcy for failure to collect assets. 16 L.R.A. (N.S.) 341.

# VIII. Rights and liability of trustee generally.

§ 23. Generally.

Right of trustee to maintain partition. 20 L.R.A.(N.S.) 105.

Rights of trustee with respect to executory contracts of bankrupt. L.R.A.1917F, 657.

Right of trustee in bankruptcy to enforce liability of stockholders who received dividends paid out of capital. L.R.A. 1917C, 405.

Liability for failure to collect assets. 16 L.R.A.(N.S.) 341.

Liability for rent of premises occupied by assignee. 59 L.R.A. 673.

#### IX. Claims against estate; distribution.

§ 24. Generally.

Priority of rights, see supra, § 12. Claims against insolvent estate, see In-SOLVENCY, §§ 5-8.

Consult also L.R.A. Digests of Cases.

BANKRUPTCY, IX.—cont'd

Treatment of collateral held by creditor of bankrupt. L.R.A.1918B, 1024.

Right to interest on allowed claims in bankruptcy. 29 L.R.A.(N.S.) 867; L.R.A. 1915B, 884.

Effect of failure to present claim against the estate of bankrupt principal to release surety. 25 L.R.A.(N.S.) 139.

Double proof of claim against estate of

firm and individual partner. 39 L.R.A. (N.S.) 391.

Right of creditor after promisor's bank-ruptcy to adopt and enforce his assumption of another's debt. 39 L.R.A. (N.S.) 874.

Proof of claim in bankruptcy as bar to action for deceit in securing credit. 43 L.R.A.(N.S.) 649.

Allowance or disallowance of claim by bankruptcy court as res judicata in a suit or proceeding on the claim in another court. 43 L.R.A. (N.S.) 950.

§ 25. Debts provable. Provability of debt as affecting right of set-off. 55 L.R.A. 36.

Provability of partnership debts in individual proceedings. 69 L.R.A. 772.

Discharge of liability by reason of provability of claim. 69 L.R.A. 778.

What constitutes a fixed liability as evi-

denced by a judgment or an instrument in writing absolutely owing at the time of the filing of the petition in bankruptcy. 54 L.R.A. 369.

Provability of claim under covenant indemnifying against loss of rent, or accelerating future rent, in event of assault. 31 L.R.A.(N.S.) 270.

Promise to pay a fixed sum conditional

upon exercise of an option by promisee, the time for which had not expired at the time of bankruptcy, as basis of provable claim. 28 L.R.A. (N.S.) 349.

May one be a "purchaser" for a valuable consideration where nothing capable of money measurement is given. 4 B. R. C. 782.

Damages for anticipatory breach of contract as provable claim. L.R.A.1917B, 585; L.R.A.1918A, 545.

Right to recover money paid to a corporation in expectation of receiving corporate stock which is never issued. L.R.A.1918E, 754.

§ 25a. — claim for tort. Right to prove unliquidated claim for tort in bankruptcy. 8 L.R.A.(N.S.) 961.

§ 26. Set-offs.

Set-off by or against insolvent estate, see SET-OFF AND COUNTERCLAIM, §§ 16-21.

Bankruptcy of third persons. 55 L.R.A. 73. Form of action. 55 L.R.A. 74. Effect of proving claim. 55 L.R.A. 74.

Extent of set-off. 55 L.R.A. 75.

Right of creditor to set off new credits given after receiving a preference. 55 L.R.A. 344. BANKRUPTCY, IX.—cont'd

Does the fact that a bank has, by an agreement invalid as against the trustee in Landlord and tenant. 55 L.R.A. 67. bankruptcy, undertaken to hold the Principal and surety. 55 L.R.A. 68. bankrupt's deposit as a fund for cred- | Annuities. 55 L.R.A. 68. posit against its own claim. 28 L.R.A. (N.S.) 484.

Set-off by bank against bankrupt's deposit as a preference within the bankruptcy law. 20 L.R.A.(N.S.) 863.

Acceptance of bankrupt depositor's check by bank for obligation due it as affecting bank's right to set off obligation against depositor. L.R.A.1916A, 685.

§ 27. — debts or claims existing and mature at time of insolvency. In general. 55 L.R.A. 34. Provability of debt. 55 L.R.A. 36. Unliquidated damages. 55 L.R.A. 37. Breach of contract. 55 L.R.A. 37. Security for particular debt, or special directions or agreements as to application or payment of funds. 55 L.R.A. 38.

Debtors and creditors in same right. 55 L.R.A. 41.

Unpaid shares of corporate stock. 55 L.R.A.

Bank deposits. 55 L.R.A. 48. Other banking transactions and commercial paper. 55 L.R.A. 48.

Insurance matters. 55 L.R.A. 49. Landlord and tenant. 55 L.R.A. 50. Overpayment in composition proceedings. 55 L.R.A. 50.

§ 28. — debts created, or claims arising, after insolvency. In general. 55 L.R.A. 50.

Agreement to pay cash or by bill of exchange. 55 L.R.A. 51.

Debtors and creditors in same right. 55

L.R.A. 51.

Bank deposits. 55 L.R.A. 52. Other banking transactions and commercial paper. 55 L.R.A. 53.

Landlord and tenant. 55 L.R.A. 54. Expenses of, or payments by, assignees for creditors. 55 L.R.A. 54.

Payments by bankrupt. 55 L.R.A. 54. Set-off of costs. 55 L.R.A. 55. Set-off after discharge. 55 L.R.A. 56.

§ 29. — immaturity of debts or claims at time of insolvency.
In case of insolvency, see SET-OFF AND

COUNTERCLAIM, § 19.

In general. 55 L.R.A. 56. Uncertainty or contingency of claims. 55 L.R.A. 57.

Breach of contract. 55 L.R.A. 58. Security for particular debt or special directions or agreements as to application or payment of funds. 55 L.R.A. 58.

Debtors and creditors in same right. L.R.A. 60.

Bank deposits. 55 L.R.A. 62. Other banking transactions and commercial paper. 55 L.R.A. 64.

Begin with this book on every law question.

BANKRUPTCY, IX.—cont'd Insurance matters. 55 L.R.A. 66. itors, prevent it from setting off de- | Effect of immaturity on right of set-off. 25

L.R.A. (N.S.) 396.

§ 30. — debts or claims assigned. In case of insolvency, see SET-OFF AND COUNTERCLAIM, §§ 20, 21.

In general. 55 L.R.A. 68. Partnership. 55 L.R.A. 69. Bank deposits. 55 L.R.A. 70. Other banking transactions and commercial paper. 55 L.R.A. 70.

Insurance matters. 55 L.R.A. 72.

Right to set off, against bankrupt, claims purchased after bankruptcy. 21 L.R.A. 280.

§ 31. Liens; adverse holdings; garnishment.

Lien on property of bankrupt of one whose funds are wrongfully used in purchasing it. 9 L.R.A.(N.S.) 876.

Validity of lien given to secure loan used by bankrupt to give one of his creditors a preference. 24 L.R.A.(N.S.) 184.

What amounts to an adverse holding, by third persons, of property acquired from bankrupt. 8 L.R.A.(N.S.) 1232. Garnishment of funds of bankrupt's estate

after order of distribution. 14 L.R.A.

(N.S.) 1221.

May a lien which is voidable under section 60, subdivisions a or b, or void under section 67, subdivisions c or f, be allowed any effect under section 64B (5). L.R.A.1915B, 148.

# X. Discharge and its effect.

§ 32. Generally. In insolvency, see Insolvency, § 16.

What relations are fiduciary within provisions in relation to discharge. 42 L.R.A.(N.S.) 1093.

Right of one to avail himself of discharge procured by fraud. 25 L.R.A. 571.

procured by fraud. 25 L.R.A. 571.

Effect of assignment for creditors on right to discharge. 45 L.R.A. 194.

Right of alleged fraudulent grantee to set up grantor's discharge in bankruptcy as against a judgment creditor of the latter. 67 L.R.A. 599, 610.

§ 33. Of partnership liability in individual proceedings.

In general. L.R.A.1918E, 470.

Discharge of liability by reason of provability of claim. 69 L.R.A. 778.

Necessity of making firm or copartners parties. 69 L.R.A. 780.

§ 34. Refusal of.

Character of false statement which will pre-20 L.R.A. (N.S.) vent a discharge. 1023.

Omission of bankrupt to keep books as ground for refusing discharge. 20 L.R.A.(N.S.) 246.

BANKRUPTCY, X .-- cont'd

Right of bankrupt to discharge as affected by act of partner or agent. 20 L.R.A. (N.S.) 785; 30 L.R.A.(N.S.) 623.

Fraud in preventing collection of claim as excepting it from discharge in bankruptcy. 28 L.R.A.(N.S.) 423.

Binding effect of judgment refusing discharge. 13 L.R.A.(N.S.) 629; 30

L.R.A. (N.S.) 1164.

Refusal of discharge because of transfer of assets with a view to distribution of proceeds among creditors. L.R.A. 1915C, 89.

35. Effect.

Right to open default judgment to let in defense of discharge in bankruptcy. L.R.A.1916F, 857.

Claim discharged in bankruptcy as consideration for note of a third person. L.R.A.1917C, 843.

Discharge of debt as affecting equitable assignment to secure same. 43 L.R.A. (N.S.) 404.

Discharge of partnership as affecting liability of individual partners for partnership debts. L.R.A.1915F, 669.

Effect on liabilities for tort. 1 L.R.A. (N.S.) 202.

Effect on liability for assault and battery. 3 L.R.A.(N.S.) 702.

As defense in action for debts assumed on dissolution of partnership. 9 L.R.A. (N.S.) 112.

Discharge of corporation as affecting stock-holder's liability for its debts. 38 L.R.A. (N.S.) 648.

Effect upon assignment of wages to be earned in the future. 14 L.R.A. (N.S.) 1025; 30 L.R.A.(N.S.) 375; L.R.A. 1916E, 248.

Effect of bankruptcy of employer on rights of employee under workmen's compensation acts. L.R.A.1916A, 98.

Effect of discharge on claim for services procured by bankrupt's fraud. L.R.A.(N.S.) 894.

Bankrupt's right after discharge to engage in business in competition with one to whom business and good will was sold under commission in bankruptcy. L.R.A.(N.S.) 762.

When will discharge of principal in bankruptcy release surety on a bond given by the principal in an action at law. 14 L.R.A.(N.S.) 508; 28 L.R.A.(N.S.) 234.

Effect of vendee's discharge in bankruptcy upon right to enforce vendor's lien. 39 L.R.A. (N.S.) 1177.

Effect of discharge on real property liens. 42 L.R.A. (N.S.) 292.

Effect of discharge in bankruptcy of property owner on mechanics' liens. 42 L.R.A. (N.S.) 296; L.R.A.1915F, 1139.

Effect of bankruptcy of principal contractor upon lien rights of sub-contractors and materialmen. L.R.A.1916F, 113.

Consult also L.R.A. Digests of Cases.

BANKRUPTCY, X .- cont'd

§ 36. Revival of debt after. New promise after discharge. 362. 53 L.R.A.

Expression of hope or expectation as a new promise which will revive debt after

discharge in bankruptcy. 38 L.R.A. (N.S.) 581.

Effect of partial payment to revive debt after a discharge in bankruptcy. L.R.A. (N.S.) 274.

Set-off after discharge of debts created or claims arising after insolvency. 55 L.R.A. 56.

#### BANKS.

I. In general, § 1.

II. Right to do business, \$ 2.

III. Stock and stockholders, §§ 8-5. IV. Officers and agents, \$\$ 6-8a.

V. Banking, §§ 9-38.

a. Deposits, §§ 9-30.

b. Collections, §§ 31-35.

c. Other transactions; counts, §§ 36-37a.

**d.** Clearing-house \$ 38.

VI. Insolvency of bank, \$\$ 39-49. VII. Savings banks, \$\$ 43, 44.

VIII. National banks, \$\$ 45-48. IX. State banks, § 49.

X. Taxation, § 50. XI. Orimes, § 51.

XII. Bank guaranty law, \$ 52.

# I. In general.

§ 1. Generally.

As bona fide purchaser of negotiable instru-

ment, see BILLS AND NOTES, § 7.
Constitutionality of statutes regulating bankers, see Constitutional Law,

For matters common to corporations gen-

erally, see Corporations.

Custom of, see Custom and Usage, § 7.

Unlawful combination of, see Monopoly AND COMBINATIONS, § 8.

Reasonableness of matters relating to, see Reasonableness, § 2.

Set-off by or against bank, see SET-OFF AND COUNTERCLAIM, §§ 8, 8a, 19a, 19b.

Consideration for note or other obligation given to make good depletion of capital or assets of bank. L.R.A.1917B, 688.

Presumption and burden of proof as to negligence in case of embezzlement of property while in possession of bank as bailee. 43 L.R.A.(N.S.) 1190. Liability of bank as bailee under special

terms of contract for care or return of subject of bailment. L.R.A.1915B, 304.

Right of bank to contradict entries in its books or statements in public reports. L.R.A.1915D, 935.

Admissibility in evidence of entries in bank books. 53 L.R.A. 528, 536.

51 L.R.A. (N.S.) 68; Effect of usage to bind bank. 21 L.R.A. 446.

BANKS, I.—cont'd

Privilege of communications to banks.

L.R.A. (N.S.) 585.

Validity of obligation given bank as affected by concealment of illegal transactions from bank examiner. 26 L.R.A. (N.S.) 993; 34 L.R.A.(N.S.) 1105; L.R.A.1916A, 1218.

Set-off against assignee of bank. 23 L.R.A. 808.

Garnishment of contents of safe deposit 41 L.R.A. (N.S.) 764. box.

Presumption as to time of alteration in bank director's minute book. L.R.A. (N.S.) 105.

### II. Right to do business.

§ 2. Generally.

May a charter or license for a bank be refused upon general considerations of public policy. L.R.A.1916D, 316.

Constitutionality of statute prohibiting pri-

vate banking. 15 L.R.A. 477.
Right of bank to engage in business to save debt. 27 L.R.A.(N.S.) 243.

. Power to prohibit or impose conditions upon the right of individuals to engage in banking business. 5 L.R.A. (N.S.) 874; 25 L.R.A. (N.S.) 1217.

#### III. Stock and stockholders.

§ 3. Generally.

As to matters of stock and stockholders, generally, see CORPORATIONS, VI., VII.

Consideration for obligation given to make good depletion of capital of bank. L.R.A.1917B, 688.

Discrimination against shareholders in national bank in assessing their shares. 10 L.R.A.(N.S.) 947.

§ 4. Transfer of stock.

Restrictions on transfer of stock of national bank. 27 L.R.A. 273.

Effect of by-law requiring transfer of national bank stock on books. 67 L.R.A. 673.

§ 5. Liability of stockholders.

Liability of stockholders of corporation, generally, see CORPORATIONS, VI. e.

Contingency of liability of stockholders in national bank as affecting time for presentation against estate. 58 L.R.A.

Personal liability of executor, administrator, or trustee on national bank stock belonging to estate or trust, but standing in his name. 30 L.R.A.(N.S.) 1092.

Right of receiver, assignee or trustee to recovery statutory added liability of shareholder under national banking 31 L.R.A.(N.S.) 372.

#### IV. Officers and agents.

**8 6.** Generally.

Competency of expert witnesses for comparison. 63 L.R.A. 941.

BANKS, IV.—cout'd

85 Assistance by officers in state taxation of national banks. 45 L.R.A. 762.

State tax on officers of national bank. L.R.A. 764.

Effect of insertion of unauthorized provisions in cashier's bond. L.R.A.1917B. 990.

Liability of bank for misappropriation of collections by its officers or employees. L.R.A.1917A, 522.

Misappropriation of special deposit by officer. 32 L.R.A. 776.

Liability to bank of one who, without knowledge of the fraud, draws out funds fraudulently credited to him by officers or employees of the bank. L.R.A. (N.S.) 1126.

Right of bank officer or employee to refuse to disclose state of depositor's account. L.R.A.1915D, 1061.

7. Duties and liability of directors. § 7. Duties and Having C. Limitation of actions against directors for malfeasance or nonfeasance. 1917A, 980.

Care required of bank directors. 15 L.R.A. 305.

Liability to bank for acts in excess of their powers. 55 L.R.A. 758.

Liability of bank directors in case of bad loans or investments. 762; 39 L.R.A.(N.S.) 173. 55 L.R.A.

For breach of duty as such when he acts for himself or for a third person in the transaction. 4 L.R.A.(N.S.) 279.

For failure to close insolvent bank. L.R.A.(N.S.) 438.

For default or negligence of cashier. L.R.A.(N.S.) 597.

Liability of directors directly to creditors of corporation suing in their own right for negligence or other breach of duty owed primarily to the corporation. 45 L.R.A.(N.S.) 421.

§ 8. Powers of.

Notice of lack of authority to certify post-dated check. L.R.A.1917F, 1099. Power of agents to indorse negotiable pa-per. 27 L.R.A. 401.

Liability of bank on negotiable paper executed by officer or agent. 21 L.R.A. (N.S.) 1079.

Implied power of cashier of bank to sell or lease property. 31 L.R.A.(N.S.) 737.

Power of bank officer to bind bank by agreement that liability of party to commercial paper shall not be enforced. 28 L.R.A.(N.S.) 501.

Power of bank officer to bind bank by agreement varying the liability of parties to commercial paper from that imported on its face. 28 L.R.A.(N.S.) 511.

Power of officer or employee to bind bank by agreement for bailment other than one conceded to be a special deposit. L.R.A. 1915B, 542.

Attempt of cashier or president to satisfy his own debt by accepting for tank the obligation of third person. 9 L.R.A. (N.S.) 471.

BANKS, IV.—cont'd Constitutionality of statute restricting right to assign salary. 28 L.R.A. (N.S.) 1108; 48 L.R.A. (N.S.) 746.

§ 8a. Imputing knowledge of, to bank. Imputation of knowledge of bank officers to bank, where officers are personally interested. 29 L.R.A.(N.S.) 558; 49 L.R.A. (N.S.) 764.

Bank officer's knowledge of insolvency of bank resulting from his own misconduct as chargeable to the bank. 45

L.R.A. (N.S.) 781.

# V. Banking.

#### a. Deposits.

§ 9. Generally.

Tax on deposit, see infra, § 50.

Receiving deposit while insolvent as a crime, see infra, § 51.

Guaranty of, see infra, § 52.

Fiduciary relation between bank and depositor, see FIDUCIARY RELATIONS, § 2. Limitation of actions for, see LIMITATION OF

ACTIONS, § 25.

Effect of bequest of business to pass bank account. L.R.A.1917D, 437.

Deposit slips and deposit entries in pass books as contracts within the rule against parol evidence to vary or contradict written contracts. L.R.A.1918B, 298.

Receiving deposit while insolvent as a fraud. 34 L.R.A. 533.

21 L.R.A. 440. Banking customs.

Situs of deposit for purposes of administra-tion. 24 L.R.A. 689.

Statement of account. 27 L.R.A. 820.

Entries in bank books as contracts. 24 L.R.A. 737.

Deposit tickets given by bank. 17 L.R.A. 580.

Title of bank to check drawn on another bank, which has been credited to depositor. 7 L.R.A. (N.S.) 694.

Effect of deposit by unauthorized person to credit of owner of fund. 35 L.R.A. (N.S.) 461.

Liability to estate of bank which receives deposit from one assuming without authority to act as executor or administrator. L.R.A.1915E, 309.

When may designation in books of bank of person to whom deposit is to be paid at depositor's death be given effect as a will. 41 L.R.A. (N.S.) 42.

Interpleader between bank and depositor. 10 L.R.A.(N.S.) 754.

Title of check, drawn on another bank, which has been credited to depositor. 47 L.R.A. (N.S.) 552.

Liability of bank for interest on money deposited with it to secure performance of contract or decree, or to indemnify against losses or claims. 52 L.R.A. (N.S.) 522.

Liability of depositor who requests bank to a claimant, to reimburse bank for inter-Consult also L.R.A. Digests of Cases.

BANKS, V. a—cont'd est which it is compelled to pay to claimant on the legal establishment of his claim to the deposit. L.R.A.1915E, 797.

Right of bank officer or employee to refuse to disclose state of depositor's account L.R.A.1915D, 1061.

10. Deposit of public funds.

Deposit of public funds in bank as investment within statute requiring the investment of such funds. 50 L.R.A. (N.S.) 274.

Care required in selection of bank for deposit of public funds. 7 L.R.A. (N.S.) 1084.

Validity and effect of agreement among banks to prevent competition for deposit of public money. 14 L.R.A. (N.S.) 1052.

Liability of sureties on bond of bank as depository of public funds as affected by acquiescence or connivance of public officials in misuse of the funds. 26 L.R.A.(N.S.) 865.

Liability of bank for interest on or profits derived from public funds deposited with it. L.R.A.1918E, 678.

Liability of public officers for interest collected on deposit of public funds. 15 L.R.A. 456.

Right to preference in respect to public funds deposited in bank which subsequently becomes insolvent. 5 L.R.A. (N.S.) 886; 16 L.R.A. (N.S.) 918; L.R.A.1917A, 683.

Liability of public officers for loss of funds by failure of bank in which they are 'deposited. 36 L.R.A.(N.S.) 285.

§ 11. Special deposit.

Power of a national bank to receive special deposits. L.R.A.1918A, 73.

Care required of bank in keeping. L.R.A. 769.

When is a bank deposit special. 39 L.R.A. (N.S.) 847; L.R.A.1918A, 65.

When a deposit is special so that the title remains in the depositor. 16 L.R.A. 516.

Bank's right to apply special deposit to indebtedness of depositor. 30 L.R.A. (N.S.) 517; L.R.A.1918A, 80.

Claim of preference for, out of funds of insolvent bank. 1 L.R.A. (N.S.) 252.

§ 12. Trust in, or gift of, deposit. Application to debt due bank, of deposit in fiduciary character, see infra, § 18. Trust in case of insolvency, see infra, § 41.

Effect of deposit of funds in the name of the depositor and another. L.R.A. 1917C, 550.

Gift theory. 12 L.R.A. (N.S.) 355; L.R.A.1917C, 553.

Trust theory. L.R.A.1917C, 567. Joint tenancy. L.R.A.1917C, 571.

Deposit in bank for other person as a gift. 1 L.R.A.(N.S.) 790.

hold noninterest bearing deposit against | Effect of depositing money in bank in trust for third person. 32 L.R.A. 373.

BANKS, V. a-cont'd

Effect of deposit by unauthorized person to credit of owner of funds. 35 L.R.A. (N.S.) 461.

Effect of deposit by broker or factor to his own account of proceeds of sale of customer's stock or property to create a trust entitled to a preference. L.R.A. (N.S.) 808.

Liability of bank or other depositary, or of drawee, for taking deposit of agent, fiduciary, or other represen-tative to pay his own debt. 52 L.R.A. 790.

Liability of bank for failure to prevent misappropriation of funds by a fiduciary. L.R.A.1915C, 518.

§ 12a. - necessity and effect of de-

Sufficiency of bequest to pass bank deposit. 5 B. R. C. 539.

Effect of delivery of bank book to sustain gift of money in bank. 3 L.R.A. 230;\*
11 L.R.A. 686;\* 18 L.R.A. 171; 19 L.R.A. 700.

Delivery necessary to complete gift of a savings-bank account when the book is already in the possession of the donee. 17 L.R.A.(N.S.) 181.

Effect of delivery of order for savings account without a book to complete a gift of the account. 22 L.R.A.(N.S.) 568; L.R.A.1915B, 396.

§ 13. Transfer of generally.

Check as assignment of fund so as to prevent garnishment. 43 L.R.A.(N.S.) vent garnishment. 100.

14. Garnishment of.

Garnishment of surplus on deposit. L.R.A. 369.

Garnishment of bank deposit in a form importing that depositor is acting as agent or fiduciary. 10 L.R.A.(N.S.) 706; 84 L.R.A.(N.S.) 1207.

Payment by bank under garnishment of deposit to party other than depositor but of same name. 11 L.R.A. (N.S.) 248. Check as affecting garnishment of deposit. 43 L.R.A.(N.S.) 100.

§ 15. Limitation of action for. See LIMITATION OF ACTIONS, §§ 25, 26.

§ 16. Liability for loss of, through failure of bank.

Liability of executor or trustee for loss of funds through failure of bank. 14 L.R.A. 103; 7 L.R.A. (N.S.) 617; 45 L.R.A.(N.S.) 1.

Liability of guardian for loss of ward's money deposited in bank. 21 L.R.A. (N.S.) 399.

Liability on official bond for. 22 L.R.A. 449.

Liability of public officers for loss of funds by failure of bank in which they are deposited. 36 L.R.A.(N.S.) 285. BANKS, V. a-cont'd

§ 17. Application of deposit to debt due bank.

As to bank's right of set-off, see infra, § 20.

Right of bank to apply special deposit to an indebtedness of depositor. 30 L.R.A. (N.S.) 517; L.R.A.1918A, 80.

Application by bank of individual partner's deposit on firm debt. 23 L.R.A. 111.

Effect upon surety or indorser, of bank's failure to apply principal's deposit account upon note. 8 L.R.A. (N.S.) 944; L.R.A.1917F, 266.

Applicability of deposits to indebtedness of one depositing in his own name the funds of another, where the bank has no actual notice of the true character of the funds. L.R.A. 1915A, 715.

§ 18. — deposit in fiduciary character. Right to apply deposit by fiduciary or representative on his debt to itself. L.R.A. (N.S.) 1110.

Liability of bank for application of deposit to pay fiduciary's debt to the bank. L.R.A.1915C, 525.

Applicability of deposits to individual indebtedness of depositor where word suggestive of fiduciary character is appended to his name. 10 L.R.A. (N.S.) 706; 37 L.R.A. (N.S.) 409.

Liability for taking deposit of trust funds in payment of trustee's debt. 52 L.R.A.

19. Application to debt due stranger. Right of bank to charge customer's account with amount paid to stranger without legal duress. 31 L.R.A. (N.S.) 763.

§ 20. Bank's right of set-off against depositor.

See SET-OFF AND COUNTERCLAIM, §§ 8a, 19b.

21. Lien of bank on.

Right of one whose securities have been pledged to bank, to secure a loan to another, to be subrogated to the bank's lien on latter's deposit and collateral. 43 L.R.A.(N.S.) 197.

§ 22. Checks generally. Rights and liabilities on checks, of persons other than banks, see CHECKS.

Certification of check, see CHECKS, § 7. Presentment of, for payment, see CHECKS, §§ 9-11.

Limitation of action on. 22 L.R.A. 110. Banking customs as to. 21 L.R.A. 443. Indorsement of, "For deposit." 23 L.R.A. 164.

§ 23. Payment of checks; duty of depositor.

Recovery back of money paid on, see infra, §§ 28, 29.

Payment of check generally, see CHECKS, §

Effect of death of drawer of check as a revocation thereof. L.R.A.1916A, 717.

BANKS, V. a-cont'd

Effect of direction on check to pay same through specified agency. 30 L.R.A. (N.S.) 607.

Liability of bank upon claimed contract of acceptance external to check. 8 L.R.A.(N.S.) 1148; L.R.A.1918F, 172.

Paying check written on the blank of another bank as negligence. 19 L.R.A. (N.S.) 403.

Payment by bank of check signed by authorized person in different form than that agreed upon. 30 L.R.A.(N.S.)

Payment of money deposited to credit of minor to person other than guardian. 29 L.R.A.(N.S.) 67.

Liability of savings bank for payment to fraudulent claimant. 69 L.R.A. 317.

Liability of one to whom insolvent bank has paid a check. 13 L.R.A.(N.S.) 185; 50 L.R.A.(N.S.) 239.

Check drawn by corporate officer payable to his own order as imparting notice to drawee bank of an intended misappropriation. L.R.A.1915B, 715.

Does the fact that a draft or check is payable to the order of a bank put it upon inquiry as to right or title of holder. L.R.A.1915B, 287.

§ 24. — payment on forged check or order.

Right to recover back, see infra, § 29.

Liability of person whose signature is forged on commercial paper, generally, see BILLS AND NOTES, § 16.

Right of bank in respect to certified check or draft fraudulently altered. 4 B. R. C. 588.

Duty of government official to know signature of drawer of draft. L.R.A.1915D, 797.

Drawee's duty to know signature of drawer. 27 L.R.A. 635.

Liability of drawee to true owner of a check which it has paid on a forged indorsement. L.R.A.1918C, 613.

Who must bear loss of payments on forgery of travelers' checks. L.R.A.1917F, 558. Right of holder of check against bank which cashes it on a forged indorsement, and then collects it from the drawee.

L.R.A.(N.S.) 519; L.R.A.1917A, 148. Payment by savings bank on forged order. 69 L.R.A. 329; 18 L.R.A. (N.S.) 431.

Liability of bank which pays raised check.
5 B. R. C. 293. Checks fraudulently raised by employee

of drawer. 41 L.R.A. (N.S.) 529. Liability of bank to depositor for paying altered check where the alteration was facilitated by the form in which it was drawn. L.R.A.1918B, 327.

Right of bank remitting for or paying forged check as against the depositor or correspondent bank, as affected by the latter's negligence in failing to give notice of the forgery. L.R.A. | Character of action for dishonor of check. 1918F, 282.

Consult also L.R.A. Digests of Cases.

BANKS, V. a-cont'd

Duty of depositor in respect to forged checks charged to him by the bank. 27 L.R.A. 426; 36 L.R.A. 539.

Duty of a depositor to examine pass book and vouchers upon their return from the bank. L.R.A.1915D, 741. Duty of owner of certified check, or of

drawer of uncertified check, as to giving notice of forgery, independently of examination of vouchers. L.R.A.1916E,

Depositor's right to recover amount of forged or raised checks paid by bank as affected by the fact that he intrusted the examination of vouchers to the employee, who was guilty of the original fraud. 7 L.R.A. (N.S.) 744.

Loss or prejudice to bank resulting from negligent failure on part of depositor or correspondent bank to give prompt notice of forgery, as a condition of its right to charge forged checks to latter's account. 20 L.R.A.(N.S.) 79.

Forger's application of proceeds of check to an indebtedness to depositor, as affecting bank's right to charge the same against depositor's account. 25 L.R.A. (N.S.) 998.

§ 25. — payment to impostor or person of same name.

Use of fictitious name in bill or note, see BILLS AND NOTES, § 13.

Note payable to imposter, see BILLS AND NOTES, § 14.

Fictitious payee of check. 26 L.R.A. 570; 39 L.R.A. 427.

Check or bill issued, or indorsed, to imposter—who must bear loss. 50 L.R.A. 75; 17 L.R.A. (N.S.) 514; 38 L.R.A.(N.S.) 1111.

Who must bear loss where check or draft is purchased or paid upon the spurious indorsement of one who bears the same name as payee or indorsee. 34 L.R.A. (N.S.) 1101.

Payment by bank under garnishment of deposit to party other than depositor, but of the same name. 11 L.R.A.(N.S.) 248.

Delivery of special deposit to wrong person. 32 L.R.A. 775.

§ 25a. Stopping payment. Right to stop payment of. 30 L.R.A. 845. Of certified check. 20 L.R.A.(N.S.) 290.

Action by drawee essential to terminate drawer's right to stop payment of check. 39 L.R.A.(N.S.) 655.

Obtaining money by check with intent to stop payment, as a false pretense. 41 L.R.A.(N.S.) 170.

Rights and liability arising out of failure of bank to comply with order stopping payment of check. L.R.A.1916F, 828.

26. Dishonoring check.

Liability of bank for refusal to pay. L.R.A. 134.

5 L.R.A.(N.S.) 870.

BANKS, V. a-cont'd

Admissibility of drawer's want of credit in action by him against bank for wrongful'y dishonoring check. 11 L.R.A. (N.S.) 224.

Liability of national bank on its promise to honor checks to be drawn upon it by one who has no funds on deposit to meet the same. 17 L.R.A.(N.S.) 526.

Right of holder of check to maintain action thereon against bank. L.R.A.1916C, 165.

Duty of bank to apply savinge account to check. L.R.A.1916A, 1222.

§ 27. Paying out deposits generally. Right of bank to impeach sources of deposit as against holder of check drawn against the same. 37 L.R.A.(N.S.) 1186.

Delivery of special deposit to wrong person. 32 L.R.A. 775.

Obligation to pay in coin where coin deposited. 29 L.R.A. 523.

Duty of bank as to payment of money held as bailee. 21 L.R.A.(N.S.) 816.

Liability of bank for failure to prevent misappropriation of funds by a fiduciary. L.R.A.1915C, 518.

Payment of money deposited on joint account. L.R.A.1915D, 920.

# § 28. Recovery back of money paid out by bank.

Liability to bank of one who, without knowledge of the fraud, draws out funds fraudulently credited to him by its officers or employees. 31 L.R.A. (N.S.) 1126.

Right of bank to recover amount paid on check in ignorance of insolvency of drawer, who was indebted to it. 33 L.R.A. (N.S.) 963.

Right of bank to recover amount paid on check or other paper drawn upon or payable at it, under mistaken belief that there were sufficient funds to meet it. 23 L.R.A. (N.S.) 1092; 33 L.R.A. (N.S.) 1023; L.R.A.1918F, 811.

Right of depositor to recover against one to whom bank was paid excessive or unauthorized payment. 42 L.R.A. (N.S.) 1135.

§ 29. —on forged paper.

Effect of payment on forged check or order, see supra; § 24.

Effect of payment to impostor or person of same name, see supra, § 25.

Right of bank in respect to certified check or draft fraudulently altered. 4 B. R. C. 588.

Right of drawee of forged check or draft to recover money paid thereon. 10 L.R.A.(N.S.) 49; 25 L.R.A.(N.S.) 1308; 29 L.R.A.(N.S.) 100; L.R.A. 1915A, 77.

Right of drawee of check to recover money paid on forged indorsement. L.R.A. 1916E, 539.

BANKS, V. a-cont'd

Delay in giving notice of forgery as cetoppel of true owner to recover on a forged indorsement. 40 L.R.A.(N.S.) 657.

30. Certificates of deposit.

Limitation of action on, see LIMITATION OF ACTIONS, §§ 25, 26.

Garnishment of debt evidenced by certificate of deposit. L.R.A.1918C, 750.

Certificate of deposit as a negotiable instrument. L.R.A.1918C, 691.

Maturity of. 15 L.R.A. 386.

Defense against, when transferred after maturity. 46 L.R.A. 809.

Presumption as to time of alteration in certificate of deposit. 39 L.R.A. (N.S.) 114.

#### b. Collections.

§ 31. Generally.

Liability of bank for misappropriation of collections by its officers or employees L.R.A.1917A, 522.

Bank to which paper is sent for collection at request of obligor as agent of obligor or of holder. 34 L.R.A. (N.S.) 734.

Banking customs as to. 21 L.R.A. 442. Right to show by parol evidence that in-

ight to show by parol evidence that indorsement, unrestricted in form, was made for purpose of collection only. 17 L.R.A. (N.S.) 838.

Rights and liabilities of assignee of bill of lading with draft attached as against consignee who does not get goods or finds them defective. 49 L.R.A. 679; 1 L.R.A. (N.S.) 242; 18 L.R.A. (N.S.) 1221; 32 L.R.A. (N.S.) 1173; 52 L.R.A. (N.S.) 241.

Criminal liability of collector of draft attached to bill of lading for liquor. 46 L.R.A. (N.S.) 1139.

Right of discounter of draft as to property covered by a bill of lading attached to draft. 49 L.R.A.(N.S.) 644.
Right of holder of check against bank

Right of holder of check against bank which cashes it on a forged indorsement and then collects it from the drawee. 15 L.R.A. (N.S.) 519; L.R.A. 1917A, 148.

Right of bank, in action by holder for proceeds of commercial paper collected by it, to avail itself of defenses that would have been available in an action on the paper. 26 L.R.A.(N.S.) 1098.

§ 32. Title to, and disposition of, collection or funds.

Trust in proceeds of collection by insolvent bank. 32 L.R.A. 715; 38 L.R.A. (N.S.) 146; L.R.A.1917F, 603.

Banking custom as to treatment of check deposited "for collection." 21 L.R.A.

Title to check drawn on another bank which has been credited to depositor. 47 L.R.A.(N.S.) 552.

BANKS, V. b-cont'd

§ 33. Duty and liability of collecting Liability of bank for interest on money debank.

Loss of check after it had been credited to depositor's account. L.R.A.1917A, 658.

Diligence required in collecting check taken by collecting bank. 3 L.R.A.
(N.S.) 1167.

Damages for negligence as to collection of commercial paper. 1 L.R.A. (N.S.)

Actual damage as a condition of liability for negligence in presenting check. 1 L.R.A. (N.S.) 246.

Criminal liability of bank collecting draft attached to bill of lading for liquor. 46 L.R.A. (N.S.) 1139.

Rule or custom of clearing house relating to time for presentation of checks as affecting liability of collecting bank. 50 L.R.A. (N.S.) 542.

Liability for default of correspondent. 52

L.R.A.(N.S.) 608. Responsibility of holder of paper as collateral security for default of those to whom the paper is intrusted for collection. L.R.A.1917E, 509.

§ 34. — what may be accepted in payment.

Liability for taking check or draft in payment of paper held for collection. 3 L.R.A.(N.S.) 1179.

§ 35. — sending directly to drawee bank.

Generally. 27 L.R.A. 248; 18 L.R.A. (N.S.) 441.

Effect of banking custom as to. 21 L.R.A. 443.

Validity of custom. 2 L.R.A. (N.S.) 194.

### c. Other transactions; discounts.

36. Generally.

Liability of bank as accommodation indorser. 23 L.R.A. 836.

Liability of bank directors in case of bad loans or investments. 39 L.R.A. (N.S.) 173.

Nature of drafts by one bank on another. 23 L.R.A. 173.

Effect of national bank reserving illegal interest. 56 L.R,A. 673.

Right of a bank to engage in business to save debt. 27 L.R.A. (N.S.) 243.

Right or power of bank to purchase draft with bill of lading attached. L.R.A. 1918D, 706.

Right of bank acquiring paper void for usury as between prior parties, under a statute prescribing special and exclusive penalties against a bank which takes usury. 16 L.R.A.(N.S.) 626.

Validity of contract as to circulating notes, which violates statute. 12 L.R.A. (N.S.) 610.

Power of bank to pledge assets to secure depositor. 45 L.R.A.(N.S.) 950.

Presumption and burden of proof as to negligence in case of embezzlement of property while in possession of bank as bailee. 43 L.R.A.(N.S.) 1190.

Consult also L.R.A. Digests of Cases.

BANKS, V. c-cont'd

posited with it to secure performance of contract or decree, or to indemnify against losses or claims. 52 L.R.A. (N.S.) 522.

§ 37. — guaranty of loan by national bank.

Generally. 32 1918A, 415. 32 L.R.A. (N.S.) 544; L.R.A.

As affecting remedies of bank. 32 L.R.A. (N.S.) 544.

As affecting bank's liability on accommo-

dation guaranty. 32 L.R.A.(N.S.) 545.
As affecting liability of bank benefited by transactions. 32 L.R.A.(N.S.) 546.

§ 37a. — discounts.

Taking interest in advance. 29 L.R.A. 761: L.R.A.1915D, 1195.

Purchase of notes and bills by bank as distinguished from discounting. L.R.A. 223.

Amount of discount as putting purchaser of negotiable paper on inquiry. 29 L.R.A. (N.S.) 378; 44 L.R.A. (N.S.) 404. Power of bank to discount draft with bill

of lading attached. L.R.A.1918D, 706. Right of bank discounting draft as to property covered by a bill of lading attached to draft. 49 L.R.A.(N.S.) 644.

### d. Clearing-house business.

§ 38. Generally.

Origin and description. 25 L.R.A. 824. Rights and liabilities of clearing houses. 25 L.R.A. 825.

Clearing-house loan certificates. 25 L.R.A. 82A.

Clearing-house duebill. 25 L.R.A. 826. Presentation and payment through clear-ing-house. 25 L.R.A. 826.

Return of paper not good after receiving it through clearing-house. 25 L.R.A. 827.

Effect of clearing-house rules and customs. 25 L.R.A. 830.

Agency of clearing-house members. 25 L.R.A. 830.

Gold clearing-house. 25 L.R.A. 830.

Country clearing-house of London. L.R.A. 831. 25

Miscellaneous. 25 L.R.A. 831.

Rule or custom of clearing house relating to time for presentation of checks as affeeting liability of collecting bank. 50 L.R.A.(N.S.) 542.

# VI. Insolvency of bank.

39. Generally.

Liability for loss of deposit by, see supra, § 16.

Reception of deposit by bank while insolvent as a crime, see infra, § 51.

Constitutionality of statute authorizing officer to take charge of assets of bank upon suspicion of insolvency. L.R.A. 1915E, 675.

BANKS, VI.-cont'd

Receiving deposit when insolvent as a fraud. 34 L.R.A. 533.

Liability of one to whom an insolvent bank has paid a check. 13 L.R.A.(N.S.) 185; 50 L.R.A.(N.S.) 239.

Effect on surety or indorser of insolvent bank's failure to apply principal's deposit to account on note. 8 L.R.A. (N.S.) 955; L.R.A.1917F, 266.

Preliminary injunction, effect of which is to transfer possession of assets of bank from directors to trustees under assignment for benefit of creditors. L.R.A.(N.S.) 34.

L.R.A.(N.S.) 34.
Liability of officers for failure to close insolvent bank, 3 L.R.A.(N.S.) 438.
Reorganization of banking corporation in insolvency proceeding as affecting liability on existing obligations. L.R.A. 1918B, 619.

40. Preferences.

Exceptions to the prohibition of preferences by insolvent national banks. 25 L.R.A. 546.

Right to preference for money paid to in-10 L.R.A. solvent bank for draft. (N.S.) 928; 39 L.R.A.(N.S.) 563.

Claim of preference of special or trust deposit out of funds of insolvent bank.

1 L.R.A. (N.S.) 252.

Right to preference in respect of public funds deposited in bank which subsequently becomes insolvent. 5 L.R.A. (N.S.) 886; 16 L.R.A. (N.S.) 918; L.R.A.1917A, 683.

Common-law priority of state or United States in payment from assets of insolvent bank. 46 L.R.A. (N.S.) 260;

L.R.A.1918A, 398. Liability of one to whom an insolvent bank has paid a check. 50 L.R.A. (N.S.) 239.

Rights, against receiver, as to paper deposited before, but not collected at the time, the bank closed its doors.

L.R.A.1915D, 402. Right of purchaser of a draft from a bank to lien or preference to collateral in hands of drawee upon insolvency of the drawer. L.R.A.1915B, 438.

Effect of deposit by broker or factor to his own account by proceeds of sale of customer's stock or property to create a trust entitled to a preference. 27 L.R.A. (N.S.) 808.

Payment of depositor during a run on a bank as an unlawful preference. L.R.A. 675.

Pledge of securities by insolvent bank as an unlawful preference. L.R.A.1917A, 701.

41. Trust in funds.

Trust in deposit in insolvent bank. 34 L.R.A. 532.

Trust in proceeds of collection made by bank when insolvent. 32 L.R.A. 715; 38 L.R.A. (N.S.) 146; L.R.A. 1917F, 603.

Priority in assets of insolvent national bank by reason of trust character of deposit. 25 L.R.A. 546.

Begin with this book on every law question.

BANKS, VI.—cont'd

Claim of preference of trust deposit out of funds of insolvent bank. 1 L.R.A. (N.S.) 252.

Lien on commercial paper purchased by bank after it has mingled trust money with its own funds. 15 L.R.A.(N.S.) 1100.

§ 42. Right of set-off. See SET-OFF AND COUNTERCLAIM, § 19a.

### VII. Savings banks.

§ 48. Generally. Gift of deposit in, see supra, §§ 12, 13.

Joint account in. 31 L.R.A. 454.

Effect of delivery of savings bank book as gift of deposit. 18 L.R.A. 171.

Duty of bank to apply savings account to check. L.R.A.1916A, 1222.

Delivery necessary to complete gift of savings bank account when book is already in donee's possession. 17 L.R.A.(N.S.) 181.

Right to withdraw deposit from savings bank without presenting pass book. 46 L.R.A.(N.S.) 194.

§ 44. Liability for payments to fraudulent claimants.

General rule requiring reasonable care by the bank. 69 L.R.A. 317.

The application of the rule of reasonable care as affected by the bank's bylaws. 69 L.R.A. 318.

The binding effect of the by-laws upon the depositor. 69 L.R.A. 324.

Limits of the application of the rule requiring reasonable care. 69 L.R.A. **327.** 

Contributory negligence of the depositor. 69 L.R.A. 340.

Matters of evidence. 69 L.R.A. 342. Payment by savings bank on forged order. 18 L.R.A.(N.S.) 431.

#### VIII. National banks.

§ 45. Generally.

State taxation of, see TAXES, § 7.

Effect of usury by national bank, see Usury, § 11.

Set-off in case of usury, see SET-OFF AND COUNTERCLAIM, § 8.

Power of national bank to acquire and hold stock of other corporations. L.R.A. 1916A, 584.

Power of national bank to receive special deposits. L.R.A.1918A, 73.

Liability of national bank upon its promise to honor checks to be drawn upon it by one who has no funds on deposit to meet the same. 17 L.R.A.(N.S.) 526. Liability for loss of special deposit. 32

L.R.A. 770.

Exceptions to prohibition of preferences by . insolvent national banks. 25 L.R.A.

BANKS, VIII.—cont'd

§ 46. Transfer of stock.

Restriction on transfer of stock in national bank. 27 L.R.A. 273.

Effect of by-law requiring transfer of national bank stock on books. 67 L.R.A.

§ 47. Guaranty of loan by. Guaranty of loan by. 32 L.R.A. (N.S.) 544; L.R.A.1918A, 415.

§ 48. Jurisdiction.

Jurisdiction of state courts over actions by or against national banks. 48 L.R.A.

Jurisdiction of United States Supreme Court in action against national bank to recover penalty for taking usury. 56 L.R.A. 680.

Question relating to national banks as Federal question. 62 L.R.A. 536.

# IX. State banks.

§ 49. Generally.

Nature and privileges of state bank. 29 L.R.A. 378.

Nature and relation to state of incorporated bank belonging to it. 29 L.R.A. 378.

# X. Taxation.

§ 50. Generally,

Of national banks, see TAXES, § 7. As to corporate taxation, generally, see

TAXES, II.

Of franchise. 57 L.R.A. 56.

Taxation of banking corporations in the United States as affected by the contract clause in the Federal Constitution. 60 L.R.A. 60, 86.

Taxation of bank deposits. 57 L.R.A. 72. Situs as between different states or countries of bank deposits for purposes of property taxation. L.R.A.1915C, 938.

Bank deposit to credit of nonresident of state as subject of local property taxation. 26 L.R.A.(N.S.) 1120.

Inheritance or succession tax on bank deposit to take effect after donor's death. 38 L.R.A. (N.S.) 1149.

# XI. Crimes.

§ 51. Generally.

Criminal liability for receiving deposit in bank knowing of its insolvency. 31 L.R.A. 124.

When is a bank insolvent within statute making it an offense to receive further deposits. 20 L.R.A. (N.S.) 444.

Power of legislature to provide that failure of bank shall be prima facte evidence of knowledge of insolvency at time of receiving deposit. L.R.A.1915C, 732.

Constitutionality of statutes making receiving of deposits after bank is insolvent Right to kill. 15 L.R.A. 249. a crime. 22 L.R.A.(N.S.) 266. As nuisance. 7 L.R.A.(N.S.) Consult also L.R.A. Digests of Cases.

BANKS, XI.—cont'd

Is the actual personal receipt of a deposit by an officer or employee of an insolvent bank essential to his conviction. 26 L.R.A. (N.S.) 1072.

# XII. Bank guaranty law.

§ 52. Generally. Constitutionality of. 32 L.R.A. (N.S.) 1065.

#### BAPTISMAL REGISTER.

Immaterial alteration in. 39 L.R.A. (N.S.) 115.

### BAR.

Of statute of limitations, see LIMITATION OF ACTIONS.

#### BAR ASSOCIATION.

Membership in, as disqualification of judge to preside at disbarment proceedings. 39 L.R.A.(N.S.) 116.

### BARBERS.

§ 1. In general. License of, see LICENSE, § 22a.

Constitutionality and effect of restrictions on right to practise trade of barber. 40 L.R.A.(N.S.) 629.

§ 2. Violation of Sunday law.

Keeping shop open on Sunday. 14 L.R.A. 194; L.R.A.1917B, 97.

Validity of classification in Sunday law with regard to. 14 L.R.A. (N.S.) 1259; 32 L.R.A. (N.S.) 1190.

Special penalty for violation of Sunday closing act. 15 L.R.A. (N.S.) 646.

# BARK.

Oral contract for sale of. 19 L.R.A. 721. Sufficiency of delivery of tan bark on sale out of larger lot. 26 L.R.A.(N.S.) 40.

# BARKING DOGS.

As nuisance. 7 L.R.A. (N.S.) 349.

#### BARN.

What passes under bequest of contents of L.R.A.1915C, 653.

#### BARRATRY.

Effect of barratrous conduct upon liability upon marine insurance policy. 1 L.R.A. (N.S.) 1098.

#### BARRIERS.

In highway, see HIGHWAYS, § 73.

Ferryman's duty to maintain proper parriers to protect passengers and property. 68 L.R.A. 155.

#### BARROOMS.

Municipal power as to screens in. 24 L.R.A. 768.

#### BARS.

See also GATES.

Right to maintain, across easement of way. 48 L.R.A.(N.S.) 87.

#### BARTER.

Of horses, see Horse TRADE.

# BASEBALL.

Playing on Sunday as an offense. 21 L.R.A. (N.S.) 63; 32 L.R.A. (N.S.) 1186; 41 L.R.A. (N.S.) 407.

Liability of owners of base ball park or of management of base ball exhibition for safety of patrons. L.R.A.1915F, 694.

# BASE COIN.

As medium of payment, see PAYMENT, § 8.

# BASIN.

Surface water as distinguished from. L.R.A. 529. Begin with this book on every law question.

#### BASTARDY.

§ 1. Generally.

property and effects contained in. Inheritance by or from bastards, see DE-LRA.1915C, 653.

As to legitimacy and illegitimacy, generally, see ILLEGITIMATES.

Actionability of charge that one is bastard,

see LIBEL AND SLANDER, § 13.
As to action of parent for seduction of child, see SEDUCTION, § 4.

Using lunatic's property in support of illegitimate children. 34 L.R.A. 298.

Existence of bastard child as ground of divorce or annulment of marriage. 18 L.R.A. 377; L.R.A.1916E, 652.

Effect of putative father's attempt to appoint guardian for child against surviving mother. 13 L.R.A.(N.S.) 294.

§ 2. Bastardy proceedings.

Termination of proceeding as bar to subsequent case. 1 L.R.A.(N.S.) 470.

Right of prosecutrix to private counsel. 33 L.R.A. (N.S.) 463.

Attorney's lien on fund in bastardy proceedings. 11 L.R.A.(N.S.) 630.

Form of judgment on bastardy bond. 62 L.R.A. 444.

Limitation applicable to bastardy proceedings or action to compel support. 40 L.R.A.(N.S.) 144.

Necessity of guardian ad litem for infant in bastardy proceeding. 52 L.R.A. (N.S.) 799.

Right of the parties to compromise or settle. L.R.A.1918D, 291.

§ 8. — abatement of, by death. Death of defendant. 30 L.R.A. (N.S.) 1167. Death of complainant. 30 L.R.A. (N.S.) 1167.

Death of child. 30 L.R.A. (N.S.) 1168.

4. - evidence in.

Presumption and burden of proof. L.R.A. 1918C, 891.

Power of legislature to enact prima facie rule of evidence. L.R.A.1915C, 733.

Parol evidence as to resemblance in proof of. 52 L.R.A. 500.

Evidence of other crimes in prosecution for. 62 L.R.A. 329.

Evidence of specific instances to prove character of mother for chastity. 14 L.R.A. (N.S.) 733; L.R.A.1916B, 969.

Competence of woman to testify as to non-access of husband. 2 L.R.A. (N.S.) 619;

L.R.A.1916B, 1053.

Proof necessary to establish bastardy of child born to married woman. 36
L.R.A.(N.S.) 255.

Exhibition of child for purpose of determining paternity. L.R.A.1917B, 1148.

Admissibility of declarations of parents or putative parents as to paternity or maternity of child. 6 B. R. C. 853.

5. Liability on bond; punishment. 25 Effect of insertion of unauthorized provisions in bond. L.R.A.1917B, 990. BASTARDY—cont'd

Penalty as limit of liability on bond in bastardy proceedings. 55 L.R.A. 395.

Cruel and unusual punishment for. 35
L.R.A. 570.

Power of municipality to permit extension of, into street. 28 L.R.A. (N.S.) 375.

Violating ordinance as to, as ground for private action. 5 L.R.A. (N.S.) 261.

Imprisonment under order in bastardy proceeding, as imprisonment for debt. 34 L.R.A. 667; L.R.A.1915B, 651.

#### BATH HOUSE.

See also BATHING RESORT.

Liability of proprietor to patron. 32 L.R.A. (N.S.) 715.

Liability of keeper of bath house for loss

of guest's valuables. 6 L.R.A. (N.S.)

#### BATHING.

Right of public to bathe on the seashore. 8 L.R.A.(N.S.) 1047. Surf bathing as violation of Sunday laws. 30 L.R.A.(N.S.) 470.

#### BATHING RESORT.

See also BATH HOUSE.

Care required from proprietor of. 3 L.R.A. (N.S.). 982.

Liability of person maintaining, for safety of patrons. 3 L.R.A.(N.S.) 982, 1132; 32 L.R.A.(N.S.) 715; 38 L.R.A.(N.S.) 72; 42 L.R.A.(N.S.) 1073; L.R.A. 1915F, 698.

Private action for violation of statute designed to promote safety of sea bathers. L.R.A.1915E, 561.

## · BATTERY.

See Assault and Battery.

#### BAWDYHOUSE.

See DISORDERLY HOUSE.

## BAYS.

As boundary between states, see BOUNDARY,

Jurisdiction over. 46 L.R.A. 275.

## BAY WINDOWS.

Municipal regulation of, as nuisances. **39** L.R.A. 667.

Consult also L.R.A. Digests of Cases.

BAY WINDOWS—cont'd

Bay window extending beyond line as vio-lation of building restriction. 52 L.R.A. (N.S.) 1044, 1052.

#### BEAMS.

As defect in dock or wharf. 61 L.R.A. 949.

#### BEAR.

Liability for injury by. 11 L.R.A. (N.S.) 748; 52 L.R.A. (N.S.) 378. Liability of master to servant for personal injury by bear kept for exhibition purposes. 23 L.R.A.(N.S.) 1071.

### BED.

Under water, rights in, see WATERS, §§ 12-

#### BEDDING.

Carrier's duty to furnish bedding for live stock. 23 L.R.A.(N.S.) 278.

## BEER.

As to intoxicating liquors, generally, see Intoxicating Liquor.

Judicial notice that beer is intoxicating. 48 L.R.A.(N.S.) 309, 316.

#### BEES.

Property rights in. 40 L.R.A. 687. Liability of owners of, for injuries done by them. 62 L.R.A. 132. As a nuisance. 62 L.R.A. 133.

### BEHAVIOR.

Reduction of term of imprisonment for good behavior. 34 L.R.A. 509.

## BELIEF.

Information and belief, see INFORMATION AND BELIEF.

Effect of, on criminal responsibility, see CRIMINAL LAW, §§ 13, 14.

BELIEF—cont'd

Belief in reckless statement as affecting fraud. 35 L.R.A. 432.

Of prosecutor obtaining advice of counsel for prosecution. 18 L.R.A.(N.S.) 63. Perjury in statements involving matters of. 25 L.R.A. (N.S.) 654.

## BELLS.

Duty of bicyclists to carry. 47 L.R.A. 295. Violation of ordinance as to sounding of bells on street cars as ground for private action. 5 L.R.A. (N.S.) 252. Ringing of, as disturbance of public peace. 32 L.R.A.(N.S.) 505.

#### BELT RAILROAD.

Exercise of power of eminent domain by. 10 L.R.A.(N.S.) 909.

#### BENEFICIAL PLAINTIFF.

Liability of, for costs. 62 L.R.A. 618.

#### BENEFICIARIES.

Of charitable bequest, see CHARITIES. In insurance policy or certificates, see In-SUBANCE. Of will, see WILLS, V. f.

#### BENEFITS.

Set-off of, in eminent domain, see DAMAGES, § 93.

Estonnel by receiving, see Estoppel, §§ 32, **33.** 

Under policy, right to decrease, see In-SUBANCE, § 179.

As basis for assessment for public improvement, see Public Improvements, § 26.

Reservation of, by grantor as showing fraudulent intent. 31 L.R.A. 633.

#### BENEVOLENCE.

Devise or bequest for, see CHARITIES.

## BENEVOLENT SOCIETIES.

§ 1. Generally.

As to associations, generally, see Associa-TIONS.

As to charities generally, see CHARITIES. Insurance by, see INSURANCE.

Liability of property owned by fraternal societies to assessment for local improvements. 35 L.R.A. 38.

BENEVOLENT SOCIETIES-cont'd

Effect of, on adverse possession beyond boundary line. 21 L.R.A. 831.

Belief in reckless statement as affecting tron. L.R.A.1916F, 1129.

Use of lodge or club building for entertainment or social purposes as affecting right to exemption from taxation. L.R.A.1915F, 694.

Right of benevolent society to protection against use of name, insignia, ritual, etc., by another organization. L.R.A. 1915B, 1074.

Right to property of local branch of benefit society in event of secession or attempted secession. 47 L.R.A. (N.S.) 927.

Conclusiveness of decisions of tribunals of. 49 L.R.A. 353; 2 L.R.A. (N.S.) 672.

Conclusiveness of decisions of tribunal of mutual benefit associations directly upon claims for benefits; and duty toexhaust remedies within association. 52 L.R.A.(N.S.) 823.

§ 2. Nature of society.

Benefit association as an insurance company. 38 L.R.A. 33.
Fraternal benefit society as a benevolent or

charitable association within exemption statutes. 7 L.R.A.(N.S.) 380.

§ 3. Rights and obligations of members.

Members of associations generally, see As-SOCIATIONS, § 3.

Infant as member of co-operative insurance company. 17 L.R.A. 547.

Liability of benevolent or fraternal society for injury to person during initiation. 13 L.R.A. (N.S.) 314; L.R.A.1917C, 476.

Right of members of subordinate lodge of benefit society, which has been suspended or dissolved, to transfer to another lodge. L.R.A.1918F, 780.

§ 3a. Expulsion suspension or member.

Validity and effect of by-law of mut-al benefit society suspending member who

disappears. L.R.A.1917A, 182.

Conclusiveness of decision of tribunal of mutual benefit society suspending or expelling a member. 52 L.R.A. (N.S.) 806.

Necessity of exhausting remedies within order against decision expelling or suspending a member from a mutual benefit association. 52 L.R.A. (N.S.) 817.

Liability of benevolent or fraternal society for injury to person during expulsion. 13 L.R.A.(N.S.) 314; L.R.A.1917C, 476.

Effect of expulsion from a society to destroy right to insurance connected therewith. 25 L.R.A. 149.

Wrongful expulsion of member as ground for dissolution of association. L.R.A. 1918B, 310.

§ 4. Regulations; by-laws.

As to by-laws affecting insurance rights of members, see INSURANCE, § 46.

Validity and effect of by-law of mutual benefit society suspending member who disappears. L.R.A.1917A, 182.

BENEVOLENT SOCIETIES-cont'd

Reasonableness of new by-laws as implied condition of consent to change of by-laws. 8 L.R.A.(N.S.) 521.

Right of physician to complain of regula-tions of beneficial association or employer as to employment of physician. L.R.A.1916B, 839.

Requiring remedies within the order to be exhausted as condition precedent to action on claim for benefits. 52 L.R.A. (N.S.) 823.

Validity of provision as to conclusiveness of decision of tribunals directly upon claims for benefits. 52 L.R.A.(N.S.)

§ 5. Dissolution of.
Right, upon dissolution of benefit association, or local branch thereof, to funds voluntarily accumulated by the branch, to be expended solely for the benefit of its members. 15 L.R.A.(N.S.) 336.

Disposition of real estate upon dissolution of a corporation created for benevolent or social purposes. 35 L.R.A.(N.S.) 895.

Wrongful expulsion or violation of property rights of member as ground for dissolution of association. L.R.A.1918B, **3**10.

#### BENZIN.

Keeping of, on insured premises. L.R.A. 1917C, 278.

## BENZOL.

Keeping of, on insured premises. L.R.A. 19**17C, 2**78.

#### BEQUEST.

See WILLS, V.

## BERTH.

Liability for failure to supply. 5 L.R.A. (N.S.) 1012.

Constitutionality of statute requiring unoccupied upper berth to be left closed. L.R.A.1916A, 1139.

## BERTILLON SYSTEM.

Right to take or retain in rogue's gallery, picture of one accused of crime. 7 L.R.A.(N.S.) 274; 23 L.R.A.(N.S.) 739; L.R.A.1916A, 743.

Consult also L.R.A. Digests of Cases.

## BEST EVIDENCE.

See EVIDENCE, IV.

#### BETROTHED.

See FIANCEE.

#### BETTERMENTS.

See IMPROVEMENTS.

#### BETTING.

As to wagering contracts, see CONTRACTS, §§ 105, 106, 115, 116.

As to avowed betting and wagering, see

GAMING.

Legality of wagers; betting. 18 L.R.A. 859. Betting on streets as nuisance. 39 L.R.A. 681.

Oral betting as violation of statute against book-making. 25 L.R.A.(N.S.) 479.

Larceny by obtaining money by wager or fraudulent race or game. 1 L.R.A. (N.S.) 862; 20 L.R.A.(N.S.) 1164.

Illegal intent of prosecutor as affecting guilt of obtaining property by means of fake bet. 17 L.R.A. (N.S.) 276.

Injunction against enforcement of betting contract. 48 L.R.A. 844.

## BEVERAGE.

See Intoxicating Liquors; Nonintoxicat-ING LIQUORS.

#### BIAS.

Of jurors as ground for new trial. L.R.A. 476.

As disqualification of grand juror. L.R.A. 200.

expert witness to handwriting. 63

L.R.A. 943. As affecting conclusiveness of testimony of

experts. 42 L.R.A. 759.

Effect of, to disqualify one to serve as commissioner or juror in eminent domain proceedings. 47 L.R.A.(N.S.) 151.

## BIBLE.

Reading of, in public schools. 16 L.R.A. (N.S.) 860; L.R.A.1915D, 941.

Reading of, as sectarian instruction. L.R.A. 419.

Entries in, as evidence. 41 L.R.A. 449.

#### BICYCLE PATH.

Municipal liability for defects or obstructions in. 20 L.R.A.(N.S.) 574.

#### BICYCLES.

As to motorcycles, see MOTORCYCLES.

Indemnity for injury to, or loss of bicycle as insurance. 47 L.R.A. (N.S.) 298. Bicycle law. 47 L.R.A. 289.

Duty to make streets and highways safe for bicycles. 23 L.R.A.(N.S.) 543. Liability of municipal corporation for fail-

ing to prevent bicycling in violation of road law. 23 L.R.A.(N.S.) 641.

Liability of municipal corporation which permits or fails to prevent riding of bicycles on sidewalk, for injury caused thereby. 10 L.R.A.(N.S.) 785.

Right of bicyclist to recover from municipality for injury by defect or obstruction in street. 20 L.R.A.(N.S.) 756.

Liability for collision of automobile with bicyclist. 28 L.R.A. (N.S.) 944.

Reciprocal duty of driver of automobile and child riding bicycle in street. L.R.A. 1918A, 255.

Contributory negligence of child riding bicycle across railroad track. L.R.A. 1917F, 158.

## BIDS.

At auction, see Auction, § 7. At judicial sale, see Judicial Sale, § 7a. Validity of contract to affect, see Con-TRACTS, § 84. For public contracts, see CONTRACTS, §§ 159,

Accepting bid with knowledge of mistake as to subject-matter. 43 L.R.A.(N.S.) 654.

#### BIGAMY.

§ 1. Generally.
Bigamous marriage, as void or voidable. L.R.A.1916C, 711.

Conflict of laws as to. 57 L.R.A. 159. Criminal liability of children for. 36 L.R.A.

Former jeopardy in case of. L.R.A.1915A, 256.

Belief in termination of former marriage as a defense to a prosecution for bigamy. 27 L.R.A.(N.S.) 1097; 34 L.R.A.(N.S.) 613.

§ 2. Evidence and witnesses on prosecution for.

Necessity of proof of marriage. 68 L.R.A. 42, 49.

Presumptions flowing from marriage ceremony. 34 L.R.A. (N.S.) 940; L.R.A. 1915E, 186.

Begin with this book on every law question.

BIGAMY—cont'd

Presumption as to validity of former mar-riage, in prosecution for bigamy. 9 L.R.A.(N.S.) 1036.

Judgment in civil action as proof of former marriage on trial for bigamy. L.R.A.(N.S.) 464.

Husband or wife as witness against the other in prosecution for. 2 LRA. (N.S.) 862.

#### BILL.

See STATUTES, §§ 3-7.

#### BILLBOARD.

In highway, see HIGHWAYS, § 19a.

Billboard as violative of restrictive covenant as to use of premises, or structures permissible thereon. 2 B. R. C. 434. Relief from license for maintenance of. 49

L.R.A. 526. Regulation of, based merely on esthetic considerations. L.R.A.1917A, 1222.

Municipal liability for injury by. 20 L.R.A. (N.S.) 646; 51 L.R.A.(N.S.) 1077.

## BILLHEAD.

Matter in billhead as part of contract or as notice affecting the rights of the parties. L.R.A.1916D, 1072.

#### BILLIARDS.

As proper subject for exercise of police power. L.R.A.1917E, 318. Power of municipality to declare billiard hall a nuisance. 31 L.R.A. (N.S.) 548. Billiard room as a place of amusement with-in civil rights acts. 19 L.R.A.(N.S.) 907.

## BILLS.

See STATUTES.

## BILLS AND NOTES.

a general; nature, requisites, and validity, §§ 1-23. a. In general, §§ 1-9. b. Validity I. In general; nature,

b. Validity generally; character of parties; forgery; delivery, \$\$ 10-17.
c. Consideration, \$ 18.

d. Negotiability, \$\$ 19-28. II. Acceptance, §§ 24, 25.

BILLS AND NOTES-cont'd

III. Indorsement and transfers generally, §§ 26-34.

IV. Rights of transferee, §§ 35-42. a. Extent of rights and protection generally, §§ 35-38a. b. Who protected as bona fide

purchasers, §§ 39-42. V. Presentment; demand; notice;

protest, §§ 43-53. VI. Maturity; extension; renewal, \$\$ 54-57a.

VII. Payment; discharge, \$\$ 58-60.

VIII. Actions and defenses, §§ 61-72. IX. Recovery back of payments, \$ 73. X. Accommodation paper, \$\$ 74-77.

I. In general; nature, requisites, and validity.

## a. In general,

§ 1. Concrally.

Alteration of, see ALTERATION OF INSTRU-

Matters peculiar to banking, see BANKS, §§ 9-37a.

Duty and liability of bank with respect to checks, see BANKS, §§ 9-37s.

Rights and liability of persons, other than banks, on checks, see CHECKS.

Collection of, by banks, see Banks, §§ 31-

Blank in, see BLANKS, § 2.

Conditions in, see Conditions, § 2.

Conflict of laws as to, see CONFLICT OF Laws, § 5.

For matters common to contracts generally, see CONTRACTS.

Date of, see DATE, § 2.

Estoppel as to, by conduct, see ESTOPPEL, § 15.

Estopnel as to, by receiving benefits, see Евторрец, § 33.

Presumption and burden of proof as to, see EVIDENCE, §§ 95-98.

Parol evidence as to, see EVIDENCE, §§ 169-174.

Effect of fraud as to, see FRAUD AND DECEIT, §§ 23, 24.

Gift by, see GIFT, § 3.

Injunction against negotiation of, see In-JUNCTION, § 11.

Effect of insolvency of party to, see In-BOLVENCY, § 15.

Premium notes, see Insurance, § 111. Intent of parties to, see INTENT, § 9.

Interest on, see INTEREST.

Loss of lien by giving, see LIENS, § 20. Lost bills and notes, see LOST INSTRUMENTS, § 2.

Mortgage to secure note, see MORTGAGE. Stolen paper, see STOLEN PROPERTY, § 2. Priority between notes falling due at dif-

ferent times secured by same mortgage, see MORTGAGE, § 39.

Matters as to, generally after dissolution of partnership, see Partnership, § 39. For patent right, see PATENTS, § 4. Payment by, see PAYMENT, § 11.

Collateral security for, see PLEDGE AND COL-LATERAL SECURITY.

Consult also L.R.A. Digests of Cases.

BILLS AND NOTES, I. a-cont'd

Agent's authority as to, see PRINCIPAL AND AGENT, §§ 16-18.

Effect of seal on commercial paper, see

SEAL, § 2. Situs for taxation of debts evidenced by notes, see Taxes, § 47. Usury on, see Usury.

Situs of, for purposes of administration. 24 L.R.A. 689.

Garnishment of debt evidenced by negotiable paper. L.R.A.1918C, 731.

Holders of instalment notes as parties to proceedings to enforce mortgage for part of debt. 37 L.R.A. 742.

Necessity for returning worthless notes before bringing replevin for property obtained by fraudulent purchase. L.R.A. 207.

Bequest of notes as general or specific. 11 L.R.A.(N.S.) 49.

Right to preference for money paid to insolvent bank for draft. 10 L.R.A. (N.S.) 928; 39 L.R.A.(N.S.) 563.

Valuation of commercial paper for purposes of graduating offense of larceny. 23 L.R.A.(N.S.) 1063.

Right of taxpayer in absence of statute to enjoin issue of negotiable paper by

municipality. 36 L.R.A.(N.S.) 3. Right to follow commercial paper as a trust. 34 L.R.A. 536.

General commercial principles as opposed to local law with respect to bills and notes. 61 L.R.A. 193.

Duty of one taking note to communicate the fact of principal's insolvency to one assuming the obligation of surety. 14 L.R.A.(N.S.) 377.

How far wife bound by note given for family expenses. 3 L.R.A.(N.S.) 145. Effect of war between countries of parties to note on their rights. L.R.A.1917C, 671.

Effect and construction of marginal notations upon a bill or note relating to the time of payment. L.R.A.1918C, 347.

Rights and duty of one who receives a check or note payable to his own order from the hands of one not a party thereto. 31 L.R.A.(N.S.) 613.

Negotiation of notes of members of mutual fire insurance companies. 32 L.R.A. 485.

Estoppel to deny execution of note in state where it is dated and payable. L.R.A. (N.S.) 299.

Liability for permitting undelivered note to get into circulation. 3 L.R.A.(N.S.) 212.

Liability of bank for taking draft in payment of paper held for collection. 3 L.R.A.(N.S.) 1179.

Federal courts following state decisions as to. 40 L.R.A.(N.S.) 404.

Obtaining check, draft or bill of exchange by false pretenses. L.R.A.1916E, 1106.

Competency to testify to possession of note at one time in possession of the decedent, where witness would be incompetent to testify directly to a transBILLS AND NOTES, I. a-cont'd action by which it is claimed decedent parted with his possession. 45 L.R.A. (N.S.) 583.

Instrument naming in alternative two or 50 L.R.A. (N.S.) more payees. 1097.

Ownership of paper payable to director or officers of a corporation. 50 L.R.A. (N.S.) 1115.

## § 2. What are.

Effect of words in obligation for payment of money indicating that it was intended as a bequest. L.R.A.1917C, 1011.

#### § 3. Nature; form.

Nature of bank draft. 23 L.R.A. 173. Nature of drafts by one bank on another. 23 L.R.A. 173.

Kinds of notes of members of mutual fire insurance companies. 32 L.R.A. 483. As subjects of book account, 52 L.R.A.

712. Proof of, as fixed liability under bank-ruptcy act. 54 L.R.A. 373.

Effect of marginal letters or figures in bill or note otherwise blank as to amount. 2 L.R.A.(N.S.) 879.

Memorandum on back of, at time of execution as substantive part thereof. 15 L.R.A. (N.S.) 612.

When may a note or indorsement thereon, executed with the formalities of a will, but not couched in formal testamentary phraseology, be given effect as a will? 41 L.R.A. (N.S.) 43.

Effect of note made payable to order of maker and another. L.R.A.1916D, 763.

### 4. As subject of levy.

Liability of promissory note to levy and seizure under attachment or execution. 14 L.R.A.(N.S.) 1235.

§ 5. Effect of giving or accepting. What law governs as to collateral effect of

instrument. 61 L.R.A. 199. Effect of debtor's note as accord and satisfaction. 20 L.R.A. 791.

Effect of debtor's note for part of a liqui-dated and undisputed debt as consideration for the discharge of the whole. L.R.A.1917A, 722.

Bank draft as an assignment of funds drawn upon bank. 2 L.R.A. (N.S.) 83. Giving note as loss or damage within contract of indemnity. 9 L.R.A. (N.S.) 478; 20 L.R.A.(N.S.) 956; 48 L.R.A. (N.S.) 195.

Effect of executing promissory note for services of relative or member of household already performed. 11 L.R.A. (N.S.) 910.

Effect of notes of members of mutual fire insurance companies. 32 L.R.A. 483. Relief from mistake of law as to effect of. 28 L.R.A. (N.S.) 830.

Effect of extrinsic promise to sign a note or bill. 33 L.R.A.(N.S.) 175.

partnership § 6. — by member thereof.

See Partnership, §§ 9, 12, 32, 39, 45. Begin with this book on every law question.

BILLS AND NOTES, I. a-cont'd

§ 7. Effect of attaching draft to bill of lading.

Effect of drawing draft against bill of lad-

ing, upon passing of title to property.
22 L.R.A. 423; 2 L.R.A. (N.S.) 1078.
Right or power of bank to purchase draft with bill of lading attached. L.R.A. 1918D, 706.

Rights and liabilities of assignee of bill of lading with draft attached as against assignee who does not get the goods or finds them defective. 49 L.R.A. 679; 1 L.R.A. (N.S.) 242; 18 L.R.A. (N.S.) 1221; 32 L.R.A. (N.S.) 1173; 52 L.R.A.

(N.S.) 241. Criminal liability of collector of draft attached to bill of lading for liquor. 46 L.R.A.(N.S.) 1139.

Right of discounter of draft as to property covered by a bill of lading attached, to draft. 49 L.R.A. (N.S.) 644.

#### § 8. Signature to.

Use of initials in signing or indorsing com-mercial paper. 14 L.R.A. 693. Signing by proxy. 22 L.R.A. 297. Signing by mark. 22 L.R.A. 372.

Signing as surety for surety. 21 L.R.A. 247.

9. - duty to know, and guaranty of. In case of indorsement or transfer, see infra, §§ 31, 32.

Drawee's duty to know signature of drawer. 27 L.R.A. 635. Guaranty by surety of other signatures. 49 L.R.A. 315.

## b. Validity generally; character of parties; forgery; delivery.

## 10. Generally.

Validity of note based on compromise of illegal contract. 9 L.R.A.(N.S.) 568.

Note given as a forfeit or as collateral to an invalid oral agreement within statute of frauds. 18 L.R.A. 142.

Validity of stipulation for attorney's fee. L.Ř.A.1915B, 928.

Validity of provision that money shall be paid to obligee only and not to his estate. 17 L.R.A. (N.S.) 1239.

Note procured by threats of prosecution of relative. 20 L.R.A. (N.S.) 484; L.R.A. 1915D, 1118.

Execution of, on Sunday. 14 L.R.A. 193. Validity of note partly made on Sunday and perfected on secular day. 4 L.R.A. (N.S.) 1151.

Notes given for patent rights. 20 L.R.A. 605.

Renewal of note by insane person. L.R.A. 274.

Liability of one whose signature to commercial paper is secured by trick or fraud. 1 L.R.A.(N.S.) 1075.

Implied or apparent authority of agent to take note payable to himself. 28 L.R.A. (N.S.) 341.

BILLS AND NOTES, I. b-cont'd

Validity of note issued in payment of corporate stock under a provision against issuing stock except for money, labor done, or money or property actually received. 52 L.R.A. (N.S.) 454.

What misrepresentations as to the contents of an instrument will render it void in

law. 4 B. R. C. 663.

Validity of mortgage given to secure imperfectly executed note. 44 L.R.A. (N.S.) 1153.

Intoxication as defense to bill or note in hands of bona fide holder. 46 L.R.A. (N.S.) 212.

§ 11. Authority to execute.

Authority to indorse, see infra, § 27. Powers of corporation as to, see CORPORA-TIONS, § 30.

Rights and powers of corporate officers as to, see Corporations, § 45.

Powers of guardian as to, see GUARDIAN AND WARD, § 6.

Powers of partners as to, see PARTNER-

SHIP, §§ 9, 32, 39, 45.

Authority of agent, see Principal and AGENT, § 17.

Power of building association to issue negotiable paper. 43 L.R.A. 419.

§ 12. Who liable.

Liability of corporate officer on, see Con-PORATIONS, § 55.

Liability of partnership or its members on,

see Partnership, § 12.
Liability of principal, see Principal and

Agent, §§ 16-18.
Liability of agent, see Principal and AGENT, § 41.

Liability of public officers on negotiable paper. 15 L.R.A. 512; 43 L.R.A. (N.S.) 565.

Admissibility of extrinsic evidence to show who is liable as maker of a note. 20 L.R.A. 705.

13. Use of fictitious names.

Payment of check made payable to fictitious person, see Banks, § 25.

Fictitious names as affecting validity of. 39 L.R.A. 425.

When negotiable instrument is deemed payable to order of fictitious person within rule regarding such an instrument as payable to bearer. 22 L.R.A. (N.S.) 499; 3 B. R. C. 761.

By whom action to be brought on instrument to fictitious payee. 64 L.R.A.

Forgery of instruments executed in name of fictitious person. 24 L.R.A. 45.

§ 14. Note payable to impostor. Use of fictitious name, see supra, § 13. Payment of check to impostor. see BANKS, § 25.

Who must bear loss when check or bill is issued to impostor. 50 L.R.A. 75; 17 L.R.A.(N.S.) 514; 38 L.R.A.(N.S.) 1111.

Consult also L.R.A. Digests of Cases.

BILLS AND NOTES, I. b-cont'd

Who must bear loss where check or draft is purchased or paid upon the spurious indorsement of one who bears the same name as the payee or indorsee. 34 L.R.A. (N.S.) 1101.

15. Character of parties.

Conflict of laws as to character of parties.

19 L.R.A.(N.S.) 668.

Character under uniform negotiable instruments law, of one who places his name on the back of a note prior to, or at the time of, delivery. 14 L.R.A.(N.S.) 842.

Effect of negotiable instruments law on personal liability of one who signs contract by adding words indicating representative capacity to his signature. 42 L.R.A. (N.S.) 9.

Personal liability of one signing note by adding words indicating representative capacity to his signature. 42 L.R.A. (N.S.) 1.

Admissibility of parol evidence to vary liability of irregular party to bill or note from that declared by the negotiable instruments act. 19 L.R.A.(N.S.) 136.

Acknowledgment by payee, in indorsement, of liability as maker. 7 L.R.A.(N.S.)

Power of bank officer to bind bank by agreement varying the liability of parties to commercial paper from that imported on its face. 28 L.R.A.(N.S.) 511.

Power of bank officer to bind bank by agreement that liability of party to commercial paper shall not be enforced. 28 L.R.A.(N.S.) 501.

§ 16. Forgery.

Alteration of, see ALTERATION OF INSTRU-MENTS

Liability of bank for paying forged check, see BANKS, § 24.

Of check, see CHECKS, § 12.

Forgery of as a crime, see FORGERY.

Forgery by obtaining signature through trick or fraud. 1 L.R.A.(N.S.) 1075. Liability of maker or drawer on raised negotiable paper. 22 L.R.A. 686.

Duty of indorser, maker, or surety to see that spaces on commercial paper are filled so as to prevent raising. L.R.A.(N.S.) 402.

Ratification of forgery; estoppel to assert. 12 L.R.A. 140;\* 36 L.R.A. 539.

Ratification of forged instrument. L.R.A.(N.S.) 1006.

Liability of person whose signature is forged on commercial paper. L.R.A. 539.

Forgery of renewal obligation as affecting original agreement. 33 L.R.A. 628.

Liability upon paper given in renewal of forged paper. 23 L.R.A.(N.S.) 1234. i Forgery of part of signatures of makers or

sureties as defense against bona fide holder by makers whose signatures were genuine. 13 L.R.A. (N.S.) 426.

BILLS AND NOTES, I. b-cont'd

Right of drawee of forged paper to recover money paid thereon. 10 L.R.A. (N.S.) 49; 25 L.R.A. (N.S.) 1308; 29 L.R.A. (N.S.) 100.

Delay in giving notice of forgery as estoppel of true owner to recover against party who has paid paper on a forged indorsement. 40 L.R.A.(N.S.) 653.

Right of drawer of forged check or draft to recover money paid thereon. L.R.A.

1915A, 77.

Duty of government official to know signature of drawer of draft. L.R.A.1915D, 797.

§ 17. Delivery.

Conditional delivery. 43 L.R.A. 480. Admissibility of parol evidence to show delivery upon condition. 18 L.R.A. (N.S.) 288; L.R.A.1917C, 306.

Agreement for other signatures before delivery. 45 L.R.A. 343.

Right to recover on a bill or note stolen before delivery. L.R.A.1915E, 351.

#### c. Consideration.

§ 18. Generally.

Consideration for agreement extending time of payment, see infra, § 57a.

Failure of consideration as a defense, see infra, § 66.

For matters common to contracts generally, see CONTRACTS, II. c.

Gift of promissory note. 26 L.R.A. 305; L.R.A.1918C, 340.

Gift of check. 18 L.R.A. 855; L.R.A.1918C,

For notes of members of mutual fire insurance companies. 32 L.R.A. 484.

Reference to consideration for draft as making acceptance conditional. 38 L.R.A.(N.S.) 747.
Enforceability of a note given in payment

of a worthless pre-existing obligation of another. L.R.A.1917C, 842.

Consideration for note given to make good depletion of capital or assets of bank. L.R.A.1917B, 688.

Consideration for note given by attorney or agent to cover loss on transactions conducted by him for principal. L.R.A. 1917B, 696.

Love and affection as consideration for note to pay existing debt of another. L.R.A. 1918C, 543.

Liability upon paper given in renewal of forged paper. 23 L.R.A. (N.S.) 1234.

Consideration for note, payment of which depends on termination of life. 27 L.R.A. (N.S.) 1019.

Cancelation of invalid contract as consideration. 5 L.R.A.(N.S.) 725.

Right of bona fide holder to enforce note which does not indicate nature of its consideration as required by statute. 10 L.R.A. (N.S.) 82.

Effect of knowledge of consideration to put purchaser of negotiable instrument on Instrument naming in alternative two or inquiry. L.R.A.1918F, 1152.

BILLS AND NOTES, I. e-cont'd

Effect of knowledge of consideration by purchaser of note which did not indicate the nature of its consideration as required by statute. 24 L.R.A.(N.S.) 1057.

Right to recover on obligation given for a consideration which is unlawful under the law of the place where the obliga-tion is payable, but good under the law of the place where it was executed. 4 B. R. C. 374.

Necessity of new consideration to bind third person who signs as surety, indorser, or guarantor after execution and delivery of original note by principal. 44 L.R.A. (N.S.) 481; L.R.A. 1918E, 579.

Right of maker or indorser of bill or note for illegal consideration to affirmative relief. L.R.A.1918D, 941.

## d. Negotiability.

§ 19. Generally.

Of check, see CHECKS, § 4.

Effect of mortgage on negotiability, see MORTGAGE, § 26.

Alteration of note by adding or changing words affecting negotiability. L.R.A. 1915A, 173.

What law governs as to. 61 L.R.A. 205; 19 L.R.A.(N.S.) 667.

Effect of negotiable character of note secured by junior mortgage on necessity of making assignee of such mortgage a party to a suit for foreclosure of senior mortgage. 36 L.R.A.(N.S.) 434,

As affected by transfer after maturity. 46 L.R.A. 753.

Reference to extrinsic agreement as affecting. 30 L.R.A. (N.S.) 40; L.R.A.1918B, 639

Reservation of title of property as affecting negotiability of note for purchase price. 43 L.R.A. 277; 43 L.R.A. (N.S.) 945

Effect of blank indorsement to impart negotiability to non-negotiable instrument. 26 L.R.A.(N.S.) 804.

Effect of seal. 35 L.R.A. 605.

Provision for renewal as affecting. 31 L.R.A. 234.

Effect on negotiability of promissory note of provision permitting extension of time. 49 L.R.A.(N.S.) 132.

Bill or note payable to the order of person named, "only." L.R.A.1918D, 226.

§ 20. What instruments are negotiable. Check. 26 L.R.A. 568.

Certificate of deposit. L.R.A.1918C, 691. Note payable in foreign money. 20 L.R.A. 481.

Note secured by mortgage as affected by pro-

visions in mortgage. 35 L.R.A. 536. Note payable to trustee. 35 L.R.A. 678; 1 L.R.A.(N.S.) 188.

Note payable out of particular fund. 38 L.R.A. 647; 8 L.R.A.(N.S.) 231.

Postoffice money orders. 36 L.R.A.(N.S.) 143.

more payees. 50 L.R.A.(N.S.) 1097.

BILLS AND NOTES, I. d-cont'd

Effect of marginal notations upon a bill or note relating to the time of payment. L.R.A.1918C, 347.

**21.** Certainty as to time.

As affected by uncertainty of time of ma-1 L.R.A.(N.S.) 1120.

As affected by provision permitting extension of time. 16 L.R.A.(N.S.) 878; 33 L.R.A.(N.S.) 738; 49 L.R.A.(N.S.) 132. Provision accelerating maturity as affecting negotiability. 35 L.R.A. (N.S.)

390; L.R.A.1915B, 472.

Negotiability of note payment of which depends on termination of life, 27 L.R.A.(N.S.) 1017.

22. Certainty as to amount.

Provision for exchange as affecting. L.R.A. 222.

Payments indorsed on note as affecting. 38 L.R.A. 823.

Provisions for attorneys' fees as affecting negotiability. L.R.A.1916B, 675. Effect of stipulation for attorneys' fees in

mortgage upon negotiability of note secured thereby. 26 L.R.A.(N.S.) 217.

Negotiability as affected by provision for discount in event of payment before maturity. 40 L.R.A. (N.S.) 177; L.R.A. 1915E, 564.

Negotiability of note providing for interest after maturity. L.R.A.1915B, 1216.

§ 23. Effect of recital as to security. Where note considered separate from instrument of security. 32 L.R.A. (N.S.) 858.

Where transferred with security which contains no provisions affecting negotiability. 32 L.R.A. (N.S.) 861.

Where note and security are transferred together, and the security contains non-negotiable provisions. 32 L.R.A. (N.S.) 862.

Where provision in mortgage relates to security, and not to the note. 32 L.R.A. (N.S.) 865.

Where note contains on its face provision for security. 32 L.R.A. (N.S.) 866.

#### II. Acceptance.

§ 24. Generally.

What law governs as to mode of acceptance. 61 L.R.A. 196.

What law governs as to liability of, and defenses available to, acceptor. L.R.A. 206; 19 L.R.A.(N.S.) 670.

Reference to consideration for draft as making acceptance conditional. 38 L.R.A. (N.S.) 747.

Detention of bill of exchange or check by as acceptance thereof. drawee L.R.A. (N.S.) 1266.

Liability of principal on acceptance by agent as such. 21 L.R.A.(N.S.) 1076.

Personal liability of one who signs note as

acceptor by adding words indicating representative capacity to his signature. 42 L.R.A. (N.S.) 28, 33, 44.

Right of accommodation acceptor who has been obliged to pay bill or note to recover from accommodated party. L.R.A. (N.S.) 785.

Consult also L.R.A. Digests of Cases.

BILLS AND NOTES, II.—cont'd

Duty of drawee of bill or check to know signature of drawer. 10 L.R.A. (N.S.) 69.

25. Promise to accept.

Validity of parol promise to accept an or-der or bill of exchange. 26 L.R.A. 620. Liability of bank on claimed contract of acceptance external to check. 8 L.R.A. (N.S.) 1148; L.R.A.1918F, 172.

III. Indorsement and transfers generally.

26. Generally.

Rights of one to whom paper is transferred without indorsement, see infra, § 37.

Of check, see CHECKS, § 6.

Presumption and burden of proof as to,

see EVIDENCE, § 97.
Parol evidence as to purpose of, see EVIDENCE, §§ 170, 171.

Sale of pledged paper, see PLEDGE AND COL-LATERAL SECURITY, § 13.

Purchase of paper at discount as usury, see USURY, § 8a.

Bequest of notes, see WILLS, § 128.

Right of infant to disaffirm transfer of note by indorsement. L.R.A.1917B, 1174.

Injunction against negotiation of note. 28 L.R.A. 577.

Addition of indorser to negotiable instrument after its execution and delivery as a material alteration. L.R.A.1918F, 705.

Effect on liability of indorser of adding of another party to instrument after its execution and delivery. L.R.A.1918F, 704.

Effect of sale of note with particular description. 35 L.R.A.(N.S.) 278.

Validity and effect of sale of, or agreement to sell, commercial paper to one primarily liable thereon. 35 L.R.A.(N.S.) 820.

Liability of one who signs note as indorser adding words indicating representative capacity to his signature. L.R.A.(N.S.) 25, 28, 32.

Right of indorser to offset obligation as against assignee of debt due from him to the principal. 46 L.R.A.(N.S.) 62.

Reservation of rights against parties secondarily liable on a bill or note upon granting extension of time to party pri-marily liable as preventing discharge of former. 46 L.R.A.(N.S.) 92.

Are conveyances by indorsers within statute as to fraudulent conveyances. 47 L.R.A.

(N.S.) 321.

Indorsement by one of two joint payees or indorsees of a bill or note. 18 L.R.A. (N.S.) 630.

Liability of indorser who, after receiving reindorsement, transfers the note for value without canceling his indorsement. 10 L.R.A.(N.S.) 260.

Acknowledgment by payee in indorsement of liability as maker. 7 L.R.A. (N.S.) 400.

Effect of transfer of negotiable instrument to secure money for gambling purposes. 22 L.R.A.(N.S.) 627.

BILLS AND NOTES, III.—cont'd

Effect of blank indorsement to impart negotiability to non-negotiable instrument. 26 L.R.A.(N.S.) 804.

Indorser's duty to see that spaces on commercial paper are filled so as to prevent raising. 21 L.R.A.(N.S.) 402.

Who must bear loss when check or bill indorsed to impostor. 50 L.R.A. 75; 17 L.R.A. (N.S.) 514; 38 L.R.A. (N.S.) 1111.

Who must bear loss where check or draft is purchased or paid upon the spurious indorsement of one who bears the same name as payee or indorsee. 34 L.R.A. (N.S.) 1101.

What law governs as to sufficiency of indorsement or assignment. 61 L.R.A. 222. Conflict of laws as to the validity of trans-

fer of commercial paper. 2 B.R.C. 304. What law governs as to liability of, and defenses available to, drawer or indorser. 61 L.R.A. 212.

What law governs as to necessity of suing primary obligor as condition of holding drawer or indorser. 61 L.R.A. 220.

Right of indorser of bill or note for illegal consideration to affirmative relief. L.R.A.1918D, 941.

§ 27. Power to transfer or indorse. Authority to execute instrument, see supra, § 11.

Power of agent, see PRINCIPAL AND AGENT, § 18.

Right of pledgee to sell. L.R.A.1918C, 628. Powers of president and vice president of corporation as to transfer of negotiable paper. 14 L.R.A. 358.

Right of pledgeor and pledgee in respect of sale of commercial paper. 53 L.R.A. 857.

Taking note from maker or payee as constructive notice of accommodation character of irregular indorsement and lack of authority for such indorsement.

2. L.R.A.(N.S.) 525.

2 L.R.A.(N.S.) 525.
Instrument naming in alternative two or more payees. 50 L.R.A.(N.S.) 1097.

§ 28. Various forms and purposes of indorsement.

Rights of owner of negotiable paper indorsed in blank as against bona fide purchaser from one unlawfully in possession thereof. 19 L.R.A.(N.S.) 107.

Words of assignment as qualifying indorsement. L.R.A.1917A, 1167.

Assignment without recourse. 36 L.R.A. 119. Indorsement without recourse as a circumstance sufficient to put purchaser of negotiable paper on inquiry. L.R.A. 1918F, 1152.

Trust in proceeds of collection by insolvent bank as against claims of subagent in case of restrictive indorsement. 32 L.R.A. 721.

Admissibility of parol evidence as between indorser and indorsee that unrestricted indorsement was made merely to transfer title to the owner. 28 L.R.A. (N.S.) 530.

Right to show by parol evidence that indorsement unrestricted in form was for purpose of collection only. 17 L.R.A. (N.S.) 838.

BILLS AND NOTES, III .- cont'd

Liability of bank as accommodation indorser. 23 L.R.A. 836.

Necessity of new consideration to bind third person who signs as indorser after execution and delivery of original note by 'principal. 44 L.R.A.(N.S.) 481; L.R.A.1918E, 579.

Individual partner who indorses note made by firm as "a person not otherwise a party" to the instrument within uniform negotiable instrument law. 52 L.R.A.(N.S.) 225.

§ 29. — irregular indorsement.

What law governs as to character and liability of irregular indorser. 61 L.R.A. 200; 19 L.R.A.(N.S.) 668.

Liability of a stranger who indorses commercial paper before delivery. 18 L.R.A. 33.

Indorsement by signing on face of instrument. L.R.A.1918D, 966.

Taking note from maker or payee as constructive notice of accommodation character of irregular indorsement and lack of authority for such indorsement. 2 L.R.A. (N.S.) 525.

Character under uniform negotiable instrument law of one who places name on back of note prior to or at time of delivery. 14 L.R.A.(N.S.) 842; L.R.A. 1916D, 223.

§ 30. Assignor as indorser.

Assignment merely an indorsement. 36 L.R.A. 117.

Assignor not an indorser. 36 L.R.A. 118. Assignment on separate paper. 36 L.R.A. 118. Assignment with guaranty of payment. 36 L.R.A. 119.

Without recourse. 36 L.R.A. 119. Special statutes. 36 L.R.A. 119.

§ 31. Guaranty generally.

Guaranty of signature generally, see supra, § 9.

Addition of guarantor to negotiable instrument after its execution and delivery as a material alteration. L.R.A.1918F, 705.

Assignment with guaranty of payment. 36. L.R.A. 119.

Transfer of title to note by indorsement in form of guaranty. 36 L.R.A. 232; 41 L.R.A.(N.S.) 1009; L.R.A. 1915C, 661.

Rights as against principal debtor of one who becomes guarantor without his knowledge or consent. L.R.A.1918F, 709.

Necessity of new consideration to bind third person who signs as guarantor after execution and delivery of original note by principal. 44 L.R.A.(N.S.) 481; L.R.A.1918E, 579.

Implied warranty by one passing worthless paper of third person without indorsement. 10 L.R.A.(N.S.) 542.

When contract of guaranty of commercial paper covers renewals. 16 L.R.A. (N.S.) 775.

§ 32. Implied warranty of genuineness.

17 Guaranty of signature generally, see supra-§ 9.

BILLS AND NOTES, III.-cont'd

Guaranty by surety of genuineness of other signatures, see PRINCIPAL AND SURETY,

Implied warranty of genuineness upon sale of negotiable paper. 36 L.R.A. 92; 10 L.R.A. (N.S.) 542.

By one transferring note of third person

without indorsement. 10 L.R.A.(N.S.) 542.

# § 32a. Indorsement of forged instru-

Of forged instrument as uttering or publishing. 8 L.R.A.(N.S.) 1178.

Indorser's duty to see that spaces on commercial paper are filled so as to prevent raising. 21 L.R.A.(N.S.) 402.

## § 33. Liability for transferring note to bona fide holder so as to cut off defenses.

In general. 27 L.R.A. 519.

Cutting off defense of indorser. 27 L.R.A. 520.

Effect of rule as to parties in pari delicto. 27 L.R.A. 520.

Form of action. 27 L.R.A. 521.

Right of one who makes a gift of commercial paper and who is compelled to pay the same to a bona fide indorsee for value to recover from the donee. L.R.A. (N.S.) 286.

## 34. Discharge of indorser.

By non-presenting or delay in presenting, see infra, V.

By renewal or extension of time, see infra, § 57.

Discharge of surety, see PRINCIPAL AND SURETY, §§ 10-18.

Effect upon indorser or surety of bank's failure to apply principal's deposit account upon note. 8 L.R.A.(N.S.) 944; L.R.A.1917F, 266.

Payment voidable under bankruptcy act as discharge of surety, guarantor, or indorser. 9 L.R.A.(N.S.) 581.

Release of drawer or indorser by certification of check. 9 L.R.A. (N.S.) 698.

## IV. Rights of transferees.

## a. Extent of rights and protection generally.

35. Generally.

What law governs. 61 L.R.A. 206; 19 L.R.A. (N.S.) 670.

Estoppel to contest commercial paper by representations to prospective purchasers. 50 L.R.A.(N.S.) 1023.

Garnishment of negotiable paper after its transfer before maturity. L.R.A.1918C,

Rights of assignee of note enforcement of which is prevented by war between countries of parties. L.R.A.1917C, countries of parties. 672.

Right of purchaser with notice from bona fide holder to same protection as latter. 50 L.R.A.(N.S.) 74.

Consult also L.R.A. Digests of Cases.

BILLS AND NOTES, IV. a-cont'd

Right of action at law against indorser on destroyed bill or note. 16 L.R.A. 207. Rights and liabilities of assignee of bill of lading with draft attached, as against

consignee who does not get the goods or finds them defective. 49 L.R.A. 679; 1 L.R.A. (N.S.) 242; 18 L.R.A. (N.S.) 1221; 32 L.R.A. (N.S.) 1173.

Lien of mortgage securing negotiable instruments assigned before maturity as affected by payment to payee without knowledge of assignment. 29 L.R.A. (N.S.) 577.

Presumption and burden of proof in action by purchaser. 17 L.R.A. 326.

## § 36. Paper transferred after maturity.

Right of set off, see infra, § 68a.

Garnishment of negotiable paper transferred after maturity. L.R.A.1918C, 743.

Effect of transfer after maturity on negotiability. 46 L.R.A. 753.

Extent of liability of indorser or assignor of bill or note transferred after maturity at a discount. 47 L.R.A.(N.S.) 246.

Rights acquired under transfer. 46 L.R.A. 754.

Defenses which maker may make. 46 L.R.A. 760.

Payment. 46 L.R.A. 778; L.R.A.1915E, 395.

Equities of intermediate holders. 46 L.R.A. 783.

Availability as against transferee of negotiable paper after maturity, of equities or defenses against intermediate indorsers. 50 L.R.A. (N.S.) 87.

Exception as to paper taken from bona fide holder. 46 L.R.A. 784.

Exception as to collateral matters. L.R.A. 787.

Exceptions as to set-offs and counter-claims. 46 L.R.A. 790.

Exception as to instruments drawn payable without defalcation or discount. 46 L.R.A. 799.

Effect of dishonor as to interest, instalments or part of a series. 46 L.R.A. 799.

Effect of transfer and indorsement at different times. 46 L.R.A. 801.

Effect of extension of time. 46 L.R.A. 802.

Effect of renewal of note. 46 L.R.A. 802. Effect of action brought. 46 L.R.A. 803. Rights of holder against indorser. 46 L.R.A. 803.

Special rules based on character of the instrument. 46 L.R.A. 807.

Actions against transferees to enforce equities. 46 L.R.A. 811.

Proof with reference to equities. 46 L.R.A. 812.

Title and right to overdue note as between one who was induced by fraud to transfer it, and one who in good faith bought of the fraudulent transferee. 2 L.R.A. (N.S.) 767.

BILLS AND NOTES, IV. a-cont'd

Effect of transfer, after maturity, of ac-commodation paper which has been diverted from the use for which it was intended by the accommodating party. 11 L.R.A.(N.S.) 1034.

Right of purchaser after maturity from bona fide holder, to the same protection as the latter. 50 L.R.A.(N.S.) 83.

§ 37. Paper transferred without indorsement.

Warranty on transfer of third person's note without indorsement, see SALE, § 29.

Right of transferee, without indorsement, of bill or note payable or indorsed to order of transferrer, to protection as a bona fide purchaser. 17 L.R.A.(N.S.) 1105.

Holder of unindorsed note as real party in interest within the meaning of statutes defining the parties by whom the action must be brought. 17 L.R.A. (N.S.) 1113.

Effect of production of bill or note not transferable by delivery to establish prima facie plaintiff's title to note. 50 L.R.A.(N.S.) 581.

Effect of transfer, without indorsement, of worthless check, or note of third person. 10 L.R.A.(N.S.) 510.

88. Of bona fide holders.

Injunction against negotiation of note in hands of. 28 L.R.A. 579.

Liability for transferring note to bona fide holder so as to cut off defenses. 27 L.R.A. 519.

Usury as a defense against a bona fide purchaser of a bill or note. L.R.A.1918C, 773.

Invalidity of note because made on Sunday, as affecting right of innocent third person to enforce it. L.R.A.1917C, 587.

Rights of bona fide purchaser of note declared void by statute. 16 L.R.A. 45. Bona fide purchaser of negotiable paper from a foreign corporation which has

not complied with the conditions of doing business in the state. L.R.A.1918B, **84**0.

Right of bona fide holder of promissory note of insane person. 35 L.R.A. 161

Intoxication as defense to bill or note in hands of bona fide holder. 46 L.R.A. (N.S.) 212.

Rights of bona fide holder without notice of alteration of note by inserting place of payment. 31 L.R.A.(N.S.) 648.

Liability to bona fide purchaser of note getting into circulation without maker's consent. 3 L.R.A. (N.S.) 212.

Effect of putting paper or securities transferable by delivery or indorsed in blank into another's possession to estop owner as against purchaser in good faith. 29 L.R.A.(N.S.) 252.

Right of bona fide holder to enforce note which does not indicate the nature of its consideration as required by statute. 10 L.R.A.(N.S.) 842.

Begin with this book on every law question.

BILLS AND NOTES, IV. a-cont'd

Effect of detachment of paper attached to bill or note and modifying the terms thereof on rights of subsequent bona fide purchaser. 22 L.R.A. (N.S.) 263.

Rights of owner of negotiable paper, payable to bearer, or indorsed in blank, as against bona fide purchaser from one unlawfully in possession thereof. L.R.A.(N.S.) 107.

Right of drawee of forged check or draft to recover money paid thereon from bona fide holder for value. 10 L.R.A.

(N.S.) 51.

Forgery of part of signatures of makers or sureties on note as defense against bona fide holder by makers whose signatures were genuine. 13 L.R.A. (N.S.) 426.

Rights of transferee after maturity of paper taken from bona fide holder. 46 L.R.A.

Rights of payee of note after repurchasing from bona fide holder. 54 L.R.A. 673. Right of bona fide holder to recover on a bill or note stolen before delivery.

L.R.A.1915E, 352.

Right of purchaser after maturity from bona fide purchaser to the same protection as the latter. 50 L.R.A.(N.S.)

§ 38a. — effect of fraud in execution or character of paper.

Fraud in obtaining the execution of a note as a defense against a bona fide holder. 36 L.R.A. 434.

What misrepresentations as to the contents of an instrument will render it void in law. 4 B. R. C. 663.

Deception as to character of paper signed as defense against bona fide holder of negotiable paper. 35 L.R.A.(N.S.) 776.

Title and right to overdue note as between one who was induced by fraud to transfer it and one who in good faith bought of fraudulent transferes. 2 L.R.A. (N.S.) 767.

b. Who protected as bona fide purchasers.

§ 39. Generally.

What law governs. 61 L.R.A. 202.

Effect of exchange of commercial paper to constitute one a holder in due course for value. 17 L.R.A.(N.S.) 747.

Principal as bona fide holder of bill or note passing through agent's hands. L.R.A.(N.S.) 628.

Intoxication of maker as affecting bona fide holder. 54 L.R.A. 451.

Does the fact that a negotiable instrument was, contrary to agreement, transferred before the happening of a certain contingency, impose the burden of proof as to bona fides upon the holder. 22 L.R.A. (N.S.) 718.

Right of one who takes commercial paper of corporation in payment of, an individual debt of officer. 31 L.R.A. (N.S.)

169; L.R.A.1918F, 1163.

BILLS AND NOTES, IV. b-cont'd

BILLS AND NOTES, IV. b—cont'd Right of transferee without indorsement of Use of word "trustee" as imparting notice bill or note payable to order of transferrer to protection as a bona fide purchaser. 17 L.R.A.(N.S.) 1105.

Payee as a holder in due course within uniform negotiable instruments law. 13 L.R.A.(N.S.) 490; L.R.A.1915B, 144.

Burden of proof as to bona fides of transferee of warehouse receipts for property secured by fraud. 10 L.R.A.(N.S.)

# § 40. Persons taking as collateral se-

Holder of bill or note as collateral security as a bona fide holder. 31 L.R.A. (N.S.) 287.

When principal obligation is collectable. 4 L.R.A. (N.S.) 1042.

Right of one taking commercial paper of corporation as security for individual debt of officer. 31 L.R.A.(N.S.) 169; L.R.A.1918F, 1163.

## § 41. Effect of alteration of note on bona fides.

Effect of alteration, generally, see ALTER-ATION OF INSTRUMENTS.

In general. 35 L.R.A. 464. Reasons of the rule. 35 L.R.A. 465.

Illustrations. 35 L.R.A. 465. Alteration must be material. 35 L.R.A. 467.

Corrections. 35 L.R.A. 467. Alteration by stranger or by mistake. 35 L.R.A. 467.

Restoration of altered bill. 35 L.R.A. 467.

Consent. 35 L.R.A. 467. Persons signing after alteration. 35 L.R.A. 467.

Filling blanks. 35 L.R.A. 467; 5 B. R. C. 710.

Leaving blanks will not authorize further change. 35 L.R.A. 469. Spaces. 35 L.R.A. 469.

Change apparent on face of note. 35 L.R.A.

Effect of detachment of paper attached to bill or note and modifying the terms thereof on rights of subsequent bona fide purchaser. 22 L.R.A. (N.S.) 263.

## 42. Notice of equities.

Right of purchaser with notice from bona fide holder to same protection as latter. 50 L.R.A. (N.S.) 74.

Is officer or employee of corporation chargeable with its knowledge of infirmities in commercial paper purchased from it. 48 L.R.A.(N.S.) 65; L.R.A.1915D, 1099.

Agent's knowledge of defense to bill or note belonging to him and indorsed or transferred by him to his principal as affecting the latter's character as a bona fide holder. L.R.A.1918C, 902.

What circumstances are sufficient to put a purchaser on inquiry. 29 L.R.A. (N.S.) 351; 44 L.R.A. (N.S.) 395; L.R.A.1918F, 1148.

Erasures, marks and defects. 29 L.R.A. (N.S.) 376; L.R.A.1918F, 1157. Consult also L.R.A. Digests of Cases.

of right of beneficiaries. 1 L.R.A. (N.S.) 188.

Taking note from maker or payee as constructive notice of the accommodation character of an irregular indorsement and lack of authority for such indorsement. 2 L.R.A.(N.S.) 525.

Effect of knowledge of consideration by purchaser of a note which did not indicate the nature of its consideration as required by statute. 24 L.R.A.(N.S.) 1057.

Notice imported to holders by commercial paper payable to a public body or of-ficer thereof. L.R.A.1915B, 725.

Failure of executory consideration for bill or note as affecting purchaser with knowledge of the character of the consideration. 46 L.R.A. (N.S.) 862; L.R.A.1918F, 1018.

Knowledge that instrument was signed in blank as affecting bona fides of taker after blanks have been filled contrary. to instructions. 5 B. R. C. 710.

#### V. Presentment; demand; notice; protest.

43. Generally.

Of check, see CHECKS, §§ 9-11.

Presumption and burden of proof as to dis-honor, see EVIDENCE, § 96.

What law governs. 61 L.R.A. 216.

Banking customs as to demand and notice.

21 L.R.A. 441. Admissibility in evidence of entries or memoranda of notice of dishonor. L.R.A. 525.

Denial of presentment on information and belief. 30 L.R.A.(N.S.) 778.

## § 44. Necessity. Of check, see CHECKS, § 10.

Effect of war between countries of parties to note. L.R.A.1917C, 671.

What law governs. 61 L.R.A. 216, 217; 19 L.R.A. (N.S.) 673.

When paper held as collateral or conditional payment. 68 L.R.A. 487.

Demand and notice necessary to render demand notes overdue. 46 L.R.A. 807. In case of death of prior obligor. 23 L.R.A.

Necessity of actual presentation of commercial paper to effect its dishonor. 13 L.R.A. (N.S.) 303.

Necessity of demand and protest to enable accommodation indorser who has been obliged to pay bill or note to recover from accommodated maker. 37 L.R.A. (N.S.) 785.

Effect of loss of check on holder's right to recover against maker without presentment. 14 L.R.A.(N.S.) 616.

## 45. Waiver.

When paper held as collateral or conditional payment. 68 L.R.A. 491.

new promise after defense of laches. 53 L.R.A. 365.

Effect of statement by indorser to holder that party primarily liable cannot pay, as waiver of presentment to latter. 27 L.R.A.(N.S.) 516.

46. — implied waiver.

Implied waiver of presentment and no-tice by indorser before maturity. 33 L.R.A.(N.S.) 639; L.R.A.1916B, 944.

§ 47. - necessity for new consideration.

Necessity for new consideration to support waiver of failure to give notice. 29 L.R.A. 305; 3 L.R.A.(N.S.) 1079.

§ 48. Sufficiency; mode; time. What law governs. 61 L.R.A. 217, 218.

Banking custom as to demand and notice.
21 L.R.A. 441.

Note transferred after maturity. 46 L.R.A. 804.

§ 49. — to whom given.
To whom should notice of protest or nonpayment be given after appointment of receiver, assignee, or other representative of insolvent? L.R.A. 900.

Presentment to joint makers to hold indorsers of note. 36 L.R.A. 703.

§ 50. — mode.

Validity of presentment of bill or note by telephone. 34 L.R.A.(N.S.) 417.

Presentation and payment through clearing house. 25 L.R.A. 826.

52. — time. Of check, see CHECKS, § 11.

Contingency of claim against, as affecting limitation of time for presentation against estate of deceased indorser. 58 L.R.A. 87.

Effect of transfer of check on time for presentment. 10 L.R.A. (N.S.) 1153.

Time allowed for mailing check or notice of dishonor, as affected by the hour at which the mail closes or departs. L.R.A.(N.S.) 132.

58. Effect of failure or delay. Of check, see CHECKS, § 11.

Release of indorser of check by delay in presenting it. 22 L.R.A. 785.

Release of indorser of note by failure to enforce liability of maker. 18 L.R.A. (N.S.) 530.

Effect of failure of holder to make demand or give notice of dishonor of paper held as collateral or conditional payment. 68 L.R.A. 482.

#### VI. Maturity; extension; renewals.

§ 54. Generally.

Certainty as to maturity as affecting negotiability, see supra, § 21.

BILLS AND NOTES, V.—cont'd Sufficiency of moral obligation to sustain Rights of holder of paper transferred after maturity, see supra, § 36.

What law governs. 61 L.R.A. 195.

Banking customs as to. 21 L.R.A. 440. Bank customs as to days of grace. L.R.A. 442.

Promise to pay as soon as one can. L.R.A.(N.S.) 300.

Effect of contemporaneous agreement as to time of payment of note. 43 L.R.A. 456.

Maturity of notes of members of mutual fire insurance companies. 32 L.R.A.

Time of payment of obligation purporting to be payable on specified event the happening of which is wholly or partially within the control of the promisor. L.R.A.1917B, 1050.

First and last days in computing time on. 49 L.R.A. 207.

Priority of notes falling due at different times secured by same mortgage. 24 L.R.A. 800.

Difference between note and mortgage affecting maturity. 46 L.R.A.(N.S.) 475.

Effect of acceleration provision in mortgage or note to start statute of limitations running. 12 L.R.A. (N.S.) 1190; 22 L.R.A. (N.S.) 1110; 51 L.R.A. (N.S.) 151; L.R.A. 1918F, 169.

§ 55. Demand notes.

Notice and demand necessary to render paper overdue. 46 L.R.A. 807.

§ 56. Extension of time; delay; renewal.

Extension of time when last day falls on Sunday. 14 L.R.A. 120.

Effect of extension of time of note transferred after maturity. 46 L.R.A. 802. Effect of renewal of note transferred after

maturity. 46 L.R.A. 802. Provisions for renewal as affecting negotia-

bility. 31 L.R.A. 234. Effect on negotiability of promissory note of provision permitting extension of time. 49 L.R.A. (N.S.) 132.

Implied waiver of presentment and notice by indorsing renewal note before maturity. 33 L.R.A.(N.S.) 640.

Liability of obligors on original contract as affected by void renewal. 33 L.R.A.

Liability on paper given in renewal of forged paper. 23 L.R.A.(N.S.) 1234. Conflict of laws as to usury in renewal con-

tracts. L.R.A.1916D, 756.

Renewal of conditional sale note as affecting right of seller or the intervening rights of third persons to the property. L.R.A. 1916A, 927.

Extent of forfeiture of interest in case of renewals where usury is charged by but not paid to national bank. L.R.A. 683.

When guaranty of commercial deemed to cover renewal. 16 L.R.A. (N.S.) 775.

BILLS AND NOTES, VI.-cont'd Renewal by insane person. 34 L.R.A. 274. Effect of the reissue of a bill or note that has been paid by or transferred to a party primarily liable thereon. L.R.A. 1918E, 170.

Effect of fraudulent reissue of bill or note which has been paid. 28 L.R.A. (N.S.) 1066.

57. — release of party by.

Effect of renewal of principal's obligation to release party to a note executed to the creditor as collateral. 23 L.R.A. (N.S.) 141.

Effect, under negotiable instruments law, of extension of time to principal, to release one who, on the face of the instrument, is primarily liable, but who is in fact surety. 10 L.R.A.(N.S.) 129; 26 L.R.A.(N.S.) 99.

Effect under negotiable instrument law of extension of time to principal to release a surety or guarantor. 31 L.R.A. (N.S.) 149.

Extension of time to corporation as affect-

ing liability of officers or stockholders who sign as sureties or indorsers. 47 L.R.A.(N.S.) 274.

Agreement to extend time for payment conditional upon surety's consent as a re-lease of the surety. L.R.A.1915C, 831.

Release of indorser from liability by failure to enforce liability of maker. 18 L.R.A. (N.S.) 530.

Release of indorser by lack of diligence in bringing suit. 18 L.R.A. (N.S.) 540.

Excuse for delay in enforcing liability of maker of note so as to prevent release of indorser. 18 L.R.A. (N.S.) 553.

§ 57a. — consideration for subsequent agreement extending time of payment.

of consideration. Necessity 52 L.R.A. (N.S.) 333.

Money consideration. 52 L.R.A.(N.S.) 336. Promise to pay obligation. 52 L.R.A. (N.S.) 337.

Promise to pay in different place or manner. 52 L.R.A.(N.S.) 338.

Agreement to pay, or payment of, another debt. 52 L.R.A.(N.S.) 338.

Payment of costs. 52 L.R.A.(N.S.) 339. Giving of an additional security. 52 L.R.A. (N.S.) 339.

Agreements void under statute of frauds. 52 L.R.A. (N,S.) 341.

Interest. 52 L.R.A.(N.S.) 341.

Partial payment, or agreement therefor. 52 L.R.A.(N.S.) 366.

## VII. Payment; discharge.

§ 58. Generally.

Presentment for payment and notice of nonpayment, see supra, §§ 43-53. Of check, see CHECKS, § 8.

Liability of bank paying forged check, see BANKS, § 24. Premium notes, see Insurance, § 111.

Payment by note, see PAYMENT, § 11. Admissibility of books of account to prove payment. 52 L.R.A. 706.

Consult also L.R.A. Digests of Cases.

BILLS AND NOTES, VII.-cont'd

Payment of note given to one who has become an alien enemy. L.R.A.1917C, 671. Note payable in foreign money. 20 L.R.A. 481. Necessity of notice of default to bind guar-

antor of payment or collection. L.R.A. 261.

Collection of notes of members of mutual fire insurance companies by receiver or assignee for creditors. 32 L.R.A. 486.

Right to maintain trover to recover possession of paid bill or note. 16 L.R.A. (N.S.) 1043.

Effect of day for payment falling on Sunday. 3 B. R. C. 678.

### § 58a. Contemporaneous agreement as to payment.

That payment of note is to be conditional. 43 L.R.A. 453.

As to time of payment. 43 L.R.A. 456. As to medium of payment. 43 L.R.A. 458.

As to place of payment. 43 L.R.A. 458.

As to mode of payment. 43 L.R.A. 459. As to amount to be paid. 43 L.R.A. 460.

§ 59. Effect of payment.

Effect of payment of, by volunteer. L.R.A. 124.

Defense of payment as against transferee after maturity. 46 L.R.A. 778; L.R.A. 1915E, 395.

Extinction of judgment against principals on, by payment by surety. 68 L.R.A. 559.

Payment of promissory note by maker, which proves ineffectual as a satisfaction, as affecting the liability of a surety thereon. 13 L.R.A.(N.S.) 204. Payment voidable under bankruptcy act

as discharge of surety, guarantor, or indorser. 9 L.R.A.(N.S.) 581.

Effect on lien of mortgage securing negotiable instruments assigned before maturity of payment to payee, without knowledge of assignment. 29 L.R.A (N.S.) 577; 41 L.R.A.(N.S.) 462.

Lien of mortgage securing negotiable instruments assigned before maturity as affected by payment to payee without knowledge of assignment. 29 L.R.A. (N.S.) 577.

Right of one advancing money to pay purchase money note to be subrogated to vendor's lien. 37 L.R.A.(N.S.) 1207.

Effect of reissue of bill or note that has been paid by the party primarily liable thereon. 28 L.R.A.(N.S.) 1066; L.R.A.1918E, 170.

§ 60. Authority to make.

Payment to one not in possession. L.R.A.(N.S.) 414; L.R.A.1916B, 860.

## VIII. Actions and defenses.

§ 61. Generally.

Running of limitations against, see LIMI-TATION OF ACTIONS, § 23. Question for jury as to, see TRIAL, § 52.

Is amount of attorneys' fees express'v stipulated for in note to be included in

computing amount involved for purpose of ascertaining jurisdiction. 49 L.R.A. (N.S.) 600.

BILLS AND NOTES, VIII .- cont'd

Necessity of exhaustion of remedy at law as condition precedent to creditors' bill. 23 L.R.A. (N.S.) 78, 101.

What law governs respecting right to join primary and secondary obligors. L.R.A. 226.

§ 62. Right of action; who may sue. Right to recover on a bill or note stolen before delivery. L.R.A.1915E, 351.
What law governs. 61 L.R.A. 222.
Who is real party in interest by whom ac-

tion must be brought. 64 L.R.A. 599. Wife's right to sue husband on note. L.R.A. (N.S.) 611.

Vendor's right to recover on unpaid notes given on conditional sale of property. 32 L.R.A. 458.

63. — paper lost or destroyed. Right of action at law on lost bill or note. 16 L.R.A. 205.

May indorser of lost bill, check, or note maintain an action thereon. 24 L.R.A. (N.S.) 645.

§ 64. — to recover possession of.

Right to maintain trover to recover possession of paid bill or note. 16 L.R.A. (N.S.) 1043.

Replevin or detinue for promissory note. 8 L.R.A.(N.S.) 138.

§ 65. Defenses.

As to paper transferred or assigned, see supra, IV.

Liability on paper payable to impostor, see

supra, § 14. Liability on forged paper, see supra, § 16. Alteration as affecting subsequent bona fide holder, see supra, § 41.

Alteration as a defense generally, see ALTER-ATION OF INSTRUMENTS.

Right to plead inconsistent defenses. 48 L.R.A. 194.

Conflict of laws as to defenses available to maker or acceptor. 61 L.R.A. 206;

19 L.R.A.(N.S.) 670.
Conflict of laws as to defenses available to drawer or indorser. 61 L.R.A. 212; 19 L.R.A. (N.S.) 672.

Right of innocent payee to recover on notes person who exceeds his authority in filling up the blanks before delivery to payee. 13 L.R.A.(N.S.) 400. T.B. signed in blank and intrusted to third 1915B, 144.

Defenses available to maker against transferee after maturity. 46 L.R.A. 760. To notes of members of mutual fire in-

surance companies. 32 L.R.A. 486. Liability for transferring note to bona fide holder so as to cut off defense of indorser. 27 L.R.A. 520.

Right to refuse payment of draft the proceeds of which are us d in illegal transaction. 39 L.R.A.(N.S.) 1005.

What misrepresentations as to the contents of an instrument will render it void in law. 4 B. R. C. 663.

BILLS AND NOTES, VIII .-- cont'd

§ 66. - lack or failure of consideration.

As to consideration generally, see supra, § 18.

Sufficiency of general averment of want of consideration. L.R.A.1917F, 581.

Failure of consideration as defense to action on purchase price of note. 39 L.R.A.(N.S.) 938; L.R.A.1918A, 1055.

In case of paper transferred after maturity. 46 L.R.A. 761.

Notes given for patent rights. 20 L.R.A. 60<del>5</del>.

§ 67. — contemporaneous agreement and its breach.

Parol agreements. 43 L.R.A. 449.

Collateral and independent agreements. L.R.A. 464.

Mutual and dependent agreements. L.R.A. 467.

Consistent agreements constituting parts of a whole transaction. 43 L.R.A. 473. Agreements constituting consideration for note. 43 L.R.A. 474.

Agreements constituting condition of de-

livery. 43 L.R.A. 480.

Agreements constituting satisfaction or discharge. 43 L.R.A. 482. Executed agreements. 43 L.R.A. 483.

Effect on transferee of note. 43 L.R.A. 485.

Violation of contemporaneous agreement as defense against holder of negotiable paper transferred after maturity. 46 L.R.A. 769.

Breach of parol warranty as defense to an action between original parties on note for purchase price of chattel. 28 L.R.A. (N.S.) 267.

68. Set-off.

In bankruptcy cases. 55 L.R.A. 40, 48, 53, 59, 64, 70.

Rights of indorser as to set-off in case of debts due from insolvent. 17 L.R.A. 460.

Right to set off insolvent's obligation on commercial paper in hands of his receiver or assignee for creditors. L.R.A. 319.

As to commercial paper in the hands of insolvent's assignee or receiver. L.R.A. 325.

Set-off against judgment on note in hands of assignee. 23 L.R.A. 338.

Effect of setting up defects in articles purchased as a counterclaim in an action on one of a series of notes given for instalment of the purchase price, upon the right to set up a like count claim in subsequent actions. 10 L.R.A. (N.S.) 734.

§ 68a. — in case of transfer after maturity.

case of transfer after maturity. L.R.A. 790.

Right to set off against transferee of negotiable paper after maturity claim against original payee. 23 L.R.A. 326; 39 L.R.A.(N.S.) 658.

BILLS AND NOTES, VIII.-cont'd

69. Pleading.

Sufficiency of plaintiff's pleadings,

PLEADING, §§ 19, 20.
Sufficiency of answer denying plaintiff's ownership, see PLEADING, § 38a.

Right to plead inconsistent defenses. 48 L.R.A. 194.

Pleading failure of consideration as defense to purchase money note. 39 L.R.A. (N.S.) 949.

## § 70. Evidence.

Admissibility of parol evidence to show to which indorsement qualifying words belong. 49 L.R.A. (N.S.) 789.

Effect of production of bill or note not transferable by delivery to establish prima facie plaintiff's title to note. 50 L.R.A.(N.S.) 581.

Presumption and burden of proof in action by purchaser. 17 L.R.A. 326.

Effect of admission to change burden of proof and right to open and close in assumpsit on bill or note. 61 L.R.A. 535, 541, 544.

Admissibility of extrinsic evidence to show who is liable as maker of a note. 20 L.R.A. 705.

## 71. Judgment.

Effect upon lien of mortgage of entry of judgment upon note secured thereby.

24 L.R.A. (N.S.) 1095.

Conclusiveness of judgment as between plaintiff and one not a party or privy who voluntarily conducted defense in action upon note. 37 L.R.A.(N.S.) 965.

## 72. Amount of recovery. See DAMAGES, § 26.

### IX. Recovery back of payments.

73. Generally.

Recovery by bank of money paid out by it, see Banks, §§ 28, 29.

Right of accommodation party who is obliged to pay bill or note to recover from accommodated party. 37 L.R.A.(N.S.) 783.

Right of drawee of forged draft to recover money paid thereon. L.R.A.1915A, 77.

## X. Accommodation paper.

74. Generally.

Purchase of accommodation paper at discount as usury. 43 L.R.A. (N.S.) 220. Notice to accommodation payee after in-solvency. 61 L.R.A. 901.

Effect of transfer after maturity of accommodation paper which has been diverted from the use for which it was intended by the accommodating party. L.R.A. (N.S.) 1034.

75. Power to issue.

Power of corporation to issue accommodation paper. 9 L.R.A. (N.S.) 193. Consult also L.R.A. Digests of Cases.

BILLS AND NOTES, X .- cont'd

Power of agent to indorse paper for accommodation. 27 L.R.A. 407.

76. Bona fide holder of.

Circumstances sufficient to put purchaser on inquiry. 29 L.R.A. (N.S.) 385; L.R.A.1918F, 1148.

Taking note from maker or payee as constructive notice of the accommodation character of an irregular indorsement and lack of authority for such indorsement. 2 L.R.A.(N.S.) 525.

Holder of accommodation paper as collateral security as a bona fide holder. 31 L.R.A.(N.S.) 296.

§ 77. Rights and liabilities of parties to.

Rights inter se of accommodation parties to commercial paper. 28 L.R.A. (N.S.) 1039.

Right of accommodation party who is obliged to pay bill or note, to recover from the accommodated party. 37 L.R.A.(N.S.) 783.

Accommodation indorsement by bank. 23

L.R.A. 836.

Liability of national bank on accommodation guaranty by it. 32 L.R.A.(N.S.) 545; L.R.A.1918A, 415.

Extent of recovery by pledgee on paper which pledgeor could not collect. 44 L.R.A. 249.

Availability of defense of, as against transferee after maturity. 46 L.R.A. 772.

Implied warranty by one passing worthless accommodation paper of third person without indorsement. 10 L.R.A.(N.S.)

Set-off in case of bankruptcy. 55 L.R.A. 65.

## BILLS OF EXCEPTIONS.

See APPRAL AND ERROR, § 23.

## BILLS OF EXCHANGE.

In general, see BILLS AND NOTES.

Obtaining bill of exchange by false pretenses. L.R.A.1916E, 1106.

## BILLS OF LADING.

§ 1. Generally.

Rights and liability of carriers under, see

CARRIERS, §§ 107, 108, 114.
Bill of lading with draft attached, see
BILLS AND NOTES, § 7.

Retaining control of bill of lading to insure payment as affecting sufficiency of de-livery to carrier as compliance with provision requiring delivery at place of shipment. L.R.A.1915B, 537.

Intent shown by, to retain title on delivery of goods to carrier. 22 L.R.A. 421.

BILLS OF LADING-cont'd

Effect of indorsing and mailing to purchaser bill of lading naming seller as consignee, to pass title. 34 L.R.A.(N.S). 293.

Validity of agreement of railroad company to issue false bills of lading. 12 L.R.A. (N.S.) 610.

§ 2. Bona fide holders of.

Liability of carrier to bona fide holder of bill of lading issued by negligence or mistake of agent without delivery of any goods to carrier. 22 L.R.A.(N.S.) 828.

Right of carrier to deny as against bona fide holder of bill of lading that goods were delivered to it. 6 L.R.A.(N.S.)

Conclusiveness of, as to character and amount of goods as between carrier and bona fide transferee. 34 L.R.A. (N.S.) 1177.

Effect of putting bills of lading indorsed in blank into another's possession to estop owner as against purchaser in good faith. 29 L.R.A.(N.S.) 255.

#### BILL OF PARTICULARS.

Right under statute to an order for the examination of an adverse party to en-able one to frame a bill of particulars. L.R.A.1918C, 599.

#### BILLS OF PEACE.

To quiet title, effect of remedy at law upon. 12 L.R.A. (N.S.) 50.

## BILLS OF REVIEW.

See REVIEW.

## BILLS OF RIGHTS.

See Constitutional Law.

#### BILLS OF SALE.

Relief from mistake of law as to effect of. 28 L.R.A.(N.S.) 826.

Production of, as repelling presumption of guilt from possession of recently stolen property. 39 L.R.A. (N.S.) 320.

Parol evidence to show that written instrument which on its face imports a complete transfer was intended to operate as a mortgage or pledge. L.R.A.1916B, 18.

Begin with this book on every law question.

BILLS OF SALE-cont'd

Applicability of rule excluding parol evidence to vary contract in favor of or against a stranger to the contract. L.R.A.1916A, 596, 607.

#### BIRTHS.

Constitutionality of statute as to reporting and registering. 39 L.R.A.(N.S.) 1015.

Physician's private records or memoranda as evidence of. L.R.A.1915F, 803.

Admissibility of declarations and repute on question whether child was born dead or alive. L.R.A.1918D, 1085.

#### BISULPHIDE.

Liability for injury to employee by explosion of. L.R.A.1918B, 864.

#### BIT.

Liability of master for injury by defect in. L.R.A.1918D, 1141.

#### BITCH.

Charging woman with being, as libel or slander, see LIBEL AND SLANDER, § 12.

#### BITTERS.

As intoxicating liquor. 20 L.R.A. 647. Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 307.

## BLACKBOARD.

Permitting expert witness as to handwriting and typewriting to use blackboard purpose of illustration. L.R.A. 1918D, 645.

### BLACKLISTING.

Injunction against, see Injunction, § 17. Of servant, see MASTER AND SERVANT, § 7.

Of dealer as libel. 49 L.R.A. 612; 8 L.R.A. (N.S.) 783.

## BLACKMAIL.

Cruel and unusual punishment for. L.R.A.

1915C, 566. Charge of blackmailing or extortion as actionable per se. 6 B. R. C. 481.

#### BLACKSMITH.

Validity of restrictive agreement ancillary sale of business of. 24 L.R.A. (N.S.) 930; L.R.A.1916C, 630.

## BLANK.

1. Generally.

Filling in names of parties left blank in deed, see DEEDS, § 19.

See also ALTERATION OF INSTRUMENT.

For name in certificate of acknowledgment. 19 L.R.A. 279.

In warrant of attorney to confess judg-

ment. 13 L.R.A. 796. Leaving blank in plat as a dedication. 23 L.R.A.(N.S.) 809.

Paying check written on blank of another bank as negligence. 19 L.R.A. (N.S.)

Effect of unfilled blank in shipping receipt to extend initial carrier's undertaking beyond its own line. 31 L.R.A.(N.S.) 38.

Blanks in will as affecting right to probate. 34 L.R.A.(N.S.) 966.

Validity and effect of deed or mortgage executed in blank as to the land to be conveyed. L.R.A.1918A, 1155.

Implied authority to fill in name of grantee or mortgagee in blank left for that purpose at time of delivery. 38 L.R.A. (N.S.) 423.

2. In bills, notes, or checks.

Effect of filling blanks in note. 35 L.R.A. 467.

Check indorsed in blank as subject of larceny or embezzlement. 42 L.R.A. (N.S.) 499.

Effect of marginal letter or figures in bill or note otherwise blank as to amount. 2 L.R.A.(N.S.) 879

Implied authority to fill in blank for place of payment in note. 31 L.R.A. (N.S.) 643.

Implied or apparent authority to insert date in blank in commercial paper. L.R.A.1916F. 1266.

Implied or apparent authority as to filling in blank left for the name of the payee commercial paper. L.R.A.1918D, 1064.

Liability of maker, acceptor, or indorser of commercial paper where blanks thereon are filled up contrary to his instructions. 5 B. R. C. 702.

Right of innocent payee to recover on notes signed in blank and intrusted to third person who exceeds his authority in filling up the blanks before delivery to 13 L.R.A. (N.S.) 490; L.R.A. pavee. 13 1915B, 144.

## 3. Indorsements in.

Trust in proceeds of collection by insolvent bank as against subagent's claims where indorsement is in blank, 32 L.R.A. 721. -Consult also L.R.A. Digests of Cases.

BLANK—cont'd

Character of liability of third party who indorses his name in blank on nonnegotiable paper L.R.A.1916D, 223. delivery. before

Rights of owner of negotiable paper indorsed in blank as against bona fide purchaser from one unlawfully in possession.

19 L.R.A. (N.S.) 107.

Effect of blank indorsement to impart negotiability to non-negotiable instrument. 26 L.R.A.(N.S.) 804.

Effect of putting non-negotiable paper or securities indorsed in blank, into another's possession to estop owner as against purchaser's good faith. 29 L.R.A.(N.S.) 254.

## BLANKET ALLOWANCE.

For overhead charges in public service property valuations. 48 L.R.A.(N.S.) 1052.

#### BLASPHEMY AND PROFANITY.

Proof of corpus delicti in prosecution for. 68 L.R.A. 56, 70-72.

Blasphemy and profanity as crimes. L.R.A. 353.

As disturbance of the public peace. L.R.A.(N.S.) 505.

## BLASTING.

§ 1. Generally.

Injunction against. 6 L.R.A. 570.

Violating ordinance as to, as ground for private action. 5 L.R.A.(N.S.) 260.

Duty of those engaged in, as to the safety of others. 17 L.R.A. 729.

Presumption of statutory authority of railroad company to commit nuisance by. 70 L.R.A. 586.

Liability for injury to person or property from concussion caused by blasting. 12 L.R.A.(N.S.) 389; 27 L.R.A.(N.S.) 425; L.R.A.1915E, 356.

Liability, in absence of negligence, for damages to land or buildings from substances thrown in blasting. 17 L.R.A. 729; 34 L.R.A.(N.S.) 211; L.R.A.1917A, 1016.

Liability for injury in consequence of frightening horse by blasting. 36 L.R.A. (N.S.) 54.

Municipal liability for failure to prevent blasting. 42 L.R.A. (N.S.) 864.

Measure of damages for destruction of, or damage to, building by blasting. L.R.A. 1917A, 371.

## § 2. Master's liability to servant for injury by.

Liability of master for injuries incident to the use of steel tools in blasting. 27 L.R.A.(N.S.) 982.

BLASTING—cont'd

Duty to warn servant engaged in blasting of dangers therefrom. 19 L.R.A.(N.S.) 997.

Delegability of master's duty to warn servant against danger from. 26 L.R.A. (N.S.) 640.

Common laborers and persons engaged in blasting as fellow servants. 20 L.R.A. (N.S.) 1180.

Imputing to master coservant's negligence as to inspection incidental to details of. 54 L.R.A. 161.

Master's liability for vice principal's negligence in work of. 54 L.R.A. 133.

Liability of master for injury caused by unexploded charge left after blasting.

48 L.R.A.(N.S.) 931.
Liability of master for injuries due to dangerous condition of earth and rock left after blasting. 48 L.R.A.(N.S.) 925.

§ 3. Liability for acts of independent contractor.

Employer's nonliability for torts of inde-pendent contractor in. 35 L.R.A. 644. Liability for, when done by independent

contractor. 14 L.R.A. 830; 65 L.R.A. 753, 854.

Liability of employer for negligence of independent contractor in the performance of contract requiring blasting. 14 L.R.A.(N.S.) 913; 29 L.R.A.(N.S.) 851.

### BLASTING POWDER.

Keeping of, on insured premises. L.R.A. 1917C, 278.

#### BLIND.

· Contributory negligence of person of poor sight in street, see HIGHWAYS, § 98.

Care due to, in absence of contract rela-

Duty toward blind persons as to condition

of streets. L.R.A.1917C, 126. Duty of carrier to accept blind passenger.

26 L.R.A. (N.S.) 172.

Duty of carrier to blind passenger.

L.R.A. (N.S.) 564.

#### BLIND HORSE.

Driving blind horse as negligence, or contributory negligence. 48 L.R.A.(N.S.) 141.

## BLOCKADE.

Liability of insurer under policy of marine insurance for losses arising out of state

of war. 5 B. R. C. 4. Begin with this book on every law question.

#### BLOCKING SWITCHES.

Want of blocking at switches, see Ux-BLOCKED SWITCHES.

#### BLOCK SIGNAL OPERATORS.

As fellow servants of trainmen, see MASTER AND SERVANT, § 149.

#### BLOODHOUNDS.

Evidence of trailing by. 42 L.R.A. 432; 35 L.R.A. (N.S.) 870; L.R.A.1917E, 730.

#### BLOOD POISONING.

Of insured, see INSUBANCE, § 169.

Liability of physician called to reduce fracture for causing. 12 L.R.A.(N.S.) 752.

Apprehension of, as basis of recovery for

mental anguish. 20 L.R.A.(N.S.) 458. Following personal injury, effect on recovery. 48 L.R.A.(N.S.) 98. Recovery for, under Workmen's Compensation Act. L.R.A.1918F, 876.

### BLOOD RELATIONS.

Who are. 14 L.R.A. 342.

## BLOOD VESSEL.

Rupture of, as accident within accident insurance policy. 19 L.R.A.(N.S.) 1206.

#### BLOTS.

On official ballot. 47 L.R.A. 819.

#### BLOWING OFF STEAM.

Liability of railroad company for injury caused by. 10 L.R.A.(N.S.) 387.

#### BLUE FLAG.

Blue flag rule as affecting contributory negligence of employee in going under or between cars liable to be moved at any time. L.R.A.1918C, 380.

### BLUE SKY LAWS.

Constitutionality of. L.R.A.1917F, 524.

#### BOARD.

§ 1. Food and lodging. At inn or hotel, see INNKEEPERS, See also BOARDERS AND BOARDING HOUSES.

Admissibility of books of account to prove charges for board. 52 L.R.A. 700.

Implied authority of agent or employee to bind principal for. L.R.A.1916B, 754. Payment of board by week as affecting relation between proprietor of hotel and

one making no arrangement as to time of stay. 14 L.K.A.(N.S.) .... Imprisonment for debt for beating board

1915B, 649. Right of married woman to maintain action for board of third person living in the home. 46 L.R.A.(N.S.) 238.

§ 2. Public bodies.

Board of agriculture, see BOARD OF AGRICUL-TURE.

Board of trade, see BOARD OF TRADE. County beard, see Counties, § 12. Of health, see HEALTH, § 5. Of equalization, see Taxes, § 51.

Delegation of power to, see Constitutional Law, § 15.

Power to make lease, see Landlord and

TENANT, § 12.

Mandamus to, see Mandamus, §§ 3-11.

Powers and decisions of boards under Selec-. tive Service Act of May 18, 1917. L.R.A.1918E, 1018.

Power to employ attorney. L.R.A.1917D, 247.

Parol evidence to vary or supplement minutes of public body. 50 L.R.A. (N.S.)

Validity of agreement by which compensation is dependent on success in procuring a contract with. L.R.A.1915C, 823.

Injunction against action of public boards under unconstitutional statute as affected by other remedies. 8 L.R.A.(N.S.) 127.

Power of municipal board to employ one of its own members as counsel or to render other special services. 3 L.R.A. (N.S.) 849.

Liability of public officer for wrongful act of corporate board of which he is a member. 5 L.R.A.(N.S.) 463.

Right of board of municipality, county, or town to reconsider action as to allowance of claim. 21 L.R.A.(N.S.) 289.

Power of board to appoint officer or make contract for term extending beyond its own term. 29 L.R.A.(N.S.) 652; L.R.A.1915E, 581.

Validity of agreement by which compensation is dependent on success in procuring contract. 39 L.R.A.(N.S.) 747.

## BOARD BILL.

Imprisonment for debt for beating board 21 L.R.A. (N.S.) 259; L.R.A. 1915B, 649.

Consult also L.R.A. Digests of Cases.

## BOARDERS AND BOARDING HOUSES.

As to hotels, see INNEEPERS.

See also BOARD, § 1. Liability of landlord for injury to guest in boarding house, see LANDLORD AND TEN-ANT, IV. d, 4.

Power to require license to keep, see LI-CENSE, § 22b.

Occupancy of boarding house by servant. 4 L.R.A. (N.S.) 703.

Right of boarder to notice to redeem from tax sale. 44 L.R.A. (N.S.) 676.

Right to claim homestead in property used as boarding house. 41 L.R.A. (N.S.) 303.

Constitutionality of statutory regulations as to safety and sanitary conditions of boarding house. 17 L.R.A.(N.S.) 486.

Use of railroad right of way for purpose of, as against owner of fee. 36 L.R.A. (Ń.S.) 517.

Duty and liability of boarding-house keeper with respect to property of boarder.
45 L.R.A. (N.S.) 31.

Serving liquor with meals by proprietor as a sale thereof. 52 L.R.A. (N.S.) 722. Liability of innkeeper or boarding-house keeper for theft from boarder. 3 B. R. C. 316.

Who is a boarding house keeper within statute giving lien. L.R.A.1918D, 402.

## BOARDING STABLE.

See LIVERY STARLE.

#### BOARD OF AGRICULTURE.

Liability of state board of agriculture con-ducting fair or exposition for injury to patron. L.R.A.1915E, 469.

### BOARD OF EQUALIZATION.

See TAXES, § 51.

#### BOARD OF HEALTH.

See HEALTH, § 5.

#### BOARD OF TRADE.

See also STOCK AND PRODUCE EXCHANGE.

Compulsory service by. 15 L.R.A. 322. Validity of rule of requiring submission of disputes to arbitration. 2 L.R.A. (N.S.) 672.

BOARD OF TRADE-cont'd

Review of decisions of, against members. 49 L.R.A. 358, 361.

Membership in, as subject of taxation. 50 L.R.A.(N.S.) 255.

Right to subsidize enterprises. L.R.A.1916B, 1009.

## BOAT LIVERY.

Duty and liability of owner of boat livery. L.R.A.1917F, 860.

#### BODILY INJURIES.

See Personal Injuries.

#### BODY EXECUTION.

See EXECUTION, § 18.

## BOHEMIAN OATS.

Failure of executory consideration for note given for Bohemian oats as affecting purchaser with knowledge of the character of the consideration. 46 L.R.A. (N.S.) 873.

## BOILER.

Nondelegability of duty to protect servants from defects in. 54 L.R.A. 80.

Duty of master to inspect steam boiler.

41 L.R.A. 87.

Master's right to rely on inspection of, by public authorities. 15 L.R.A. (N.S.) **812.** 

## BOILER SHOPS.

Landlord's liability to third person as to condition of. 26 L.R.A. 201.

## BOLT.

Master's liability for injuries sustained by servant from falling over bolt projecting from floor. 19 L.R.A.(N.S.) 242.

## BOMB.

Liability for injury caused by placing or exploding, in highways. 3 L.R.A. (N.S.) 750

BOMB-cont'd

Property rights in market quotations. 7 Liability for injury to children from bombs L.R.A.(N.S.) 889.

Review of decisions of, against members. (N.S.) 586.

As dangerous agency for injury by which, when used by servant, master is liable. 10 L.R.A.(N.S.) 378, 397.

#### BOMBARDMENT.

Injury received by employee during bombardment by a ship of the enemy as within protection of the Workmen's Compensation Act. L.R.A.1917D, 127.

## BONA FIDE HOLDER.

§ 1. Generally.

Of bill of lading, see BILLS OF LADING, § 2. Of bill or note, see BILLS AND NOTES, §§ 38-42.

Of accommodation paper, see BILLS AND

NOTES, § 76. Of bonds, see Bonds, § 23.

Of check, see CHECKS, § 6.

Of land, see RECORDS AND RECORDING LAWS, IV. b; VENDOR AND PURCHASER, IV.

Of personalty, see SALE, XI. f. Liability for transferring note to, so as tocut off defenses, see BILLS AND NOTES, § 33.

Purchaser at judicial sale as, see JUDICIAL

SALE, § 12. Rights of, see BILLS AND NOTES, §§ 38-42; BONDS, § 23; SALE, §§ 71, 72.

Who is, within protection of statute of frauds. 31 L.R.A. 612.

Who are bona fide purchasers against whom reformation cannot be had. 28 L.R.A. (N.S.) 910.

Lien acquired against, by service of notice in supplementary proceedings. L.R.A. (N.S.) 129.

Right of one leaving his chattels in an-other's possession to claim title against. the latter's vendees. 25 L.R.A. (N.S.)

Transferee of chattels in satisfaction of preexisting debt, as a bona fide purchaser as against original vendor, from whom they were fraudulently obtained by transferrer. 35 L.R.A.(N.S.) 1174.

Rights of bona fide purchasers from executor or administrator purchasing at his own sale. L.R.A.1918B, 41.

Right of bona fide purchaser from vendee of goods sold for cash but delivered without payment. 13 L.R.A.(N.S.) 697, 700.

Effect of claim of, on liability of one who signs contract by adding words indicating representative capacity to his signature. 42 L.R.A.(N.S.) 10.

Right of bona fide holder of claim to take advantage of champerty. 35 L.R.A. (N.S.) 519.

Burden of proof as to bona fides of sub-vendee from fraudulent purchaser of chattels. 8 L.R.A.(N.S.) 448.

BONA FIDE HOLDER-cont'd

Burden of proof as to bona fides of transferee of warehouse receipts for property secured by fraud. 10 L.R.A. (N.S.) 801.

Right of purchaser of, or creditors levying on, goods sold for cash but delivered without payment. 47 L.R.A.(N.S.)

§ 2. Of corporate stock. Of bonus stock. 38 L.R.A. 494.

Who entitled to protection as bona fide purchasers of fraudulent or forged issue of stock. 19 L.R.A. 332.

Liability of bona fide purchaser of corporate stock on unpaid subscription. 30 L.R.A.(N.S.) 286.

Effect of putting non-negotiable paper or securities indorsed in blank into another's possession to estop owner as against purchaser in good faith. 29 L.R.A.(N.S.) 254.

## BONA FIDE RESIDENCE.

Of children entitling them to privileges of public schools. 26 L.R.A. 581; 51 L.R.A. (N.S.) 234.

#### BOND FOR TITLE.

Executory contracts for sale of real property, generally, see VENDOR AND PUR-CHASER, I.

Form of judgment on. 62 L.R.A. 454. Contingency of claim against sureties on. 58 L.R.A. 86.

Failure of consideration as ground for injunction against judgment on. L.R.A. 751.

Injunction against collection of purchase money where title to land is defective and purchaser holds by title bond. 7 L.R.A.(N.S.) 449.

Right of person holding, to maintain bill against third person to remove cloud. 15 L.R.A.(N.S.) 413.

Effect of, to defeat unconditional and sole ownership of insured. 2 L.R.A. (N.S.)

Right of purchaser under title bond in possession to question grantor's right to collect purchase money on failure of consideration. 21 L.R.A.(N.S.) 380.

May one who takes a bond for conveyance of property from a third person to defraud the creditors of another who had the legal title to the property, but reported it to be in such third person, invoke the doctrine of estoppel against him. 13 L.R.A. (N.S.) 1118.

#### BONDHOLDERS.

Rights of, generally, see Morroaces, §§ 34, Liability for failure to forward bonded 68, 72, Consult also L.R.A. Digests of Cases,

BONDHOLDERS-cont'd

Duty of corporate promoters to. 25 L.R.A.

Rights of, on unauthorized consolidation of corporations. 52 L.R.A. 390.

#### BONDS.

I. In general, §§ 1-5.

- II. For indemnity and security, \$\$ 6-16.
  - a. In general, §§ 6-8.
  - b. Contractor's bond, \$\$ 9-10.
  - c. For fidelity of employees or
  - corporate officers, § 11. d. Of public officers, §§ 12-15.
- e. Of public depositary, § 16. ommercial, government, c III. Commercial, and municipal bonds, §§ 17-27.

## I. In general,

§ 1. Generally.

Extent of recovery on, see DAMAGES, §§ 27-

Estoppel by, see ESTOPPEL, II. Presumption and burden of proof as to, see Evidence, § 99.

Interest on, see INTEREST, § 3.

Sale of bonds given as collateral, see PLEDGE AND COLLATERAL SECURITY, § 12.

Plaintiff's pleadings in action on, see PLEAD-ING, § 21.

For general principles with respect to principal and sureties, see PRINCIPAL AND SURETY.

Release of sureties on, generally, see Prin-CIPAL AND SURETY, §§ 10-18.
Trustee's liability on, see Trusts, § 29.

Validity of bond executed by an infant. 6 B. R. C. 115.

Difference between bond and mortgage affecting maturity. 46 L.R.A.(N.S.) 475.

Admissibility of parol evidence to vary contract in favor of or against a stranger to the contract. L.R.A.1916A, 601, 612.

As subject of gift. 26 L.R.A. 308.

Removal for separable controversy of action on. 5 L.R.A. (N.S.) 92.

Addition of name of attesting witness to, as an alteration. 24 L.R.A. (N.S.) 1155.

Presumption as to time of alteration in. 39 L.R.A.(N.S.) 108.

Relief from mistake of law as to effect of. 28 L.R.A. (N.S.) 804, 828.

Necessity of notice of default to bind guarantor of bond. 20 L.R.A. 258.

Contingency of claim on, as affecting limitation of time for presentation against

estate. 58 L.R.A. 86. Who is real party in interest by whom action must be brought. 64 L.R.A. 599.

Effect of putting bond indorsed in blank in possession of another to estop owner as against purchaser in good faith. 29 L.R.A.(N.S.) 256.

merchandise. 4 L.R.A.(N.S.) 1060.

BONDS, I.—cont'd § 2. Execution.

Bail bond, see BAIL AND RECOGNIZANCE, § 4.

Signing by proxy. 22 L.R.A. 297.
Guaranty by surety of other signatures.
49 L.R.A. 316.

Effect of failure of sureties to justify where replevin bond has served its purpose. 29 L.R.A.(N.S.) 751.

Subscribing one's name under word "surety" in written contract as satisfying statute of frauds: 23 L.R.A.(N.S.) 1197.

Validity of mortgage given to secure imperfectly executed bond. 44 L.R.A. (N.S.) 1153.

§ 3. — failure of principal obligor to

Nature of surety's engagement. 12 L.R.A. (N.S.) 1106.

When principal is independently bound. 12 L.R.A.(N.S.) 1106.

Effect of form of obligation. 12 L.R.A. 1118.

Completion after delivery. 12 L.R.A. (N.S.) 1119.

Signatory's intent in executing bond. 12 L.R.A.(N.S.) 1119.

Pleading. 12 L.R.A.(N.S.) 1122.

What is a sufficient execution by principal. 12 L.R.A.(N.S.) 1123.

Effect of principal's signing or omitting to sign replevin bond which has served its purpose. 29 L.R.A.(N.S.) 750.

§ 3a. Failure to secure all sureties agreed on.

Execution on condition that other shall sign. 45 L.R.A. 321. Breach of promise to surety as to getting

other sureties. 45 L.R.A. 321.

Effect of insufficient number of sureties on replevin bond which has served its purpose. 29 L.R.A.(N.S.) 750.

3b. Withdrawal of surety. § 3b. Withdrawai of sure-Liability for causing withdrawal of sure-ty from bond. 42 L.R.A.(N.S.) 388.

4. Necessity for giving.

Power of surety company to act as guardian, etc., without bond. 48 L.R.A. 589.

Right to require legatee of life interest in money or its equivalent to give security for benefit of remaindermen. 23 L.Ä.A. (N.S.) 716.

5. Form of judgment on penal bonds. Under English statutes and decisions. L.R.A. 427.

Under statutes and decisions in the United States. 62 L.R.A. 433.

Effect of improper form. 62 L.R.A. 455.

## II. For indemnity and security.

## a. In general.

6. Generally. Bottomry bond, see Bottomry. Extent of recovery on, see DAMAGES, III. b, 2.

Begin with this book on every law question.

BONDS, II. a—cont'd

As to liquor dealer's bonds, see INTOXICAT-

ING LIQUORS, §§ 17, 18.
Holders of bond secured by mortgage, see MORTGAGE, § 34.

Bonds of receiver, see RECEIVERS, § 10.

Joinder of parties in action on bond with alternative allegations as to liability.

51 L.R.A. (N.S.) 640. When statute begins to run against action by private person based on breach of duty by public officer in taking invalid or insufficient bond. 52 L.R.A. (N.S.) 709.

Penalty as limit of liability on. 55 L.R.A. 394.

Average bond; jurisdiction of admiralty as to. 66 L.R.A. 235.

Form of judgment on indemnity bond. •2
L.R.A. 446.

What misrepresentations as to the contents of an instrument will render it void in 4 B. R. C. 663.

Effect of insertion of unauthorized provisions in a bond required by statute. L.R.**A.**1917**B**, 990.

Validity of bond executed by infant. 6 B. R. C. 115.

Validity and effect of indemnity bond executed under unconstitutional statute. L.R.A.1918C, 834.

Validity and enforceability of bond to one spouse, conditioned for maintenance of family relation or proper conduct of other spouse. L.R.A.1917D, 445.

Exacting bond for production of child as condition of awarding custody to one parent as against other. L.R.A.1915A, 576.

Right to require bond of one operating jitney bus. L.R.A.1915F, 842; L.R.A. 1916B, 1158; L.R.A.1918B, 914; L.R.A. 1918F, 475.

Of owner of public ferry. 68 L.R.A. 160. Effect upon lien of mortgage of entry of judgment upon bonds secured thereby. 24 L.R.A.(N.S.) 1095.

Effect on surety of judgment against principal. 40 1 1918E, 814. L.R.A. (N.S.) 723; L.R.A.

Injunction against enforcing marriage brokerage bonds. 48 L.R.A. 843.

Warehouseman's bond. L.R.A.1918E, 235.

§ 7. Of person acting in representative capacity.

Of assignee for creditors, see Assignment FOR CREDITORS, § 13.

Of personal representative, see Executors AND ADMINISTRATORS, §§ 11, 26, 27.

guardian, see GUARDIAN AND WARD, §§ 11–13.

§ 8. In legal proceedings.

On appeal, see APPEAL AND ERBOR, §§ 16, 17, 46.

As to attachment bonds, see ATTACHMENT, § 17.

As to bail bonds, see BAIL AND RECOGNI-ZANCE.

In bastardy proceedings, see BASTARDY, § 5. In certiorari proceedings, see CERTIORARI,

BONDS, II. a-cont'd

Forthcoming bond, see FORTHCOMING BOND. Injunction bonds, see INJUNCTION, §§ 85-87.

On removal of cause to Federal court, see REMOVAL OF CAUSES, § 15.

In replevin, see REPLEVIN, §§ 12, 13.

Filing bond to secure release of property as an appearance. L.R.A.1916F, 587.

Liability of sureties on bond in judicial proceedings, where judgment is in favor of one principal and against another. 51 L.R.A.(N.S.) 655.

What constitutes breach on ne exect bond. 20 L.R.A.(N.S.) 76.

Who is real party in interest by whom action must be brought on bond given in judicial or other proceedings. 64 L.R.A. 605.

What conduct will work a forfeiture of a peace bond. 40 L.R.A.(N.S.) 186.

#### b. Contractor's bond.

§ 9. Generally.

Effect of insertion of unauthorized provisions in. L.R.A.1917B, 990.

Contractor's bond for the payment of claims for labor and material as a contract of indemnity against liability, or against loss. L.R.A.1918D, 1074.

Right of citizen to enforce contractor's bond taken for benefit of public. 49 L.R.A. (N.S.) 1175.

Penalty as limit of liability on. 55 L.R.A. 593.

Condition against taking effect until signed by others. 45 L.R.A. 332.

Discretion as to bond of bidder for public contract. 38 L.R.A.(N.S.) 664.

Release of surety on building contractor's bond by making payments not authorized by the contract. 5 L.R.A.(N.S.) 418; L.R.A.1915B, 407.

Right of surety on contractor's bond as against assignee of fund. L.R.A. 1918D, 736.

Sureties who perform contract on abandonment by contractor. 14 L.R.A.(N.S.) 457; L.R.A.1918A, 937.

Right of surety upon contractor's bond to have payments made by contractor applied to the contract. L.R.A.1917C, 637.

Liability of public for failure to take bond, or for taking insufficient bond, from contractor, conditioned for payment of claims of subcontractors, materialmen, and laborers. L.R.A. 1915F, 629.

Liability upon contractor's bond which undertakes to indemnify owner against liability for injuries to employees, where the injury is due to owner's negligence. 11 L.R.A.(N.S.) 1173.

Consult also L.R.A. Digests of Cases.

BONDS, II. b-cont'd

Does bond of highway contractor cover personal injuries to members of public. 34 L.R.A.(N.S.) 152.

Renewal of contract under option as extending the undertaking of a surety for the performance of the contract. 41 L.R.A.(N.S.) 422.

§ 10. Liability for labor and materials. Constitutionality of statute requiring bond to protect laborers and materialmen upon entering into a building contract. L.R.A.1918A, 1199.

Contractor's bonds as substitutes for mechanics' liens. 27 L.R.A.(N.S.) 579.

Does building contractor's bond indemnify owner against mechanics' liens, when not expressly mentioned. 24 L.R.A. (N.S.) 1075.

Right of subcontractor, materialman, or laborer to maintain action on bond taken for benefit of public. 49 L.R.A.(N.S.) 1175.

Right of subcontractor, materialman, or laborer to maintain action on contractor's bond to owner. 27 L.R.A.(N.S.) 573; L.R.A.1915A, 768.

Applicability to public bodies of statute requiring building contractor's bond for protection of subcontractors, laborers, etc. 50 L.R.A.(N.S.) 469.

Implied power to incorporate in contractor's bond a requirement that the contractor shall pay laborers and materialmen. 11 L.R.A.(N.S.) 1028; 46 L.R.A. (N.S.) 325.

Liability of public for failure to take bond or for taking insufficient bond from contractor conditioned for payment of claims of subcontractors, materialmen and laborers. L.R.A.1915F, 629.

Personal liability of public officer for failure to take bond, or for taking insufficient bond, from contractor, conditioned for payment of claims of subcontractors, materialmen, and laborers. 49 L.R.A. (N.S.) 1199.

Liability of sureties on contractor's bond to laborers or materialmen not entitled to a lien, when bond is conditioned against liens or claims. 9 L.R.A.(N.S.) 889.

liens or claims. 9 L.R.A.(N.S.) 889.

Effect of invalidity of contract for public work upon the liability of the contractor's bondsmen for material, etc., furnished in carrying out the contract. 13 L.R.A.(N.S.) 793.

Effect of surrender or discharge, by owner of property, of bond given by contractor conditioned for the payment of materialmen and laborers upon the right of the latter to recover thereon. 18 L.R.A.(N.S.) 455.

Nature of labor or materials which will

Nature of labor or materials which will support an action upon a contractor's bond. 43 L.R.A.(N.S.) 162; L.R.A.1915F, 951.

Liability on contractor's bond for labor or material employed in the work, but not by order of the principal. 43 L.R.A. (N.S.) 65.

BONDS, II.—cont'd.

c. For fidelity of employees or corporate officers.

§ 11. Generally.

Effect of insertion of unauthorized provisions in. L.R.A.1917B, 990.

Guaranty of fidelity of employees as insurance. 47 L.R.A. (N.S.) 294.

Discharge of surety on fidelity obligation by failure of employer to discover delinquency or to notify surety thereof within the time specified in the obligation. L.R.A.1916F, 715.

Failure of foreign corporation to comply with conditions of doing business in the state as defense to action by it on bond of officer or agent. L.R.A.1916A,

Condition against taking effect until signed by others. 45 L.R.A. 333.

Liability of surety in case of fraud of obligee. 21 L.R.A. 412.

Duty of obligee in fidelity bond to disclose prior defalcation to sureties in the absence of any inquiry in regard thereto. 12 L.R.A.(N.S.) 247.

Right of beneficiary in bond insuring fidelity of officer or employee to repudiate authority of person who made the representations in reliance upon which the bond was issued. 7 L.R.A.(N.S.) 549.

What constitutes a verification of accounts as required by fidelity bond or contract.

10 L.R.A.(N.S.) 323

Effect upon bond conditioned for fidelity of employee or agent, of a change in the latter's field of operation or the nature of his duties. 28 L.R.A.(N.S.) 463; 36 L.R.A.(N.S.) 1152

Liability of surety under fidelity bond for defalcation subsequent to a reappointment of the officer or employee, made before expiration of the original term, or during an indefinite term. 11 L.R.A. (N.S.) 493.

Character of and rules governing contracts by corporations engaged for profit in business of guarantying the fidelity or contracts of other persons. 33 L.R.A. (N.S.) 513.

Admissibility against sureties on bond of statements by principal after expira-tion of term of employment. 40 L.R.A. (N.S.) 662.

## d. Of public officers,

§ 12. Generally.

Constitutionality of statute as to, see Con-STITUTIONAL LAW, § 51a.

Liability of officers, generally, see OFFI-CERS, §§ 38-42.

Failure of officer to give proper bond as affecting his status as a de facto officer. L.R.A.1918B, 1124.

Liability of judicial officer for taking insufficient bond from sheriff. 44 L.R.A. (N.S.) 175.

Effect of insertion of unauthorized provisions in bond. L.R.A.1917B, 990.

BONDS, II. d—cont'd

Right of sureties of public officer who made good a loss occasioned by their principal's default or misconduct, to be subrogated to the rights of the pledgee or beneficiary of the bond against a third person. 46 L.R.A. (N.S.) 557.

Liability upon bond given by public officer, from whom no bond is required. 50

L.R.A.(N.S.) 1060.

Penalty as limit of liability on bonds of public officers generally. 55 L.R.A. 393.

Condition against taking effect until signed by others. 45 L.R.A. 335. Effect of delivery of official bond unsigned

by principal obligor. 12 L.R.A.(N.S.) 1108.

Form of judgment on. 62 L.R.A. 448. Vacancy in office by failure to file bond

within time prescribed. 16 L.R.A. 140. Liability of surety in case of fraud of obligee. 21 L.R.A. 413.

Exemption of homestead from liability on. 24 L.R.A. 790.

Vho is real party in interest by whom ac-

tion on bond must be brought. 64' L.R.A. 607.

May a bond of public official, intended as a statutory bond, but not binding as such, be enforced as a common-law bond. 21 L.R.A.(N.S.) 766.

Right of sureties who have made good a

loss occasioned by their principal's default or misconduct, to be subrogated to the rights of the obligee or beneficiary of the bond against a third person. 14 L.R.A.(N.S.) 155.

Right to interest on official bonds. L.R.A. (N.S.) 11.

Liability of bond of public officer for interest received on public money. 30 L.R.A. (N.S.) 855.

Admissibility against sureties of statements by principal after expiration of term of office. 40 L.R.A.(N.S.) 662.

Effect on surety of judgment against principal. 52 L.R.A. 165; 40 L.R.A. (N.S.) 704, 732.

## 13. For what liable.

Liability for false imprisonment, see FALSE IMPRISONMENT, § 8.

Suits on official bonds for trespasses or unauthorized acts of officer done colore officii. 21 L.R.A. 738.

Liability on official bond for making arrest. 51 L.R.A. 222; 33 L.R.A. (N.S.) 275.

Liability on bond of peace officer for shooting a person while attempting to arrest him. 51 L.R.A.(N.S.) 1179.

Liability of sureties on the bond of a peace officer for the death of a person due to the act or default of the principal or one of his deputies. 11 L.R.A.(N.S.) 758.

Liability of sureties on bond of peace officer for latter's act in killing or injuring one person while attempting to execute criminal process against another. 29 L.R.A. (N.S.) 463.

BONDS, II. d-cont'd

Liability of sureties on constable's bond for assault made in serving or executing civil writ or process. 8 L.R.A. (N.S.) 1223.

Liability of bondsmen of peace officer for acts of latter in respect of property taken from prisoner. 37 L.R.A.(N.S.) 873.

Liability of officer's bond for failure to return money deposited to avoid execution of writ. 39 L.R.A.(N.S.) 577.

Liability on official bond for loss of money by theft or bank failure. 22 L.R.A. 449.

Liability on bond of public officer for interest received by him on public money. L.R.A.1918B, §11.

Liability of public officer's bondsmen to public corporation for money received or collected by him without authority. L.R.A.1918C, 397.

Liability of a postmaster or his sureties for illegal acts done in accordance with directions of a superior officer. 24 L.R.A. (N.S.) 309.

Liability of sureties on bonds for lost or stolen mail. L.R.A.1915A, 379.

Liability of public officer to sureties of another public officer for loss sustained by them through former's neglect to require proper settlement of accounts. 28 L.R.A.(N.S.) 115.

Liability of tax officers or their bond for failure of tax purchaser's title on

account of irregularities in procedure. 41 L.R.A.(N.S.) 967.

Constitutionality of statute releasing public officer or his surety from liability for loss of public fund. 41 L.R.A. (N.S.) 97.

Liability on official bond for improperly issuing marriage license or performing marriage ceremony. L.R.A.1917E, 868.

§ 14. - liability for acts before or after term.

Liability of sureties on bond of public officer for default of principal during prior term. 23 L.R.A. (N.S.) 131.

Extension of liability on official bond while officer is holding over after expiration of regular term. 35 L.R.A.

§ 15. Effect against surety of judgment against officer.

Effect against surety of judgment against officer. 52 L.R.A. 165; 40 L.R.A. (N.S.) 704; L.R.A.1918E, 816.

#### e. Of public depositary.

§ 16. Generally.

Constitutionality of statute as to, see Con-STITUTIONAL LAW, § 51a.

Liability of sureties on bond of bank as depository of public funds as affected by acquiescence or connivance of public officials in misuse of the funds. 26 L.R.A.(N.S.) 865.

Consult also L.R.A. Digests of Cases.

BONDS--cont'd

III. Commercial, government, and municipal bonds.

§ 17. Generally.

Estoppel to deny validity of bond, see Es-TOPPEL, § 2.

Liability to levy, see LEVY AND SEIZURE, § 3.

Rights of life tenant as to, see LIFE TENANT, § 6.

Holders of bonds secured by mortgage, see MORTGAGE, §§ 34, 68, 72

Of school district, see Schools, § 34.

Investments by trustee in government, municipal, or corporate bonds, see Tausts, § 26a.

Bequest of bonds, see WILLS, § 128.

Bequest of bonds as general or specific. L.R.A. (N.S.) 49.

Stock as bonus to purchasers of bonds. L.R.A. 493.

Specific performance of contract as to. L.R.A.1918E, 628.

Ratification by public corporation of bonds illegally issued. L.R.A.1915A, 1023.

Mandamus to compel issuance of bonds of

municipality or other public corpora-tion. L.R.A.1918C, 414.

Refunding bonds as indebtedness within meaning of debt limit provisions. L.R.A.1917E, 451.

Constitutionality of Blue Sky Laws. L.R.A. 1917F, 524.

Right of railroad company to guarantee the bonds of another railroad company. L.R.A.1918D, 175.

Liability of agent to true owner for selling or disposing of bonds or coupons in-trusted to him by his principal. 50 L.R.A.(N.S.) 58.

Amortization of amounts paid for discount and premiums upon bond issues in estimating return of a public service corporation for rate-making purposes. 52 L.R.A.(N.S.) 50.

Exercise of option to retire, before maturity as stopping interest. 43 L.R.A. (N.S.) 1146.

Application to suit on bond of statute or ordinance requiring notice or presentation of claim as a condition of municipal liability. 50 L.R.A.(N.S.) 188.

Measure of damages for conversion of pledged bonds by invalid sale. 43 L.R.A. 768.

Statutes legalizing or validating municipal bonds. 27 L.R.A. 697.

Holders as necessary parties to proceedings to invalidate municipal bonds. 3 L.R.A.(N.S.) 256.

Corporate bonds as subject of attachment as tangible property. 36 L.R.A. (N.S.) 421.

Right of taxpayer, in absence of statute, to enjoin issuance or payment of mu-

nicipal bonds. 36 L.R.A.(N.S.) 3.
Respective rights of life tenant and remainderman in distributions by corporation in form of bonds of declaring corporation. 12 L.R.A.(N.S.) 812.

BONDS, III.—cont'd

Refunding bonds as indebtedness within meaning of debt limit provisions. 37 L.R.A.(N.S.) 1099.

Proof of, under bankruptcy act. 54 L.R.A. 373.

Liability of government or other public body for its own obligations, stolen from it. 39 L.R.A.(N.S.) 444.

Federal courts following state decisions as to municipal and county bonds. 40 L.R.A. (N.S.) 407.

§ 19. For what purpose.

Object or purposes that may be combined in a single question as to the issuance of bonds submitted to voters of a municipality. 26 L.R.A.(N.S.) 665.

nicipality. 26 L.R.A.(N.S.) 665.

Issue of bonds in payment of municipal waterworks. 61 L.R.A. 49.

§ 20. — aid to railroad.

Railroad's failure to comply with conditions on which railroad aid bonds were issued as a defense to them in hands of bona fide purchaser. 19 L.R.A.(N.S.) 849.

Power to authorize county or other political division to acquire or operate railroad or street railway as affected by restric-

or street railway as affected by restriction on power to aid private enterprises. 28 L.R.A.(N.S.) 412.

Right of taxpayer, in absence of statute, to enjoin issuance or payment of railroad aid bonds by municipality. 36 L.R.A.(N.S.) 3.

§ 21. Majority essential to issuance of. On what basis majority essential to adoption of proposition for issuing municipal bonds is to be computed. 22 L.R.A. (N.S.) 478.

§ 22. Conditions and regulations of issuance.

Accrued interest as part of par value within prohibition against sale of bonds at less than par. 35 L.R.A.(N.S.) 789.

Issuance of bonds at less than par as usury.

35 L.R.A.(N.S.) 1106.

Payment of commissions for sales of bonds as violating requirement that bonds shall not be sold for less than par. 39 L.R.A.(N.S.) 248.

Failure of railroad to comply with conditions on which railroad aid bonds were issued as a defense to them in hands of of a bona fide holder. 19 L.R.A.(N.S.) 849.

Payable in gold coin. 29 L.R.A. 522.

Power and duty of public authorities to control the issuance of securities by

(N.S.) 629; 47 L.R.A.(N.S.) 1167.

May a corporation issue bonds in payment
of, or as security for, its antecedent
debts, under statute prohibiting issue
except for money, labor done, or proper-

public service corporations. 45 L.R.A.

ty actually received. L.R.A.1916E, 570.

§ 23. Rights of bona fide holders.

Effect of putting bond indorsed in blank into another's possession to estop owner as against purchaser in good faith, 29 L.R.A. (N.S.) 256.

BONDS, III.—cont'd

Estoppel to deny validity of bonds. L.R.A. 1915A, 976.

Rights and remedies where bonds of a public corporation are invalid. L.R.A. 1915A, 904.

Failure of railroad to comply with conditions on which railroad aid bonds were issued as a defense to them in hands of bona fide holder. 19 L.R.A.(N.S.) 849.

§ 24. Pledgee's authority to sell. See Pledge and Collateral Security, § 12.

§ 25. Actions and defenses.

Estoppel by bond, see ESTOPPEL, §§ 2, 3. Right of holder of past-due corporate bonds or coupons to maintain action at law thereon as affected by provisions of trust deed authorizing proceedings by trustee. 49 L.R.A. (N.S.) 155.

Right of bondholder to sue for enforcement of trust deed. 20 L.R.A. 535.

When limitation begins to run against action on municipal bonds representing funded indebtedness. 16 L.R.A.(N.S.) 803.

Defense against negotiable bonds transferred after maturity. 46 L.R.A. 810. Failure of railroad to comply with conditions on which railroad aid bonds were issued as a defense to them in hands of bona fide holder. 19 L.R.A.(N.S.) 849.

§ 26. Taxation of.
Taxation of, generally, see TAXES, § 23.

Applicability of general tax exemptions to inheritance or succession tax on United States bonds. 23 L.R.A.(N.S.) 1208.

Mandatory injunction to compel reception of coupons for taxes. 20 L.R.A. 167.

§ 27. Coupons.

Liability of county on. 17 L.R.A.(N.S.)
556.

Validity of agreement to pay interest on interest coupons. 33 L.R.A.(N.S.) 296. Mandatory injunction to compel reception of coupons for taxes. 20 L.R.A. 167.

Right of detached coupons to benefit of mortgage securing bonds. 43 L.R.A. (N.S.) 82.

Right of holder of past-due coupons to maintain action at law thereon as affected by provisions of trust deed authorizing proceedings by trustee. 49 L.R.A.(N.S.) 155.

### BONUS.

Stock, see CORPORATIONS, § 68.

To secure location of county seat, as bribery. 15 L.R.A. 501.

Right of directors to your hours to officers.

Right of directors to vote bonus to officers as compensation for services. L.R.A. 1915D, 632.

BONUS-cont'd

Secret bonus to officer or director of corporation as affecting right to enforce contract against corporation. 7 L.R.A. (N.S.) 467.

Liability of promoters of corporation to bonus givers. 18 L.R.A.(N.S.) 1119.

Trustee's right to retain bonus received from third person. 37 L.R.A.(N.S.)

Agreements for commissions, bonuses, etc., in favor of mortgagee as clogs on equity of redemption. 6 B. R. C. 442

Payment of bonus by stranger as usury. L.R.A.1917F, 923.

Payment of illegal bonus for discharge of mortgage pending foreclosure, as duress. 2 L.R.A.(N.S.) 574.

Right to service reward or bonus, of servant discharged without cause before stipulated term of service. 44 L.R.A.

(N.S.) 1214. Liability of one party to a contract or transaction to the other because of bonus allowed by the former to the latter's agent. 49 L.R.A.(N.S.) 101.

#### BOOK ACCOUNTS.

See ACCOUNTS

#### BOOK CANVASSERS.

Book canvassers as peddlers or hawkers. L.R.A.1916B, 1299.

## BOOKKEEPER.

Attorney's implied power to bind client for fees of. 23 L.R.A.(N.S.) 704. Entries in account books by, as evidence.

52 L.R.A. 562, 593.

Admissibility, on testimony of bookkeeper, of entries in party's books of account based on oral or written statements by others. 36 L.R.A.(N.S.) 899.

## BOOKKEEPING.

Power to prescribe teaching of, in public schools. 47 L.R.A.(N.S.) 202.

## BOOKMAKING.

See GAMING, II.

## BOOKS.

§ 1. Generally. Account books, see ACCOUNT BOOKS. As to copyrights, see COPYRIGHTS. Consult also L.R.A. Digests of Cases. BOOKS-cont'd

As evidence, see EVIDENCE, V. Text-books, see SCHOOLS, § 36.

Use of scientific and technical books by counsel in arguing to jury. L.R.A.1918D,

Sale of books upon school property or by persons connected with schools. L.R.A. 1915C, 624.

As baggage. 41 L.R.A. (N.S.) 371. Common-law rights of authors and others in intellectual productions. 51 L.R.A. 353; 43 L.R.A. (N.S.) 639.

What misrepresentation will afford ground for rescinding a sale of books or a de-

fense to an action for their purchase price. 22 L.R.A.(N.S.) 1210.

Right to fix retail price of book as incident of copyright. 15 L.R.A.(N.S.) 767.

Right of officer of corporation to refuse to turn over books to a receiver upon the ground that they have a tendency to incriminate him. 30 L.R.A. (N.S.) 725.

§ 2. Necessity for keeping.

Requirements of iron-safe clause in policy as to, see Insurance, § 79.

Provision for keeping, in burglary insurance policy. 46 L.R.A.(N.S.) 566.

Omission of bankrupt to keep books as

ground for refusing to discharge. 20 L.R.A.(N.S.) 246.

Right of bankrupt to discharge as affected by act of partner or agent in failure to keep, or concealment of, books. 20 L.R.A. (N.S.) 786.

§ 3. Right to inspect.

Discovery and inspection of, see DISCOVERY AND INSPECTION, §§ 3, 4.
Corporate books, see Corporations, § 99.

Books of municipality, see MUNICIPAL COR-PORATIONS, § 2.

Public records, see RECORDS AND RECORDING

LAWS, § 2. Records of title, see RECORDS AND RECORD-ING LAWS, § 13.

Right to inspect books of public officers. 27 L.R.A. 83.

## BOOKS OF ACCOUNT.

See ACCOUNT BOOKS.

## BOOM.

For logs, see Logs AND LOGGING, § 9.

## BOOT-BLACKING STAND.

As a place of public accommodation within civil rights act. 9 L.R.A. (N.S.) 601.

#### BOOTH.

Right of municipal corporation to place polling booth in street. 4 L.R.A.(N.S.) II. Of private property, \$\$ 4-9.571.

#### BOROUGHS.

See MUNICIPAL CORPORATIONS.

#### BORROWING.

By municipality, see MUNICIPAL CORPORA-TIONS, §§ 61-67.

See also BAILMENT.

Authority of agent to borrow money for principal. L.R.A.1916C, 112.

Implied power of partner to borrow money. 6 B. R. C. 819.

Withdrawal from loan association by borrowing members. 35 L.R.A. 296; 49 L.R.A. (N.S.) 1137.

#### BOTTLES.

Applicability of rule res ipsa loquitor to explosion of bottle. L.R.A.1916E, 1078. Liability of master for injury to minor servant by explosion of charged bottle. 35 L.R.A.(N.S.) 239.

Validity of regulations as to milk bottles. 33 L.R.A. (N.S.) 401; L.R.A.1917C, 252. Legislation to protect manufacturers or dealers against loss of bottles in which their products are put up. 14 L.R.A. (N.S.) 1128.

## BOTTLE WASHING WORKS.

What is, within meaning of workmen's compensation act. L.R.A.1916A, 202.

## BOTTOMRY.

Jurisdiction of admiralty in case of. L.R.A. 204, 233. When bottomry bond will be upheld. I.R.A. 364, 418. 70

Rights of lien holders as to captured property. 5 B. R. C. 1002.

#### BOULEVARDS.

Prohibiting use of automobiles on. 1 L.R.A. Implied grant of easement for stairway on (N.S.) 221; L.R.A 1915E, 264.

## BOUNDARIES.

I. Of states, \$\$ 1-3.

#### I. Of states.

§ 1. Generally. Of counties, see Counties, §§ 2, 3. Of municipality, see MUNICIPAL CORPORA-TIONS, IV.

Of school district, see Schools, § 28.

Locality of crime committed by shooting or striking across state boundary. L.R.A. 59.

§ 2. - upon waters.

Jurisdiction over, see WATERS, §§ 4-7.

Right to operate ferry on boundary waters. 59 L.R.A. 518; 52 L.R.A.(N.S.) 574; L.R.A.1916D, 832.

§ 2a. - rivers and lakes. Jurisdiction over, see WATERS, §§ 5, 6. Taxation of bridge over boundary river, see Taxes, § 44.

Rivers as state boundaries. 15 L.R.A. 187. Lakes as state boundaries. 15 L.R.A. 187. Lake Michigan as state boundary. 15 L.R.A. 189.

Boundary of municipality on navigable stream. 23 L.R.A. 520; 47 L.R.A. (N.S.) 1161.

Change of channel as change of state boundary. 39 L.R.A.(N.S.) 200.

§ 3. Change of.

Change of boundary of municipality, see MUNICIPAL CORPORATIONS, §§ 11-13.

Change of channel as. 39 L.R.A.(N.S.) 200. Effect of changing boundaries of school district upon rights in real property. 26 L.R.A. (N.S.) 486.

## II. Of private property.

§ 4. Generally.

Adverse possession on, see ADVERSE Pos-SESSION, § 3.

Encroachments beyond, see ENCROACH-MENTS.

Estoppel as to boundary line, see ESTOPPEL, § 22.

Boundary fences, see FENCES.

Conclusiveness of judgment in action involving, see JUDGMENT, § 37a.

Of mine, see MINES, II. b.

Trees on boundary line, see TREES, § 3. Trees near as a nuisance, see NUISANCES, § 3.

As to party wall, see PARTY WALL.

Pointing out boundaries as estopping one to assert title beyond such boundaries. 48 L.R.A. (N.S.) 751, 756.

Property rights in trees on. 21 L.R.A. 729; 46 L.R.A.(N.S.) 3.

division line. 3 L.R.A.(N.S.) 1082. Begin with this book on every law question.

BOUNDARIES, II.—cont'd

Right to inspect public records as to boundaries and titles. 27 L.R.A. 84.

Fraud in opinion as to. 35 L.R.A. 419.

Right to rely upon representations as to. 37 L.R.A. 610; 14 L.R.A. (N.S.) 1210.

Effect of mistake of fact by defendant as to, on right to specific performance of contract. 15 L.R.A.(N.S.) 83.

Applicability in case of disputed boundaries of rule against conveyance of land held adversely. 35 L.R.A.(N.S.) 746.

Estoppel to assert governmental power as to. 16 L.R.A. 178.

Right to inspect account books of public officers as to. 27 L.R.A. 84.

Liability of surveyor for errors or mistakes as to. 38 L.R.A.(N.S.) 1043.

Domicil or residence when boundary line runs through dwelling. 10 L.R.A. (N.S.) 874.

§ 5. On highway.

Effect of bounding grant on private way to carry title thereto. 24 L.R.A.(N.S.) 539.

Right of grantee to claim easement, implied covenant, or estoppel as against grant-or by call in deed for alley in which grantor owns the fee. 14 L.R.A.(N.S.)

Effect of improvements by abutting owner with reference to what is erroneously supposed to be the street boundary line to estop the municipality from asserting the true line. 7 L.R.A.(N.S.) 243.

Bounding land on street or alley as covenant that the street or alley exists, where grantor does not own the fee thereof. 10 L.R.A.(N.S.) 964.

Conveyance of parcel abutting on abandoned street as carrying grantor's title to fee of former street. 32 L.R.A. (N.S.) 778.

6. On waters.

Change of, by sudden submergence of land. 38 L.R.A. 850.

Effect of bounding land by "seashore." 4 B. R. C. 745.

Effect of bounding grant on river or tide water. 42 L.R.A. 502.

Effect of deed to carry title to water's edge, where a street or highway intervenes. 13 L.R.A. (N.S.) 551.

Government grant bounded by nontidal river as carrying title to land thereunder. 24 L.R.A. (N.S.) 1240.

§ 7. — artificial body of. Canal. 51 L.R.A. 179. Pond. 51 L.R.A. 179.

Permanent artificial pond. 51 L.RA. 180.

§ 8. Establishment of; description.

Effect of compromise agreement locating division line at place known not to be the true boundary. 10 L.R.A. (N.S.) 610.

Effect of acquiescence in boundary lines. 4 L.R.A. 643

Consult also L.R.A. Digests of Cases.

BOUNDARIES, II.—cont'd

Judgment against plaintiff in action involving boundary as establishing boundary claimed by defendant. 38 L.R.A. (N.S.) 1020.

Correction of misdescription as to, in will. 6 L.R.A.(N.S.) 958; L.R.A.1915E, 1008.

Effect of taking possession on disputed boundaries. 3 L.R.A.(N.S.) 805.

Injunctive relief to compel or prevent erection, maintenance, or removal of boundary fences in settlement of disputed boundary lines. 7 L.R.A. (N.S.) 57.

§ 9. Change of,

By sudden submergence of land. 38 L.R.A. 850.

Right to change lot lines of occupants after entry under the townsite act. L.R.A.(N.S.) 183.

#### BOUNTIES.

Bounty tax as within covenant in lease, sublease or assignment of lease as to payment of taxes. L.R.A.1915A, 343.

Validity of pension or bounty to Confederate soldiers. 45 L.R.A.(N.S.) 692.

Statutes legalizing invalid contracts to pay. 27 L.R.A. 702.

Right to use public money to pay. L.R.A. 476.

Claims against state for. 42 L.R.A. 63.

## **BOWLING ALLEYS.**

As a place of amusement within civil rights acts. 19 L.R.A.(N.S.) 907.

As a nuisance. 40 L.R.A. (N.S.) 75. Municipal regulation of, as a nuisance. 39 L.R.A. 524; 31 L.R.A. (N.S.) 548.

Power of state or municipality to determine location of. L.R.A.1916D, 99.

## BOW WINDOWS,

See BAY WINDOW.

## BOXING MATCH.

Consent as justification for assault. L.R.A. 853.

#### BOYCOTT.

See Conspiracy, §§ 3, 4.

## BRAKEMEN.

Implied powers of, see CARRIERS.

As fellow servants. 52 L.R.A. (N.S.) 1090.

#### BRAKES.

Duty as to equipping cars or trains with, so as to minimize danger of injury to persons or animals on or near tracks. L.R.A.1915A, 744, 753.

#### BRAND.

Misbranding food, see Food, § 4.

Validity of police regulations as to branding or labeling articles of commerce. 40 L.R.A.(N.S.) 880,

As evidence of ownership of cattle. L.R.A.(N.S.) 87.

Police regulations as to branding articles of commerce. 1 L.R.A.(N.S.) 184; 17 L.R.A.(N.S.) 684.

#### BRANDY.

As intoxicating liquor. 20 L.R.A. 649. Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 304.

## ---BRASS KNUCKLES.

As weapon within statute against carrying concealed weapons. 34 L.R.A. (N.S.) 1176.

## BREACH.

Forfeiture for breach of condition subsequent, see Conditions, §§ 7, 11. contract generally, see Contracts, §\$ 131, 131a. Of prorise, see BREACH OF PROMISE. Of covenant, see Covenants. III. Of insurance contract, see Insurance, V. Of warranty, see SALE, §\$ 53-59, 68. Of condition in will, see WILLS, § 89. Of condition of pardon. 14 L.R.A. 288.

## BREACH OF PROMISE.

§ 1. Generally. Damages for, see Damages, §§ 6, 50a.

Promise of marriage as within statute of frauds as to contracts not to be performed within year. L.R.A.1915D, 1190.

Liability of infant for services of attorney in breach of promise suit. 44 L.R.A. (N.S.) 412.

Abatement of action or cause of action for. 9 L.R.A.(N.S.) 1020.

Necessity of averring seduction in order to recover therefor. 33 L.R.A.(N.S.) 702. Begin with this book on every law question.

BREACH OF PROMISE-cont'd

Constitutionality of imprisonment for debt arising from breach of promise. L.R.A. 639.

Right to attachment or order of arrest in breach of promise case. 59 L.R.A. 954. Judgment in action for seduction as bar to action for breach of promise. L.R.A. 1918A, 366.

Liability of third person for inducing breach of marriage contract. L.R.A.1918C, 1197.

§ 2. Validity of agreement to marry where one of parties is married.

Where one party acts in good faith. B. R. C. 917.

Where made with knowledge of marriage. 1 B. R. C. 918.

Agreement to marry on death or divorce of present husband and wife. 52 L.R.A. 660; 1 B. R. C. 919.

As affected by disabilities imposed by de-

cree of divorce. 1 B. R. C. 922.

§ 3. What constitutes.

Refusal or failure to keep agreement for marriage at a specified time or place as breach of the marriage contract. 66 L.R.A. 798; L.R.A. 1915B, 280.

§ 4. Defenses.

Ill health as defense to an action for breach of promise to marry. 7 L.R.A.(N.S.) 582; 40 L.R.A.(N.S.) 585; L.R.A. 1916D, 1276.

Fact that one of the parties was already married at time of agreement to marry. L.R.A.1918B, 68.

§ 5. — fraudulent concealment. Generally. 26 L.R.A. 430. Want of chastity. 26 L.R.A. 431. Physical incapacity. 26 L.R.A. 431. 26 L.R.A. 431. Bad character. 26 L.R.A. 431. Personal life and traits and family affairs. 26 L.R.A. 432. Mitigation of damages. 26 L.R.A. 432.

Necessity of alleging fraud. 26 L.R.A. 432.

6. Evidence.

Evidence of character for chastity in action for. 14 L.R.A.(N.S.) 748.

## BREACH OF THE PEACE.

1. Generally.

Breach of peace by use of insulting or dis-orderly language. L.R.A.1918F, 941.

Use of profane or offensive language while upon one's own premises as an offense. 49 L.R.A.(N.S.) 919.

Criminal responsibility for homicide in carrying out unlawful conspiracy for. 68 L.R.A. 196.

Homicide in attempting to prevent. L.R.A. 535.

Power of municipality to punish when made an offense by state law. 17 L.R.A. (N.S.) 53.

BREACH OF PROMISE—cont'd

Right of both state and municipality to convict of offense of. 31 L.R.A.(N.S.) 704.

Validity of ordinances as to street parades. 25 L.R.A. (N.S.) 251.

§ 2. Arrest for, without warrant. Liability of officer for making. 51 L.R.A.

§ 3. Forfeiture of peace bond. What conduct will work a forfeiture. 40 L.R.A. (N.S.) 186.

#### BREAD.

See FOOD, § 6.

#### BREAD AND WATER.

Keeping prisoner on, as cruel or unusual punishment. 35 L.R.A. 569; L.R.A. punishment. 1915C, 565.

## BREAKAGE.

Provision exempting carrier from liability for loss by breakage as extending to loss caused by negligence. 6 B. R. C.

## BREWERS AND BREWERIES.

As to intoxicating liquors generally, see In-TOXICATING LIQUORS.

Legality under modern anti-trust acts of combinations of. 5 L.R.A.(N.S.) 138. Power of, to purchase or lease property to be used by retailers of its products.

47 L.R.A. (N.S.) 898.

Power to guarantee contracts of customers. 27 L.R.A.(N.S.) 186; L.R.A.1918C, 1008.

Discrimination against nonresidents by statute or ordinance imposing license tax on brewery agency. 40 L.R.A.(N.S.) 291.

## BRIRERY.

1. Generally.

Validity of contract to influence official action, see CONTRACTS, § 100.

Evidence of other crimes in prosecution for. L.R.A.1915B, 103.

Cruel and unusual punishment for. L.R.A. 1915C, 566.

Of juror, as contempt. 46 L.R.A.(N.S.) 517: L.R.A.1915D, 570.

Instigation to. 25 L.R.A. 345. Solicitation to. 25 L.R.A. 439.

Consult also L.R.A. Digests of Cases.

### BRIBERY—cont'd

Who is accomplice in bribery case within the rule requiring corroboration of testimony. 39 L.R.A.(N.S.) 706.

Reference by prosecuting attorney in argument to jury to attempts to tamper

with witnesses or jurymen as ground for reversal. 30 L.R.A.(N.S.) 795. Charging acceptance of bribe as libel. 3 L.R.A.(N.S.) 1139; L.R.A.1918E, 31.

Necessity of instruction as to law on circumstantial evidence. 69 L.R.A. 205.

## § 2. What constitutes.

By gift to public; for street improvements. 14 L.R.A. 62.

By bonus to secure location of county-seat. 15 L.R.A. 501.

Jurisdiction or authority of officer to act in the matter as element of bribery. 15 L.R.A.(N.S.) 1173.

#### § 3. Defenses.

92.

Instigation of offense as a defense to prosecution. 30 L.R.A.(N.S.) 952; 51 L.R.A.(N.S.) 829.

Truth of charge as to as defense to civil action for libel or slander. 31 L.R.A. (N.S.) 146,

Bribery as affected by lack of, or defect in, title to office. 51 L.R.A.(N.S.) 1087.

#### BRICKBATS.

As deadly weapons. 21 L.R.A. (N.S.) 507.

#### BRICK KILN.

Municipal power over, as nuisance. L.R.A. 654. Operation of, as nuisance. 2 L.R.A.(N.S.)

#### BRICKS.

Sufficiency of delivery of, on sale out of larger lot. 26 L.R.A. (N.S.) 42.

#### BRICK YARDS.

Right of municipal corporation to maintain. 31 L.R.A.(N.S.) 122.
Power of municipality to regulate. 25 L.R.A. (N.S.) 247; 40 L.R.A. (N.S.) 898.

### BRIDGE COMPANIES.

Right to enforce by mandamus duty arising wholly from contract. 13 L.R.A.(N.S.)

Right of foreign company to enter state. 24 L.R.A. 313.

BRIDGE COMPANIES-cont'd

Business of, affected with a public interest subjecting them to the regulation and control as to rates or prices. 6 L.R.A. (N.S.) 835.

#### BRIDGES.

§ 1. Generally.

Approach to, see APPROACHES, § 2. Obstruction of highway by, see HIGHWAYS,

Railroad bridges, see RAILBOADS, § 28.

Interference by riparian owner with. L.R.A. (N.S.) 1213. 39 24

Right of foreign corporation as to. L.R.A. 313.

Delegation of municipal power as to. L.R.A. 726. 20

Taking of land for, as a public purpose. 22 L.R.A.(N.S.) 135. Duty to light highway bridge. 28 L.R.A.

(N.S.) 946.

Loss of profits as element of damages for breach of contract for construction or repair of. 53 L.R.A. 49, 66.

Specific performance of agreement for license to maintain. 49 L.R.A. 519.

Right of municipality without express power to permit construction of an overhead bridge across a public street for private purpose. 23 L.R.A.(N.S.) 158. Right of taxpayer, in absence of statute,

to enjoin unlawful expenditures by municipality for bridges. 36 L.R.A. (N.S.) 20.

## 2. As nuisance.

Municipal control of, as a nuisance. L.R.A. 681.

Bridge over navigable stream, constructed under legislative authority. 59 L.R.A.

Presumption as to statutory authority to commit nuisance by erection of bridge. 70 L.R.A. 584.

Right of one who navigates stream or floats logs therein to abate nuisance arising from bridge. 51 L.R.A.(N.S.) 1172.

## § 3. Duty to construct, maintain, and repair.

Power of municipality to assume part or all of burden of adapting bridges for use of railroads or street railways. 50 L.R.A.(N.S.) 143.

Duty of railroad company to construct bridges at its own expense over public drainage ditches. 31 L.R.A. (N.S.) 1118; L.R.A.1915B, 486.

Duty as to bridge over ditch constructed by drainage district across highway. L.R.A. (N.S.) 695.

May cost of bridge be assessed against property benefited. 45 L.R.A.(N.S.) 918.

BRIDGES-cont'd

Duty as to establishment and maintenance of bridges over canals or ditches for use of adjoining owners. L.R.A.1915E, 687

Duty of county to contribute to maintenance of boundary bridge. L.R.A. 1916F, 511.

Duty of railroad to fence as requiring barrier across culvert or under bridge. 5. B. R. C. 182.

Duty to maintain bridge over race way intersecting highway. 31 L.R.A. (N.S.) 243.

Liability of street railway company for re-

flooring. 46 L.R.A. 199. Liability of contractor to replace bridge by unprecedented flood destroyed against which he does not contract. 15 L.R.A.(N.S.) 833.

Power of municipality to require railroad company to keep highway in repair at overhead bridge. 18 L.R.A.(N.S.) 915. Right to enforce by mandamus duty of

bridge company arising wholly from contract. 13 L.R.A. (N.S.) 1084.

## § 4. Injuries through construction and maintenance of.

Proximate cause of injury, see PROXIMATE CAUSE, § 14.

Res ipsa loquitur in action for injury on.
43 L.R.A.(N.S.) 594.

Liability of county for injuries caused by construction or maintenance of a bridge to property thereto adjoining. L.R.A. (N.S.) 209.

Municipal liability for injury to abutting owner from approach to bridge under constitutional provision against "damaging" private property for public use without compensation. 36 L.R.A. (N.S.) 1198.

Liability of municipality for damage to vessel by bridge. L.R.A.1915F,

Obstruction of water of stream by. L.R.A. 862; 28 L.R.A.(N.S.) 156.

Injury to abutter's easements of light, air and access by grading street to cross. 14 L.R.A. 372.

Across street as additional burden. L.R.A. 481.

Liability of municipality for negligence of bridge tender. 19 L.R.A.(N.S.) 1178; 45 L.R.A.(N.S.) 98; L.R.A.1915F, 1064.

Employer's nonliability for torts of independent contractor in construction of. 65 L.R.A. 647.

Persons working on, as independent contractors. 65 L.R.A. 466.

§ 5. Duty and liability as to defects in. Municipal liability for injury by defects or obstructions on. 20 L.R.A.(N.S.)

Municipal liability for injury to travelers by defective bridges through defect in plan of construction. 67 L.R.A. 268.

BRIDGES-cont'd

Duty of municipality to construct and maintain bridges in condition to sustain unusual weight. 27 L.R.A.(N.S.) 832.

Liability of municipality for injuries on tollbridge maintained by it. 33 L.R.A. (N.S.) 449.

Duty of county or town to maintain barriers along bridges. 42 L.R.A.(N.S.) 267; L.R.A.1915F, 973.

Liability of municipality for negligence of bridge tender. 19 L.R.A.(N.S.) 1178; 45 L.R.A.(N.S.) 98; L.R.A.1915F, 1064.

Liability of counties for torts and negligence as to. 39 L.R.A. 33.

Liability of county for injury by defects in boundary bridge. L.R.A.1916F, 522.

Duty to properly guard defective bridge.

20 L.R.A. (N.S.) 681.

Sufficiency of general allegations of negligence as to. 59 L.R.A. 251.

§ 6. — liability for injury to servant. Master's liability for injury to servant by defective bridge. 54 L.R.A. 170.

Liability of railroad to trainman injured by overhead bridge. 47 L.R.A.(N.S.) 483.

Duty of railroad company to maintain safeguards to prevent employees from falling off or through bridges. 50 L.R.A. (N.S.) 548.

Nondelegability of duty to protect servants against defects in. 54 L.R.A. 69, 77. Applicability as between master and servant of maxim Res ipsa loquitur to fall of bridge. 28 L.R.A.(N.S.) 591.

§ 7. Contributory negligence of person injured.

Contributory negligence of one who strikes bridge extending over highway. L.R.A. 1918A, 204.

Contributory negligence of child injured by drawbridge. L.R.A.1917F, 99.

Duty of one approaching drawbridge to stop, look, and listen. 14 L.R.A.(N.S.) 452. Duty of traveler to stop, look and listen upon approaching overhead railroad bridge. 6 L.R.A. (N.S.) 150.

Nonobservance of public regulations by one using bridge as affecting recovery of damages caused by obstruction or defect therein. 42 L.R.A.(N.S.) 1035.

8. Toll bridges.

Necessity of franchise for taking tolls on 37 L.R.A. 715.

Legislative regulation of rates of. 33 L.R.A. 181.

Liability of municipality for injuries on toll bridge maintained by it. 33 L.R.A.(N.S.) 449.

-rights and duties of proprietors. Generally. 58 L.R.A. 155; 30 L.R.A. (N.S.)

Rights and duties in general. 30 L.R.A.

(N.S.) 360. Approaches. 30 L.R.A.(N.S.) 362. Erection of competing bridges. 30 L.R.A. (N.S.) 362.

Creation of rights. 58 L.R.A. 155. Consult also L.R.A. Digests of Cases. BRIDGES-cont'd

Rights of abutting owners. 58 L.R.A. 157. Place and method of construction. L.R.A. 159.

Use of bridge. 58 L.R.A. 161.

Duty as to maintenance of bridge. L.R.A. 162; 30 L.R.A.(N.S.) 362.

Remedy for injury to bridge. 58 L.R.A. 168.

Taxation. 58 L.R.A. 168; 30 L.R.A. (N.S.) 364.

Termination of franchise. 58 L.R.A. 169;

30 L.R.A.(N.S.) 364. Compensation to be paid owners of toll bridge upon taking their plant for public use. 47 L.R.A.(N.S.) 795.

§ 10. - tolls.

Generally. 58 L.R.A. 163; 30 L.R.A. (N.S.)

Conditions to right to. 58 L.R.A. 163. Legislative interference with. 58 L.R.A. 164.

Validity of and remedy for competition. 58 L.Ř.A. 167.

Remission, evasion and enforcement of. 58: L.R.A. 167.

Vehicles subject to tolls. 30 L.R.A.(N.S.) 363.

Right of county, municipality, or town to-collect. 42 L.R.A.(N.S.) 836.

Right to take tolls for use of bridge by automobile. L.R.A.1917E, 562.

11. Over navigable waters.

Interference with navigation by toll bridges. 58 L.R.A. 160.

As nuisance; when constructed under legislative authority. 59 L.R.A. 64.

Negligent breaking of, as proximate cause of obstruction of navigation necessary to effect repair. 10 L.R.A.(N.S.) 710.

Jurisdiction in admiralty of action growing out of collision of vessel with bridge. 21 L.R.A.(N.S.) 324.

Relative rights and duties of those maintaining bridges across streams and those floating logs therein. 38 L.R.A.(N.S.) 114.

Right of one who navigates stream or floats logs therein to abate nuisance arising from bridge, 51 L.R.A. (N.S.) 1172.

Liability of municipality for damage to vessel by bridge. L.R.A.1915F, 1062.

§ 12. Relative rights of owner, and other owners of privilege.

As rival to ferry. 59 L.R.A. 541. Interference with right of ferryman by. 59 L.R.A. 548.

Bridge as disturbance of ferry franchise. Î B. R. C. 341.

Interference by, with wharf rights in navigable waters. 34 L.R.A.(N.S.) 430.

Relative rights and duties of those maintaining bridges across streams and those floating logs therein. 38 L.R.A. (N.S.) 114.

§ 13. Taxation.

Taxation of bridge over boundary river, see TAXES, § 44.

BRIDGES-cont'd

Bridges as real property for purposes of. 15 L.R.A. 298.

Of toll bridge proprietors. 58 L.R.A. 168; 30 L.R.A.(N.S.) 364.

#### BRIDGE TENDER.

Municipal liability for negligence of. 19 L.R.A. (N.S.) 1178; 45 L.R.A. (N.S.) 98; L.R.A.1915F, 1064.

#### BRINE.

Right to pump up water where the result is to carry away another's mineral in solution. 5 B. R. C. 254.

## BRINGING IN PARTIES.

See Parties, § 37.

### BRINGING STOLEN PROPERTY IN-TO STATE.

By what law question of larceny is determined in prosecution under statute against bringing stolen property into state. 15 L.R.A. 722; 14 L.R.A. (N.S.) 556.

#### BROKEN WIRES.

See ELECTRICITY, III.

#### BROKERS.

I. In general, §§ 1-7. II. Compensation, §§ 8-13.

## I. In general.

§ 1. Generally.

Constitutionality of statutes regulating, see CONSTITUTIONAL LAW, § 52.

Oral contract by broker with purchaser, see CONTRACTS, § 47.

Dealings in futures and options, generally, see CONTRACTS, §§ 105, 106, 116.

Custom of real estate brokers, see Custom AND USAGE, § 11.

Insurance brokers, see Insurance, §§ 17-23. Unlawful combination of, see MONOPOLY AND COMBINATIONS, § 9.

Law governing agency contract for sale of land. L.R.A.1916A, 1046.

Necessity of pleading statute of frauds in action between broker and principal.
49 L.R.A.(N.S.) 37.

Jurisdiction of admiralty over contracts of ship brokers. 66 L.R.A. 236.

BROKERS, I.—cont'd

Right of municipal corporation to buy and sell real estate. 31 L.R.A. (N.S.) 121. Statement of account by. 27 L.R.A. 821.

Implied warranty of genuineness upon sale of negotiable paper by. 36 L.R.A. 95.

Right of customer who has advanced purchase money to broker to preference in case of insolvency before making purchase. 42 L.R.A.(N.S.) 95.

Set-off in case of bankruptcy. 55 L.R.A. 40,

44, 51, 60,

Organization of brokerage concern by jobbers or dealers as an unlawful monopoly. 35 L.R.A.(N.S.) 464.

Measure of damages to broker for breach of advertising contract. 22 L.R.A.

(N.S.) 273. Measure of damages for broker's breach of contract to carry stock until a certain date. 7 B. R. C. 569.

Measure of damages for broker's breach of contract with customer as to sales and purchases of stock on the exchange. L.R.A.1917C, 747.

Right of principal to retain property purchased through agent, who was secretly interested therein and seeks relief against the agent. 34 L.R.A.(N.S.) 1**Ž**10.

Validity of statute or ordinance requiring persons engaged in business of loaning money on chattel security or security of wages to file a record of loans made. 25 L.R.A.(N.S.) 686.

Inference as to character of transaction arising from the fact that it was on margin. 22 L.R.A.(N.S.) 174.

Mutuality of contract giving real-estate broker exclusive authority to sell, or promising him commissions in case of sale by anyone else, but which does not in terms impose any obligation upon him. 19 L.R.A. (N.S.) 599; L.R.A. 1917E, 1040.

Who must bear loss where merchandise broker receives purchase price and ails to pay over same to seller. 8 L.R.A. (N.S.) 474.

Effect of deposit by broker or factor to his own account by proceeds of sale of customer's stock or property to create a trust entitled to a preference. L.R.A.(N.S.) 808.

§ 2. Rights and powers of.

Authority to contract for services of other persons. L.R.A.1918F, 11.

Power of real estate broker to delegate authority. 43 L.R.A.(N.S.) 796.

Powers of brokers in case of Lloyd's policies of insurance. 55 L.R.A. 201.

Maritime lien for services of brokers. 70 L.R.A. 387.

Is broker's right to make sale of property exclusive of the owner's right. 24 L.R.A.(N.S.) 279; 40 L.R.A.(N.S.) 1142.

Power of real-estate broker to make contract of sale. 17 L.R.A.(N.S.) 210; 23 L.R.A.(N.S.) 982.

BROKERS, I.—cont'd

Right to purchase real estate listed with him for sale. 20 L.R.A.(N.S.) 1158; L.R.A.1915E, 976; L.R.A.1918F, 790.

Putting security transferable by delivery or endorsed or assigned in blank into broker's possession to estop owner as against purchaser in good faith. 29 L.R.A. (N.S.) 252.

§ 3. — to maintain action.

Right of broker, to whom goods are consigned for sale, to maintain action against a common carrier for damage to, or loss of, goods during transit. 26 L.R.A. (N.S.) 437.

Right of factor to whom goods are consigned to maintain action against carrier. 36 L.R.A.(N.S.) 72.

§ 4. — termination of.

Revocation or termination of a broker's employment to procure a purchaser for real property. 49 L.R.A.(N.S.) 985.

Dissolution of partnership authorized to act as agent, as termination of agency. 23 L.R.A.(N.S.) 849.

Lapse of time as terminating authority of real estate broker. 16 L.R.A.(N.S.) 431.

Avoidance by infant of stock brokerage agency. 41 L.R.A.(N.S.) 1219.

5. Duties and liabilities of.

Duties of brokers in case of Lloyd's policies of insurance. 55 L.R.A. 21.

Duty to disclose to principal the identity of a purchaser. 53 L.R.A. 241. Duty of broker who reaps no individual profit from transaction, to impart to principal his knowledge of favorable terms offered or acceptable by customer. 25 L.R.A.(N.S.) 737.

False representations by, as to cost, selling or market price of property or as to offers therefor. 35 L.R.A.(N.S.) 186.

Liability of real-estate broker who overstates to purchaser the owner's minimum price. 21 L.R.A.(N.S.) 305. Liability of broker to true owner for sell-

ing or disposing of property intrusted to him by his principal. 50 L.R.A. (N.S.) 55.

Liability of del credere agent for nonperformance of contract by buyer. 6 B. R. C. 943.

§ 6. Requirement that contract of, be in writing.

Power of legislature to prohibit offering of another's real estate for sale without written authority. 12 L.R.A.(N.S.) 707.

Power of legislature to require contracts for commissions for finding a purchaser for real estate to be in writing. 33 L.R.A.(N.S.) 973.

Necessity that agent's authority to purchase or sell real property be in writing, to enable him to recover compensation for his services. 44 L.R.A. 601; 9 L.R.A. (N.S.) 933.

Consult also L.R.A. Digests of Cases.

BROKERS, I.—cont'd

Necessity of securing written contract from purchaser to entitle real estate broker to commission. 46 L.R.A.(N.S.) 129.

§ 7. License.

License tax on tax brokers. 47 L.R.A. (N.S.) 1078.

Failure of loan broker to procure license as affecting validity of his contract. L.R.A.1915B, 851.

Effect of failure to obtain, on right to commissions. 1 L.R.A.(N.S.) 1159.

Effect of failure to procure license on validity of contract. 16 L.R.A. 424. Validity of contract by unlicensed broker.

12 L.R.A. (N.S.) 615.

Validity of license upon business of loaning money as affected by excessive amount of license fee. 25 L.R.A. (N.S.) 583.

Are persons engaged in loaning their own money loan brokers within license regulations. 25 L.R.A.(N.S.) 748.

# II. Compensation,

8. Generally.

Necessity that broker's contract of employment be in writing, see supra, § 6.

Liability of decedent's estate for, see Exec-UTORS AND ADMINISTRATORS, § 35.

Effect of negligence on right to, see NEG-LIGENCE, § 3.

Liability of principal for the services of a subagent. L.R.A.1918F, 720.

Effect of failure to obtain license on right to commissions. 1 L.R.A.(N.S.) 1159.

Employed by executor or administrator to sell property of estate; liability of estate for commissions of. 64 L.R.A. 554.

Personal liability of officer, or referee to sell property, for brokers' services. 38 L.R.A. (N.S.) 777.

What constitutes employment of broker which will entitle him to commissions otherwise earned. 27 L.R.A.(N.S.)

What constitutes listing of property or employment of broker within a contract promising a commission therefor in case the property is withdrawn or no sale made. 24 L.R.A. (N.S.) 562.

Liability of owner upon revoking authority of real estate broker employed for definite period. 38 L.R.A. (N.S.) 366; L.R.A.1918D, 731.

Right of broker to commissions where, with principal's consent, he becomes purchaser. 31 L.R.A.(N.S.) 536.

Where purchaser procured by him is financially unable to perform his contract. 20 L.R.A.(N.S.) 1168.

Effect of contract expressly making broker's right to commissions dependent upon "sale" of property or other condition beyond that ordinarily implied. 29 L.R.A. (N.S.) 533.

Moral obligation to pay broker for service as consideration for new promise where there was originally no legal liability.

26 L.R.A.(N.S.) 520.

BROKERS, II .- cont'd

Right of broker to recover commissions or advances made in furthering wagering contract. 11 L.R.A.(N.S.) 575.

Validity of agreement by which compensation is dependent on success in procuring contract with public officer or board. 39 L.R.A.(N.S.) 747.

Payment of commissions to, for sale of bonds as violating requirement that bonds shall not be sold for less than par. 39 L.R.A.(N.S.) 248.

Right of real estate brokers to assert a vendor's lien to recover their commission earned in the sale of the land. 47 L.R.A.(N.S.) 190.

# § 9. Fraud and secret dealings of real estate broker as affecting.

General doctrine. 45 L.R.A. 33.

In order to decrease price. 45 L.R.A. 36.

In case of conflicting interests. 45 L.R.A.

37.

Nondisclosure of true position. 45 L.R.A. 37.

Soliciting others. 45 L.R.A. 39. Conspiring with purchaser. 45 L.R.A. 39. Secret profit. 45 L.R.A. 39. Negligence of broker. 45 L.R.A. 39. Agreement to divide commissions. 4 L.R.A. 40.

By purchase of property. 45 L.R.A. 40. Double commissions. 45 L.R.A. 44. Exceptions to rule. 45 L.R.A. 48. As affecting purchaser. 45 L.R.A. 52. Miscellaneous cases. 45 L.R.A. 53. Burden of proof. 45 L.R.A. 53.

Right of real estate broker who acts for both parties, to commissions. 24 L.R.A. (N.S.) 659.

Custom among real estate brokers to take rebates or commissions from other party as affecting right to compensation from employer. 34 L.R.A.(N.S.) 1047.

Right of principal to recover from broker or other agent commissions which latter received from other party to the contract. 28 L.R.A.(N.S.) 952.

Right of broker held to account for secret profit, to retain commission. 5 B.R.C. 188.

Right of broker to recover commissions where owner has refused to make the sale for a price otherwise satisfactory, because of broker's misrepresentations as to offers obtained. L.R.A.1917B, 922.

§ 10. Negligence, fraud, or default of principal, or defective title, as affecting.

Default of principal in entering into or carrying out contract with purchaser. 43 L.R.A. 593.

Default in carrying out contract with broker. 43 L.R.A. 606.

Misrepresentation and fraud of principal. 43 L.R.A. 614.

Where sale fails because of defects in employer's title. 43 L.R.A. 609; 3 L.R.A. (N.S.) 576; 24 L.R.A. (N.S.) 1182; L.R.A.1915E, 714.

BROKERS, II.—cont'd

Where sale fails because of inaccuracy of owner's representations. 15 L.R.A. (N.S.) 1262.

Where sale or loan fails because of owner's refusal to give indemnity against possible mechanics' liens or other encumbrances. 15 L.R.A.(N.S.) 187.

Where broker procures purchaser at price stated by his principal, but on slightly different terms in regard to cash or time of payment, and the owner refuses to consummate the sale. 21 L.R.A. (N.S.) 935.

Right of broker to recover commissions where owner has refused to make the sale for a price otherwise satisfactory because of broker's misrepresentations as to price obtained. L.R.A.1917B, 922.

§ 11. Procuring cause of sale or exchange; sale by principal to broker's customer.

When real estate broker is considered as. 44 L.R.A. 321.

Procuring cause of sale. 44 L.R.A. 321.

When several brokers are employed. 44 L.R.A. 337; 23 L.R.A.(N.S.) 164; 27 L.R.A.(N.S.) 195.

In case of a sale by his principal. 44 L.R.A. 344.

Effect upon the right to commission, of fact that owner sells to broker's customer at reduced price. 15 L.R.A. (N.S.) 272; 34 L.R.A.(N.S.) 1050.

Broker's right to commission for introducing to owner one who had already determined to buy the property before seeing the broker. L.R.A.1917E, 1175.

Right of broker who secures tenant to commission on sale where tenant subsequently purchases. 6 B. R. C. 788.

§ 12. Performance of contract.

By a real estate broker to find a purchaser or effect an exchange of his principal's property. 44 L.R.A. 593.

Necessity of securing written contract from purchaser to entitle real estate broker to commissions. 46 L.R.A.(N.S.) 129.

Right to compensation upon procuring customer to take an option. 43 L.R.A. (N.S.) 91.

Right of broker to commission for securing a purchaser for part of the property. 51 L.R.A. (N.S.) 254.

§ 13. Amount of.

Nature of contract by which owner agrees to pay another all over specified sum for procuring a sale. 35 L.R.A.(N.S.) 116.

# BROTHELS.

See DISORDERLY HOUSES.

## BROTHERS AND SISTERS.

Allowance for mental anguish resulting from failure to deliver telegram as to illness or death of brother or sister, see DAMAGES, § 103,

Inheritance by illegitimates from. L.R.A. 755.

Insurable interest in life of. 2 L.R.A. 844; 54 L.R.A. 231; 45 L.R.A. (N.S.) 982.

As members of family of insured. 3 L.R.A. (N.S.) 334.

\_\llowance for mental anguish from inability to attend insane brother because of failure to deliver telegram. 49 L.R.A. (N.S.) 238, 334.

Statutory right of action for death of. LR.A.1916E, 131.

Right of brother to maintain action for mutilation of corpse. L.R.A.1915B,

Implied agreement to pay for services rendered to. 11 L.R.A.(N.S.) 883.

Enforcement in equity of grantee's oral promise to grant or to hold in trust in case of conveyance between brother and sister. 39 L.R.A. (N.S.) 928.

Killing or assaulting of, as sufficient provocation to reduce homicide to man-slaughter. 17 L.R.A.(N.S.) 795.

One as agent of the other in contracting for services of other persons. L.R.A.1918F, 39

# BROTHERS-IN-LAW AND SISTERS-IN-LAW.

As member of family of insured. 3 L.R.A. (N.S.) 336.

Implied agreement to pay for services rendered to. 11 L.R.A.(N.S.) 887.

Sister-in-law as a "dependent" within restrictions as to beneficiaries of mutual benefit associations. 36 L.R.A.(N.S.) 209.

Validity of marriage with sister-in-law. L.R.A.1916C, 756.

## BRUTALITY.

Libel or slander by charge of, against public officer or candidate. L.R.A.1918E,

# BUBONIC PLAGUE.

Right to injunction against being sent to pest house. 23 L.R.A. (N.S.) 1188; L.R.A.1916A, 1239; L.R.A.1918A, 120.

# BUCKET SHOP.

Mandamus to compel delivery of market quotations to. 3 L.R.A.(N.S.) 153. Rights of, as to market quotations. L.R.A.(N.S.) 889.

Applicability to bucket shops of penal statutes in relation to "games of hazard,"
"gambling devices," etc. 25 L.R.A. (N.S.) 158.

As "place for gaming." 20 L.R.A. (N.S.) 347. Consult also L.R.A. Digests of Cases.

#### BUFFERS.

Master's liability for injury by defect in. 13 L.R.A.(N.S.) 675.

## BUILDING AND CONSTRUCTION CONTRACTS.

§ 1. Generally.

Bond of contractor, see Bonds, §§ 9, 10. Construction of, see Contracts, § 65. Performance of, and acceptance of perform-

ance, see CONTRACTS, V. b.

Measure of damages for breach of, see DAM-AGES, § 22a.

Lien of contractor, see MECHANICS' LIENS. Contract for public improvement, see Pub-LIC IMPROVEMENTS, §§ 7-9.

Authority of agent in charge of construction work to contract for services of other persons. L.R.A.1918F, 71. Specific performance of. 6 B. R. C. 912.

Who may take advantage of failure to file assignment of a building contract or of the money due thereunder. L.R.A. 1917F, 1127.

Validity of contract in violation of law. 12 L.R.A.(N.S.) 607.

Mistake in computation by contractor as ground for relief. L.R.A.1917D, 745.

Liability of architect or engineer for negligence in issuing certificates. 4 B. R. C. 859.

Employees engaged in construction work as within purview of statutes abrogating fellow-servant rule. 47 L.R.A. (N.S.) 114.

Admissibility of parol evidence to vary written contract in favor of or against a stranger to the contract. L.R.A. 1916A, 600, 611.

Effect of statute of frauds on parol contracts which may but are not intended to be performed within a year. 15 L.R.A.(N.S.) 316.

Aiding interpretation of, by extrinsic docu-ments or examples. 9 L.R.A.(N.S.) 1007.

Right to rescind or abandon contract because of other party's default. L.R.A. 67.

Assignability of contracts which contain no provision with reference thereto. 21 L.R.A.(N.S.) 359.

Maritime liens under. 70 L.R.A. 413. Promise of additional compensation for completing an executory contract other than for the payment of money. 28 L.R.A. (N.S.) 450.

Building and construction contractors as independent contractors.

(N.S.) 371.

Contractor's liability to replace bridge destroyed by unprecedented flood against which he does not contract. 15 L.R.A. (NS.) 833.

2. Provision in, for paying laborers and materialmen.

Right of laborers or materialmen in fund retained pursuant to contract for public work, to insure payment of their claims. 37 L.R.A. (N.S.) 575.

BUILDING AND CONSTRUCTION CON- | BUILDING AND LOAN ASSOCIATIONS-TRACTS—cont'd

Implied power to incorporate in contract for public work, or in contractor's bond, a requirement that the contractor shall pay materialmen. 11 I 1028; 46 L.R.A. (N.S.) 325. 11 L.R.A.(N.S.)

Constitutionality of statute making owner personally liable to laborers or materialmen because of noncompliance with provisions for their protection. 39 L.R.A.(N.S.) 868.

Burden of proof in action between owner and contractor as to claims of mechanics and materialmen paid by owner. 44 L.R.A.(N.S.) 80.

## BUILDING AND LOAN ASSOCIA-TIONS.

---

§ 1. Generally.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 53. Usury by, see Usury, § 4.

Change of plan of; effect on contract. 4 L.R.A. (N.S.) 1047.

Transfer of amount from another association; principal of loan. 4 L.R.A. (N.S.)

Right of, to transfer loan made to member. 4 L.R.A. (N.S.) 439.

Validity and effect of statute requiring deposit of securities as a prerequisite to the right to transact business. 9 L.R.A. (N.S.) 461.

Appointment of receivers for, when no other relief is asked. 20 L.R.A. 214.

2. Powers generally.

Power to borrow money to pay withdrawing members. 20 L.R.A.(N.S.) 393. Power to issue negotiable paper. 43 L.R.A.

419.

3. Stock.

Shares of stock in building and loan association as "credits" within taxing statute. 38 L.R.A.(N.S.) 137.

Estoppel of association to assert illegality of its by-law, or stipulation in stock, that the stock will mature at a fixed time. 15 L.R.A.(N.S.) 503.

Right to apply payments made on stock in a building and loan association upon a mortgage given for a loan by the same member. 29 L.R.A. 120.

Basis of settlement between building and loan association and borrowing member before maturity of stock. 43 L.R.A.(N.S.) 874.

# § 4. Premiums.

Fixed premiums or fixed minimum of premiums in building and loan associations. 35 L.R.A. 244.

5. Mortgage.

Basis of settlement between building and loan association and borrowing member before maturity of stock. 43 L.R.A. (N.S.) 874.

Right to apply payments made on stock, on Power to establish. 42 L.R.A. (N.S.) 1123; a mortgage given by same member for a loan. 29 L.R.A. 120.

cont'd

Provision in mortgage for payment of fines. 35 L.R.A. 220.

Liability of advanced member of loan association to assessment for losses after release of mortgage. 29 L.R.A. 181.

Application of withdrawal account to mortgage. 35 L.R.A. 294.

6. Assessments.

Liability of advanced member of building and loan association to assessment for losses. 29 L.R.A. 177.

7. Fines.

§ 7. Fines. Nature and validity. 35 L.R.A. 215. Amount; reasonableness. 35 L.R.A. 217. Construction of provisions imposing. L.R.A. 218.

Cumulative and successive fines. 35 L.R.A. 219.

Fines on fines. 35 L.R.A. 220. Interest on fines. 35 L.R.A. 220.

Secured by mortgage. 35 L.R.A. 220. Enforcement. 35 L.R.A. 221. Payment; crediting. 35 L.R.A. 221. Remission; failure to enforce. 35 L.R.A. 222.

When fines cease. 35 L.R.A. 222.

Provision in mortgage for payment of. 35 L.R.A. 220.

§ 8. Withdrawals.

What is a withdrawal. 35 L.R.A. 289. Right to withdraw. 35 L.R.A. 289.

Status of withdrawing member. 35 L.R.A. 290.

Change of rules affecting withdrawal. L.R.A. 291.

Notice of withdrawal. 35 L.R.A. 292. Terms and conditions of withdrawal.

L.R.A. 292.

Payment of withdrawals; priorities. L.R.A. 294.

Withdrawal by borrowing members. L.R.A. 296.

When association is insolvent or is being

wound up. 35 L.R.A. 298.

Termination of liability by withdrawals. 35 L.R.A. 300.

Orders to pay withdrawals. 35 L.R.A. 300. Action to enforce withdrawal. 35 L.R.A. 301.

Power of associations to borrow money to pay withdrawing member. 20 L.R.A. (N.S.) 393.

Withdrawals from building and loan association while a solvent going concern. 49 L.R.A. (N.S.) 1129.

Withdrawals from building and loan asso-ciations as affected by insolvency or winding-up business. 49 L.R.A. (N.S.) 1142.

# BUILDING COMMITTEE.

Authority of, to contract for services of other persons. L.R.A.1918F, 71.

# BUILDING LINE.

44 L.R.A.(N.S.) 1030; L.R.A.19150, 981.

BUILDING LINE—cont'd

What part of a structure must be beyond the line to constitute a violation of a building restriction. 52 L.R.A.(N.S.) 1044.

#### BUILDING LOTS.

Possible division of land into building lots as element of compensation in eminent domain. L.R.A.1917A, 410.

# BUILDING MATERIALS.

1. Generally.

Liability on contractor's bond for, see BONDS, § 10. Mechanics' lien for, see MECHANICS' LIENS.

Building materials not actually attached to 69 L.Ř.A. 898; 15 land as fixtures. L.R.A.(N.S.) 727.

Doctrine of "attractive nuisance" as implied to injury from. 19 L.R.A. (N.S.) 1129.

§ 2. In street.

Obstruction of street by. 14 L.R.A. 560; 19 L.R.A. 643.

Right of abutting owner to deposit, in street. 19 L.R.A.(N.S.) 510.

Municipal liability for injury by, in street. 20 L.R.A.(N.S.) 655; 46 L.R.A.(N.S.)

Duty of municipality to guard building material in street. 3 L.R.A.(N.S.) 386.

# BUILDING PERMIT.

See Buildings, § 2.

## **BUILDING RESTRICTIONS.**

See COVENANTS, §§ 5-7, 21-25.

# BUILDINGS.

1. Statutory and municipal regulations, \$\$ 1-6.

II. Private rights and liabilities, \$\$ 7-18.

Public buildings, see PUBLIC BUILDINGS.

Erection of buildings in squares, parks, or commons as a diversion. 50 L.R.A. (N.S.) 466.

# I. Statutory and municipal regulations.

§ 1. Generally.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 54. Regulations as to garage, see GARAGE.

Consult also L.R.A. Digests of Cases.

BUILDINGS, I.—cont'd

Municipal control over buildings as nuisances, see MUNICIPAL CORPORATIONS, § 38.

Police power of municipal corporation over school building within its limits. L.R.A.(N.S.) 892.

Effect of building regulations on right to lateral and subjacent support. L.R.A. 680.

Constitutionality of police regulations concerning. 16 L.R.A. 400.

Exercise of police power for esthetic purposes. L.R.A.1917A, 1220.

Validity of statute or ordinance requiring the lighting of private premises. L.R.A. 1918D, 688.

Validity of public restriction as to location of mercantile business. L.R.A.1917F, 1060.

Delegation of municipal power as to. 20 L.R.A. 725.

Private action for violation of building law. 9 L.R.A.(N.S.) 376; L.R.A.1915E, 541.

§ 2. Building permit.

Power of municipality to require permit to construct or repair buildings within

its limits. 13 L.R.A.(N.S.) 737.

Revocation of municipal license for.

L.R.A.(N.S.) 458.

§ 3. Restrictions on height of.

Constitutionality of statute or ordinance limiting height of. 23 L.R.A.(N.S.) 1160; L.R.A.1918C, 78.

§ 3a. Building line.

Power to establish building line. 42 L.R.A. (N.S.) 1123; 44 L.R.A.(N.S.) 1030; L.R.A.1915C, 981.

4. Fire limits.

Injunction by municipality against wooden buildings. 41 L.R.A. 328.

Municipal control over wooden and frame buildings as nuisances. 38 L.R.A. 170.

Power of municipality granting permission to build or repair wooden building within fire limits to limit the time of the continuance of the structure. 18 L.R.A. (N.S.) 402.

What is a sufficient compliance with ordinance requiring buildings to be constructed of noncombustible material. 2 L.R.A.(N.S.) 483.

Moving building within fire limits as viola-tion of prohibition against erection within such limits. 24 L.R.A.(N.S.) 457.

Power to prohibit or restrict repair of wooden buildings within fire limits. 51 L.R.A.(N S.) 62.

Power to require removal, or to prohibit repairs, of wooden building within fire limits when damaged or partially destroyed by fire. 21 L.R.A. (N.S.) 454.

Remodeling, reconstructing, or augmenting building as construction or erection within fire-limit statute or ordinance. 26 L.R.A.(N.S.) 120.

BUILDINGS, I.—cont'd

What constitutes repair, reconstruction, alteration, etc., of building within fire-limit statute or ordinance. 26 L.R.A. (N.S.) 124.

Private action for violation of statute as to fire limits. 9 L.R.A.(N.S.) 381.

§ 5. Fire escapes.

Change of ordinance requiring fire escapes after compliance therewith. 2 L.R.A. (N.S.) 398.

Conclusiveness of official certificate approving fire escapes. 1 L.R.A. (N.S.) 1091. Liability for absence or condition of, to tenant of part of premises. 23 L.R.A. 157.

Effect of lack of fire escapes on liability of tenant for rent. 39 L.R.A.(N.S.) 894. Landlord's liability for injury to servant of tenant by defects in. L.R.A.1916F, 1148.

Private action for violation of statute requiring. 9 L.R.A.(N.S.) 379; L.R.A. 1915E, 544.

Violating ordinance as to fire escapes as ground for private action. 5 L.R.A. (N.S.) 261.

Liability for injuries caused by lack or insufficiency of fire escapes. 15
L.R.A. 160; 10 L.R.A.(N.S.) 177;
21 L.R.A.(N.S.) 178: 39 L.R.A.
(N.S.) 744; L.R.A.1917C, 1153.

# § 6. Destruction of.

Effect of destruction generally on private rights, see infra, § 8.

Liability of city for destroying buildings to stop spread of fire. 19 L.R.A. 197.

Municipal liability for destroying infected house. 22 L.R.A.(N.S.) 1128.

Liability for destruction of, as a nuisance. 19 L.R.A. 198.

Limit of power of municipality to destroy building as a nuisance. 38 L.R.A. 166.

## II. Private rights and liabilities.

§ 7. Generally.

Contracts for erection of, see Building and Construction Contracts.

Building materials, see Building MATE-BIALS.

Restrictive covenants as to, see COVENANTS, §§ 5-7, 21-25.

Measure of damages for injury to, see Damages, § 73a.

As to dwellings generally, see Dwellings. Encroachment of, see ENCROACHMENTS. As fixtures, see FIXTURES.

As to flats, see FLATS.

Vacancy of insured building, see INSUR-ANCE, §§ 75, 86.

Insurance against fall of, see INSURANCE, § 154.

Support of, see LATERAL SUPPORT; SUB-JACENT SUPPORT; SUPPORT, § 6. Mechanics' lien on building, see MECHANICS'

Begin with this book on every law question.

BUILDINGS, II.—cont'd Party walls, see PARTY WALLS. Walls of, see WALLS.

Liability of railroad for injury to person in building upon right of way. 50 L.R.A. (N.S.) 1191.

Right of owner or lessee of mineral in place to use surface for erection of. 48 L.R.A.(N.S.) 888.

On leased premises, mortgage on. 21 L.R.A.

Presumption as to authority to place building on another's land. 9 L.R.A. (N.S.) 603.

Prescriptive right to maintain. 53 L.R.A.

Compelling purchaser at judicial sale to complete purchase where title to buildings is imperfect. 21 L.R.A. 48.

Separating and severing in taking property under power of eminent domain. 57 L.R.A. 941.

Effect of placing buildings on land on question of adverse possession. 33 L.R.A. (N.S.) 934.

Import of word "addition" in policy of fireinsurance. 33 L.R.A. (N.S.) 156.

Right of life tenant to timber for. 37 L.R.A. (N.S.) 765.

Right to maintain action for conversion of buildings on land in another state or country. 26 L.R.A.(N.S.) 940; 34 L.R.A.(N.S.) 994.

Relationship of owners of different floors. 3 L.R.A.(N.S.) 510.

Time for removal of, after revocation of parol license. 2 L.R.A.(N.S.) 1002.

Land as appurtenance to. 15 L.R.A. 652. Covenants on division of building by sale of part thereof. 38 L.R.A.(N.S.) 706.

When provision in conveyance as to erection of, regarded as condition subsequent. 3 L.R.A. (N.S.) 741; 23 L.R.A. (N.S.) 771.

Creation of easement of support by severance of tract of land. 26 L.R.A.(N.S.) 364; L.R.A.1915C, 353.

Right to interfere with light and air by building over right of way. 16 L.R.A. (N.S.) 193.

Use for building of land dedicated for squares, parks, or commons, as a diversion. 25 L.R.A.(N.S.) 982; 50 L.R.A.(N.S.) 465.

Measure of damages for wrongful injunction restricting erection of building. 39-L.R.A.(N.S.) 180.

§ 8. Injury to, or destruction of.

Liability of municipality for destruction of, see supra, § 6.

Criminal liability for setting fire to, see Arson.

Measure of damages, see Damages, § 73a.

Effect of destruction of buildings pending contract for purchase of land, see VENDOR AND PURCHASER, § 6.

BUILDINGS, II.—cont'd

Scope and effect of constitutional or statutory provision exempting buildings from condemnation proceedings. L.R.A. 1916A, 1099.

Liability for damages caused by filling space between building and wall of adjoining building. L.R.A.1616D, 765.

Liability in absence of negligence for damages to from substances thrown in blasting. 17 L.R.A. 220; 34 L.R.A. (N.S.) 211; L.R.A.1917A, 1016.

Destruction of building as a nuisance. 38

L.R.A. 166.

Who must bear loss occasioned by destruction of building in process of erection or repair. 5 L.R.A.(N.S.) 1105; 22 L.R.A.(N.S.) 364; L.R.A.1917D, 1011.

Effect of destruction of building to terminate adjoining owner's easement of support. 19 L.R.A. (N.S.) 883; 46 L.R.A. (N.S.) 1021.

§ 9. Duty and liability as to condition

Duty and liability as to condition of fire

escapes, see supra, § 5.

Negligence as to condition of, see LANDLORD

AND TENANT, IV. d; NEGLIGENCE.

Precipitation of water from, see WATERS,

Liability of county for injury to real property on account of condition of buildings. 39 L.R.A. 70.

Liability of vendor to purchaser on account of unsanitary conditions. 34 L.R.A. (N.S.) 1035.

Liability of municipal corporation for tort in connection with buildings used by it. 25 L.R.A.(N.S.) 88.

Municipal liability for injuries from defects in building used for convenience or pleasure of its inhabitants. L.R.A. 1917E, 695.

To whom is the duty to keep office building in proper condition, owing. 26 L.R.A. (N.S.) 1213.

Imputing to master coservant's negligence in respect to dangers incident to demolition of. 54 L.R.A. 140.

Negligence as to electric wires on or in buildings. 32 L.R.A. 400.

Right to interfere with wires of public service corporation in moving house along a street. 14 L.R.A.(N.S.) 448.

§ 10. — individual liability for falling building.

Liability of owner or occupier. 34 L.R.A. 557.

Building in possession of contractor. 34 L.R.A. 558.

Liability for injury to person in street. 34 L.R.A. 559.

Liability for injury to person on adjoin-ing property. 34 L.R.A. 560.

Liability for injury to person on property. 34 L.R.A. 561.

Neglect to comply with covenants in lease. 34 L.R.A. 562

Illegal building. 34 L.R.A. 562. Consult also L.R.A. Digests of Cases. BUILDINGS, II.—contd

Liability of firemen. 34 L.R.A. 562.

Act of third person. 34 L.R.A. 563. Vis major. 34 L.R.A. 563.

Fire. 34 L.R.A. 563.

Contributory negligence. 34 L.R.A. 563. Liability of landlord to third person. 26 L.R.A. 200.

Liability of landowner for fall of wall or building left standing after fire. L.R.A.1915C, 704.

§ 11. Liability for negligence of independent contractor working on.

Persons engaged in construction of, as independent contractors. 65 L.R.A. 462, 486, 492.

Persons engaged in demolition of, as independent contractors. 65 L.R.A. 486.

Employer's nonliability for acts of independent contractor in work on. 65 L.R.A. 643.

Employer's nonliability for torts of inde-pendent contractor in construction of. 65 L.R.A. 648.

Employer's nonliability for torts of independent contractor in repair, reconstruction or demolition of. 65 L.R.A.

Employer's liability for acts of independent contractor in erection of, when dangerous to persons using highways. L.R.A. 843.

Liability of contractor to third person for defect in his work after completion and acceptance. 32 L.R.A.(N.S.) 968; L.R.A.1915E, 766.

§ 12. Contributory negligence of person injured.

Contributory negligence in walking through open doorway in. 24 L.R.A.(N.S.) 246; L.R.A.1917D, 892.

Forgetfulness of defects in, by person injured, as contributory negligence. L.R.A.(N.S.) 899.

13. Moving of.

Right to interfere with wires of public service corporation while moving. L.R.A. (N.S.) 448; L.R.A.1917C, 774.

# BULK.

Sales in bulk, see FRAUDULENT CONVEY-ANCES, § 1a.

# BULLETIN BOARDS.

Publication by, of matters derogatory to parties to litigation as contempt of court. 2 B. R. C. 498.

## BURDEN OF PROOF.

See Evidence, III.

# BURGESS.

Liability to civil action for acts of judicial nature. 44 L.R.A.(N.S.) 164.

### BURGLARY.

1. Generally.

Indictment for, see Indictment, Informa-tion, and Complaint, § 15.

Insurance against, see Insurance, § 220.

Effect of provision in accident insurance policy exempting insurer or limiting its liability in case of injury intentionally inflicted by another, where injuries are inflicted by bu-glars. 48 L.R.A.(N.S.) 528.

What are burglar's tools within statute for-bidding possession of such tools. 50 L.R.A. (N.S.) 825.

Homicide in attempting to prevent.

L.R.A. 534.

Absence from the scene of homicide as affecting the responsibility of a party to a common design to commit burglary. L.R.A.1918B, 75.

Instigation to commit. 25 L.R.A. 342; 51 L.R.A. (N.S.) 828.

Several offenses growing out of same facts. 31 L.R.A.(N.S.) 727.

Necessity and sufficiency of description of offense in bail bond or recognizance. 38 L.R.A.(N.S.) 315.

Character of occupation by servant in case of. 4 L.R.A. (N.S.) 727.

Burglary by going upon piazza. 46 L.R.A. (N.S.) 999.

Burglary by raising window already partly open. 17 L.R.A. (N.S.) 1102.

Burglary by forcing screen door or window. 17. L.R.A. (N.S.) 1100; 38 L.R.A. (N.S.)

Burglary by pushing open door already partly open. 47 L.R.A.(N.S.) 717.

Breaking as affected by defendant's authority to enter building. L.R.A. 1915D, 1015.

Breaking out as the equivalent of break-

ing in for purposes of burglary or housebreaking. L.R.A.1915D, 972.

Acquittal or conviction upon a charge of burglary or feloniously entering with intent to steal goods of a certain person as a bar to a subsequent prosecu-tion based on the same entry, but charging intent to steal the property of another person. L.R.A.1915C, 627.

Procuring or providing instrumentalities for commission of, as attempt to commit. 6 L.R.A.(N.S.) 804.

Cruel and unusual punishment for. L.R.A. 570; L.R.A.1915C, 566.

§ 2. As affected by value of goods taken or sought to be taken.

Where building empty, or chattel sought not there. 34 L.R.A.(N.S.) 243. Where goods sought not valuable. L.R.A. (N.S.) 244.

Begin with this book on every law question.

BURGLARY—cont'd

Where value of goods sought is so small that their larceny would not be a felony. 34 L.R.A. (N.S.) 245.

Pleading and proving value. 34 L.R.A. (N.S.) 246.

§ 8. Liability for.

Criminal Bability for agent's acting. 41 L.R.A. 652.

Criminal liability of children for. 36 L.R.A. 201.

Liability of one assisting in, during which his companion commits murder. L.R.A.(N.S.) 1154.

4. Defenses.

Kleptomania as defense to. 43 L.R.A.(N.S.) 150.

Intoxication as defense to burglary. L.R.A. 470; L.R.A.1918A, 1168.

Instigation of offense as a defense to prosecution. 30 L.R.A. (N.S.) 951; 51 L.R.A. (N.S.) 827.

§ 5. Evidence.

Evidence of other crimes in prosecution for. 62 L.R.A. 236, 285, 317, 324.

Necessity of instruction as to law on circumstantial evidence on prosecution for. 69 L.R.A. 197, 207.

Proof of corpus delicti in. 68 L.R.A. 41, 70, 71, 72, 73.

Possession of recently stolen property as evidence of. 12 L.R.A. (N.S.) 199.

Right of one to testify as to his intent. 23 L.R.A.(N.S.) 390.

Right to admit evidence of value to assess punishment. 34 L.R.A.(N.S.) 249.

# BURIAL.

§ 1. Generally.

Funeral expenses, see Funeral Expenses. Injunction as to, see Injunction, § 75. See also Burial Lot; Cemeteries; Corpse.

Rights and duties in regard to. 14 L.R.A.

Prescriptive right with respect to burial of dead. 53 L.R.A. 895.

Burial insurance and funeral benefits. L.R.A. (N.S.) 197.

Injunctive relief as to burials. 3 L.R.A. (N.S.) 481.

§ 2. Regulation of. Regulation of. 27 L.R.A.(N.S.) 260. Municipal regulation of burial, as nuisance.

38 L.R.A. 327.

Constitutionality of restriction on business of undertaking. 23 L.R.A. (N.S.) 147.

Improper burial or lack of proper funeral services as a criminal offense. L.R.A.(N.S.) 211.

## BURIAL GROUND.

See CEMETERIES.

## BURIAL INSURANCE.

See Insurance, § 219.

#### BURIAL LOT.

Character of owner's estate or property in, see CEMETERIES, § 2.

Assessment for street improvement against. L.R.A.1918A, 157.

Liability of decedent's estate for. L.R.A. 666.

Allowance for burial lot against deceased's estate. 28 L.R.A.(N.S.) 572.

Prescription or adverse possession of.

L.R.A.(N.S.) 752. Validity of testamentary provision for erection of monument, or for the care and maintenance of tombs, burial grounds, etc. 1 B. R. C. 931.

Right to specific performance of contract

to convey real estate as affected by attempted reservation of. 41 L.R.A. (N.S.) 384.

### BURIAL PERMIT.

See CORPSE, § 4.

## BURNING.

Cancelation of wills by, see WILLS, §§ 39, See also Arson.

## BURNING FLUIDS.

Keeping of, on insured premises. L.R.A. 1917C, 278.

# BURNT RECORDS.

Destruction of record of deed or mortgage as affecting constructive notice imported thereby. 23 L.R.A.(N.S.) 1180.

## BUSINESS.

§ 1. Generally. Rights of bank to do, see BANKS, § 2. As to business name, see NAME, § 9. Equality of business privileges, see Consti-TUTIONAL LAW, § 22.
Constitutionality of restrictions on, see
Constitutional Law, § 24.

Constitutionality of statutes regulating, see CONSTITUTIONAL LAW, §§ 39-176. Contracts in restraint of competition in, see CONTRACTS, §§ 107-109, 117, 118; MONOPOLIES AND COMBINATIONS.

Consult also L.R.A. Digests of Cases.

BUSINESS—cont'd Doing of by foreign corporation, see Corpo-RATIONS, §§ 145-148.

Good will of, see Good WILL.

Effect of suspension of, on insurance, see INSURANCE, § 76.

Municipal regulation of, see LICENSE, II; MUNICIPAL CORPORATIONS, §§ 42-50.

What constitutes. 14 L.R.A. 530.

Admissibility of books of account to prove

course of. 52 L.R.A. 708.
Patentability of method of transacting business apart from the means for carrying it out. 24 L.R.A.(N.S.) 665.

Appropriations of public funds for business enterprise. 14 L.R.A. 478.

Kinds of business affected with a public interest subjecting them to regulation and control in respect to rates or prices. 6 L.R.A.(N.S.) 834.

Right of attorney at law to solicit. 9 L.R.A.(N.S.) 282; 33 L.R.A.(N.S.) 941; L.R.A.1917B, 1128.

Validity and effect of statute requiring deposit of securities by loan association as prerequisite to right to transact. 9 L.R.A. (N.S.) 461.

Personal representative, testamentary trustee or guardian carrying on business. 40 L.R.A.(N.S.) 201.

Employer's duty to employee to continue in. 6 L.R.A. (N.S.) 807.

Mutuality of accepted proposition to furnish such materials as one needs in his business. 11 L.R.A.(N.S.) 713; 43 L.R.A.(N.S.) 730; L.R.A.1918E, 296.

Power of municipality to grant or lease space on street or sidewalk for business purposes. 25 L.R.A.(N.S.) 400.
Ability to transact business as affecting

testamentary capacity. 27 L.R.A. (N.S.) 49; L.R.A.1915A, 456. Liability of one who sells business for sup-

plies subsequently furnished therefor on credit while it is being conducted under the same name. L.R.A.1915F,

Right of municipal corporation to engage in enterprise generally regarded as of private character. 51 L.R.A. (N.S.) 1143.

Conducting business in violation of law as affecting contract for its sale. 45 L.R.A.(N.S.) 810.

Constitutionality of laws prohibiting carrying on of employments or occupations upon certain premises. (N.S.) 46. 44 L.R.A.

Recovery of damages for mental anguish in case of business telegrams. 49 L.R.A. (N.S.) 238.

What passes under devise or bequest of. L.R.A.1917D, 435.

Expenses of business as a family expense or necessary within statute rendering wife or her property liable therefor. L.R.A. 1917F, 863.

Parol evidence of agreement by vendor of. not to re-engage therein where some part of the agreement has been reduced to writing. L.R.A.1917B, 276.

BUSINESS-cont'd

2. Injury to.

Conspiracy to injure business, see CONSPIR-ACY, II.

Measure of damages for injury to, see DAMAGES, §§ 61, 81, 88, 111.

Injunction against interference with, see Injunction.

Libel or slander injurious to, see LIBEL AND SLANDER, §§ 14-20, 24-27.

Municipal control over nuisance relating to, see MUNICIPAL CORPORATIONS, § 39. As to unfair competition in, see UNFAIR COMPETITION.

Injunction by municipality against nuisance relating to. 41 L.R.A. 326.

Liability for damage to business by injuring tangible property of other party. 64 L.R.A. 94.

Liability of individual in absence of any element of conspiracy for driving away another's customers. 22 L.R.A.(N.S.) 1224; L.R.A.1915B, 1180.

Validity of agreement at common law by which employer seeks to direct the trade of his employees to other party. 24 L.R.A.(N.S.) 649.

Distinction between indirectly securing specific performance and preventing injury to business as affecting necessity that services be unique, to warrant injunction against breach of covenant not to enter another's employment. 35 L.R.A. (N.S.) 119.

Liability of user of electricity for inter-ference with the business of another resulting from induction or from use of earth as a return electric circuit. 2 B. R. C. 129.

1 / Effect of bad motive on liability for injury

to. 62 L.R.A. 694. Landlord's interference with business relations between tenant and third persons. L.R.A.1916B, 815.

Right of physician to complain of regula-tions of beneficial association or employer as to employment of physician. L.R.A.1916B, 839. Injury to one's business or interests as

ground for an injunction against an illegal business establishment not directly affecting other property. L.R.A.(N.S.) 827.

## BUSINESS ESTABLISHMENT.

Name of as part of good will, see Good Will, § 5.

## BUSINESS NAME.

In general, see NAME, § 9.

Transfer of trademark consisting of, by bankruptcy or insolvency assignment. 46 L.R.A. 541.

#### BUTCHERS.

Butcher as peddler or hawker. 1916B, 1296.

Validity of restrictive agreement ancillary to sale of business of. 24 L.R.A.(N.S.) 929; L.R.A.1916O, 630.

Discrimination against nonresidents by statute or municipal ordinance imposing license tax on. 40 L.R.A. (N.S.) 291.

# BUTTER.

Imitation butter, see Food, § 9.

#### BY-LAWS.

Of benevolent society, see BENEVOLENT So-CIETIES, § 4.

Of building and loan association, see BUILD-ING AND LOAN ASSOCIATIONS, § 3.

Of corporation, see CORPORATIONS, §§ 20-22.

Of insurance companies, see INSURANCE, §§ 46, 47.

Of municipality, see MUNICIPAL CORPO-RATIONS, § 52.

Reasonableness of, see REASONABLENESS,

Of savings bank as affecting liability for payments to fraudulent claimants. 69 L.R.A. 318.

## BYSTANDERS.

As grand jurors. 28 L.R.A. 203. Statements of, as res gestse. 20 L.R.A. (N.S.) 133; 33 L.R.A.(N.S.) 109; 42 L.R.A. (N.S.) 948.

Accidental killing of, by shooting in self-defense. 2 L.R.A.(N.S.) 719.

Liability of sureties on bond of peace officer for latter's act in killing or injuring one person while attempting to execute criminal process on another. 29 L.R.A. (N.S.) 463.

Liability for injury to bystander watching progress of work. L.R.A.1916F, 117.

# BYWAYS.

Taking of property for as a public use. 22 L.R.A. (N.S.) 102.

## CABINET.

What passes under bequest of contents of. Keeping of, on insured premises. L.R.A. 1917C, 655, 661.

#### CABLE.

Obstruction of navigation by, liability for. 59 L.R.A. 75.

Application of res ipsa loquitur in case of injury to servant by breaking of. L.R.A. 1917E, 239.

## · CABLE RAILROAD.

As additional servitude in street. 36 L.R.A. (N.S.) 721.

## CABOOSE.

Riding on top of as contributory negligence. 30 L.R.A.(N.S.) 425.

CABS.

See HACKS.

CADAVER.

See CORPSE.

## CAFES.

Liability for serving unfit food. 40 L.R.A. (N.S.) 480; L.R.A.1915B, 481.

# CALABOOSE.

Liability of municipality for injuries by confinement in unfit calaboose. L.R.A.(N.S.) 95.

## CALLS.

On corporate stock, see Corporations, \$\$ 109-111.

## CAMPAIGN FUNDS.

Actionability of statement as to, see LIBEL AND SLANDER § 21. · Consu.t also L.R.A. Digests of Cases.

#### CAMPHENE.

# CANALS.

§ 1. Generally.

Condemnation of land for, see EMINENT DOMAIN, § 20.

Municipal liability for using canal as sewer outlet. 61 L.R.A. 696.
Boundary on. 51 L.R.A. 179.
As navigable water. 22 L.R.A. (N.S.) 435.

Railroad on land taken for canal as additional servitude. 36 L.R.A.(N.S.) 731.

§ 2. Construction and operation of. Persons engaged in construction of, as independent contractors. 65 L.R.A. 488. Use of navigable stream as. 67 L.R.A. 850. Taking of property for, as a public purpose. 22 L.R.A.(N.S.) 152.

As public improvement. 61 L.R.A. 833. Acquisition of rights. 61 L.R.A. 834. Extent of title. 61 L.R.A. 838. Compensation. 61 L.R.A. 841. Remedy. 61 L.R.A. 846.

Other matters. 61 L.R.A. 848. Location. 61 L.R.A. 849.

Use of. 61 L.R.A. 850. As highway. 61 L.R.A. 850. Other uses. 61 L.R.A. 852.

Injury by construction and use. 61 L.R.A. 858.

Duty to patrons. 61 L.R.A. 862.

Duty of canal company to maintain and operate canal. L.R.A.1917F, 789.

Adjuncts to canal. 61 L.R.A. 863.

Rights of owner. 61 L.R.A. 868.

Abandonment and transfer. 61 L.R.A. 871. Repair and improvement. 61 L.R.A. 876. Riparian rights. 61 L.R.A. 877. Prescription. 61 L.R.A. 877

Legislative regulation of wells on. L.R.A. 180.

Necessity of franchise for taking tolls on. 37 L.R.A. 715.

Specific performance of agreement maintenance of easement for. L.R.A. 519.

Reciprocal easements as to artificial water rights. 17 L.R.A.(N.S.) 945.

Liability of counties for injury to real property from. 39 L.R.A. 69.

Claims against state for injuries on. 42 L.R.A. 65.

Personal liability of canal commissioners .for negligence. 22 L.R.A. 834.

When does statute of limitations commence to run against action for damages caused by seepage from canal. 23 L.R.A.(N.S.) 795.

Allowance of interest on damages to property caused by negligent construction of. 18 L.R.A. 454. CANALS-cont'd

Occupancy of locks. 4 L.R.A.(N.S.) 717. Duty as to establishment and maintenance of bridges over canals for use of adjoining owners. L.R.A.1915E, 687.

# CANCELATION OF INSTRUMENTS.

§ 1. Generally.

Of contracts generally, see CONTRACTS, §§ 149-156.

Jurisdiction of suit for, see EQUITY, §§ 15, 15a.

Of insurance policy, see INSURANCE, §§ 49–52.

Of liquor license, see Intoxicating Liquors, § 15.

Of judgment, see JUDGMENT, § 77.

Revocation of will by, see WILLS, §§ 39, 40.

Right to have record of arrest canceled. L.R.A.1917E, 777.

Cancelation of will upon making a new will or with the intent to make a new will. 6 L.R.A.(N.S.) 1107; L.R.A.1918A, 914.

Conclusiveness of decision of the Land Department canceling a patent or a certificate of entry. L.R.A.1918D, 634.

Rights and liabilities of one claiming public land under final certificate in event of its cancelation. L.R.A.1918E, 1002. Of bonus stock. 38 L.R.A. 494.

Alteration of instrument by cancelation of material provision without substituting new matter. 32 L.R.A.(N.S.) 519.

Effect of cancelation of delivered but unrecorded deed. 18 L.R.A.(N.S.) 1167; 34 L.R.A.(N.S.) 495; L.R.A.1918F, 402. Effect of failure to cancel stamp on instru-

ment. 48 L.R.A. 305.

Reimbursement of taxes paid by purchaser as condition of cancelation of invalid tax title. L.R.A.1915C, 492.

### § 2. Grounds for.

Mistake of law as to effect of instrument as ground of. 28 L.R.A.(N.S.) 785.

May deed of real property executed by an incompetent not judicially declared such be avoided in an action at law. 19 L.R.A.(N.S.) 461.

Right to cancelation of contract made with foreign corporation because it has not complied with the laws entitling it to do business within the state. 21 L.R.A. (N.S.) 707.

Creditor's right to have satisfaction of judgment canceled where the property levied on or its proceeds is returned to the debtor as exempt, or to a third person who establishes a claim thereto. 11 L.R.A.(N.S.) 396.

Relief of grantor in conveyance in consideration of agreement to support, which is broken by grantee. 43 L.R.A.(N.S.) 916; L.R.A.1917D, 627.

Right of maker or indorser of bill or note for illegal consideration to cancelation thereof. L.R.A.1918D, 941.

CANCELATION OF

OF INSTRUMENTS

cont'd § 3. — fraud.

Jurisdiction of equity to cancel instrument on ground of fraud, see EQUITY, § 15a. Of deeds, see DEEDS, §§ 33, 33a.

Power of equity to take jurisdiction of suit to cancel insurance policy for fraud. 48 L.R.A.(N.S.) 265.

Undue influence in conveyance or transfer of property in consideration of support of the grantor or a third person. 52 L.R.A.(N.S.) 476.

# CANDIDATES.

As to nominations for office generally, see ELECTION, §§ 25, 26.

Libel or slander of, see LIBEL AND SLANDER, § 21.

Discrimination as to, in primary election laws. L.R.A.1917A, 263.

Validity of agreements made in consideration of withdrawal of candidacy for office. 37 L.R.A.(N.S.) 289.

Constitutionality of primary election laws imposing new restrictions or qualifications on. 22 L.R.A.(N.S.) 1142; L.R.A.1917A, 262.

Right of candidate receiving next highest number of votes in event person receiving highest number is ineligible. 34 L.R.A.(N.S.) 240.

Power to determine eligibility to office of one nominated at primary election. 39 L.R.A.(N.S.) 826.

# CANNON.

Negligence in discharge of, in street. 3 L.R.A.(N.S.) 759.

# CANVASSERS.

Book canvasser as hawker or peddler within statutory or municipal regulations. L.R.A.1916B, 1299.

# CANVASSING.

Of votes, see Elections, § 18.

Discrimination against nonresidents by statute or ordinance as to licensed canvassers. 40 L.R.A.(N.S.) 289.

# CAPACITY.

To make contract, see Contracts, § 24. To make will, see WILLS, III. e. In general, see Incompetent Persons.

CAPACITY—cont'd

Right of court to hold as matter of law that child of tender years is incapable of rendering valuable services. L.R.A.(N.S.) 795.

Right of witness to express opinion as to. L.R.A.1918A, 688.

# CAPIAS AD RESPONDENDUM.

See EXECUTION, § 18.

# CAPIAS AD SATISFACIENDUM.

See EXPOUTION, § 18.

#### CAPITAL.

Of corporation, see Corporations, VIII. Taxation of, see Taxas, § 36.

Prevention of illegal removal of state capital. 34 L.R.A. (N.S.) 380.

Creation of partnership by provision for taking profits from investment of, as compensation. 18 L.R.A.(N.S.) 1047.
Right to grade license tax according to amount of capital employed. 17 L.R.A. (N.S.) 898; 49 L.R.A.(N.S.) 955.

Tax on capital stock as within covenant in lease, sublease or assignment of lease as to payment of taxes and assessments. L.R.A.1915A, 342.

# CAPITAL CASE.

Bail in, see Bail and RECOGNIZANCE, § 1a. Execution of death sentence in, see CRIMI-NAL LAW, § 75.

Statute allowing plea of guilty in. L.R.A. 358.

Duty of court before accepting plea of guilty. 22 L.R.A. (N.S.) 463.

Permitting separation of jury in. 24 L.R.A. (N.S.) 776.

# CAPITALIZATION.

Valuation of property of public service corporation for purpose of, or considera-tion of capitalization in determining value of property, see Public Service Corporation, § 5.

Of earnings in ascertaining value of public service property. 48 L.R.A.(N.S.) 1109; L.R.A.1916F, 655.

Consult also L.R.A. Digests of Cases. 10

## CAPITAL PUNISHMENT.

As cruel and unusual punishment. L.R.A. 1915C, 561.

## CAPTAIN.

Whose servants crew of chartered vessel are where charterer is captain of the ship. 37 L.R.A. 58.

## CAPTURE.

See PRIZE AND CAPTURE.

# CARBON COPIES.

Copies of document made by mechanical means as original. 12 L.R.A. (N.S.) 343.

#### CARBON DISULPHIDE.

Liability for injury to employee by explosion of. L.R.A.1918B, 864.

# CARBON OIL.

Keeping of, on insured premises. L.R.A. 1917C, 278.

# CARCASS.

See Corpse; DEAD ANIMALS.

### CARD GAME.

Card game for drinks, cigars, or other trivial stakes as gambling or gaming. L.R.A.1918A, 1068.

# CARD GAME PARAPHERNALIA.

As gaming device. 17 L.R.A.(N.S.) 1210.

# CARD INDEX.

Admissibility of card index system of accounts. L.R.A.1916B, 634.
Right of public to benefit of devices, data,

etc., made or prepared by officer or employee. L.R.A.1917B, 1183.

#### CARD SHARP.

Refusal of innkeeper to accept or serve card sharp as a guest. 52 L.R.A.(N.S.) Effect of President's recognition of the Carranza government. L.R.A.1917A. 280; 744.

#### CARELESSNESS.

See NEGLIGENCE.

#### CARE TAKERS.

Character of occupancy of premises by. L.R.A.(N.S.) 717.

Authority of caretaker of building to con-tract for services of other persons. L.R.A.1918F, 17.

Duty of carrier to caretaker accompanying shipment of livestock. 31 L.R.A. (N.S.) 632.

Right of carrier to limit its liability to caretakers accompanying shipment. L.R.A.1916A, 623.

Liability of carrier to owner's caretaker for condition of stock pens. 10 L.R.A. (N.S.) 576.

# CAR HOSTLERS.

As fellow servants. 52 L.R.A. (N.S.) 1094.

### CAR HOUSE.

Right to use railroad right of way for. 36 L.R.A.(N.S.) 516.

# CAR INSPECTORS.

As fellow servants. 50 L.R.A. 435, 457; 52 L.R.A.(N.S.) 1090, 1095, 1098.

# CARMACK AMENDMENT.

In general, see CARRIERS, §§ 128-135.

As affecting state regulations as to stipulations limiting liability of common carriers for loss of, or damage to, goods. 44 L.R.A.(N.S.) 257; 50 L.R.A.(N.S.) 819.

# CARNAL KNOWLEDGE.

See ABDUCTION: ADULTERY: INCEST: LASCIV-IOUS COHABITATION; LEWDNESS; Pros-TITUTION; RAPE; SEDUCTION; SODOMY.

## CAR REPAIRERS.

As fellow servants. 52 L.R.A.(N.S.) 1100. Begin with this book on every law question.

#### CARRANZA.

L.R.A.1918E, 361.

#### CARRIAGES.

Location of, as affecting insurance on. 26 L.R.A. 240.

Liability of joint owners of, for torts of common servant. 51 L.R.A.(N.S.) 1116.

## CARRIERS.

I. In general, § 1.

II. Who are common carriers, \$ 2. III. Carriers of passengers and other

persons, §§ 3-100. a. In general, § 3.

b. Rules and regulations of carrier, § 4.

c. Who are passengers, §§ 5-9. d. Misconduct toward,

abuse of passenger generally, §§ 10-10a.

e. Assault or robbery, \$\$ 11-14.

f. Arrest; false imprisonment, \$\$ 15-15a.

g. Tickets; conditions; fares, \$\$ 16-29.

h. Ejection, §§ 30-35.

i. Performance of contract of transportation, §§ 36-48.

Personal injuries, §§ 49-74.
 In general, §§ 49-53.

2. Toward whom liable, \$\$ 54-62.

8. Getting on or off; starting and stopping, §§ *63-69*.

4. Safety of stations, approaches, and plat-forms, §§ 70-72.

5. Condition of cars or vessels, §§ 73-74.

k. Contributory negligence of person injured, §§ 75-84.

1. Risks assumed by passenger, **§§ 84**a, 85.

m. Baggage and property of passenger, §§ 86-92.

n. Corpse, § 93.

o. Stations, § 94.

p. Passengers on freight train, \$ 95.

q. Pullman and sleeping car companies, §\$ 96-97.

r. Connecting carriers; negligence of other company, \$ 98.

s. Penalty, § 99.

t. Tax on passenger traffic, \$ 100.

IV. Carriers of freight, §§ 101-146a.

a. In general, §§ 101-106. b. Bills of lading; special contracts, §§ 107-108.

CARRIERS, IV.—cont'd

c. Duty to receive and transport, \$ 109.

d. Loss of, or injury to, property, \$\$ 110-111.

e. Delivery to carrier, \$ 112.

1. Delivery by carrier; conversion; delay, §§ 113-121.

g. Liens; freight charges, §§ 122-128.

h. Carrying live stock, §§ 124-127.

**i.** Limitation of liability, §§ 128-135.

**j.** Duty as to cars, **§\$** 186-140. k. Demurrage; delay in un-

loading, 🖇 141.

**l.** Connecting carriers; liability beyond own line, §§ 142-143.

m. Transporting intoxicating liquor, \$ 144.

n. Insurance, § 145.

o. Taxation of freight, \$ 146. p. Penalties, \$ 146a.

**V.** Governmental control; rates; discrimination; duty as to stopping places, §§ 147-162.

a. In general, \$\$ 147-149.

b. Discrimination, \$\$ 150-153.
c. Rates; rebates, \$\$ 154-160.

d. As to stations and trains, §§ 161-162.

# I. In general.

§ 1. Generally.

Matters as to, affecting interstate com-merce, see COMMERCE, §§ 4-12. Conflict of laws as to, see CONFLICT OF

Laws, §§ 9, 10.

Delegation of power as to, see Constitu-TIONAL LAW, § 17.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 56.

Federal courts following state decisions as to carrier's contracts, see Courts, § 58. Custom of, see Custom and Usage, § 8.

Damages against, see DAMAGES, §§ 4, 15, 42-47, 104-106, 118.

Presumption and burden of proof as to matters relating to, see EVIDENCE, § 59.

Garnishment of, see GARNISHMENT, § 6. Duty and liability of, as to health, see HEALTH, § 3.

Injunction against, see Injunction, §§ 66-68.

Interurban railroad as, see INTERURBAN RAILBOAD, § 3.

Unlawful combination of, see Monopoly and COMBINATIONS, § 7.

Penalty against, see PENALTY, § 6. As to pipe lines, see PIPE LINES.

Valuation of property, see Public SERVICE CORPORATIONS, § 5.

Liability in case of leased railroad, see RAILROADS, § 7.

Time as to matters relating to, see TIME, §§ 5, 6.

Consult also L.R.A. Digests of Cases.

CARRIERS, I.—cont'd

As to the duty and liability of railroads or street railways in respect of matters not incident to the transportation of passengers or freight, see Interurban RAILBOADS; RAILBOADS; STREET RAIL-WAYS.

Title to money deposited with carrier. L.R.A. 1918A, 534.

Validity of statutory provision for attorney's fee in actions against. L.R.A. 1915E, 946.

Sufficiency of levy upon, and custody of, property in car or other vehicle of common carrier. L.R.A.1915F, 1184.

Liability to servants of other persons. 46 I.R.A. 56.

Authority of agent or representative of railroad company to employ medical services for employee or other third person. 20 L.R.A. 695.

Power of conductor to hire physician to treat person injured by train. L.R.A. (N.S.) 1081.

Claim against state for services by. L.R.A. 55.

Liability of carrier to garnishment. L.R.A. 600.

Proximate cause of injury caused by car or engine set in motion by third person. 26 L.R.A.(N.S.) 719.

Recovery back of excessive payments to. 18 L.R.A.(N.S.) 124.

Validity of restrictive agreement on sale of stage and coach lines. 24 L.R.A.(N.S.) 932; L.R.A.191CC, 632.

Liability of receiver as common carrier for torts or negligence of servants. 63 L.R.A. 231.

Liability of one railroad corporation possessing stock control of another for acts and contracts of the latter. 35 L.R.A. (N.S.) 770.

Implied power of railroad company to engage in or guarantee enterprise other than transportation of goods or passengers. 2 L.R.A. (N.S.) 887; 38 L.R.A. (N.S.) 830.

Implied power of railroad company to engage in transportation of goods or passengers by means other than its railway. 5 B. R. C. 788.

Admissibility in evidence of account books of carriers. 53 L.R.A. 530.

Locality of crime committed through the agency of carriers. 19 L.R.A. 775.

# II. Who are common carriers.

§ 2. Generally.

Ferrymen as, see FERRIES, § 5.

Who are common carriers within constitutional or statutory provision directed specifically against suppression of com-petition between carriers. L.R.A. petition 1915C**, 865**.

Person or company operating passenger automobile for hire. L.R.A.1918F, 468. Persons operating jitney buses.

1916B, 1156. Baggage transfer company as. 34 L.R.A. 137; 21 L.R.A.(N.S.) 188.

Sleeping car company as. 21 L.R.A. 291.

CARRIERS, II.-cont'd

Person maintaining elevator as. 2 L.R.A. (N.S.) 745; L.R.A.1915E, 723.

Cartman, etc.. as. 21 L.R.A. (N.S.) 188.

Railroad companies as private carriers in drawing special trains or special cars. 30 L.R.A. 161; 48 L.R.A. (N.S.) 990.

Character as common carriers of persons or corporations other than express companies that neither own nor operate transportation routes, but undertake to transport goods. 42 L.R.A.(N.S.) 902.

Is an interurban railroad company controlled by general railroad law in regard to the operation of railroads as carriers of passengers? 67 L.R.A. 637.

Effect of special arrangement with respect to particular class of business upon character of railroad company as. 5 L.R.A.(N.S.) 458.

Maintenance of private siding, tap line, connecting tracks, or other switching facilities as carrying on the business of a common carrier. L.R.A.1918B, 683.

# III. Carriers of passengers and other persons.

#### a. In general.

§ 3. Generally.

Governmental control of, see infra, V.

Duty and liability to passengers on elevators, see Elevators, §§ 2-7.

Liability generally for injuries inflicted by servant, see MASTER AND SERVANT, IV.

Right to reject passenger because of his bad character or misconduct on previous occasion. 43 L.R.A.(N.S.) 821.

Duty of carrier to passenger on train or boat chartered to third person for excursion or similar purpose. 52 L.R.A. (N.S.) 260.

Effect of breaking continuity of passage upon its interstate character. L.R.A. 1917D, 1184.

Liability of master for the intentional killing or injury of servant by passenger. L.R.A. 1917F, 753.

# b. Rules and regulations of carrier.

§ 4. Generally.

Reasonableness of rule as to train or route by which passengers shall be carried. L.R.A.1915B, 761.

Reasonableness of rule prohibiting turning of seats. 50 L.R.A. (N.S.) 394.

As to admission of passenger to train house. 16 L.R.A. 449.

As affecting passenger's right to stop over. 28 L.R.A. 776.

Passengers riding in baggage or express car in violation of rules as contributory negligence. 16 L.R.A. 631.

Constitutionality of statute making violation of transfer rules established by carrier criminal. 30 L.R.A.(N.S.) 499.

CARRIERS, III. b-cont'd

2 L.R.A. Violation by servant of rule adopted by railway company as evidence of negligence in case of injury to passenger. L.R.A.1917C, 799, 805.

## c. Who are passengers.

§ 5. Generally.

Within provision as to place for ejection. 26 L.R.A. 132.

Postal clerks as. 19 L.R.A. 339; 3 L.R.A. (N.S.) 218; 26 L.R.A.(N.S.) 1058; L.R.A.1918E, 517.

Express messengers as. 22 L.R.A. 796.

Newsboys as. 22 L.R.A. 796.

Passenger on wrong car or train by his own mistake. 3 L.R.A.(N.S.) 588; 28 L.R.A.(N.S.) 611.

Meaning of phrase "a passenger being transported," in statute defining duty and liability of carriers to passengers. 4 L.R.A. (N.S.) 254.

Rights of one going to station to deposit baggage. 28 L.R.A.(N.S.) 311.

Right on train of person procuring ticket by fraud or misrepresentation. 6 L.R.A. (N.S.) 1146.

One at union station or union terminal as a passenger. 40 L.R.A.(N.S.) 778.

Effect of express refusal to accept one as a passenger upon his status as such. 15 L.R.A. (N.S.) 960.

Passenger on train or boat chartered to third person for excursion or other similar purpose. 15 L.R.A.(N.S.) 425; 52 L.R.A.(N.S.) 260.

Person wrongfully on train by collusion with train employee. 5 L.R.A.(N.S.) 1025; 37 L.R.A.(N.S.) 419.

Status as passenger of one who attempts to board moving car or train. L.R.A. 1916B, 832.

§ 6. Employees of carrier.

Railroad employees or officers as. 31 L.R.A. 321.

Rule in case of one being transported to or from work. 31 L.R.A. 321; 12 L.R.A.(N.S.) 853; 19 L.R.A. (N.S.) 717; 23 L.R.A.(N.S.) 954.

(N.S.) 717; 23 L.R.A.(N.S.) 954. Riding on pass. 31 L.R.A. 321; 50 L.R.A. 462; 50 L.R.A.(N.S.) 706.

# § 7. Persons riding free.

Drover or stockman using car after reaching destination as. 30 L.R.A.(N.S.) 571.

Employee riding on pass as passenger. 31 L.R.A. 321; 50 L.R.A. 462; 50 L.R.A. (N.S.) 706.

# § 8. When relation commences.

When a person who has started for a train becomes a passenger. 24 L.R.A. 521.

Status as passenger as affected by the time elapsing before train leaves. 43 L.R.A. (N.S.) 999.

Effect of signaling car to make one a passenger. 13 L.R.A. (N.S.) 283: 25 L.R.A. (N.S.) 408; L.R.A.1918C, 1022.

CARRIERS, III. c-cont'd

9. Termination of relation. Passengers temporarily leaving vehicle. 15 L.R.A. 399; 51 L.R.A. (N.S.) 899.

Duty and liability of carrier to one who leaves one car for purpose of boarding another. 48 L.R.A. (N.S.) 683.

Termination of passenger's relation as such upon reaching destination. 2 L.R.A. (N.S.) 873; 20 L.R.A.(N.S.) 1019.

# d. Misconduct toward, and abuse of passenger generally.

10. Generally.

Liability of carrier for fright of passenger, see Fright, § 2.

Duty of carrier to passenger on train or boat chartered to third person for excursion or other similar purpose. 15 L.R.A.(N.S.) 426.

Liability of carrier for injury to pregnant woman by seeing lunatic on train. 39 L.R.A. (N.S.) 647.

§ 10a. By employees.

Carrier's liability for insults, threats, and obscene language of employees towards passengers. 14 L.R.A. 739.

Insulting passenger by suggesting he belongs in the colored compartment. 32 L.R.A.(N.S.) 206.

Amount of damages that may be awarded insulting language. 44 L.R.A. (N.S.) 1139.

Liability of carrier for mental suffering of passenger from mere verbal abuse unaccompanied by other breach of duty. 13 L.R.A. (N.S.) 159; L.R.A.1918A, 600.

Liability of carrier for wilful torts of servants to passengers. 40 L.R.A. (N.S.) 999.

Liability for acts of special police officer appointed by public authority. 23 L.R.A. (N.S.) 289; 30 L.R.A.(N.S.) 481; 39 L.R.A.(N.S.) 122; 43 L.R.A.(N.S.) 1164; L.R.A.1915C, 1183.

Liability for wrongfully threatening passenger with expulsion. L.R.A.1918D,

876.

## e. Assault; robbery.

11. Generally.

Duty of carrier to passenger on train or boat chartered to third person for excursion or other similar purpose. L.R.A. (N.S.) 425

Failure to properly light car or waiting room or permitting car to be over-crowded as affecting carrier's liability for assault upon or robbery of passenger. L.R.A.1918A, 1072.

12. By stranger.

Liability for stranger's assault on passenger. 2 L.R.A.(N.S.) 105.

Liability for injury to passenger by wrongful act of stranger directed against cars or passengers therein. 3 L.R.A.(N.S.) 318.

Liability for assault upon passenger by strikers, mob, or third persons. 55 L.R.A. 713; L.R.A.1915C, 681. Consult also L.R.A. Digests of Cases.

CARRIERS, III. e-cont'd

Failure to properly light car or waiting room or permitting car to be overcrowded as affecting carrier's liability. L.R.A.1918A, 1072.

Duty of sleeping or parlor car company to protect passengers from assault. L.R.A. 1917F, 888.

§ 18. By fellow passenger. Assault by fellow passenger. 16 L.R.A. 627; 32 L.R.A. (N.S.) 1206; L.R.A. 1918F, 555.

Liability for injury to passenger by another passenger permitted to remain in car in violation of separate coach law. 33 L.R.A. (N.S.) 133.

Liability of carrier for assault by obviously drunken passenger. 4 B. R. C. 330.

Duty of sleeping or parlor car company to protect passengers from assault. L.R.A. 1917F, 888.

Failure to properly light car or waiting room or permitting car to be over-crowded as affecting carrier's liability. L.R.A.1918A, 1072.

Liability of connecting carrier for assault on passenger at junction point. L.R.A. 1918F, 434.

§ 14. By employees.

Assault by servant on passenger while on train. 14 L.R.A. 738; 32 L.R.A. (N.S.) 1201; L.R.A.1915E, 668.

Duty of sleeping or parlor car company to protect passengers from assault. L.R.A. 1917**F**, 888.

Injury to passenger by sportive act of servant. 3 L.R.A.(N.S.) 605.

Liability for malicious act of servant. 4
L.R.A.(N.S.) 485.

Liability of railway or street railway for assault by employee on passenger outside of car or train. 17 L.R.A.(N.S.) 764.

Master's liability for injury to passengers by servant in use of dangerous agency placed in his control. 10 L.R.A.(N.S.) 384.

Carrier's liability, how far affected by misconduct of passenger. Antecedent violence of passenger. 40 L.R.A. (N.S.) 1070.

Abusive language as justification for assault on passenger by a train employee. 33 L.R.A. (N.S.) 280.

Carrier's liability for assault in self-defense by servant on passenger while on train. 32 L.R.A.(N.S.) 1203.

Liability for acts of special police officer appointed by public authority. 23 L.R.A.(N.S.) 289; 30 L.R.A.(N.S.) 481; 39 L.R.A.(N.S.) 122; 43 L.R.A. (N.S.) 1164; L.R.A.1915C, 1183.

Mental anguish as element of damages for indecent assault on female passenger. 33 L.R.A.(N.S.) 98.

### f. Arrest; false imprisonment.

§ 15. Generally. Liability of carrier for wrongful arrest of passenger. 14 L.R.A. 791; 7 L.R.A. (N.S.) 162; 32 L.R.A.(N.S.) 526; 52 L.R.A.(N.S.) 791; L.R.A.1917A, 227. CARRIERS, III. f-cont'd

Limit of carrier's absolute obligation to protect passengers from wrongful arrest. 40 L.R.A. (N.S.) 1073.

15a. By employees of carrier.

Liability of carrier for wrongtul arrest of passenger by servant. 7 L.R.A.(N.S.) 162; 34 L.R.A.(N.S.) 299; L.R.A. 1915E, 320; L.R.A.1917D, 227.

Carrier's liability for arrest or false imprisonment by servant employed as detective, policeman, or watchman. 4 L.R.A.(N.S.) 282; 28 L.R.A.(N.S.) 88; L.R.A.1916F, 1249.

Carrier's liability for arrest by special police officers appointed by public authority. 23 L.R.A.(N.S.) 289; 30 L.R.A.(N.S.) 481; 43 L.R.A.(N.S.) 1164; L.R.A.1915C, 1183.

# g. Tickets; conditions; fare.

§ 16. Generally.

As to privilege of stop-over, see infra, § 47. Ejection for nonpayment of, see infra, § 32. Sufficiency of tender of fare to prevent ejection, see infra, § 33.

Governmental regulation of rates, see infra, §§ 154-160.

Injunction as to tickets, see Injunction,

How far ticket may be used for passage after expiration of time limited. 16 L.R.A. 471.

Carrier's liability for assault by employee on passenger while purchasing ticket. 17 L.R.A. (N.S.) 765.

Duty of passenger when by the carrier's fault he has not the proper ticket or token. 5 L.R.A.(N.S.) 779.

Constitutionality of statute requiring carrier to sell tickets good on connecting line. 42 L.R.A.(N.S.) 541.

Validity of regulations by public concern-ing the manner of using tickets or mileage books. L.R.A.1915E, 902.

Refusal to surrender ticket or pay fare because of breach of contract as affecting right to recover for damage to or loss of baggage. L.R.A.1916E, 491.

Duty of passenger to examine ticket to avoid mistakes of carrier's agent. 43 L.R.A.(N.S.) 584.

Liability of carrier for charging excessive fare through mistake. 44 L.R.A.(N.S.)

Necessity of setting out copy of forged tickets in indictment for forging or uttering same. 31 L.R.A.(N.S.) 227.

§ 17. Passengers without tickets gener-

Rights of passenger who is unable to get ticket before train starts. 24 L.R.A. (N.S.) 758.

Right of carrier to refuse to accept nonticket holders as passengers. 29 L.R.A. (N.S.) 299; L.R.A.1916E, 1094.

18. Conditions in tickets generally. Notice to passenger of conditions on ticket. 23 L.R.A. 746.

CARRIERS, III. g—cont'd Limitation of time within which transportation tickets may be used. L.R.A.1918A, 779.

# § 19. Condition or character of money tendered.

- Character or condition of coin or currency that may be tendered in payment of fare. 35 L.R.A.(N.S.) 1030.
- § 20. Tender of amount in excess of fare.

Tender of a sum in excess of that due, with demand for change. 13 L.R.A. (N.S.) 624.

What is a reasonable sum out of which a carrier may be required to take fare and return change. 35 L.R.A. 489; 9 L.R.A.(N.S.) 580; 21 L.R.A.(N.S.)

## § 21. Assignability.

Confining sale of tickets to carrier's agents, see infra, § 148.

Assignability of railroad ticket. 18 L.R.A.

# § 22. Round trip, coupon and through tickets.

Waiver of requirement of signature of ticket or coupon. 30 L.R.A.(N.S.) 432. Passenger's right to stop over in case of

coupon tickets. 28 L.R.A. 774.

Duty of connecting carrier to passenger holding coupon ticket as affected by delay on part of other carriers. 25 L.R.A. (N.S.) 459.

Responsibility assumed by one corporation in issuing tickets good upon line of another. 42 L.R.A.(N.S.) 76.

## 28. Passes.

Liability for injury to free passenger, see infra, § 57.

Employee riding on, as passenger. 31 L.R.A. 321; 50 L.R.A. 462.

Rights of person riding on pass or contract for free passage. 22 L.R.A. 794. Drover or stockman using car after reach-

ing destination as passenger. 30 L.R.A. (N.S.) 571.

Right of conductor to waive conditions in stock drover's pass. 27 L.R.A. (N.S.) 646.

Is pass issued as part of consideration for contract within statute prohibiting free transportation of passengers or discrimination in passenger rates? 23 L.R.A.(N.S.) 217; 31 L.R.A.(N.S.) 657; L.R.A.1918B, 1116.

Rights and remedies where agreement by carrier to issue passes is impossible of performance because of subsequent legislation. 49 L.R.A. (N.S.) 848.

§ 24. Extra fare.

Validity of extra charge for passenger fare when paid upon train. 20 L.R.A. 483. Right to require passenger to pay second fare on passing from one car to another on same line. 13 L.R.A.(N.S.) 445.

CARRIERS, III. g-cont'd

§ 25. Duty to pay fare wrongfully demanded.

Duty of passenger to pay fare wrongfully demanded in order to avoid expulsion and lessen damages. 43 L.R.A. 706; 34 L.R.A. (N.S.) 282; L.R.A.1918D, 1032.

Validity of regulation requiring passenger to pay fare in case of dispute. 2 L.R.A. (N.S.) 695.

26. On street cars.

Condition or character of money tendered, see supra, § 19.

Tender of amount in excess of fare, see supra, § 20.

Right of municipal corporation to contract for free transportation or special rates on street cars. 16 L.R.A. (N.S.) 651.

Right of street car company to require a passenger to pay a second fare where he passes from one car to another on the same line. 13 L.R.A. (N.S.) 445.

Requiring passenger to put coin in box or automatic registering device. 32 L.R.A. (N.S.) 695.

§ 27. — transfers.

Transfer between lines of different street railway companies. 32 L.R.A. (N.S.)

Rights and duties of passenger receiving defective street-car transfer. 7 L.R.A. 97; 9 L.R.A.(N.S.) 851.

Right of street railroad company to limit time or point of transfer. 8 L.R.A. (N.S.) 287; 52 L.R.A. (N.S.) 908.

Constitutionality of statute making viola-tion of transfer rules established by carrier criminal. 30 L.R.A.(N.S.) 499.

§ 27a. Extent of ticket agent's implied authority as to transportation of passengers.

Extent of ticket or passenger agent's im-plied authority in respect of transportation of passengers. 31 L.R.A. (N.S.) 229.

§ 28. Limitation of liability.

As to baggage, see infra, § 91. As to freight, see infra, §§ 128-135.

Right of passenger carrier to stipulate against liability in consideration of reduced fare. 4 L.R.A.(N.S.) 1081.

Risks of negligence assumed by contract with carrier as including gross negligence. 1 L.R.A. (N.S.) 675.

Refusal to give effect to foreign contract exempting carrier from liability. 5 L.R.A. (N.S.) 425.

Effect of limitation in time tables on liability for default or delay in running train. 32 L.R.A. 544.

Contract exempting railroad company from liability for negligent injury to sleeping car employees or others sustaining a similar relation to the company. 11 50 L.R.A. (N.S.) L.R.A. (N.S.) 432; 432; L.R.A.1917D, 648.

Contracts of carrier with newsboy's employer limiting liability for injury. L.R.A (N.S.) 689.

Consult also L.R.A. Digests of Cases.

CARRIERS, III. g—cont'd

Right of carrier to limit its liability to drovers or caretakers accompanying shipment. L.R.A.1916A, 623.

§ 29. — In pass.

Validity of stipulation in pass limiting carrier's liability. 37 L.R.A. (N.S.) 235.

Right of carrier to limit its liability to drover or caretaker accompanying shipment. L.R.A.1916A, 623.

Right of conductor to waive conditions in stock drover's pass. 27 L.R.A.(N.S.) 646.

### h. Ejection.

§ 30. Generally. Extent of recovery for, see DAMAGES, §§ 45,

105. From sleeping car. 21 L.R.A. 295.

Liability for wrongfully threatening passenger with expulsion. L.R.A.1918D,

876. Carrier's liability for wrongful ejection from train by employee. 27 L.R.A. 170,

188. Where employee acts in violation of instructions. 18 L.R.A.(N.S.) 416.

Carrier's liability for malicious ejection of passenger. 4 L.R.A.(N.S.) 485.

Implied power of brakeman to remove trespasser. 45 L.R.A.(N.S.) 813.

Express authority to certain train em-

ployees to eject trespassers as negativing implied authority of other employees. 32 L.R.A.(N.S.) 1164.

Liability of carrier for turning one other than passenger out of depot. 42 L.R.A.

(N.S.) 378.

Liability of railroad company for negligence in ejecting trespasser from moving train. 13 L.R.A.(N.S.) 364.

Liability for injuries sustained by a passenger while being removed from one car to another of moving train. L.R.A. 1916E, 767.

Liability for injury to passenger resulting from attempted ejection by carrier of fellow passenger. 44 L.R.A.(N.S.) 1125.

Duty of passenger to examine ticket to avoid mistakes of carrier's agent. 43 L.R.A.(N.S.) 584.

§ 30a. Of sick or intoxicated passenger.

Right to eject. L.R.A.1915C, 135.

Duty to eject; liability to other passengers for failure to eject. L.R.A.1915C, 137.

Time, place, and manner of ejection. L.R.A.1915C, 139.

Ejection as proximate cause of subsequent injury or death. L.R.A.1915C, 142.

Recovery in action by ejected passenger. L.R.A.1915C, 146. Questions for jury. L.R.A.1915C, 147.

§ 31. Grounds for. 50 Because of sickness or intoxication, see supra, § 30a.

CARRIERS, III. h—cont'd

Liability for ejecting passenger through mistake as to identity. 2 L.R.A. (N.S.)

Right to defend expulsion of passenger upon ground other than that relied upon at the time. 14 L.R.A.(N.S.) 368.

Ejection of passenger for refusal to comply with rule or direction of carrier as to place on car or train. L.R.A.1916D, 542.

Right to eject passenger who boards a train that does not stop at his destination. L.R.A.1915D, 713.

§ 32. - nonpayment of fare or defective ticket.

Payment of back fare for distance already ridden as condition of being carried further. 16 L.R.A. 55.

Right of passenger to pay fare after train begins to stop for purpose of ejecting him. 16 L.R.A. 53.

Ejection of custodian for nonpayment of child's fare. 38 L.R.A. 140.

Duty of passenger to pay fare wrongfully demanded in order to avoid expulsion. 43 L.R.A. 706; 34 L.R.A. (N.S.) 282; L.R.A.1918D, 1032.

Effort that must be made to collect fares before ejecting passengers for nonpayment of same. L.R.A.1915C, 148.

Ejection of passenger who has lost or mislaid his ticket. L.R.A.1916D, 1184; L.R.A.1918E, 983.

§ 33. Sufficiency of tender of fare to prevent.

Excessive demand. 31 L.R.A.(N.S.) 992. Tender after steps toward ejection. L.R.A.(N.S.) 992; L.R.A.1915E, 311. Tender accompanied by disorderly conduct.

31 L.R.A.(N.S.) 994.

Tender of fare from point of ejection. 31 L.R.A.(N.S.) 995; L.R.A.1915E, 312. Tender of fare by custodian. 31 L.R.A. (N.S.) 995; L.R.A.1915E, 313.
Tender by third person. 31 L.R.A.(N.S.)

996.

Tender of something other than money. 31 L.R.A.(N.S.) 996.

Tender of a worn or peculiar coin. 31 L.R.A. (N.S.) 997; L.R.A.1915E, 313.

Miscellaneous cases. 31 L.R.A.(N.S.) 997; L.R.A.1915E, 313.

34. At what place.

Exposure of drunken passenger to danger by ejection from car. 19 L.R.A. 327. Place where sick or intoxicated passenger may be expelled. L.R.A.1915C, 139.

Place where one refusing to pay fare may be ejected. 26 L.R.A. 129.

§ 35. Measure of damages for. See Damages, §§ 45, 105.

i. Performance of contract of transpor-

§ 36. Generally. Duty and liability as to sleeping accommodations, see infra, §§ 96, 97.

CARRIERS, III. i—cont'd

Duty of carrier as to route. 37 L.R.A. (N.S.) 222.

Duty to furnish sleeping car service. L.R.A. 1918A, 51.

Duty to passenger where journey is interrupted by wreck or other cause. L.R.A.1915E, 145.

Duty to stop train or car for article dropped by passenger. 39 L.R.A.(N.S.) 313. Duty of vessel to return to wharf to permit

visitor to depart. 10 L.R.A. (N.S.) 969. Rights of passenger who boards car or train destined for a point short of his destination. 19 L.R.A.(N.S.) 704.

§ 37. Misdirection by agent.

Misdirection of passenger by carrier's employee. 2 L.R.A.(N.S.) 110; 24 L.R.A. (N.S.) 1178.

Right to eject passenger who boards a train that does not stop at his destination where he is misdirected by employee of carrier. L.R.A.1915D, 715.

38. Duty to receive and transport. Disabled, diseased, or drunken passenger. see infra, § 40.

Liability for punitive damages for refusal or failure to transport passenger. L.R.A.1915C, 471.

Duty to give regular train service on Sun-14 L.R.A. 194; 30 L.R.A. (N.S.) 401.

Duty to hold train for passenger seen ap-31 L.R.A. (N.S.) proaching station. 442.

Damages incident to attempt to reach destination by other means as element of recovery for failure to stop train for intending passenger. 8 L.R.A. (N.S.) 880.

Liability to passenger for default or delay in running trains. 32 L.R.A. 543; 49 L.R.A.(N.S.) 429.

Liability for failure to provide train for crowd. 24 L.R.A. 711.

Right of passenger on street car which turns back before reaching destination. 23 L.R.A.(N.S.) 571.

Duty of street railway to run car through to end of route indicated by sign thereon. 1 B. R. C. 442.

Duty of sleeping car company as to continuous passage. 21 L.R.A. 295.

§ 39. Duty toward sick, disabled, or intoxicated passenger.

Ejection of sick or intoxicated passenger, see supra, § 30a.

Duty of carrier as to passengers taken ill during journey. 31 L.R.A. 261; 31 during journey. L.R.A.(N.S.) 813.

Duty of carrier to blind passenger. L.R.A.(N.S.) 564.

Duty to assist infirm or sick passenger. & L.R.A. (N.S.) 299; 48 L.R.A. (N.S.) 821.

Duty of carrier to look after drunken passenger after he has left the train. 8 L.R.A.(N.S.) 298.

CARRIERS, III. i—cont'd Liability of carrier for forcing sick or intoxicated passenger out of car and onto platform. 16 L.R.A.(N.S.) 197.

Liability of carrier for contraction of contagious disease by passenger. L.R.A.(N.S.) 337.

Effect of sickness of passenger on carrier's liability for baggage after reaching destination. 36 L.R.A. 788.

§ 40. — duty to transport.

Duty of carrier to accept as a passenger one physically or mentally disabled. 26 L.R.A.(N.S.) 171; L.R.A.1915E, 788. Right of carrier to reject persons having contagious disease. 4 L.R.A.(N.S.) 103.

§ 41: Right of passenger to seat. Generally. 22 L.R.A. 259; L.R.A.1915B, 916.

§ 42. Duty as to heating.

Regulation of temperature of cars. L.R.A. 1915F, 792.

Duty of railroad companies to heat cars. 42 L.R.A. 110.

Duty of carrier to protect passenger from cold. 11 L.R.A. (N.S.) 1142.

43. Separation of passengers. Rights of colored passengers. 18 L.R.A. 639.

Right of carrier, independently of statute, to separate passengers on account of race. 11 L.R.A. (N.S.) 268.

Duty to provide separate compartments for colored passengers in sleeping and palace cars. 32 L.R.A.(N.S.) 801; palace cars. 32 L.R.A.1918D, 709.

Cumulative penalties for failure of carrier to provide separate accommodations for white and colored persons. L.R.A. 1917B, 548.

Liability for placing white passenger in car for colored persons. 2 L.R.A. (N.S.) 1108; 41 L.R.A. (N.S.) 958; L.R.A. 1916É, 280.

Liability for injury to passenger by another passenger permitted to remain in violation of separate coach law. 33 L.R.A. (N.S.) 133.

Insulting passenger by suggesting that he belongs in the colored compartment. 32 L.R.A. (N.S.) 206.

44. Quarantine.

Duty of carrier to give information as to quarantine. 6 L.R.A. (N.S.) 1009.

Liability of carrier for injury or loss caused by the enforcement of quarantine regulations. 13 L.R.A.(N.S.) 360.

45. Announcement of stations. Duty to make. 15 L.R.A. 347; L.R.A.1915C, 664.

Effect of. 15 L.R.A. 348.

As to change of cars. 15 L.R.A. 349. Duty to notify passenger in sleeping car of arrival at destination. 14 L.R.A. (N.S.)

Consult also L.R.A. Digests of Cases.

CARRIERS, III. i-cont'd

§ 46. Carrying beyond station.

Extent of recovery for, see DAMAGES, § 44.

Contract duty to stop at particular station.
2 L.R.A.(N.S.) 505.

Duty of passenger to give notice of desire to alight at flag station. 16 L.R.A. (N.S.) 1132; 52 L.R.A. (N.S.) 668.

Duty as to notification of passenger of arrival at station. L.R.A.1915C, 664. Duty upon running train past station to notify passengers of intention to re-

turn. 37 L.R.A.(N.S.) 264.
Liability for failure to notify passenger when and where to change cars. 39 L.R.A.(N.S.) 663.

Duty and liability to passenger who boards a train that does not stop at his destination. L.R.A.1915D, 705.

§ 47. Right of passenger to stop over.

Generally. 28 L.R.A. 773. Rule in case of coupon tickets. 28 L.R.A. 774.

Effect of particular stipulations. 28 L.R.A. 775.

Agreements or representations as to right to

stop over. 28 L.R.A. 775.
Statutory permission. 28 L.R.A. 775.
Limited tickets. 28 L.R.A. 775.
Special rates or contracts. 28 L.R.A. 776.

Rules and custom of carrier. 28 L.R.A. 776.

Effect of delay of train. 28 L.R.A. 776. Through train must be taken. 28 L.R.A.

No stop-over without ticket. 776.

Time within which stop-over must be used. 28 L.R.A. 776.

Right to take up ticket. 28 L.R.A. 776.

Right of passengers to act upon conductor's assurance that a stop-over is allowed. 34 L.R.A.(N.S.) 711.

Extent of ticket agent's implied authority as to. 31 L.R.A. (N.S.) 231.

§ 48. Keeping station open; turning passenger out of.

As to stations generally, see infra, § 94. Announcement of, see supra, § 45. Carrying beyond, see supra, § 46.

Safety of, see infra, §§ 70-72. Discrimination at, and governmental regu-

lations as to, see infra, §§ 161, 162. Reasonable time to keep station open before and after trains. 1 L.R.A.(N.S.) 851.

Liability for turning waiting passenger out of depot. 29 L.R.A. (N.S.) 799.

## 1. Personal injuries.

# 1. In general.

49. Generally.

Limitation of liability, see supra, §§ 28, 29. Contributory negligence of passenger, see infra, §§ 75-84.

Liability of connecting carrier, see infra, § 98.

Passenger on elevated railroad, see KLEVAT-ED RAILBOADS, § 3.

CARRIERS, III. j; 1—cont'd Liability to passenger on elevator, see ELE-VATORS, § 3.

On ferry boat, see FERRIES, § 6.

Presumption and burden of proof as to, see EVIDENCE, § 70.

Proximate cause of injury, see PROXIMATE CAUSE, §§ 8, 9.

Use of emphatic words like "great care,"
"utmost care" or "highest care" in instructing jury as to duty of carrier to
passengers. 3 L.R.A.(N.S.) 94.

Sufficiency of general allegations of negligence. 59 L.R.A. 239.

Violation by servant of rule adopted by railway company, as evidence of negligence in case of injury to passenger. L.R.A.1917C, 799, 805.

Liability of carrier for injury to passenger by swaying of car. L.R.A.1918A, 1171.

Liability for personal injuries to passenger who attempts to reach his destination by other means because of delay or stalling of car or train. L.R.A.1917F, 357.

Liability of, for personal injury to passenger struck by sparks or cinders escaping from locomotive. 18 L.R.A.(N.S.) 241.

What injuries may be deemed the proximate result of discharging passengers at improper place or one not his destination. 7 L.R.A.(N.S.) 1177.

Injury by rocks rolling down hillside or de-

cline. L.R.A.1915B, 428. Sudden stopping of train in an emergency as negligence toward passenger. L.R.A. 1915D, 368.

Liability for injuries sustained by a passenger while being removed from one car to another of moving train. L.R.A.

1916**°**E, 767.

Liability of street railway company for injury to a passenger because of defect in track or street due primarily to negligence of highway officers. 43 L.R.A. (N.S.) 72.

Liability for injury to passenger resulting from attempted ejection by carrier of fellow passenger. 44 L.R.A.(N.S.) 1125.

§ 50. Injury by collision or derailment. Presumption of negligence from injury to passenger by collision. 13 L.R.A. (N.S.) 608; 29 L.R.A.(N.S.) 812; L.R.A.1916C, 372.

Collision with vehicle not under carrier's control. 68 L.R.A. 799; 2 L.R.A. (N.S.) 725; 13 L.R.A. (N.S.) 610; 29 L.R.A.(N.S.) 813; L.R.A. 1916C, 372.

Collision with object on side of carriage. 15 L.R.A. 37.

Duty of motorman, for protection of passenger, to warn one driving along highway of the approach of a car. 12 L.R.A. (N.S.) 197.

Liability of street railway company for injuries to passenger caused by collision with fire apparatus. 19 L.R.A.(N.S.) 630.

CARRIERS, III. j; 1-cont'd

Liability of carrier to passenger who fails caused by obstruction placed on track by stranger. 12 L.R.A. (N.S.) 840.

§ 51. What carriers liable.

Duty and liability of proprietor of public hack or cab to passengers. 5 L.R.A. (N.S.) 1069.

Liability of proprietor of private railroad for injuries sustained by one other than an employee while being carried there-on. 12 L.R.A.(N.S.) 131; 22 L.R.A. (N.S.) 190.

Liability of operator of scenic railroad or similar device to passengers. 26 L.R.A.

(N.S.) 1054.

Liability for injury to passenger by negligent operation of automobile. 21 L.R.A. (N.S.) 81; 35 L.R.A. (N.S.) 658.

Liability of sleeping car company for personal injuries to passengers. 21 L.R.A.

52. For whose acts liable.

Liability for injuries caused by negligence of other company using the road under lease, license, or other contract. L.R.A.1918E, 257.

Liability for accidenta caused by wrongful act of stranger. 22 L.R.A. 306

Negligent injury to passenger at station by persons coming there to transact business. 13 L.R.A.(N.S.) 589. Injury by dog or other animal.

4 L.R.A. (N.S.) 947.

Injuries by fellow passengers on crowded trains. 24 L.R.A. 711.

Injury resulting from negligent or meddle-some act of fellow passenger. 37 L.R.A. (N.S.) 724; 49 L.R.A.(N.S.) 810; L.R.A.1918F, 819.

Act of obviously drunken passenger. 4 B. R. C. 330.

§ 53. — employee or independent contractor.

Delegation of duty as to safety of station premises as affecting liability to passengers. 50 L.R.A.(N.S.) 561.

Liability of union depot company for negligence of its own or carrier's employ-ees. 33 L.R.A.(N.S.) 433.

Liability of carrier for assistance negligently rendered passenger by employee. 10 L.R.A.(N.S.) 411.

Carrier's liability for injury to child invited into place of danger by employee. 4 L.R.A. (N.S.) 804.

Liability for injury to child passenger exposing himself to danger in consequence of employee's conduct. 20 L.R.A. (N.S.) 1124.

Liability for injuries inflicted by employees on trespasser after he has left train. 34 L.R.A. (N.S.) 200.

Liability of railroad company for negligence of one of its employees while running on the road of another company subject to the orders of the latter's train

despatcher. 22 L.R.A.(N.S.) 323.

Presumption of negligence from injury to passenger by acts of employees. 13 L.R.A.(N.S.) 617; L.R.A.1916C, 377.

CARRIERS, III. j; 1—cont'd

Carrier's liability for tort committed by servant in course of employment with view to furtherance of master's business, but contrary to master's express instructions. 18 L.R.A.(N.S.) 416.

Liability of carrier for acts of independent contractor. 66 L.R.A. 150.

## 2. Toward whom liable.

§ 54. Generally.

Duty toward sick, disabled or intoxicated assenger, see supra, § 39.

Liability to person assisting passenger on

train, see infra, § 69.

To whom carrier liable for injuries at stations, see infra, § 72.

Measure of diligence required toward pas-4 L.Ř.A. senger on street railway. (N.S.) 122.

Liability for injuries inflicted by employees on trespasser after latter has left the train. 34 L.R.A.(N.S.) 200.

Liability for injury to one riding on train run over tracks by another company under license, through negligence of licensee. 36 L.R.A. (N.S.) 887.

Passenger on train or boat chartered to third person for excursion or other similar purpose. 15 L,R.A.(N.S.) 425; 52 L.R.A. (N.S.) 260.

Duty of carrier to one whom it permits to enter its cars upon his own business, and not as a passenger. 8 L.R.A.(N.S.) 1240; 34 L.R.A.(N.S.) 715.

Duty and liability to one who accompanies passenger not for the purpose of assisting him. 52 L.R.A.(N.S.) 179.

55. Children; newsboys.

Carrier's liability for acts of employees in permitting children to be in danger. 27 L.R.A. 171,

Carrier's liability for injury to child invited into place of danger by employee. 4 L.R.A. (N.S.) 804.

Liability for injury to child passenger who exposes himself to danger in consequence of conduct of employee. L.R.A.(N.S.) 1124.

Where employee frightens child or orders him to get off. L.R.A.1916C, 107.

Duty to child trespassing on cars. L.R.A. (N.S.) 572.

Liability for injury to children jumping on and off trains in motion. 21 L.R.A.

Liability for injury to children catching rides on street cars. L.R.A.1916C, 106.

Carrier's duty to prevent minor passenger from alighting from moving car. 17 L.R.A. (N.S.) 101; L.R.A. 1918B, 1133.

Doctrine of attractive nuisance as applied to injury by railroad cars. 19 L.R.A. (N.S.) 1136.

Duty of carrier to newsboy. 50 L.R.A. Duty to keep lookout for passenger on track. (N.S.) 689.

Consult also L.R.A. Digests of Cases.

CARRIERS, III. j; 2-cont'd

§ 56. Postal clerk.

Generally. 19 L.R.A. 339; L.R.A.1918E, 517.

Relief from liability by statute. 19 L.R.A. 340.

Liability for failure to keep car in proper condition. 3 L.R.A.(N.S.) 218; 26 L.R.A.(N.S.) 1058; L.R.A.1918E, 517.

§ 57. Free passengers; drovers. Limitation of liability, see supra, § 29.

Degree of care owed to free passenger in absence of stipulation upon the subject. 5 L.R.A. (N.S.) 721; 46 L.R.A. (N.S.) 142.

Liability of carrier to passengers traveling on passes or contracts contrary to provisions of statute or Constitution. L.R.A. (N.S.) 526; 43 L.R.A. (N.S.) 901.

Duty of carrier to caretaker accompanying shipment of livestock. 22 L.R.A. 794; 31 L.R.A. (N.S.) 632.

§ 58. Person wrongfully on train by collusion with employee.

Liability for injury to person wrongfully on train by collusion with train employee. 5 L.R.A. (N.S.) 1025; 37 L.Ř.A.(N.S.) 419.

§ 59. Passenger temporarily leaving vehicle.

At regular stations. L.R.A.(N.S.) 900. 15 L.R.A. 399; 51

Alighting at points other than regular stations. 51 L.R.A. (N.S.) 904, 906.

At sidings and coaling stations. 15 L.R.A. 399.

Leaving to avoid anticipated danger. 15 L.R.A. 400.

Leaving to rectify mistake in taking train, etc. 15 L.R.A. 400.

§ 60. Passenger on platform.

Contributory negligence of passenger on platform, see infra, § 80.

Injury to passenger on platform of vesti-buled train. 22 L.R.A.(N.S.) 313; buled train. 27 L.R.A.(N.S.) 253.

Duty of street car company to passenger on running board. 18 L.R.A. (N.S.) 160; 45 L.R.A. (N.S.) 969.

Liability to passenger riding on platform of railroad car with knowledge of carrier. 1 L.R.A.(N.S.) 1145.

§ 61. Passenger on freight train.

Liability of railroad company for injury to person wrongfully on freight train by collusion with a train employee. 5 L.R.A.(N.S.) 1025; 37 L.R.A.(N.S.) 421.

§ 62. Passenger on track or falling from train.

Injury by other train while passengers are getting on or off, see infra, § 65.

25 L.R.A. 290.

CARRIERS, III. j; 2-cont'd

Injury to street car passenger who, upon alighting, passes around end of car, and is struck by car on other track. L.R.A.(N.S.) 729; 21 L.R.A.(N.S.) 887.

Duty of carrier to passenger who has fallen from train. 27 L.R.A. (N.S.) 768.

3. Getting on or off; starting and stopping.

§ 68. Generally.

Contributory negligence in getting on or off, see infra, §§ 81, 82.

Failure to stop train as proximate cause of injury, see PROXIMATE CAUSE, § 9.

Presumption of negligence from accident to passenger while embarking or alighting. 15 L.R.A. 38.

Status as passenger of one who attempts to board a moving car or train. L.R.A. 1916B, 832.

Injury to passenger alighting temporarily at intermediate point. 51 L.R.A. (N.S.)

Duty of carrier of passengers to keep steps of cars free from snow and ice. L.R.A. (N.S.) 523; 35 L.R.A. (N.S.) 592.

Duty to passenger who attempts to board car when door or gate is closed. L.R.A.(N.S.) 603.

Duty and liability of street railway company to passenger attempting to enter or leave car on wrong side. 26 L.R.A. (N.S.) 1217.

Liability of carrier for injuries to intending passenger who enters car prematurely. 33 L.R.A.(N.S.) 583.

Duty to prevent passengers at stations from going into dangerous places. 32 L.R.A. (N.S.) 198.

Liability for personal injury to passenger by crowd at station or stopping place. 32 L.R.A. (N.S.) 470.

Injury by crush in entering car at elevated or subway station. 7 L.R.A.(N.S.) 729; 51 L.R.A.(N.S.) 1152.

Liability of carrier for injury to passenger, or intending passenger, through block ing way to station or train. 15 L.R.A. (N.S.) 740.

Violation by servant of rule adopted by railway company as evidence of negligence in case of injury to passenger alighting from or boarding train. L.R.A.1917C, 799, 806.

§ 64. Right and duty to prevent boarding or alighting from moving car.

Right to prevent one boarding a moving car for purpose of becoming a passenger. 21 L.R.A.(N.S.) 36.

Duty of carrier to prevent passenger from alighting from car or train while in motion. 31 L.R.A. (N.S.) 625; L.R.A.1918B, 1131.

Minor passenger. 17 L.R.A.(N.S.) 101; L.R.A.1918B, 1133.

Injury to passenger alighting from moving train which he had boarded through negligence of carrier. 32 L.R.A.(N.S.) 280.

Begin with this book on every law question.

CARRIERS, III. j; 8—cont'd § 65. Injury by other train. Contributory negligence, see infra, § 88.

Running train or car between standing train and station. 13 L.R.A.(N.S.) 620: 31 L.R.A. (N.S.) 338.

Stopping passenger train at point where trains are standing or moving on par-allel, adjacent tracks. 17 L.R.A.(N.S.)

§ 66. Negligence in stopping and starting.

Violation by servant of rule adopted by railway company as evidence of negligence toward passenger. L.R.A.1917C, 800.

What injuries may be deemed the proximate result of failure to stop street car for waiting passenger. 33 L.R.A. (N.S.) 1007.

Negligence in starting street car with jerk. 23 L.R.A.(N.S.) 891; 34 L.R.A.(N.S.)

Sudden stopping of train in an emergency as negligence toward passenger. L.R.A. 1915D, 368.

Presumption of negligence from sudden start, stop, jolt, or jerk of car. 7 L.R.A. (N.S.) 1076; 13 L.R.A. (N.S.) 611; 29 L.R.A. (N.S.) 814; L.R.A.1916C, 378.

Liability for injuries to passengers inside car from sudden starting or stopping of train. 34 L.R.A.(N.S.) 229.

Starting car before passenger is seated. 42 L.R.A. 293; 4 L.R.A. (N.S.) 558; L.R.A.1915A, 797.

Liability of street car company for injury to passenger boarding car by starting of car on signal of fellow passenger. 49 L.R.A.(N.S.) 810; L.R.A.1918F, 819.

§ 67. — while passenger is alighting.

Duty to see that passenger has alighted before starting train at station. L.R.A.(N.S.) 217.

Duty of street-car conductor to see that passenger is off before starting the car. 11 L.R.A.(N.S.) 140.

Negligence in starting street car with jerk while passenger is alighting. 23 L.R.A.(N.S.) 891; 34 L.R.A.(N.S.) 225.

Presumption of negligence from sudden starting of car while passenger is alighting. 13 L.R.A.(N.S.) 611; 29 alighting. 13 L.R.A.(N.S.) 611; L.R.A.(N.S.) 814; L.R.A.1916C, 373.

Liability of street car company for injury to alighting passenger by starting of car on signal of fellow passenger. 27 L.R.A. (N.S.) 764; 37 L.R.A. (N.S.) 724; L.R.A.1918F, 819.

Time allowed passenger to alight. 4 L.R.A. (N.S.) 140.

Measure of care owed to passengers wishing to leave street car which has stopped, but not for the purpose of allowing passengers to alight. 3 L.R.A. (N.S.) 94.

CARRIERS, III. j; 3—cont'd Liability of street railway company for stopping car at improper place for passenger to alight. 16 L.R.A.(N.S.) 467. Discharging street car passenger on curve. L.R.A.1915C, 609.

Injury to passenger alighting temporarily at intermediate point. 51 L.R.A. (N.S.) 899.

68. Duty to assist passenger.

Duty to assist passenger boarding or alight-48 L.R.A.(N.S.) 816. ing.

Duty to guide or conduct passenger to or from train. 20 L.R.A.(N.S.) 1041.

Violation by servant of rule as to assisting passengers as evidence of negligence in case of injury to passenger. L.R.A. 1917C, 799.

§ 69. Injury to person assisting passenger.

Duty to one assisting passenger on train.
3 L.R.A.(N.S.) 432; 22 L.R.A.(N.S.)
910; 28 L.R.A.(N.S.) 773; 46 L.R.A. (N.S.) 357; L.R.A.1918F, 317.

# 4. Safety of stations, approaches, and platforms.

§ 70. Generally.

As to stations generally, see infra, § 94. Announcement of stations, see supra, § 45. Carrying beyond station, see supra, § 46. Keeping station open, see supra, § 48. Discrimination at and governmental regulation as to, see infra, §§ 161, 162.

Places within implied invitation extended to passengers or persons on business at railroad station. L.R.A.1915B, 827.

Violation by servant of rule as to approaching station or standing train as evidence of negligence in case of injury to passenger. L.R.A.1917C, 800.

Delegation of duty as to safety of station premises as affecting liability to passengers. 50 L.R.A.(N.S.) 561.

Application to operations in depot grounds of statute or ordinance requiring lookout on trains. 51 L.R.A.(N.S.) 618.

Degree of care toward passenger at station. 33 L.R.A.(N.S.) 855.

Duty to maintain safe approaches beyond its own premises. 16 L.R.A. 593.

Right of passenger using, as approach to station, a way not provided by carrier. 23 L.R.A.(N.S.) 633; 47 L.R.A.(N.S.) 1149.

Presumption of negligence from occurrence of accident to passenger at stations. 15 L.R.A. 35.

Measure of care which a carrier must exercise to keep its platforms and approaches safe. 20 L.R.A. 520.

Duty of carrier to guard passenger against walking through station doorway leading to place of danger. 24 L.R.A. (N.S.) 250.

Contributory negligence in walking through doorway in railroad station leading to place of danger. L.R.A.1917D, 892.

Duty of street railway as to condition of approaches to cars. 32 L.R.A.(N.S.) 881; 48 L.R.A.(N.S.) 974.

Consult also L.R.A. Digests of Cases.

CARRIERS, III. j; 4—cont'd Duty of carrier as to condition of place used as flag station. 39 L.R.A.(N.S.) 558.

Duty of interurban road with respect to accommodations for boarding or leaving car at country crossing. 13 L.R.A. (N.S.) 476.

Liability to passenger for injury by article falling from passing train. 44 L.R.A. (N.S.) 1148.

Liability for injuries to person near track in consequence of suction from passing train. L.R.A.1917B, 1163.

§ 71. Duty as to lights.

Duty of carrier to keep station lighted. 1 L.R.A.(N.S.) 851.

Failure to properly light waiting room as affecting carrier's liability for assault upon or robbery of passenger. L.R.A. 1918A, 1072.

72. Toward whom duty owed.

Places within implied invitation extended to persons on business at railroad. L.R.A. 1915B, 827.

To whom railroads owe the duty of keeping station platform safe. 20 L.R.A. 527.

Liability for injury to trespasser or bare licensee at station by train. 41 L.R.A. (N.S.) 162.

Injury to intending passenger attempting to flag train at flag station. 24 L.R.A. (N.S.) 741.

Duty of carrier to persons who accompany passengers to, or wait for them at, stations. 20 L.R.A.(N.S.) 833.

Duty to one who goes on station grounds to mail letter on train. 24 L.R.A. (N.S.) 535.

Duty of railroad company to one who goes upon station premises to transact business with third person. L.R.A.1916A, 516.

Liability of railroad company for injury to one going to station after it has been closed for the night. 43 L.R.A. (N.S.) 1134.

Duty of carrier to newsboys. 50 L.R.A. (N.S.) 689.

Duty and liability of carrier to passenger who alights temporarily at intermediate point. 51 L.R.A.(N.S.) 899.

Liability of connecting carrier to passengers at junction point. L.R.A.1918F, 433.

## 5. Condition of cars or vessels.

§ 73. Generally.

Duty as to heating, see supra, § 42.

Duty as to freight cars generally, see infra, §§ 136-140.

Liability for personal injury due to condition of freight cars, see infra, § 138.

Liability of railroad company for injury to passenger by latent defect in car. L.R.A. (N.S.) 790; L.R.A.1915D, 305.

Duty of railroad carrier in respect to furnishing proper cars for passengers. 31 L.R.A. 313.

CARRIERS, III. j; 5-cont'd

Carrier's liability to passenger on account of unsanitary condition of car. 26 L.R.A.(N.S.) 263.

Liability of carrier to postal clerk for failure to keep car in proper condition.
3 L.R.A.(N.S.) 218; 26 L.R.A.(N.S.) 1058; L.R.A.1918E, 517.

Liability of carrier for injury to passenger by draft or rain from open windows or doors. 11 L.R.A.(N.S.) 926.

Liability of carrier to passenger who falls over fender. 26 L.R.A.(N.S.) 406.

Liability of railroad company for injury to persons, not employees, caused by defectively loaded car. 26 L.R.A. (N.S.) 204.

Liability for accident through leaving vestibule doors open. 2 L.R.A. (N.S.) 645.

Liability of carrier for injury to passenger from baggage or parcels in aisle of car. 13 L.R.A.(N.S.) 481; 43 L.R.A.(N.S.) 1050.

Duty of carrier to keep steps of cars free from snow and ice. 15 L.R.A.(N.S.) 523; 35 L.R.A.(N.S.) 592:

Duty of carrier of passengers to keep steps of car free from slippery substances other than snow and ice. 39 L.R.A. (N.S.) 419.

Duty as to condition of platform or running board of street car. 45 L.R.A.(N.S.)

Permitting space between platforms of cars as negligence. L.R.A.1916D, 1113.

Carrier's liability for injury to passenger from door of vehicle. 39 L.R.A.(N.S.) 878; L.R.A.1918D, 529.

Liability of carrier for personal injuries to consignor or consignee or their employees caused by unsafe car. 9 L.R.A. (N.S.) 857.

Duty to provide and keep gates on street cars or interurban cars closed. 32 L.R.A. (N.S.) 346.

Duty of steamship company to passengers as to condition of decks. 33 L.R.A. (N.S.) 532.

Failure to properly light car as affecting carrier's liability for assault upon or robbery of passenger. L.R.A.1918A, 1072.

### § 74. Overcrowded cars.

Contributory negligence on, see infra, § 80. Permitting car to be overcrowded as affecting carrier's liability for assault upon or robbery of passenger. L.R.A. 1918A, 1072.

Injuries received on crowded railroad trains. 24 L.R.A. 710.

On crowded car on elevated railroad. 24 L.R.A. 713.

On crowded street cars. 24 L.R.A. 712; 4 L.R.A.(N.S.) 399.

Injuries caused by fellow passengers on crowded trains. 24 L.R.A. 711.

Liability of street railway company for injury to person waiting for car in consequence of carrying passengers on platform or running board. 45 L.R.A. (N.S.) 269.

Begin with this book on every law question.

CARRIERS, III.-cont'd

k. Contributory negligence of person injured.

§ 75. Generally.

Question for jury as to, see TRIAL, § 46.

Intoxication as affecting negligence of passengers. 40 L.R.A. 134; 47 L.R.A. (N.S.) 736; L.R.A.1916F, 102.

On crowded street car. 24 L.R.A. 712. On crowded car on elevated railroad. 24 L.R.A. 713.

Contributory negligence of passenger injured by crush in entering car at elevated or subway station. 51 L.R.A. (N.S.) 1152.

Contributory negligence of intending passenger who enters car prematurely. 33 L.R.A.(N.S.) 585.

Contributory negligence of persons struck by street car while waiting for a car. 22 L.R.A.(N.S.) 228.

Child passenger exposing himself to danger in consequence of conduct of employees. 20 L.R.A.(N.S.) 1124.

Duty of passengers to leave crowded street car at request of conductor. 36 L.R.A. (N.S.) 993.

Duty of passenger to protect himself during an affray on the train. 32 L.R.A. (N.S.) 1209.

Contributory negligence of passenger injured by other passenger who was obviously drunk. 4 B. R. C. 340.

Contributory negligence of passenger in standing inside of railroad car. 50 L.R.A.(N.S.) 441.

Contributory negligence of passenger in standing inside of street car. 50 L.R.A. (N.S.) 450.

Contributory negligence of passenger injured by door of vehicle. L.R.A.1918D, 529.

Contributory negligence in walking through doorway in railroad station leading to place of danger. L.R.A.1917D, 892.

Contributory negligence of passenger who alights temporarily at intermediate point. 51 L.R.A.(N.S.) 899.

Liability of carrier for personal injuries to passenger who attempts to reach his destination by other means because of delay or stalling of car or train. L.R.A. 1917F, 357.

Imputing negligence of carrier to passenger. 8 L.R.A.(N.S.) 616; L.R.A.1915A, 761.

§ 76. Exposure of part of body. Exposing part of body beyond car. 16 L.R.A. 91; 5 L.R.A.(N.S.) 274; 50 L.R.A.(N.S.) 42.

§ 77. Passing from one car to another.

Negligence of passenger in passing from one car to another. 34 L.R.A. 720; 37 L.R.A.(N.S.) 518.

platform or running board. 45 L.R.A. Obedience to instructions. 34 L.R.A. 721; (N.S.) 269. L.R.A.1916E, 767.

CARRIERS, III. k-cont'd

§ 78. Riding in dangerous or unusual Boarding or alighting from moving train place generally.

Riding in dangerous places on crowded rail-road trains. 24 L.R.A. 710. Riding on top of car as contributory negli-

gence. 30 L.R.A. (N.S.) 425.

§ 79. Riding in wrong car.

Passenger's riding in baggage or express car as contributory negligence. 16 L.R.A. 631.

§ 80. Riding on platform. Negligence of carrier, see supra, § 60.

Riding on platform of street car as negligence. 49 L.R.A.(N.S.) 135.

Riding on platform of railroad car as negligence. 29 L.R.A. (N.S.) 325; L.R.A.1915B, 166.

Where train is crowded. 24 L.R.A. 710. Contributory negligence of passenger in riding or standing on running board of street car. 2 L.R.A.(N.S.) 1191, 10 L.R.A.(N.S.) 352; 12 L.R.A.(N.S.) 831; 21 L.R.A.(N.S.) 972; 49 L.R.A. (N.S.) 135.

Negligence in getting on platform or steps of car just before reaching station. 21

L.R.A. (N.S.) 715.

Riding on platform as affecting right to recover for injury through accident to train or car. 17 L.R.A.(N.S.) 158.

81. Getting on and off railroad train. Negligence of carrier, see supra, §§ 63-69. Injury to passenger on track before boarding or after alighting, see infra, § 83.

Status as passenger of one who attempts to board a moving car or train. L.R.A. 1916B, 832.

Negligence of passenger in getting on or off moving train. 21 L.R.A. 354; 22 L.R.A.(N.S.) 741; L.R.A.1915C,

Alighting from moving train 21 L.R.A. 358; 24 L.R.A. 711; 22 L.R.A. (N.S.) 742; L.R.A.1915C,

Boarding train while in motion. 21 L.R.A. 356; 22 L.R.A. (N.S.) 757; L.R.A.1915C, 186.

Negligence of passenger attempting to board car when door or gate is closed. L.R.A. (N.S.) 603.

Contributory negligence of passenger where train is run past station. 37 L.R.A. (N.S.) 266.

Parties compelled to alight from train. 21 L.R.A. 354.

Contributory negligence of child in jumping on or off moving railroad train. 21 L.R.A. 355; 29 L.R.A. (N.S.) 846.

Assumption of passenger that car will stop at proper place for alighting. 2 L.R.A. (N.S.) 115; 9 L.R.A. (N.S.) 1113.

Construction and effect of statute making

it an offense to get on a moving car or train. 23 L.R.A.(N.S.) 513.

Negligence of passenger in going upon platform or steps of car just before reaching his station. 21 L.R.A.(N.S.) 715. Consult also L.R.A. Digests of Cases.

CARRIERS, III. k-cont'd

as defense under general provision in policy as to exposure to danger. 10 L.R.A.(N.S.) 957.

§ 82. Getting on or off street car.

Negligence of carrier, see supra, §§ 63-

Negligence of passenger who attempts to board car when door or gate is closed. 7 L.R.A. (N.S.) 603.

Contributory negligence of passenger injured by crush in entering car at elevated or subway station. 51 L.R.A. (N.S.) 1152.

Negligence in getting on or off a moving street car. 38 L.R.A. 786; 30 L.R.A.(N.S.) 270.

§ 83. Crossing track.

Negligence of carrier, see supra, § 65.

Injury to street car passenger who, upon alighting, passes around end of car, and is struck by car on other track. 4 L.R.A.(N.S.) 729; 21 L.R.A.(N.S.) 887.

Duty of passenger embarking or disembarking at station to stop, look, and listen before crossing track adjacent to train. 13 L.R.A. (N.S.) 621; 27 L.R.A.(N.S.) 128.

84. After ejection.

Negligence of passenger ejected from train, in walking on railroad track. 12 L.R.A.(N.S.) 359.

## l. Risks assumed by passenger.

§ 84a. In general. Risks of negligence assumed by passenger as including gross negligence. 1 L.R.A. (N.S.) 675.

By passenger getting on or off moving car. 38 L.R.A. 786.

By passenger riding or standing on running board of street car. 2 L.R.A.(N.S.) 1191.

§ 85. On freight train.

As to jerking the cars in stopping or starting a train. 19 L.R.A. 310.

As to risk in stock car. 19 L.R.A. 311.

As to what degree of care is required in other cases. 19 L.R.A. 311.

By person riding on drover's pass. L.R.A. 794.

# m. Baggage and property of passenger.

§ 86. Generally.

Delivery of baggage check to carrier as de-livery of baggage. 14 L.R.A.(N.S.)

How far is carrier bound by act of baggageman in receiving articles as baggage. 10 L.R.A.(N.S.) 1119.

Duty to check baggage to destination. 25 L.R.A. (N.S.) 537.

CARRIERS, III. m-cont'd

Right of passenger to carry baggage or packages in street car. 30 L.R.A.

(N.S.) 889.
Liability of carrier for injury to passenger from baggage or parcel in aisle of car. 13 L.R.A.(N.S.) 481; 48 L.R.A.(N.S.) 1050.

Implied exceptions in statute as to free transportation of. 25 L.R.A. 569.

Duty of carrier to transport baggage on same train with passenger. 17 L.R.A. (N.S.) 1091.

Continuation of relation while looking after baggage after reaching destination. 2 L.R.A.(N.S.) 876.

Rights of one going to station to deposit baggage. 28 L.R.A.(N.S.) 311.

Carrier's liability for assault by employee while attending to baggage. 17 L.R.A. (N.S.) 765.

# § 87. What is baggage.

Liability for loss of property carried as baggage, see infra, § 89.

Bicycle as baggage. 47 L.R.A. 306. Books and manuscript as baggage. 41 L.R.A.(N.S.) 371.

Household goods or supplies as baggage. 39 L.R.A.(N.S.) 634.

Drummer's baggage. L.R.A.1918C, 108.

Articles intended for gifts as baggage for which carrier is responsible. 21 L.R.A. (N.S.) 850.

# § 88. Duty and liability of sleeping car company.

Duty of sleeping car company as to baggage or personal effects of passengers. 21 L.R.A. 289; 9 L.R.A.(N.S.) 407; 41 L.R.A.(N.S.) 799; L.R.A.1915B, 621.

# § 89. Liability for loss of generally. Extent of recovery for loss, see Damages, §§ 46, 106.

Liability for baggage not accompanied by a passenger. 55 L.R.A. 650; 43 L.R.A. (N.S.) 806; L.R.A.1915E, 281.

Liability of carrier for loss of drummer's baggage. 4 L.R.A. (N.S.) 1035; L.R.A. 1918C, 108.

Liability of passenger carrier transporting merchandise intrusted to it by passenger. 14 L.R.A. 515.

Liability in respect to property of third person in passenger's baggage. L.R.A. 1918C, 114.

Recovery by parent for loss of personal effects of infant that pays no fare. 1 L.R.A.(N.S.) 353.

Liability of baggage transfer company. L.R.A.1916D, 1202.

Duty and liability of carrier as to baggage not checked. L.R.A.1916E, 482.

Refusal to surrender ticket or pay fare because of breach of contract as affecting right to recover for damage to or loss of baggage of passenger. L.R.A.1916E, 491. CARRIERS, III. m-cont'd

Liability of carrier for loss of property in a check room. 18 L.R.A. (N.S.) 295; 29 L.R.A. (N.S.) 834.

Burden of proof as to liability of common carrier for baggage. 36 L.R.A. 781.

Right of owner of baggage to testify as to its value in action for its loss. 37 L.R.A.(N.S.) 588.

§ 89a. Liability for loss of hand baggage or other effects in the custody and control of passenger.

Railroad and street railways. L.R.A.1915B, 608, 609.

Steamship companies. L.R.A.1915B, 613. Presumption and burden of proof as to responsibility for loss. L.R.A.1918B, 1063.

# § 90. Liability after reaching destination.

Liability for baggage after reaching destination of passenger. 36 L.R.A. 781; 38 L.R.A.(N.S.) 383.

Termination of liability for baggage. 3 L.R.A. (N.S.) 183.

## § 91. Limitation of liability.

As to passengers generally, see supra, §§ 28, 29.

As to freight, see infra, §§ 128-135.

Limitation of carrier's liability for passenger's luggage. 19 L.R.A. (N.S.) 1006; 34 L.R.A. (N.S.) 818; L.R.A.1916A, 1273.

Limitation of liability by baggage transfer company. L.R.A.1916D, 1204.

Carmack amendment as affecting state regulations as to stipulations limiting liability. 50 L.R.A.(N.S.) 819.

Effect of limitation of carrier's liability on liability for loss of hand baggage or other effects in the custody or control of passenger. L.R.A.1915B, 612.

Application to hand baggage of limitation

Application to hand baggage of limitation of liability for loss of baggage. 5 L.R.A.(N.S.) 650.

Does stipulation exempting carrier from liability for passenger's baggage, or limiting amount thereof, cover losses due to negligence. 8 L.R.A.(N.S.) 199; 34 L.R.A.(N.S.) 826.

Limitation of liability for baggage after reaching destination of passenger. 36 L.R.A. 787.

Valuation of property for purposes of transportation as affecting carrier's liability where the property is converted or embezzled while in its possession. L.R.A.1918A, 756.

## § 92. Measure of damages. See Damages, §§ 15, 46, 106.

### n. Corpse.

§ 93. Generally.

Duty of carrier as to transportation of corpses. 38 L.R.A.(N.S.) 32.
Who may maintain action for mutilation of corpse. L.R.A.1915B, 519.

# CARRIERS, III.—cont'd

## o. Stations.

94. Generally. Duty of company at, generally, see supra, § 48.

Announcement of, see supra, § 45.

Carrying beyond, see supra, § 46. Safety of, see supra, §§ 70-72.

Discrimination at, and governmental regulations as to, see infra, §§ 161, 162.

As to contracts with reference to, see RAIL-BOADS, § 27.

Right to change the location of station. 34 L.R.A.(N.S.) 412.

# p. Passengers on freight train.

95. Generally.

Liability for injury to passenger on, see supra, § 61.

Risks assumed by passenger on, see supra, § 85.

What risk is assumed by passengers on freight trains. 19 L.R.A. 310.

Carrier's liability for injury to person wrongfully on freight train by collusion with train employee. 5 L.R.A.(N.S.)

1025: 37 L.R.A.(N.S.) 421.

Extent of ticket agent's authority as to carriage on. 31 L.R.A.(N.S.) 233.

Liability for injuries to passenger from sudden starting or stopping of train. 34 L.R.A.(N.S.) 230.

# a. Pullman and sleeping car companies.

§ 96. Duty and liability of Pullman or sleeping car companies. Duty and liability as to baggage, see supra,

§ 88.

Liability for money stolen from passenger. 11 L.R.A. 762.

Bjection of passenger by sleeping car company. 21 L.R.A. 295.

Right of passenger who has lost ticket.
L.R.A.1918E, 985.

Duty of sleeping car company as to continuous passage. 21 L.R.A. 295.

Liability of sleeping car company for per-

sonal injuries to passenger. 21 L.R.A. 296.

Duty to protect passengers from assault. L.R.A.1917**F**, 888.

Liability for wilful misconduct of employ-ees. 4 L.R.A.(N.S.) 492, 502.

Liability for failure to furnish passenger with aleeping car accommodations. 21 L.R.A. 295; 5 L.R.A.(N.S.) 1012; 38 L.R.A.(N.S.) 259; L.R.A.1915B, 1202.

Duty to notify passenger in, of arrival at destination. 14 L.R.A. (N.S.) 907; L.R.A.1915C, 669.

Duty to provide separate compartments for colored passengers in sleeping or palace cars. 32 L.R.A.(N.S.) 801; L.R.A.1918D, 709.

Constitutionality of statute requiring unoccupied upper berth to be left closed. L.R.A.1916A, 1139.

Consult also L.R.A. Digests of Cases. 11

CARRIERS, III. q-cont'd

§ 97. Rights, duties, and liabilities of railroad company.

Duty of railroad to furnish sleeping car service. L.R.A.1918A, 51.

Right of carrier to run trains composed exclusively of sleeping or parlor cars. 36 L.R.A. (N.S.) 1139.

Carrier's liability for assaults on passengers by servants of sleeping and palace car company. 14 L.R.A. 740; 21 L.R.A.

Liability of railroad company for acts of employee of sleeping or Pullman Car Company toward passengers. L.R.A. 297; 23 L.R.A. (N.S.) 1056.

Liability of railroad company for acts of Pullman car employees toward trespassers. L.R.A.1917A, 420.

Contract exempting railroad company from liability for negligent injury to sleeping car employees or others sustaining a similar relation to the company. 11 L.R.A. (N.S.) 432; 50 L.R.A. (N.S.) 432; L.R.A.1917D, 648.

# r. Connecting carriers; negligence of other company.

§ 98. Generally.

Of freight, see infra, §§ 142, 143.

Responsibility assumed by one corporation in issuing tickets good upon line of another. 42 L.R.A. (N.S.) 76.

Duty of connecting carrier to passenger holding coupon ticket, as affected by delay on part of the other carriers. 25 L.R.A.(N.S.) 459.

Carrier's liability for injury to its passenger through negligence of another company which it permits to use its tracks. 26 L.R.A.(N.S.) 987.

Duty and liability to passengers at junction point. L.R.A.1918F, 433.

Constitutionality of statute requiring carrier to sell tickets good on connecting line. 42 L.R.A.(N.S.) 541.

# s. Penalty.

§ 99. Generally.

Motive of plaintiff as affecting right to re cover statutory penalty from carrier 12 L.R.A.(N.S.) 497.

Penalties to enforce orders of Public Service Commissions. L.R.A.1918E, 311. Cumulative penalties for failure of carrier

to provide separate accommodations for white and colored persons. L.R.A. 1917B, 548.

Constitutionality of statute imposing penalty for failure to pay claim. 42 L.R.A. (N.S.) 106; L.R.A.1917B, 926.

### t. Tax on passenger traffic.

§ 100. Generally.

Taxation on passenger traffic. 57 L.R.A.

State taxation of passenger travel as affected by commerce clause. 60 L.R.A.

# CARRIERS-cont'd

# IV. Carriers of freight.

## a. In general.

§ 101. Generally.

Governmental control, see infra, V.

Authority of agent, see PRINCIPAL AND AGENT, § 21.

Effect of delivery of goods to carrier as between seller and purchaser, see SALE, § 11.

Right of stoppage in transitu, see SALE, § 61.

Authority of agent of initial carrier to extend its undertaking beyond its own line. 31 L.R.A.(N.S.) 32.

line. 31 L.R.A.(N.S.) 32.

Mandatory injunctions to. 20 L.R.A. 166.

Conflict of laws as to contracts of. 63

L.R.A. 513; 18 L.R.A.(N.S.) 874.

Effect of war on contract of affreightment with alien enemies. L.R.A.1917C, 667. Effect of breaking continuity of shipment upon its interstate character. L.R.A.

1917D, 1184. Liabil.ty for failure to forward bonded merchandise. 4 L.R.A.(N.S.) 1060.

Order for goods in carrier's possession as subject of forgery. 32 L.R.A.(N.S.)

Right to use railroad right of way for purpose of depot. 36 L.R.A.(N.S.) 516.

pose of depot. 36 L.R.A.(N.S.) 516.
Right to use railroad right of way for freight facilities. 36 L.R.A.(N.S.) 517.

Rights of third persons claiming under carriers to assert title as against owner. 25 L.R.A.(N.S.) 781.

Right of bailee to assert against bailor the hostile title of a third person. 33 L.R.A.(N.S.) 681; L.R.A.1918B, 662.

Sufficiency of general allegations of negligence. 59 L.R.A. 239.

Estoppel to plead defense of limitation to action on carrier's contract. 63 L.R.A.

Effect of character of sum agreed upon for breach of contract to provide freight as penalty or liquidated damages of single or multiple stipulations in contract. L.R.A.1915E, 380.

Right of owner to benefit of insurance taken out by carrier. 47 L.R.A.(N.S.) 196. Liability of railroad company for injury resulting from act of shipper or consignee in setting car in motion. 51 L.R.A.(N.S.) 888.

Liability for injury by explosives during shipment. L.R.A.1916B, 725.

Liability of a carrier for injury or damage inflicted by an animal which escapes from its custody or control. L.R.A. 1915D, 564.

# § 102. Who may maintain action against carrier.

Matters affecting interstate commerce, see COMMERCE, §§ 7, 8.

Who is real party in interest by whom Liabi action against carrier of goods must be brought. 64 L.R.A. 617.

Begin with this book on every law question.

CARRIERS, IV. a-cont'd

Right of consignee to maintain action against carrier. 22 L.R.A. 428; 36 L.R.A. (N.S.) 68.

Who may maintain action against carrier for nondelivery of goods delivered to carrier by vendor for transportation to purchaser. 32 L.R.A. 427.

§ 103. Effect of deviation.

Effect of deviation upon rights and liabilities of carriers. 2 B. R. C. 587; 3 B. R. C. 285.

On rights and obligations arising from special contract. 2 B. R. C. 612; 35 L.R.A. (N.S.) 1046; L.R.A.1917A, 62.

Prior deviation as affecting carrier's liability for loss or damage to goods from act of God. L.R.A.1916D, 988.

Loss or damage from, due to initial carrier's own negligence or breach of contract. 31 L.R.A.(N.S.) 85.

Liability of carrier for damages other than loss or delay resulting from deviation. L.R.A.1918A, 1064.

# § 104. Injury to persons loading or unloading.

Injuries due to condition of cars, see infra, § 138.

Liability of consignee to servants of carrier. 46 L.R.A. 97.

Shipper's duty to notify carrier of dangerous character of article shipped. 36 L.R.A. 648.

Liability of railroad to employees for negligence of shippers in use of instrumentalities for loading and unloading cars. 24 L.R.A.(N.S.) 1020.

Duty of carrier to protect one other than employee from injury by movement of cars or trains while loading or unloading freight or express. 31 L.R.A. (N.S.) 960; L.R.A.1915F, 866.

# § 105. Right of agent, etc., as consignee.

Right of agent, factor, broker, or commission merchant to whom goods are consigned for sale, to maintain action against a common carrier for damage to or loss of goods during transit. 26 L.R.A.(N.S.) 437.

# § 106. Liability of baggage transfer companies.

As common carriers. 34 L.R.A. 137; 21 L.R.A.(N.S.) 188; L.R.A.1916D, 1202. When liable. 34 L.R.A. 138.

Limitation of liability. 34 L.R.A. 138; L.R.A.1916D, 1204.

When not liable. 34 L.R.A. 139.

When duty commences. L.R.A.1916D, 1202. What constitutes delivery by transfer company. L.R.A.1916D, 1203.

Liability as affected by character of goods. L.R.A.1916D, 1203.

Damages. L.R.A.1916D, 1203.

CARRIERS, IV. a-cont'd The effect of a custom. 34 L.R.A. 140; LR.A.1916D, 1205.

# b. Bills of lading and special contracts.

107. Generally.

To whom delivery may be made under bill of lading, see infra, § 115.

As to bills of lading generally, see BILLS

OF LADING.

Right as against carrier of discounter of draft as to property covered by a bill of lading attached to draft. 49 L.R.A. (N.S.) 651.

Validity of contract for transportation in violation of particular statutes. 12 L.R.A.(N.S.) 609.

Impossibilities of performance as affecting liability under carrier's contract. L.R.A. 216.

Carrier's liability for servant's act in making out false bill of lading. 27 L.R.A. 172.

To whom may delivery be made under bill of lading. 38 L.R.A. 358.

Effect of, on delivery to impostor by carrier. 37 L.R.A. 178.

Effect of deviation on rights and obligations of carrier arising from special contract. 2 B. R. C. 612; 35 L.R.A. (N.S.) 1046; L.R.A.1917A, 62.

Liability of carrier to bona fide holder upon bill of lading issued by negligence or mistake of agents without delivery of any goods to carrier. 41 L.R.A. (N.S.) 500.

Transit privileges. L.R.A.1918A, 178.

## § 108. Conclusiveness of.

Constitutionality of statute making bill of lading conclusive proof of receipt of property. 22 L.R.A.(N.S.) 821.

Liability of carrier to a bona fide holder upon bill of lading issued by negligence or mistake of agent without delivery of any goods to carrier. 6 L.R.A. (N.S.) 302; 22 L.R.A.(N.S.) 828.

Right of carrier to deny, as against bona fide holder of bill of lading, that goods were delivered to it. 6 L.R.A.(N.S.) 302

Conclusiveness of bill of lading as to character and amount of goods as between carrier and bona fide transferrer. 84 L.R.A.(N.S.) 1177.

# c. Duty to receive and transport.

109. Generally.

Injunction to compel a carrier to transport freight. L.R.A.1918C, 887.

Duty as to collection of packages by express company. 33 L.R.A. 66.

Right of carrier to refuse to receive in afternoon valuables to go on morning train. 15 L.R.A.(N.S.) 558.

Consult also L.R.A. Digests of Cases.

CARRIERS, IV. c-cont'd

Right to discontinue receipt of freight at place other than regular station. 38 L.R.A.(N.S.) 932.

Duty of carrier to accept freight originating and terminating within city limits. 33 L.R.A. (N.S.) 443.

Duty of carrier to accept liquor for transportation to points where its sale is prohibited or restricted. 40 L.R.A. (N.S.) 798; 45 L.R.A.(N.S.) 120.

Effect of strike on carrier's duty to accept freight. 35 L.R.A. 623; 22 L.R.A. (N.S.) 1200.

Right to refuse to transport dangerous articles. 36 L.R.A. 649.

# d. Loss of, or injury to, property.

§ 110. Generally.
To live stock, see infra, §§ 124-127.
Limitation of liability as to, see infra, §§ 128-135.

Liability for loss or injury due to condition of cars, see infra, § 136.

Liability of connecting carrier for loss, see infra, § 143.

Extent of recovery for, see DAMAGES, § 47. Presumption and burden of proof as to negligence, see EVIDENCE, §§ 71, 71s.

Railroad liability for loss of registered letter. 5 L.R.A.(N.S.) 459.

Liability of carrier for loss of or injury to dog. 40 L.R.A. 508.

Carrier's liability for injury by goods be-coming wet. 39 L.R.A.(N.S.) 645.

Liability of carrier in respect of property which it accepts improperly packed or crated. 29 L.R.A. (N.S.) 1214; L.R.A. 1915D, 1077.

Effect of misrepresentation as to character, quantity, or value of goods by shipper on his right to recover for loss. L.R.A.(N.S.) 745; L.R.A.1915A, 502.

Right of consignee who refuses to accept goods to maintain action for damages against carrier. 30 L.R.A.(N.S.) 1071. Liability of carrier for loss or damage to

goods while being returned to shipper. 22 L.R.A.(N.S.) 945.

Carrier's duty to hasten shipment or take other precautions to prevent loss threatened without any antecedent fault on its part. 39 L.R.A.(N.S.) 640.

Right of shipper or consignee, as against carrier, to refuse to accept goods damaged while in carrier's hands. 25 L.R.A.(N.S.) 842; 42 L.R.A.(N.S.)

Effect of strike on carrier's liability for destruction of property. 25 L.R.A. 623.

Constitutionality of legislation affecting amount of liability or penalty for destruction of freight. 20 L.R.A. (N.S.) 126.

Burden of proof as to negligence where property was destroyed while in pos-session of a carrier as a warehouseman. 22 L.R.A. (N.S.) 975.

CARRIERS, IV. d-cont'd Liability for interest on amount allowed for damage to goods. 28 L.R.A. (N.S.)

§ 111. By act of God or inevitable accident.

Effect of, on carriers' contracts, law governing. 63 L.R.A. 531.

Snowstorm as act of God which will relieve carrier from liability. 24 L.R.A. (N.S.) 1209.

Duty of carrier where act of God has oc-29 L.R.A. curred or is threatened. (N.S.) 671; L.R.A.1916D, 981.

Liability of carrier for damage to or loss of livestock by contagious disease contracted during transit. 26 (N.S.) 712.

Burden of proof when the defense in an action to recover for loss or injury to goods during carriage is act of God or vis major. 29 L.R.A.(N.S.) 663; L.R.A. 1915D, 547.

Prior delay or deviation as affecting carrier's liability for loss of or damage to goods from act of God. L.R.A.1916D, 988.

# e. Delivery to carrier.

§ 112. What constitutes. Passing of title to goods sold on, see SALE,

§ 11. What constitutes delivery of freight to carrier. 32 L.R.A. (N.S.) 313; L.R.A.

1916C, 608. What constitutes delivery of live stock to carrier. 32 L.R.A.(N.S.) 322.

## f. Delivery by carrier; conversion; delay.

113. Generally.

Duty as to delivery of packages by express company. 33 L.R.A. 66.

Delivery by express agent to addressee and collection of price of intoxicating liquor sent C. O. D. as sale thereof by the agent. 2 B. R. C. 467.

Right of one who is to be notified of arrival of goods consigned to another to maintain action against carrier. 39 L.R.A. (N.S.) 309.

When goods deemed delivered to the consignee before removal from car. L.R.A.(N.S.) 773.

Discrimination by carrier as to delivery of freight. 12 L.R.A.(N.S.) 510.

Refusal of carrier to deliver goods as conversion. 50 L.R.A.(N.S.) 1172.

Duty of carrier to give notice before selling goods or otherwise disposing of them contrary to shipping directions. 45 L.R.A. (N.Š.) 18.

114. Place of delivery.

Right of shipper to demand a redelivery of property at intermediate point. 15 L.R.A.(N.S.) 756.

Duty to deliver car at consignee's place of business. 41 L.R.A. (N.S.) 678.

Duty to shift or transfer cars after arrival at destination. L.R.A.1918F, 1087. Begin with this book on every law question.

CARRIERS, IV. f—cont'd

Right of shipper to demand a redelivery of, or to divert, the property at inter-mediate point. L.R.A.1918B, 79.

§ 115. To whom delivery may be made under bill of lading. Goods deliverable to order. 38 L.R.A. 358.

Must deliver to holder of bill of lading. 38 L.R.A. 359.

Necessity of production of bill of lading. 38 L.R.A. 359.

Shipper's rights. 38 L.R.A. 361. Duplicate bills. 38 L.R.A. 362.

Shipping receipts. 38 L.R.A. 362.

Indorsement required. 38 L.R.A. 363.

Wrongful holder. 38 L.R.A. 363. Effect of order to notify certain person. 38 L.R.A. 363.

Rights of true owner. 38 L.R.A. 364. Delivery on carrier's copy. 38 L.R.A. 364 Incidents of delivery. 38 L.R.A. 364. Exceptions in bills of lading. 38 L.R.A. 365.

Instructions for collections. 38 L.R.A. 365. Conflicting claims. 38 L.R.A. 365. Acts of third persons. 38 L.R.A. 365. Consignment to consignor's agent.

L.R.A. 366.

116. Nondelivery generally.

Who may maintain action against carrier for nondelivery of goods delivered to carrier by vendor for transportation to purchaser. 22 L.R.A. 427.

Time of notice to warrant special damages for failure of carrier to deliver prop-erty. 3 L.R.A.(N.S.) 1111. Action of public authorities under police

power as defense of carrier for nondelivery of freight. 21 L.R.A. (N.S.) livery of freight. 21 I 731; 28 L.R.A.(N.S.) 139.

Applicability in case of nondelivery of provision in shipping contract requiring presentation of claim for damages. 31 L.R.A.(N.S.) 1180.

Liability for interest on damages for non-delivery of goods. 28 L.R.A.(N.S.) 18.

§ 117. Conversion; refusal to deliver. Permitting unauthorized inspection as conversion. 3 L.R.A.(N.S.) 1136.

Liability of common carrier for conversion by accepting goods for transportation from one not the owner. 18 L.R.A. (N.S.) 494; L.R.A.1918D, 962.

Refusal of connecting carrier to surrender freight induced by a mistake as to the rate due, or as to prepayment of charges, as a conversion. 6 L.R.A. (N.S.) 1048.

Liability of railroad company for malicious refusal of freight agent to deliver freight. 7 L.R.A.(N.S.) 926.

Liability of connecting carrier for detaining freight on account of mistake as to amount due. 32 L.R.A.(N.S.) 189.

Valuation of property for purpose of transportation as affecting carrier's liability where it is embezzled while in its possession. 31 L.R.A.(N.S.) 309.

CARRIERS, IV. f-cont'd

Valuation of property for purposes of transportation as affecting carrier's liability where the property is converted. 31 L.R.A. (N.S.) 309; L.R.A.1918A, 756. When tender of freight money not condition

When tender of freight money not condition of conversion by carrier's refusal to surrender goods. 6 L.R.A.(N.S.) 1058. Payment or tender of freight charges as a condition precedent to an action of

trover against carrier. 21 L.R.A. 117. § 118. Notice of arrival; termination

of liability. Conflict of laws as to. 63 L.R.A. 531.

What is a reasonable time for removal of goods by consignee, after which the liability of the carrier as such terminates. 8 L.R.A.(N.S.) 240; 16 L.R.A.(N.S.) 935; 25 L.R.A.(N.S.) 938.

Termination of carrier's liability as such as affected by its fault preventing removal of goods. 8 L.R.A.(N.S.) 235.

Right of reprier to terminate its responsi-

Right of carrier to terminate its responsibility as warehouseman. 9 L.R.A. (N.S.) 577.

Termination of liability of carriers of live stock as to pens or yards at stations. 44 L.R.A. 292.

Duty of express company with respect to property awaiting delivery at destination. 14°L.R.A.(N.S.) 393.

Necessity of notice of arrival of goods to reduce liability of carrier to that of warehouseman. 18 L.R.A.(N.S.) 427.

Agreement or custom of carrier to notify consignor of consignee's refusal to pay freight. L.R.A.1917C, 1127.

Absence of consignee, lack of address, or other similar circumstances, as excusing performance of carrier's duty to give notice of arrival. 26 L.R.A.(N.S.) 572.

Delegation by legislature of power to change carrier into warehouseman. 32 L.R.A.(N.S.) 651.

§ 119. Misdelivery; wrongful delivery. Duty of carrier to recognize demands of stranger on property delivered to it for transportation. 12 L.R.A.(N.S.) 254. Liability of carrier for property removed

ability of carrier for property removed by, or delivered to, one whom it was directed to notify. 4 L.R.A.(N.S.) 1056.

Applicability in case of misdelivery of provision in shipping contract requiring presentation of claim for damages. 31 L.R.A.(N.S.) 1179.

§ 120. — delivery to impostor. General rule as to delivery. 37 L.R.A. 177. Imposition on carrier. 37 L.R.A. 179. Imposition on consignor. 37 L.R.A. 180.

§ 121. Delay.

Extent of recovery for, see DAMAGES, § 47.

Duty of carrier to take precautions to prevent loss from. 39 L.R.A.(N.S.) 640, 642, 644.

Conflict of laws as to contract as to delay at destination. 18 L.R.A.(N.S.) 882.

Consult also L.R.A Digests of Cases.

CARRIERS, IV. f-cont'd

Effect of strike on carrier's liability for delay in transportation. 35 L.R.A. 624.

Effect of strike on carrier's liability for delay in unloading vessel. 35 L.R.A. 630.

Of carrier in transportation of corpse. 38 L.R.A.(N.S.) 433.

Delay in transportation, due to inadequate facilities. 10 L.R.A.(N.S.) 432; 34 L.R.A.(N.S.) 637.

Right of consignee, as against carrier, to reject consignment for delay. 12 L.R.A.(N.S.) 431.

Liability for delay due to initial carrier's own negligence or breach of contract. 31 L.R.A.(N.S.) 82.

Prior delay as affecting carrier's liability for loss or damage by act of God. L.R.A.1916D, 988.

Effect of deviation on rights and obligations arising from stipulation against liability for delay. 8 B. R. C. 616.

Action of public authorities under police power as defense to carrier for delay of freight. 21 L.R.A.(N.S.) 731; 28 L.R.A.(N.S.) 139.

Legislative requirements as defense to carrier for delay in transportation. 31 L.R.A.(N.S.) 1184.

Constitutionality of legislation affecting amount of liability or penalty for delay in delivery or for destruction of freight. 20 L.R.A.(N.S.) 126.

Right to interest on damages for delay. 28 L.R.A.(N.S.) 20.

Right of shipper or consignee, as against carrier, to refuse to accept goods delayed while in its hands. 42 L.R.A. (N.S.) 782.

Provision exempting from liability for loss by delay as covering loss caused by negligence. 6 B. R. C. 131.

# g. Liens; freight charges.

§ 122. Generally.

Governmental control of rates, see infra, §§ 154-160.

Right of mortgagee of ship as to freight. 4 B. R. C. 538.

Recovery back of excessive payments made. 18 L.R.A.(N.S.) 124.

Purchaser's election to rescind for breach of warranty as affecting recovery against seller for freight paid. 27 L.R.A.(N.S.) 928.

Discrimination by requiring prepayment of freight charges. 21 L.R.A.(N.S.) 982.

Payment or tender of freight charges as condition precedent to action of trover against carrier. 21 L.R.A. 117.

When tender of freight money not condition of conversion by carrier's refusal to surrender goods. 6 L.R.A. (N.S.) 1058.

Liability of connecting carrier for detaining freight on account of mistake as to the amount due. 6 L.R.A.(N.S.) 1054; 32 L.R.A.(N.S.) 189.

CARRIERS, IV. g-cont'd.

Refusal of connecting carrier to surrender freight induced by mistake as to rate due or as to prepayment of charges, as a conversion. 6 L.R.A. (N.S.) 1048.

Effect of deviation on carrier's right to freight. 2 B. R. C. 611.

Liability of carrier for increased freight rates resulting from deviation. L.R.A. 1918A, 1064.

Carrier's charges based upon extra transportation of goods rendered necessary by carrier's own fault or mistake. L.R.A.1917D, 920.

Additional charge for transit privilege. L.R.A.1918A, 184.

Method of paying freight charges where transit privilege is granted. L.R.A. 1918A, 184.

Right of carrier having line haul to make extra charge for switching or spotting cars at terminals or sidetracks. L.R.A. 1918A, 164.

Liability of consignor for freight. L.R.A. 1917A, 665.

Upon refusal of consignee to accept goods. 52 L.R.A. (N.S.) 398.

Right of carrier to recover difference between rate charged shipper and proper rate. 49 L.R.A.(N.S.) 92.

§ 123. Lien.

Maritime lien for freight. 70 L.R.A. 358, 368.

Lien for demurrage. 3 L.R.A. (N.S.) 327. Maritime lien for. 70 L.R.A. 358, 374. Waiver of lien of, by attachment or execution. 50 L.R.A. 721.

## h. Carrying live stock.

§ 124. Generally.

Personal injury to drover, see supra, § 57. Limitation of liability, see infra, IV. i.

Constitutionality of statute fixing minimum rate of speed at which carrier may transport livestock. 26 L.R.A. (N.S.) 1018; L.R.A.1917C, 142.

Validity and construction of statutes as to transportation of infected animals from other states or communities. 43 L.R.A.(N.S.) 1068.

Is carrier an insurer of live stock transported by it. 18 L.R.A.(N.S.) 86. What constitutes delivery of live stock to carrier. 32 L.R.A.(N.S.) 322.

Carrier's liability for injury to live stock by weather conditions. 34 L.R.A. 34 L.R.A. (N.S.) 1013.

Duty of carrier to hasten shipment or take other precaution to prevent loss to live stock threatened without any antecedent fault on its part. 39 L.R.A. (N.S.) 640.

Liability for loss or damage to live stock shipments due to initial carrier's own negligence or breach of contract. 31 L.R.A. (N.S.) 81.

Liability of carrier for damages to livestock because of defects in, or improper condition of, car. L.R.A.1917C, 512.

Liability of a carrier for injury or damage Limited liability of carriers by water, see inflicted by an animal which escapes

CARRIERS, IV. h-cont'd from its custody or control. L.R.A. 1915D, 564.

Liability of carrier for suffocation of live

stock. 43 L.R.A.(N.S.) 617. Effect of shipper's negligence in loading car or as to condition of car upon the carrier's common-law liability. L.R.A. 1915C, 1222.

Reasonableness of time fixed in contract of shipment of livestock for presentation of claim for damages. 7 L.R.A.(N.S.) 1041; L.R.A.1916D, 341.

Reasonableness of time fixed in a contract of shipment of live stock for bringing

action. L.R.A.1916D, 350. Removal of live stock from carrier's premises before notice of claim for damages where such notice is given in time for examination. 24 L.R.A. time for examination. (N.S.) 866.

Burden of proof as to injury to live stock during transportation. 17 L.RA. 339.

Presumption and burden of proof as to carrier's negligence in case of contract limiting liability. L.R.A.1915D, .649,

Liability for interest on amount allowed for damage to live stock. 28 L.R.A. (N.S.) 19.

§ 125. Stock pens and yards. Duty of carrier of live stock to provide stock pens or yards. 44 L.R.A. 289; L.R.A.1918C, 539.

Duty of carrier as to condition of stock pens. 44 L.R.A. 289; 10 L.R.A. (N.S.) 571.

To caretaker of stock. 10 L.R.A. (N.S.) 576.

Discrimination in delivering live stock to stock yards. 2 L.R.A.(N.S.) 511. Stock pens as a nuisance. 32 L.R.A. (N.S.) 375.

§ 126. Caring for, during transit. Extraordinary unloading of live stock in transitu. 14 L.R.A. 550.

Statutory duties of carriers of live stock with reference to care of stock during transportation. 44 L.R.A. 449.

Duty of carrier to shower hogs during shipment. - 16 L.R.A. (N.S.) 883. Duty of carrier to furnish bedding for live-

stock. 23 L.R.A. (N.S.) 278.

127. Communication of disease to. Liability of carrier for damage to or loss of live stock by contagious disease contracted during transit. (N.S.) 712. 26 L.R.A.

# i. Limitation of liability.

§ 128. Generally.

As to passengers generally, see supra, §§ 28,

As to baggage, see supra, § 91.

Matters affecting commerce, see COMMERCE, § 9.

Conflict of laws as to, see CONFLICT OF LAWS, § 10.

SHIPPING, § 20.

CARRIERS, IV. i-cont'd

Effect on liability for damages to freight because of defects in, or improper condition of, car, of contract releasing or reducing carrier's liability. L.R.A. 1917C, 520.

1917C, 520.
Right to limit common-law liability by contract in the absence of negligence.

18 L.R.A. 527.

Provision relieving carrier of goods from liability as extending to loss caused by negligence. 6 B. R. C. 124.

Relief by contract of carriers of live stock from liability as to pens or yards at stations. 44 L.R.A. 295.

Of baggage transfer company. 34 L.R.A. 138; L.R.A.1916D, 1204.

Effect of limitation of liability in receipt prepared by shipper. 28 L.R.A.(N.S.) 645.

Effect of deviation on rights and obligations arising from special contract limiting liability. 2 B. R. C. 612.

Validity of provision imposing responsibility of inspecting and selecting cars on shipper. 36 L.R.A.(N.S.) 412.

Effect of shipping contract limiting carrier's common-law liability, signed under compulsion. 28 L.R.A.(N.S.) 637.

§ 129. In case of dangerous articles.

Limitation of common carrier's duty and liability in case of dangerous articles. 36 L.R.A. 648.

§ 130. In case of connecting carriers.
Conflict of laws as to contract limiting liability beyond own line. 18 L.R.A.
(N.S.) 882.

Limitation of carrier's undertaking to its own line. 31 L.R.A.(N.S.) 52. Limitation of carrier's liability to its own

Limitation of carrier's liability to its own line. 31 L.R.A.(N.S.) 68.

Limitation of liability of terminal carrier. 31 L.R.A.(N.S.) 98.

Express contracts extending or restricting obligation of intermediate carrier. 31 L.R.A.(N.S.) 92.

Limiting liability on joint undertaking between initial and connecting carriers. 31 L.R.A.(N.S.) 50.

Effect of stipulation exempting carrier from liability for losses not arising from its negligence, where loss is due to the negligence of the employees of a connecting carrier. 22 L.R.A.(N.S.) 379.

Effect of deviation on rights and obligations arising from stipulation limiting responsibility to carrier's own line. 2 B. R. C. 616.

# § 131. As to amount.

Conflict of laws as to. 63 L.R.A. 529; 18 L.R.A. (N.S.) 881.

Extent of liability under limitation of carrier's undertaking to its own line. 31 L.R.A. (N.S.) 67.

Validity of stipulation limiting carrier's liability to agreed valuation as affected by the Hepburn act. 28 L.R.A.(N.S.) 293.

Consult also L.R.A. Digests of Cases.

CARRIERS, IV. i-cont'd

Valuation of property for purposes of transportation as altecting carrier's liability where it is converted or embezzled while in its possession. 31 L.R.A. (N.S.) 309; L.R.A.1918A, 756.

Validity and effect of provision in carrier's contract as to time, method, or place of valuation of property for purpose of determining amount of damages. L.R.A. 1918B, 720.

Effect of deviation on rights and obligations arising from stipulation limiting amount for which carrier is liable. 2

B. R. C. 617.

§ 132. —in case of negligence.

Power to limit amount of liability in cases of negligence. 14 L.R.A. 433.

Limiting valuation of property as affecting amount of recovery for loss by negligence. 1 L.R.A. (N.S.) 985.

§ 183. As to time of giving notice or commencing suit.

Reasonableness of the time fixed in a contract of shipment of live stock for presentation of claim for damages. 7
L.R.A.(N.S.) 1041; L.R.A.1916D, 341.

Reasonableness of the time fixed in a contract of shipment of goods or live stock for bringing action. L.R.A.1916D, 350. Waiver or extension of time stipulated in

Waiver or extension of time stipulated in carrier's contract for claim or suit against carrier. L.R.A.1916D, 1049.

Validity of stipulation in carrier's contract requiring notice of loss within a specified time, as applied to loss due to carrier's negligence. 17 L.R.A.(N.S.) 628.

Validity of contract limiting time for bringing action, or for presentation of claims, for damages, where statute or Constitution prohibits carrier from limiting its common-law liability. 13 L.R.A.(N.S.) 753.

Removal of live stock from carrier's premises before notice of claim for damages, where such notice is given in time for examination. 24 L.R.A.(N.S.) 866.

Effect of deviation on rights and obligations arising from stipulation as to time for presenting claim. 2 B. R. C. 618.

Waiver by carrier of contractual rights under interstate shipment as to notice of claim as an unlawful discrimination among shippers. L.R.A.1918C, 978.

Conflict of laws as to contract fixing period for bringing action against carrier. 18 L.R.A.(N.S.) 883.

# § 134. As to necessity for notice of claim.

Conflict of laws as to necessity for notice of claim. 7 L.R.A.(N.S.) 191; 18 L.R.A.(N.S.) 882.

Notice of loss or injury to goods, required by carrier's contract as a condition precedent. 17 L.R.A. (N.S.) 642.

Applicability in case of misdelivery or nondelivery of provision in shipping contract requiring presentation of claim for damages. 31 L.R.A. (N.S.) 1178. CARRIERS, IV. i-cont'd § 135. Excepted perils.

What constitutes damage by the elements in contracts of. 53 L.R.A. 676.

## j. Duty as to cars.

§ 186. Generally.

Condition of passenger cars, see supra, §§ 42, 73, 74.

Duty of carrier with respect to refrigerator cars. 10 L.R.A.(N.S.) 317.

Liability of carrier for injury by failure to adjust ventilators. 15 L.R.A.(N.S.) 801.

Effect of shipper's negligence in loading car, or as to condition of car, upon the carrier's common-law liability. L.R.A.(N.S.) 952; L.R.A.1915C, 1220.

Liability of carrier for damages to freight because of defects in or improper con-

dition of car. L.R.A.1916C, 510. Liability for loss or damage due to defective cars owing to initial carrier's negligence or breach of contract. 31 L.R.A. (N.S.) 81.

# § 137. Duty as to inspection and selection.

Duty of shipper to inspect car. 17 L.R.A. (N.S.) 1034.

Validity of provision in carrier's contract imposing responsibility of inspectng and selecting cars upon shipper. 36 L.R.A. (N.S.) 412.

# § 138. Liability for personal injury due to condition of cars.

Duty of consignor or consignee to his employees as to condition of car. L.R.A. (N.S.) 972; 45 L.R.A. (N.S.) 707.

Liability of carrier to employee for injuries by defectively loaded car. 13 L.R.A. (N.S.) 384; 49 L.R.A. (N.S.) 1011.

Liability of carrier for personal injuries to consignor or consignee or their employees, caused by unsafe car. 9 L.R.A. (N.S.) 857.

## § 139. Duty as to furnishing.

Matters of interstate commerce as to, see COMMERCE, § 10.

Duty of a railroad company to furnish cars to shippers. 43 L.R.A. 225.

General or statutory duty. 43 L.R.A. 225; 8 L.R.A. (N.S.) 108; 44 L.R.A. (N.S.) 643.

Contract duty. 43 L.R.A. 227.

As affected by strike. 35 L.R.A. 623. Mutuality of contract to furnish cars to shipper. 13 L.R.A.(N.S.) 164.

Liability for delay in transportation of freight due to inadequate facilities. 10 L.R.A.(N.S.) 432.

State regulations requiring carriers to furnish cars to shippers as interference with interstate commerce. 17 L.R.A. (N.S.) 364; 29 L.R.A.(N.S.) 802; 42 L.R.A.(N.S.) 984.

Right of state to require railroad company to equip its road. 13 L.R.A.(N.S.) 320.

CARRIERS, IV. j—cont'd Right of carrier to discriminate in distribution of cars. 8 L.R.A.(N.S.) 112; 44 L.R.A.(N.S.) 648; L.R.A.1918D, 274.

Discrimination as to facilities for loading and unloading cars. 12 L.R.A. (N.S.)

Exclusiveness of statutory remedy for failure to furnish cars. 26 L.R.A.(N.S.) 851.

Validity of penalty for failure to furnish freight cars. 15 L.R.A.(N.S.) 733.

Loss of profits because of inability of shipper to fulfil contract for sale of goods as element of damages for carrier's breach of contract to furnish cars. 26 L.R.A.(N.S.) 1191.

Which party is to furnish under contract to ship goods f. o. b. 62 L.R.A. 797; 6 L.R.A. (N.S.) 928; L.R.A.1917A, 1163.

# 140. -kind of car to be furnished.

Duty of carrier to furnish car adapted to the subject of the shipment. 18 L.R.A. (N.S.) 508.

Duty of carrier to furnish cars of a type not owned by it. 20 L.R.A.(N.S.) 310.

# k. Demurrage; delay in unloading.

§ 141. Generally. Jurisdiction of admiralty as to. 66 L.R.A. 226.

Demurrage; charge for detention of its cars by consignees. 22 L.R.A. 530.
Lien for demurrage. 3 L.R.A.(N.S.) 327.

Maritime lien for demurrage. 70 L.R.A. 358, 374.

Power of state as to demurrage charges on interstate shipments. 30 L.R.A. (N.S.)

Effect and construction of express provision in charter party against demurrage in case of strike. 5 L.R.A.(N.S.) 126.

Delay in unloading caused by strike. 35

L.R.A. 630.

Delegation by legislature to railroad com-mission of power as to reciprocal demurrage charges. 32 L.R.A.(N.S.) 652.

Liability of shipper for demurrage upon refusal of consignee to accept goods. 52 L.R.A.(N.S.) 398.

Agreement or custom of carrier to notify consignor of consignee's refusal to accept goods or pay freight. L.R.A. 1917C, 1127.

Right of railroad to charge storage or demurrage where the refusal to remove the goods is due to a dispute. L.R.A. 1917C, 419.

# 1. Connecting carriers; liability beyond own line.

142. Generally.

Matters as to interstate commerce, see Com-MERCE, § 6.

Position of employees of servants working for connecting carriers. 37 L.R.A. 64. Refusal of connecting carrier to surrender freight induced by mistake as to rate due or as to prepayment of charges as

a conversion. 6 L.R.A. (N.S.) 1048.

CARRIERS, IV. 1-cont'd

Liability of connecting carrier for detaining freight on account of mistake as to the 6 L.R.A.(N.S.) 1054; amount due. 32 L.R.A. (N.S.) 189.

Duty of connecting carrier to know contract made by initial carrier. 52 L.R.A. (N.S.) 858.

§ 143. Liability for loss.

In case of passengers, see supra, § 98. Limitation of liability, see supra, § 130.

Liability as between initial and connecting carriers for damages to freight because of defects in, or improper condition of, car. L.R.A.1917C, 525.

Conflict of laws as to liability beyond own

line. 18 L.R.A.(N.S.) 882. Effect of strike on connecting line on carrier's liability. 35 L.R.A. 629.

Liability of connecting carrier for loss be-yond its own line. 31 L.R.A. yond its own line. (N.S.) 1.

Liability of carrier of property for loss occurring on connecting line, but due to its own negligence. 19 L.R.A.(N.S.) 1012.

Liability of initial carrier for loss or damage occurring while goods, the subject of an interstate shipment, are in possession of terminal carrier as warehouseman. L.R.A.1918B, 631.

State statutes regulating the liability of carriers as to shipments over connecting lines as interference with interstate commerce. 7 L.R.A.(N.S.) 388.

## Transporting intoxicating liquor.

§ 144. Generally.

Liability of carrier for. 46 L.R.A. 417. What is sufficient to terminate interstate transportation of intoxicating liquors.

11 L.R.A.(N.S.) 550; 23 L.R.A.(N.S.) 1020; 29 L.R.A.(N.S.) 745.

Duty of carrier to accept liquor for transportation to points where its sale is prohibited or restricted. 40 I (N.S.) 798; 45 L.R.A.(N.S.) 120. 40 L.R.A.

Ignorance of contents of package as defense to carrier in prosecution for transporting intoxicating liquor into prohibition territory. 18 L.R.A.(N.S.) 1182.

#### n. Insurance.

## § 145. Generally.

## o. Taxation of freight.

§ 146. Generally.

State taxation of freight carried by interstate carriers. 60 L.R.A. 657.

#### p. Penalties.

§ 146a. Generally.

Penalties to enforce orders of Public Service Commissions. L.R.A.1918E, 311.

Validity of penalty for failure to furnish freight cars. 15 L.R.A.(N.S.) 733.

Motive of plaintiff as affecting right to re-

cover statutory penalty from carrier. 12 L.R.A.(N.S.) 497.

Consult also L.R.A. Digests of Cases.

CARRIERS, IV. p-cont'd

Effect of strike on liability of carrier for statutory penalty for refusal to receive goods offered for shipment. 22 L.R.A.(N.S.) 1200.

Constitutionality of legislation affecting amount of liability or penalty for delay in delivery or for destruction of freight.

20 L.R.A.(N.S.) 126.

Constitutionality of statute imposing penalty or added liability for failure to pay claim. 15 L.R.A.(N.S.) 992; 42 L.R.A.(N.S.) 106; L.R.A.1917B, 926.

Governmental control; rates; discrimination; duty as to stopping places.

## a. In general.

§ 147. Generally.

As to matters affecting interstate commerce, see COMMERCE, §§ 4-12.

As to regulation of public service corporations generally, see Public Service CORPORATIONS.

Compulsory service of carriers. 15 L.R.A. 321; 24 L.R.A. 564.

Municipal regulation of the carriage of passengers by street railroads. 19 L.R.A. 570.

Validity of ordinance requiring conductor on street car. 15 L.R.A. 604.

Constitutionality of statute making bill of lading conclusive proof of the receipt of property. 22 L.R.A.(N.S.) 821.

Constitutionality of statute which makes shipper's statement as to weight conclusive. L.R.A.1917E, 1022.

State legislation requiring heating of cars. 42 L.R.A. 110.

Requiring passenger to put coin in box or automatic registering device. 32 L.R.A. (N.S.) 695.

Constitutionality of legislation affecting the amount of liability or penalty for de-lay in delivery or for destruction of freight. 20 L.R.A.(N.S.) 126.

Constitutionality of statute imposing pen-alty or added liability for failure to pay claim. 15 L.R.A. (N.S.) 992; 42 L.R.A. (N.S.) 106; L.R.A.1917B, 926.

Right of common carrier to contract for the use of its cars for advertising purposes. 24 L.R.A. (N.S.) 1010.

Constitutionality of statute requiring carrier to sell tickets good on connecting line. 42 L.R.A.(N.S.) 541.

Requiring connection or joint use of properties of railroad companies as a taking for which compensation must be made. 50 L.R.A.(N.S.) 652; L.R.A. 1916E, 759; L.R.A.1917E, 1083. Full crew acts. 49 L.R.A.(N.S.) 977.

Power to prohibit smoking in street cars. 51 L.R.A.(N.S.) 562.

Regulation of temperature of cars. L.R.A.

1915F, 792.

Constitutionality of statute requiring un-occupied upper berth to be left closed. L.R.A.1916A, 1139.

CARRIERS, V. a-cont'd

Validity of regulations by public concerning the manner of using tickets or mileage books. L.R.A.1915E, 902.

State regulations requiring carriers to furnish cars to shippers as interference with interstate commerce. 17 L.R.A. (N.S.) 364; 19 L.R.A.(N.S.) 866; 29 L.R.A.(N.S.) 802; 42 L.R.A.(N.S.) 984; 1 B. R. C. 442.

Legislative requirements as defense to carrier for delay in transportation. 31 L.R.A.(N.S.) 1184.

Delegation by legislature of power to regulate carriers. 32 L.R.A.(N.S.) 639.

## § 148. Confining sale of tickets to agents.

Assignability of tickets, see supra, § 21.

Statutes against ticket brokerage or "scalping." 24 L.R.A. 152.

Injunction against dealing in nontransfer-able railroad tickets. 10 L.R.A.(N.S.) 437.

Constitutionality of anti-scalping legislation. 3 L.R.A.(N.S.) 558; 4 L.R.A. (N.S.) 480.

#### § 149. Compulsory connection with side track.

Power to compel railroad to build, maintain, or connect with, side tracks for accommodation of shippers. 28 L.R.A. (N.S.) 1013; L.R.A.1915E, 682; L.R.A. 1918B, 795.

#### b. Discrimination.

§ 150. Generally.

Is shipper's common-law right of action for discrimination by carrier taken away by statute on the subject. 45 L.R.A.(N.S.) 612.

Right of carrier to discriminate as to telegraph and telephone companies. L.R.A.(N.S.) 507.

Right of railroad to discriminate as to wharf privileges. 12 L.R.A. (N.S.) 509; 43 L.R.A. (N.S.) 965.

Validity of monopoly or special privilege granted to third persons, of providing facilities to shippers at place of shipment or destination. L.R.A.1915C, 250.

Discrimination by carrier as to facilities for loading and unloading cars. L.R.A.(N.S.) 508.

Right of carrier as to furnishing equal connecting facilities to different carriers. 12 L.R.A.(N.S.) 513.

151. Between express companies.

Right of railroad to give exclusive or preferential facilities to an express company for express business. 5 L.R.A.(N.S.)

Duty of railroad company to give equal facilities to express companies. 18

L.R.A. 393. Begin with this book on every law question.

CARRIERS, V. b—cont'd § 152. Between hackmen, etc.

Discrimination as to hackmen and other solicitors of patronage at depots, wharves, etc. 13 L.R.A. 48; L.R.A. 1915B, 358.

Right of carrier to grant exclusive train privilege to baggage or passenger transfer companies. 32 L.R.A.(N.S.) 1181; L.R.A.1917F, 1085.

Right to discriminate between hackmen and other solicitors of patronage at depots. 16 L.R.A.(N.S.) 777.

Right to exclude undesirable hackmen, draymen, etc., from depot. 39 L.R.A.(N.S.)

Remedy by injunction for unlawful discrimination by railroad against hack driver. 8 L.Ř.A.(N.S.) 1027.

## § 153. Between passengers or shippers. As to rates, see infra, § 159.

Right of company to discriminate as to passengers. 5 L.R.A. 818;\* 18 L.R.A. 105. Against colored persons. 18 L.R.A. 639.

Right of carrier at common law to discriminate between shippers. 18 L.R.A. 105.

Liability of lessor of railroad for discrimination by lessee against shippers. L.R.A. (N.S.) 519.

As to pens and yards for live stock at stations. 44 L.R.A. 296.

Discrimination in furnishing cars to shippers. 8 L.R.A. (N.S.) 112, 44 L.R.A. (N.S.) 648; L.R.A.1918D, 274.

Right of carrier to discriminate as to special or unusual service. 12 L.R.A.(N.S.) 506.

Discrimination as to facilities for loading and unloading cars. 12 L.R.A. (N.S.) 508.

Right to equal wharfage facilities. L.R.A. (N.S.) 509; 43 L.R.A. (N.S.) 965.

Furnishing site for elevator to one shipper as discriminating against others. 12 L.R.A.(N.S.) 509.

Discrimination as to delivery of freight. 12 L.R.A.(N.S.) 510.

Discrimination in delivering live stock to stock yards. 12 L.R.A.(N.S.) 511.

Discrimination as to transit privileges. L.R.A.1918A, 185.

Waiver by carrier of contractual rights under interstate shipments as unlawful discrimination among shippers. L.R.A. 1918C, 978.

Agreement or custom of carrier to notify consignor of consignee's refusal to accept goods or pay freight as an unlawful discrimination. L.R.A.1917C, 1127.

Discrimination by requiring prepayment of freight charges. 21 L.R.A.(N.S.) 982.

## c. Rates; rebates.

§ 154. Generally. Rates as affected by interstate commerce act, see COMMERCE, §§ 4-12.

CARRIERS, V. c-cont'd

Incorporation of territory into municipality as affecting existing contract of carrier as to rates in that territory. L.R.A.1916A, 1071.

When rates by penal statute are sufficiently definite and certain. 33 L.R.A. 209.

Recovery back of excessive freight paid. 18 L.R.A.(N.S.) 124.

Suits to restrain enforcement of carrier rates as suit against the state. 44 L.R.A.(N.S.) 215.

Right of state to maintain action to recover excess rates or charges exacted of individuals by carrier. L.R.A.1916C, 336.

Right of attorney general or other representative of state to maintain action to enforce or prevent violation of statutory regulations affecting rates, etc. 18 L.R.A. (N.S.) 664.

Injunction against enforcement of railroad rate legislation under unconstitutional statute as affected by other remedies. 8 L.R.A.(N.S.) 124.

Power of state court to pass on interstate rates. 28 L.R.A.(N.S.) 108.

Power of state court to review rulings of Interstate Commerce Commission. L.R.A.1917E, 919.

Right of shipper where carrier negligently misquotes rate which has been filed or published as required by statute. 33 L.R.A.(N.S.) 391.

Right of carrier having line haul to make extra charge for switching or spotting cars at terminals or sidetracks. L.R.A. 1918A, 164.

What constitutes switching service. L.R.A. 1916D, 455.

Who are within statutes or ordinances requiring carriers to give reduced rates to "pupils" or "school children." 43 L.R.A. (N.S.) 172.

Necessity of filing schedules affording transit privileges. L.R.A.1918A, 187.

§ 155. Power of carrier to make special rates.

Contract to maintain special rate to a particular locality. 38 L.R.A. (N.S.) 157. Contracts fixing rates other than those es-

tablished in accordance with interstate commerce act. 38 L.R.A.(N.S.) 351.

Contract for transportation in violation of particular statutes. 12 L.R.A. (N.S.) 609.

§ 156. Power to fix rates.

Business of carriers affected with a public interest subjecting them to regulation and control in respect to rates or prices. 6 L.R.A.(N.S.) 834.

Legislative power to regulate. 33 L.R.A. 179.

Delegation by legislature of power to fix rates. 32 L.R.A.(N.S.) 649.

Power of legislature to delegate to commissions the right to fix rates. 18 L.R.A. (N.S.) 713.

Jurisdiction of Public Utilities Commission over rates as limited by constitutional or statutory power of municipality to regulate utilities. L.R.A.1918D, 315.

Consult also L.R.A. Digests of Cases.

CARRIERS, V. c-cont'd

Power of Public Service Commission to regulate commutation rates. L.R.A.1918C, 480.

Power of judiciary to fix rates. 8 L.R.A. (N.S.) 529.

Right to raise rates of public service corportation fixed by franchise. L.R.A. 1915C, 287.

Effect of contract with patron to preclude regulation of rates. L.R.A.1915C, 282.

Regulation of fares charged by jitney buses. L.R.A.1916B, 1159; L.R.A.1918B, 915; L.R.A.1918F, 476.

Municipal regulation of fares charged by street railways. 19 L.R.A. 570.

Power of municipality apart from contract to regulate rates of street railway company. 33 L.R.A. (N.S.) 761; 43 L.R.A. (N.S.) 994.

§ 157. — power to require reduced rates.

Right to reduce rates fixed by franchise or charter. L.R.A.1915C, 261.

Power to require carriers to give reduced rates to classes of persons. 11 L.R.A. (N.S.) 973; 41 L.R.A. (N.S.) 524.

Power to require carriers to transport persons in public service at reduced rates. 33 L.R.A.(N.S.) 956.

Validity of statute requiring issuance of mileage books at reduced rates. 7 L.R.A.(N.S.) 1086.

Right of municipality to contract for free transportation or special rates on street cars. 16 L.R.A.(N.S.) 651.

## § 158. Reasonableness of rates.

Allowance for depreciation in plant in fixing rates. 38 L.R.A.(N.S.) 1209.

Elements entering into determination of reasonableness of railroad rates prescribed by the state for local traffic. 15 L.R.A.(N.S.) 108; 25 L.R.A.(N.S.) 1001.

Effect of fact that return as a whole is reasonable on right to require railroad to transport commodity for less than reasonable compensation. L.R.A.1917F, 1158.

§ 159. Discrimination as to.

Is shippers' common-law right of action for discrimination by carrier taken away by statute on the subject. 45 L.R.A. (N.S.) 612.

Right to discriminate as to rates on material to be used for a purpose that is expected to increase carrier's business. L.R.A.1918A, 774.

Material to be manufactured into product which will be shipped over its road. 6 L.R.A. (N.S.) 225; L.R.A. 1918A, 774.

Giving of free service or reduced rates to governmental agencies, cities, schools, school children, charities and the like as an unlawful discrimination. L.R.A. 1918D, 904. CARRIERS, V. c-cont'd

Is pass issued as part of consideration for contract within statute prohibiting free transportation of passengers or discrimination in passenger rates. 23 L.R.A.(N.S.) 217; 31 L.R.A.(N.S.) 657; L.R.A.1918B, 1116.

## 160. Rebates.

Right of carrier to grant rebate or allowance to shipper for use of latter's tracks. 26 L.R.A.(N.S.) 551.

Effect of provisions of interstate commerce act against rebates upon contracts prescribing rates less than those established in accordance with the act. 14 L.R.A.(N.S.) 400.

#### d. As to stations and trains,

§ 161. Generaliy.

Grant of special privilege to hackmen, etc., at station, see supra, § 152.

As to duty to passengers with respect to station, see supra, §§ 45, 46, 48, 70-72,

Use of, by hackmen, etc. 13 L.R.A. 848. Right of state or municipality to forbid solicitation of patronage at railway stations. 15 L.R.A.(N.S.) 715; 26 L.R.A. (N.S.) 483; L.R.A.1917D, 690.

Power of municipal corporation to grant or lease space in street for depot. 25 L.R.A.(N.S.) 404.

Power to compel establishment of stations. 17 L.R.A.(N.S.) 821.

Consideration of extrinsic evidence to show unconstitutionality of statute demanding railroad to maintain a certain station. L.R.A.1915D, 460.

Delegation by legislature of power to require erection of station. 32 L.R.A.

(N.S.) 650.

May railroad companies be required to establish or maintain a station that will not pay expenses. 26 L.R.A.(N.S.) 444.

Power to require establishment of union station. L.R.A.1915D, 98.

Power of Public Service Commission to prescribe the character of materials for depots. L.R.A.1918C, 495.

Power to require carrier to keep agent at station. 46 L.R.A.(N.S.) 242.

Duty of railroad company to install telegraph or telephone in its station. L.R.A. (N.S.) 974.

Right to change location of station. L.R.A.(N.S.) 412.

Power to compel change of location of railroad station. L.R.A.1915D, 91.

Consideration of entire return of railroad company in passing upon its duty to operate a branch line at a loss. L.R.A. 1917F, 1193.

Power to limit speed of interstate and mail trains. 14 L.R.A. (N.S.) 293; L.R.A. 1917F, 1187.

Duty to run street car to end of route indicated by sign thereon. 1 B. R. C. 442. Begin with this book on every law question.

CARRIERS, V. d-cont'd

162. Stopping of trains.

Power to compel stopping of trains at stations. 17 L.R.A.(N.S.) 821; 29 L.R.A. (N.S.) 159; 44 L.R.A.(N.S.) 478.

Right to require the stopping of interstate and mail trains. 14 L.R.A.(N.S.) 293; 29 L.R.A.(N.S.) 159.

Right of municipal corporation to compel interurban cars to stop for passengers. 16 L.R.A.(N.S.) 914.

Delegation by legislature of power to require stopping at station. 32 L.R.A. (N.S.) 650.

## CARRYING ON BUSINESS.

By foreign corporation, see Corporations, §§ 145-148.

What constitutes. 14 L.R.A. 529.

By personal representative, testamentary trustee, or guardian in behalf of estate. 40 L.R.A.(N.S.) 201.

#### CARRYING WEAPONS.

1. Generally.

Constitutional rights to bear arms. 14 L.R.A. 600; 3 L.R.A.(N.S.) 168; 20 L.R.A.(N.S.) 1007; 36 L.R.A.(N.S.) 115; L.R.A.1917C, 63.

Homicide by accidental discharge of weapon carried in violation of law. 45 L.R.A.(N.S.) 221.

Right of peace officer to carry weapons outside his district. 38 L.R.A.(N.S.) 998.
Conviction as condition of forfeiture of weapons. 4 L.R.A.(N.S.) 358.

Cruel and unusual punishment for. L.R.A. 571; L.R.A.1915C, 570.

§ 2. Concealed weapons.

Admissibility of weapons taken from defendant charged with carrying concealed weapons. 34 L.R.A. (N.S.) 58; L.R.A.1915B, 837.

What manner of carrying of weapon violates statute against carrying concealed weapons. 23 L.R.A. (N.S.) 173.

Right to convict for several offenses of carrying concealed weapons growing out of same facts. 31 L.R.A.(N.S.) 693.

3. - what are weapons.

What are weapons within offense of carrying concealed weapons. 34 L.R.A. (N.S.) 1174.

## CARS:

Condition of passenger cars, see CARRIERS, §§ 42, 73. 74. Duty as to freight cars, see CARRIERS, §§ 136-140.

Gates on, see GATES, § 2.

CARS—cont'd

Use of highway for storing, see HIGHWAYS, § 28.

Master's liability for injury to employee due to condition of, see MASTER AND SERVANT, § 93.

As attractive nuisance, see Negligence, §

Lack of cars as within provision in mining lease excusing payment of minimum royalty under certain circumstances. L.R.A.1917E, 1079.

Hand car as a car within statute or ordinance. L.R.A.1915A, 817.

Liability of hirer of railroad cars under special terms of contract for their care or return. L.R.A.1915B, 305.

Liability of master where servant invites or permits children to ride on. L.R.A. 1915E, 888.

Attachment or garnishment of foreign railroad cars. 64 L.R.A. 501; 16 L.R.A. (N.S.) 1026; L.R.A.1915D, 838.

Duty, as to employees, of inspection. 41 L.R.A. 88, 101.

Determining order of cars in train as a delegable duty. 18 L.R.A.(N.S.) 279.

## CAR STARTER.

As fellow servant. 52 L.R.A. (N.S.) 1095.

## CARTER'S WILD CHERRY BITTERS.

Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 316.

Proximate cause of injury by. 26 L.R.A.

(N.S.) 719.

## CARTMEN AND TEAMSTERS.

1. Generally. Hackmen, see HACKS.

Regulation of draymen. 45 L.R.A.(N.S.)

As common carrier. 21 L.R.A.(N.S.) 188. Employer's nonliability for negligence of. 65 L.R.A. 644.

As independent contractor. 65 L.R.A. 467, 468, 494; 13 L.R.A.(N.S.) 1122; 16 L.R.A.(N.S.) 816; 25 L.R.A.(N.S.) 33.

As fellow servant of one employing team. 17 L.R.A.(N.S.) 338. Validity of contract with unlicensed cart-

men. 12 L.R.A. (N.S.) 617.

Exclusion of, from railroad depot.
L.R.A. (N.S.) 126.

Who is responsible for act of teamster in charge of hired vehicle. L.R.A.1918E,

2. Lien of.

Teamster as a laborer within lien statute. 30 L.R.A.(N.S.) 89.

Right to statutory lien on property of third person for rental of teams. 16 L.R.A. (N.S.) 585.

Consult also L.R.A. Digests of Cases,

#### CASE.

Generally.

Right of action for unlawful combinations, see Conspiracy; Monopoly and Com-BINATIONS.

Liability for conspiracy to injure business of another, see CONSPIRACY, II.

Right of action for causing death, see DEATH, II.

Alienation of affections of husband or wife, see Husband and Wife, §§ 66, 67.

Master's liability for malicious act of servant generally, see MASTER AND SERV-ANT, § 176.

Action for seduction, see SEDUCTION.

Right of convicted person to maintain an action against witness for negligently giving false evidence. 3 B. R. C. 251.

Liability of one who procures defamatory testimony to be given. 4 B. R. C. 986.

Civil liability for causing suicide. 47

L.R.A. (N.S.) 1009.

Joinder of successive owners of property in action on the case for nuisance maintained thereon. 46 L.R.A. (N.S.) 1188.

Action by general creditor for damages against third person for fraud in preventing plaintiff from collecting his claim. 47 L.R.A. 433.

Interposition of unfounded defense in a civil action as basis of action for damages. 34 L.R.A.(N.S.) 1026.

Remedy of one who fails to record a deed, against his grantor, who subsequently conveys to an innocent third person. 26 L.R.A.(N.S.) 284.

Arbitrary or mala fide termination of partnership as basis of action in tort. 29 L.R.A.(N.S.) 959.

Right of principal to maintain case for money collected by agent or attorney. 20 L.R.A.(N.S.) 35.

For injury to business or occupation; effect of malice on liability. 62 L.R.A. 694.

Liability of individual, in absence of any element of conspiracy, for driving away another's customer. 22 L.R.A. (N.S.) 1224; L.R.A.1915B, 1180.

Liability for damage to business by injuring tangible property of other party. 64 L.R.A. 94.

Landlord's interference with business relations between his tenants and third persons. L.R.A.1916B, 815.

Right of third person to complain of regulations concerning conduct of students, employees, etc., by which he is injuriously affected. 51 L.R.A.(N.S.) 17.

Right of physician to complain of regulations of beneficial association or employer as to employment of physician. L.R.A.1916B, 839.

Master's liability in case for wrongful or negligent act of servant. 27 L.R.A.

Personal liability to other contracting party of one who, without authority, assumes to contract as agent for another. 34 L.R.A.(N.S.) 533.

CASE—cont'd

Liability for acts in pursuance of judgment afterwards reversed. 45 L.R.A. 800; 40 L.R.A.(N.S.) 1197.

Right to recover for physical injury resulting from fright caused by wilful tort.

3 L.R.A.(N.S.) 66; 22 L.R.A.(N.S.)

1073; 24 L.R.A.(N.S.) 1159; L.R.A. 1915Ď, 830.

Mental anguish as element of damages for trespass on the person of a woman affecting her character or reputation for

chastity. 33 L.R.A.(N.S.) 98. Liability for causing withdrawal of surety from bond. 42 L.R.A.(N.S.) 388.

Basis of distinction between absolute and qualified rights as affecting right to inquire into motive. 29 L.R.A. (N.S.)

Liability for damages to landlord by interfering with tenant. L.R.A.1918D, 393.

Action by general creditor for damages against third person on account of fraud in disposing of debtor's property, or preventing plaintiff from collecting his claim. L.R.A.1917E, 1148.

Right of action for fraud or deceit causing loss of remedy. L.R.A.1917F, 719.

Liability for mutilation or spoliation of will. L.R.A.1917B, 558. Right of action for statements affecting

value of personal property other than goods sold or manufactured, or of real property, other than those relating to title. 6 B. R. C. 509.

## § 2. Breach of contract.

Liability for negligent breach of contract between private parties. 12 L.R.A. (N.S.) 924.

## 3. Inducing breach of contract.

Liability of a person in damages for induc-ing a third party to break his contract. 21 L.R.A. 233; 16 L.R.A.(N.S.) 746; 28 L.R.A.(N.S.) 615; L.R.A.1915F, 1076.

Good faith as affecting liability for interference with contract relations. R. C. 18.

Injunction against inducing or aiding breach of contract. 11 L.R.A. (N.S.) 202; L.R.A.1917C, 782.

Effect of malice on liability for causing. 62 L.R.A. 678.

Liability for damages to landlord by inducing tenant to break contract. L.R.A. 1918D, 393.

Liability of third person for inducing breach marriage contract. L.R.A.1918C,

Liability for inducing breach of invalid or unenforceable contract. L.R.A.1915A,

Liability for procuring violation of contract for which immediate party thereto is not liable. 6 B. R. C. 80.

§ 4. — inducing discharge of servant or preventing his employment.

Bad motive as affecting liability for causing loss of employment. 62 L.R.A. 714. Regin with this book on every law question.

CASE—cont'd

Civil liability for inducing discharge of servant. 19 L.R.A. (N.S.) 561; 48 servant. 19 L.R. L.R.A. (N.S.) 893.

Liability of person procuring discharge of workmen upon ground of his nonmembership in a labor organization. 5
L.R.A.(N.S.) 899.

Civil liability for maliciously procuring discharge of employee or preventing employment, in absence of conspiracy or concerted action. 27 L.R.A.(N.S.)

Liability for causing discharge of servant by acts not intended to have that effect. 38 L.R.A.(N.S.) 986.

Liability of labor union or its members to persons with whose employment it has interfered. 1 B. R. C. 514;

L.R.A.1917C, 1056. Action on the case for blacklisting servants. 4 L.R.A. (N.S.) 1120.

Forcing discharge of foreman or coemployee as justification for strike. 42 L.R.A. (N.S.) 1048.

## § 5. - inducing servant to quit generally.

Choice of remedies for enticement of servant, see Election of Remedies, § 9.

Liability of third person for inducing a servant to break his contract. 21 servant to break his contract. 21 L.R.A. 238; 5 L.R.A.(N.S.) 1091; L.R.A.1915F, 1076.

Bad motive as affecting liability for causing loss of employee or servant. 62 L.R.A. 719.

contempt for violation of injunction against interfering with another's employee, civil or criminal. 13 L.R.A. (N.S.) 598.

### § 5a. — inducing servant to quit to aid strike.

Right in aid of strike to use money to induce persons not under contract to quit or not accept employment. 41 L.R.A. (N.S.) 453.

Right in aid of strike to employ peaceable persuasion to induce persons not under contract to quit or not accept employment. 41 L.R.A.(N.S.) 445.

§ 6. Inducing minor to quit parent. Enticement of child to leave parent. 1 L.R.A.(N.S.) 205; 45 L.R.A.(N.S.)

What amounts to enticement of minor child from parent's custody. (N.S.) 1001.

Mother's right of action for enticing of minor. 1 L.R.A.(N.S.) 362.

#### CASE MADE.

As part of record on appeal, see APPEAL AND ERROR, § 23.

#### CASES CERTIFIED.

Definiteness of question to be certified. 31 See STERILIZATION. L.R.A. 392.

#### CASH BAIL.

Deposit of cash in lieu of bail in criminal cases, in absence of statutory authority. 44 L.R.A.(N.S.) 1150.

## CASH DIVIDENDS.

Right to, as between life tenant and remaindermen. 12 L.R.A.(N.S.) 780; 35 L.R.A.(N.S.) 563; 50 L.R.A.(N.S.) 510.

## CASHIER.

Powers of, see Banks, § 8.

Effect of insertion of unauthorized provisions in bond of. L.R.A.1917B, 990.

Of foreign corporation, service of process on. 23 L.R.A. 496. Liability of bank directors for cashier's default or negligence. 4 L.R.A.(N.S.) 597.

#### CASH SALE.

Right of purchaser or creditor levying on goods sold for cash but delivered without payment. 13 L.R.A. (N.S.) 696; 29 L.R.A. (N.S.) 709; 47 L.R.A. (N.S.) 173.

Admissibility of memoranda on check stubs as evidence of. 42 L.R.A. (N.S.) 728.

## CASH SURRENDER VALUE.

Of insurance policy, see Insurance, § 57.

#### CASINO.

Power of municipality to construct. 26 L.R.A.(N.S.) 425.

## CASTING VOTE.

See Parliamentary Law, § 2.

## CASTLE.

What constitutes. 67 L.R.A. 545. Consult also L.R.A. Digesis of Cases.

#### CASTRATION.

## CASUAL EMPLOYEE.

Right to recover under Workmen's Compensation Act. L.R.A.1917D, 147; L.R.A.1918F, 215.

Who are, within meaning of workmen's compensation act. L.R.A.1916A, 120, 247,

#### CATALOGUE.

Sufficiency of identification for purposes of executory contract, where goods are or-dered by reference to a catalogue or price list. 31 L.R.A.(N.S.) 927.

## CATERER.

Liability for serving unfit food. 40 L.R.A. (N.S.) 480; L.R.A.1915B, 481.

#### CATHOLICS.

Remarriage of divorced Catholics. L.R.A 1917Č, 1020.

## CATTLE.

Transportation of, see Carriers, §§ 124-127.

Injuries to, on railroad track, see RAIL-BOADS, §§ 73-76, 85. See also Animals.

Liability of vendor of unwholesome food for. 21 L.R.A. 140.

## CATTLE GUARDS.

Duty of railroad company as to, generally, see Railroads, § 34.

Duty of railroad company to maintain safeguards to prevent employees from falling into. 50 L.R.A. (N.S.) 550,

## CATTLE YARDS.

On railroad right of way as separate subjects of taxation. L.R.A.1916E, 416.

## CAUCUS.

See Elections, §§ 25, 26.

#### CAUSA MORTIS.

Gift causa mortis, see GIFT, § 10.

## CAUSE.

Presumption and burden of proof as to, see EVIDENCE, § 60.

Opinion evidence as to, see EVIDENCE, § 187. Admissibility of evidence as to, generally, see EVIDENCE, § 248.

Question for jury as to, see TRIAL, § 22.
Of loss of insured property or death of insured, see INSURANCE, VIII.
Of loss of vessel or cargo, see Shipping,

§ 20. Proximate cause, see Proximate Cause.

## CAUTION.

Removal of inducement to confess by accused. 18 L.R.A.(N.S.) 867.

Caution against incrimination as an inducement to make confession. 18 L.R.A.(N.S.) 824.

Effect of cautioning or failure to caution accused on voluntariness of confession. 18 L.R.A.(N.S.) 791; 50 L.R.A.(N.S.) 1083.

Right of court to caution jury as to believing testimony of accused in his own behalf. 19 L.R.A.(N.S.) 802.

## CAVEAT EMPTOR.

See also SALE.

Applicability of rule of, to sales for partition. 33 L.R.A.(N.S.) 409.

Application of principle of caveat emptor in sales by mortgagee under power in mortgage. 49 L.R.A. (N.S.) 514.

Applicability of rule caveat emptor to sales by guardian of minors as regards ward's title. L.R.A.1915E, 834.

## CELEBRATIONS.

Amusements generally, see Amusements.

Authority of agent of executive committee for, to contract for services of other persons. L.R.A.1918F, 70.

Appropriations of public money for. 14 L.R.A. 475.

Right of taxpayer in absence of statute to enjoin unlawful expenditures by municipality for. 36 L.R.A.(N.S.) 2.

## CELEBRITY.

Name of celebrity as trademark or tradename. L.R.A.1917C, 1161. Licen Begin with this book on every law question.

#### CELLAR DOOR.

Extension of, beyond line as violation of building restriction. 52 L.R.A.(N.S.) 1052.

#### CELLARWAY.

Municipal liability for injury by cellarway in street, see Highways, § 62. See also Areaway.

#### CEMETERIES.

§ 1. Generally.

Abandonment of, see Abandonment, § 8. Injunction as to, see Injunction, § 75. As a nuisance, see Nuisances, § 8. See also Burial; Corpse.

Effect of constitutional or statutory exemption of, from condemnation proceedings. L.R.A.1916A, 1106.

Effect of language in deed indicating that land is to be used for cemetery purposes. 19 L.R.A. 266; L.R.A.1918B, 699.

Prescriptive right to maintain. 53 L.R.A. 895.

Prescription or adverse possession of grave or burial lot. 40 L.R.A. (N.S.) 752.

When right of burial in private burial ground is barred by adverse possession. 42 L.R.A. (N.S.) 1138.

What is necessary to effect a dedication of land as a cemetery or burial plot. 27 L.R.A.(N.S.) 875.

Right to specific performance of contract to convey real estate as affected by attempted reservation of cemetery or burial plot. 41 L.R.A.(N.S.) 384.

Use of school grounds for purposes of. 31 L.R.A.(N.S.) 595.

Taking of property for, as a public purpose. 22 L.R.A.(N.S.) 171.

Public character of charitable bequest for. 37 L.R.A. (N.S.) 997.

Validity of testamentary provision for erection of monument, or for the care and maintenance of tombs, burial grounds, etc. 1 B. R. C. 931.

Regulations of burials and cemeteries. 27 L.R.A.(N.S.) 260.

Validity of regulations concerning care or improvement of cemetery lota L.R.A.1915E, 168.

Abandonment or sale by town or municipality of ground used for cemetery. 42 L.R.A. (N.S.) 1216.

Forbidding burial of negro in cemetery controlled by white persons. 7 L.R.A. (N.S.) 155; L.R.A.1917B, 948.

§ 2. Character of estate or property of owner in burial lot. Easement. 67 L.R.A. 119; L.R.A.1918A,

147.

License. 67 L.R.A. 120; L.R.A.1918A, 148.

CEMETERIES—cont'd

Devise. 67 L.R.A. 121; L.R.A.1918A, 149. Cemetery dedicated to a class. 67 L.R.A. 122; L.R.A.1918A, 149.

When held in common. 67 L.R.A. 122; L.R.A.1918A, 149.

Right to mortgage. 67 L.R.A. 122; L.R.A. 1918A, 149.

Power of cemetery authorities. 67 L.R.A. 123; L.R.A.1918A, 149.

Trespass on lot owner's possession. 67 L.R.A. 124; L.R.A.1918A, 149. Ejectment. 67 L.R.A. 125; L.R.A.1918A,

Effect upon, of legislative act or municipal ordinance closing cemetery. 67 L.R.A. 125; L.R.A.1918A, 150.

3. Assessment and taxation of. § 3. Assessment and the limprove-Liability to assessment for local improve-ments. 35 L.R.A. 36; 44 L.R.A. (N.S.) 57; L.R.A.1916F, 865; L.R.A.1918A, 157.

#### CENSORSHIP.

Of films for moving pictures. 40 L.R.A. (N.S) 194; L.R.A.1916C, 227; L.R.A. 1918A, 231.

#### CENSUS.

Census returns as evidence of age. 9 L.R.A. (N.S.) 718.

### CERTAINTY.

Of charitable gift, see CHARITIES, §§ 6-9. Of contract, see Contracts, § 20.

As condition of specific performance, see SPECIFIC PERFORMANCE, § 23.

Of special verdict. 24 L.R.A. (N.S.) 46. Of acts regulating speed of automobiles. L.R.A.1918D, 135.

Devise or bequest in severalty of undesignated parcels of property to different persons. 41 L.R.A.(N.S.) 1049.

## CERTIFICATE.

1. Generally.

Of acknowledgment, see ACKNOWLEDGMENT.

Of deposit, see Banks, § 30.

As to character of employee, see CHARAC-TER, § 2.

Of performance of contract, see Contracts. §§ 140-142.

As to cause of death, see Corpse, § 4. Of nomination, see Elections, § 25.

Of records of other state for purpose of evidence, see EVIDENCE, § 128. Consult also L.R.A. Digests of Cases, 12

CERTIFICATE-cont'd Of receiver, see RECEIVERS.

Tax certificate, see TAXES, § 80.

Forgery by making or altering. 54 L.R.A. 796, 798.

Of foreign insurance company's right to do business. 24 L.R.A. 300.

Clearing house loan certificates. 25 L.R.A. 826.

Of drawing of grand jury. 27 L.R.A. 782. Of magistrate in case of fire insurance. 44 L.R.A. 860.

Respective rights of life tenant and remainderman in distributions by corporation in form of certificates of declaring corporation. 12 L.R.A.(N.S.) 812.

Master's duty as to giving certificate of character to servant. 4 L.R.A.(N.S.) 1091.

Conclusiveness of official certificate approving fire escapes. 1 L.R.A.(N.S.) 1091. Impeachment of enrolled bill by certificates

of legislative officers. 40 L.R.A. (N.S.) 31.

Issuing certificates of clerk in name of deputy. 42 L.R.A.(N.S.) 883.

Conclusiveness of decision of the Land Department canceling a certificate of entry. L.R.A.1918D, 634.

Requiring one operating jitney bus to secure certificate of convenience and necessity. L.R.A.1918B, 916.

§ 2. On appeal.

Amendment of record on, to cure defect for which motion in arrest of judgment has been made. 67 L.R.A. 185.

Effect of certificate of state court to show jurisdiction of United States Supreme Court of writ of error to state court. 63 L.R.A. 477.

Of state court as part of record on review in United States Supreme Court. 63 L.R.A. 332.

Should certificate to bill of exceptions or case made be made by regular or special judge. 42 L.R.A.(N.S.) 616.

§ 3. Of physician. Sale of liquor on physician's certificate, see Infoxicating Liquors, § 21a.

Conclusiveness of doctor's certificate as to cause of death of insured. 44 L.R.A. 854.

Validity of regulation requiring certificate as to cause of death as condition of burial permit. 5 L.R.A.(N.S.) 727.

## CERTIFICATE OF DEPOSIT.

See Banks, § 30.

## CERTIFICATION.

Of check, see CHECKS, § 7. See also CASES CERTIFIED.

#### CERTIFIED CHECK.

See CHECKS, § 7.

#### CERTIORARI.

§ 1. When lies.

To review excessive sentence. 45 L.R.A. 158; 51 L.R.A. (N.S.) 388.

As remedy for refusal to award contract to lowest bidder. 30 L.R.A.(N.S.) 130. Right of garnishee to certiorari to renew judgment against principal defendant on ground of lack of jurisdiction. 51 L.R.A.(N.S.) 600.

- 8 2. existence of remedy by appeal. Exceptions to the rule that certiorari will not lie where there is an appeal. 50 L.R.A. 787.
- § 3. jurisdiction of highest court.

  In exercise of superintending control over inferior courts. 51 L.R.A. 33.

  Exclusiveness of jurisdiction of court of last resort to issue remedial writs for

last resort to issue remedial writs for prerogative purposes. 13 L.R.A.(N.S.) 768.

§ 4. Who entitled to.

Who is entitled to invoke certiorari to review a decree or order affecting sale of intoxicating liquors. 19 L.R.A.(N.S.) 610.

§ 5. Bond.

Effect of insertion of unauthorized provisions in. L.R.A.1917B, 1002.

Penalty as limit of liability on bond. 55 L.R.A. 388.

Form of judgment on certiorari bond. 62 L.R.A. 446.

§ 6. Amendment of record on.

Amendment on appeal, see APPEAL AND ERBOR, § 6.

To cure defect for which motion in arrest of judgment has been made. 67 L.R.A. 185.

#### CESSPOOLS.

Liability of landlord to third persons as to. 26 L.R.A. 201.

## CESTUI QUE TRUST.

See TRUSTS.

## CHAIN.

Application of res ipsa loquitur in case of injury to servant by breaking of. L.R.A.1917E, 239.

## CHAIN OF TITLE.

Effect of remote quit claim in, on rights of subsequent purchaser. 25 L.R.A. (N.S.) 1035.

#### CHAIN THEORY.

Does chain theory apply where the evidence is wholly circumstantial. 41 L.R.A. (N.S.) 749.

#### CHAIRS.

As deadly weapons. 21 L.R.A. (N.S.) 506.

#### CHALLENGES.

Of jurors, see JURY, § 9.

#### CHAMBER OF COMMERCE.

Review of decisions of, against members. 49 L.R.A. 358, 361, 364, 371. Conclusiveness of decisions of. 2 L.R.A.

(N.S.) 672.

Membership in chamber of commerce as asset in bankruptcy. 27 L.R.A.(N.S.)

613. Right to subsidize enterprises. L.R.A. 1916B, 1009.

## CHAMPERTY AND MAINTENANCE.

§ 1. Generally.

Contract by attorney to take case on contingent fee, see ATTORNEYS, § 20. Champertous contract with attorney gener-

ally, see ATTOENEYS, § 21.

Effect of interest; relationship. 14 L.R.A. 747.

Champertous contracts of laymen. 14 L.R.A. 745; L.R.A.1916E, 68.

Validity of champertous contract. 19 L.R.A.(N.S.) 606.

Validity of agreement to defeat probate of will. 16 L.R.A. (N.S.) 236; 43 L.R.A. (N.S.) 575.

Agreement to defend against claims as maintenance. 1 B. R. C. 176.

Validity of assignment of debt as affected by nature of consideration, or by assignee's ulterior purpose. 5 B. R. C. 611.

Right of third person to take advantage of champerty. 35 L.R.A. (N.S.) 513.

Effect of conveyance of land held adversely.

35 L.R.A. (N.S.) 729.

Begin with this book on every law question.

#### CHANCE.

As element in lottery, see LOTTERY.

#### CHANCERY.

See EQUITY.

## CHANCE VERDICT.

See TRIAL, § 79.

#### CHANDELIERS.

Tenant's right to remove. 3 L.R.A.(N.S.)

#### CHANGE.

Tender of sum in excess of that due carrier, with demand for change. 13 L.R.A. (N.S.) 624.

What is a reasonable sum out of which a carrier may be required to take fare and return change. 35 L.R.A. 489; 9 L.R.A.(N.S.) 579; 21 L.R.A.(N.S.) 868.

Effect of party's changing testimony on second trial, to supply defects in the case made on the first trial. 37 L.R.A. (N.S.) 429.

#### CHANGE OF APPLIANCES.

Assumption of risk by employee of dangers arising from. L.R.A.1916D, 1210.

## CHANGE OF BENEFICIARY.

Tm benefit certificate, INSURANCE, §§ 127-129.

## CHANGE OF CONTRACT.

Release of surety by, see PRINCIPAL AND SURETY, § 13.

#### CHANGE OF GRADE.

Of highway, see HIGHWAYS, §§ 52, 53. Right to change grade of private right of Change of channel of water appropriated, way. L.R.A.1918A, 595. Consult also L.R.A. Digests of Cases.

#### CHANGE OF NAMEL

See NAME, § 12.

#### CHANGE OF OCCUPATION.

By insured, effect, see Insurance, § 95.

## CHANGE OF POSITION.

Within law of estoppel, see ESTOPPEL, § 7b.

## CHANGE OF POSSESSION. '

Of mortgaged chattels, see CHATTEL MORT-

GAGE, §§ 14, 14a.

Necessity of, as against creditors, see
FRAUDULENT CONVEYANCES, §§ 19, 20. On judicial sale, see JUDICIAL SALE, § 10.

Of pledged property, see PLEDGE AND COL-LATERAL SECURITY, § 5.

Change of possession of chattels sold, see FRAUDULENT CONVEYANCES, §§ 19, 20; SALE, §§ 10-12, 14.

## \*\*\* CHANGE OF RESIDENCE.

See Domicil and Residence, §§ 6, 7.

#### CHANGE OF TITLE.

To insured property, see Insurance, §§ 69-72.

## CHANGE OF VENUE.

See VENUE, §§ 2, 3.

#### CHANGING CARS.

Carrier's liability for failure to notify passenger when and where to change cars. 39 L.R.A.(N.S.) 663.

## CHANGING CONDITIONS.

Master's duty as to safety of place where conditions are changing, see MASTER AND SERVANT, § 80.

## CHANNEL.

Artificial channel, see ARTIFICIAL CHANNEL.

CHANNEL—cont'd Jurisdiction over. 46 L.R.A. 266. Of boundary river, effect of change on jurisdiction. 65 L.R.A. 967.

Change of, as change of state boundary. 39 L.R.A. (N.S.) 200.

## CHARACTER.

1. Generally.

Presumption and burden of proof as to, see Evidence, § 25.

Parol evidence as to character of parties to instrument, see EVIDENCE, §§ 172, 184.

Evidence as to generally, see EVIDENCE, §§ 249–253.

affecting homicide, see deceased as Homicide, § 3.

Competency of witness as to, see WIT-NESSES, § 25.

Cross-examination of witness as to, see Witnesses, § 34.

As to reputation, see REPUTATION.

Expenditure by administrator for protection of decedent's character. 16 L.R.A. 743.

Evidence of other crimes to rebut defense of good character. 62 L.R.A. 300.

Of indorser of paper as putting purchaser on inquiry. 29 L.R.A. (N.S.) 373; 44 L.R.A. (N.S.) 403; L.R.A.1918F, 1153. Removal for separable controversy of action for injury to. 5 L.R.A.(N.S.) 93. Of accused as affecting voluntariness of confession. 18 L.R.A.(N.S.) 786.

Right of defendant charged with sexual offense to impeach character of woman for chastity by reason of his own inter-course with her prior to acts charged. 30 L.R.A.(N.S.) 173. Effect of character of traveler on inn-

keeper's duty as to shelter and entertainment. 2 B. R. C. 692.

Mental anguish as element of damages for trespass on the person of a woman affecting her character or reputation for chastity. 33 L.R.A.(N.S.) 98.

2. Of employee; certificate as to. Libelous statement as to servant's character, see LIBEL AND SLANDER, §§ 20,

Duty to give certificate of, to discharged employee. 62 L.R.A. 922. Certificate of, to servant; rights and liabilities as to. 4 L.R.A.(N.S.) 1091.

§ 2a. Of accused.

Contempt by publication reflecting upon defendant in criminal case. L.R.A.1917E,

Presumption as to good character of defendant in criminal case. 46 L.R.A. (N.S.) 342.

As affecting voluntariness of confession. 50 L.R.A.(N.S.) 1082.

Begin with this book on every law question.

CHARACTER—cont'd

Evidence of specific instances to prove character of. 14 L.R.A.(N.S.) 735.

Witness's right to testify to character of accused from personal knowledge. 22
L.R.A.(N.S.) 661.

Right of jurors to act on their own knowledge as to character or previous conduct of. 37 L.R.A. (N.S.) 797.

Comment of prosecuting attorney on character as ground of reversal or new trial. 46 L.R.A. 666; 34 L.R.A. (N.S.) 818; L.R.A.1918D, 90.

§ 3. Effect of misrepresentation or concealment as to, on marital relation. Fraudulent concealment of bad character as ground for avoiding promise of marriage. 26 L.R.A. 431.

Misrepresentation as to disposition or general character as ground for annulment of marriage. 30 L.R.A.(N.S.) 301.

§ 4. Determination as to satisfaction of condition in will as to. See WILLS, § 88.

§ 5. Effect of on damages recoverable. Bad character or reputation of plaintiff as mitigating damages for libel or slan-der. 38 L.R.A.(N.S.) 1176. Evidence of habits and character of one

injured or killed as affecting damages. 1 L.R.A.(N.S.) 198.

#### CHARGE.

By carrier, see CARRIERS, §§ 23-25, 122. For use of telephone, see TELEPHONES, \$\$ By warehouseman, see Warehouseman, § 3. For wharfage, see Wharves, §§ 10, 11. On devise or legacy, see WILLS, § 119. Rates charged, see RATES. To jury, see TRIAL, §§ 60-68.

## CHARITABLE INSTITUTION.

Liability of, see CHARITIES, § 12.

## CHARITABLE TRUSTS.

See CHARITIES.

#### CHARITIES.

§ 1. Generally. Charitable gifts to corporation, see Corpo-RATIONS, § 26a.

Rule of perpetuities as to, see PERPETUITIES,

Exemption from taxation of property of charitable society, see Taxes, §§ 24-26.

CHARITIES-cont'd

Restriction on charitable gifts by will, see WILLS, §§ 72, 73.

See also BENEVOLENT SOCIETIES; HOSPITAL.

Giving of free service or reduced rates by public service corporation to charities as an unlawful discrimination. L.R.A. 1918D, 916.

State or municipal power to control private charity. L.R.A.1916D, 912.

Liability of property of charitable institution to assessments for local improvements. 44 L.R.A.(N.S.) 57.

Mechanics' lien on property of charitable institution. 51 L.R.A. (N.S.) 161.

Conflict of laws as to charitable bequests.
2 L.R.A.(N.S.) 438.

Exercising power of appointment for a charitable use. 64 L.R.A. 911.

Secret trusts for. 20 L.R.A. 465.

Using property of lunatic for charitable purposes. 34 L.R.A. 300.

Trustee or member of a charitable beneficiary as a witness to the will. 36 L.R.A.(N.S.) 504.

Obtaining money by false representations for charity as false pretenses. 24 L.R.A. (N.S.) 575.

Requiring payment from inmate as affecting right of charitable institution to public aid, or exemption from taxation. 29 L.R.A. (N.S.) 190; L.R.A.1917B, 782.

What constitutes residence of inmate of charitable home entitling him to privi-lege of public schools. 36 L.R.A.(N.S.) 344; 51 L.R.A.(N.S.) 234.

Right of educational, charitable, or religious institution to exclude person on account of race or color. 24 L.R.A. (N.S.) 447.

Character of occupancy of employees of. 4 L.R.A.(N.S.) 718, 720.

Applicability of statutes limiting time or amount of bequests for charitable purposes to devise or bequest to individual absolutely in the hope that he will devote it to such purposes. 22 L.R.A. (N.S.) 1262.

Liability of property of charitable institution to assessment for local improvements. 35 L.R.A. 37.

§ 2. Creation and requisites; validity generally.

Creation of charitable trusts by precatory words in will. 37 L.R.A.(N.S.) 646.

Creation and general requisites of the trust. 14 L.R.A.(N.S.) 75; 37 L.R.A.(N.S.) 999.

Effect of direction for accumulation upon validity of charitable gift. 2 B. R. C. 880.

§ 3. What are charities; purposes of

Certainty of purpose, see infra, § 7.

Validity of bequests for masses. 25 L.R.A 360; 40 L.R.A. 717; 14 L.R.A. (N.S.) 96; 37 L.R.A. (N.S.) 1005. Consult also L.R.A. Digests of Cases.

CHARITIES—cont'd

Validity of testamentary provision for erection of monument or for the care and maintenance of tombs, burial grounds, etc. 1 B. R. C. 931.

Validity of trust to propagate a particular religious belief as a charity. 6 L.R.A.(N.S.) 320.

Gift for the benefit of members of a particular organization, as a charity. 5 L.R.A. (N.S.) 687.

Trust for the benefit of employees. 7 B. R. C. 180.

Existence of public free-school system as affecting validity of trust for education of children. 7 L.R.A. (N.S.) 471.

Effect of specifying use of real estate in devise to religious society. 11 L.R.A. (N.S.) 509.

Effect of provision directing the particular purpose to which property granted or devised to or for the benefit of a charitable organization shall be devoted. 7 L.R.A.(N.S.) 1119.

§ 4. Gift to unincorporated society. Effect of subsequent incorporation. L.R.A. 410.

Validity of gift to unincorporated charity. 32 L.R.A. 625; 14 L.R.A. (N.S.) 142; 37 L.R.A. (N.S.) 1019.

§ 5. Trustees.

Certainty as to, see infra, § 9.

Municipal corporation as trustee of charity. 7 L.R.A. 765; 13 L.R.A. 217; 14 L.R.A. 69.

Association as trustee. 32 L.R.A. 630; 14 L.R.A. (N.S.) 114.

Authority of legislature to remove municipality from trusteeship. 16 L.R.A. **6**95.

§ 6. Uncertainty; indefiniteness.

Certainty as to subject-matter. 14 L.R.A.. (N.S.) 146.

Certainty as to mode of performance. 14 L.R.A. (N.S.) 149.

Explanation of uncertainty. (N.S.) 151. 14 L.R.A.

 8 7. — certainty as to purpose.
 In general. 12 L.R.A. (N.S.) 1177; 14
 L.R.A. (N.S.) 84; 37 L.R.A. (N.S.) 1001.

Selection of purpose by trustee. 14 L.R.A. (N.S.), 85; 37 L.R.A.(N.S.) 1002.

Rule of cases rejecting statute of uses. 14 14 L.R.A.(N.S.) 86.

§ 8. — certainty as to beneficiaries. In general. 12 L.R.A.(N.S.) 1177; 14 L.R.A.(N.S.) 116; 37 L.R.A.(N.S.) 1012.

Uncertainty as a characteristic. 14 L.R.A. (N.S.) 116.

The necessary certainty. 14 L.R.A.(N.S.) 116.

Corporations as beneficiaries. (N.S.) 140; 37 L.R.A.(N.S.) 1019. CHARITIES-cont'd

Unincorporated associations as beneficiaries. 14 L.R.A. (N.S.) 142; 37 L.R.A. (N.S.) 1019.

Effect of change of purpose or condition by beneficiary. 14 L.R.A.(N.S.) 144; 37 L.R.A.(N.S.) 1020.

Particular applications of English rule. 37 L.R.A. (N.S.) 1012.

Where English rule repudiated. 37 L.R.A. (N.S.) 1013.

Partial return to English rule in New York. 37 L.R.A.(N.S.) 1014.

Misnomer of beneficiaries. 37 L.R.A. (N.S.) 1019.

Extrinsic evidence to establish identity of charitable corporation named as legatee or devisee in will. 47 L.R.A. (N.S.) 523.

9. — certainty as to trustees.
 In general. 14 L.R.A.(N.S.) 104; 37 L.R.A.
 (N.S.) 1010.

Sufficiency of designation. 14 L.R.A. (N.S.) 105.

Absence or incapacity of trustees. 14 L.R.A.(N.S.) 109; 37 L.R.A.(N.S.) 1011.

Corporations as trustees. 14 L.R.A. (N.S.) 111; 37 L.R.A. (N.S.) 1011.

Unincorporated associations as trustees. 32 L.R.A. 630; 14 L.R.A. (N.S.) 114.

§ 10. Administration; enforcement. State or municipal power to control private charity. L.R.A.1916D, 912.

Right of donor or his heirs to enforce proper administration of trust. 3 L.R.A.(N.S.) 227. charitable

Enforcement of general bequest for charity or religion. 14 L.R.A.(N.S.) 49; 37 L.R.A.(N.S.) 993.

Necessary accordance with law and public policy. 14 L.R.A.(N.S.) 71; 37 L.R.A.(N.S.) 998.

Remedy for enforcement of legacy for education when charged on devise. L.R.A. (N.S.) 824.

Who may enforce trust for masses. 46 L.R.A.(N.S.) 222.

11. Cy prés doctrine.

Doctrine of cy prés in enforcement of general bequest for charity or religion. 14 L.R.A.(N.S.) 59.

Rule of cy prés as to certainty as to beneficaries. 14 L.R.A.(N.S.) 120.

Application of cy prés doctrine to charitable gift. 37 L.R.A.(N.S.) 1005, 1007. Application of doctrine of cy pres in disposing of property of church upon its dissolution. 47 L.R.A.(N.S.) 1016.

§ 12. Liability of charitable institution. Liability of hospital, see Hospital, § 4.

Liability of charitable institutions for personal injuries. 23 L.R.A. 200; 7 L.R.A. (N.S.) 481; 10 L.R.A. (N.S.) 74; 22 L.R.A. (N.S.) 486; 32 L.R.A. (N.S.) 62; 42 L.R.A. (N.S.) 1144; 52 L.R.A. (N.S.) 505; 6 B. R. C. 552.

CHARITIES—cont'd

What are charitable institutions within rule exempting from liability for negligence. 2 L.R.A.(N.S.) 556.

Liability of eleemosynary institution maintained by state or municipality for personal tort of agent or servant. 4 L.R.A. (N.S.) 269.

Applicability to charitable institutions of Workmen's Compensation Acts. L.R.A. 1918F, 190.

#### CHARTERER.

Lien of charterer for advances. 70 L.R.A. 416

#### CHARTER PARTY.

See Shipping, §§ 17, 18.

#### CHARTERS.

Of club, see Clubs.

Of corporation, see Corporation, §§ 18, 19. Of municipality, see MUNICIPAL CORPORA-TIONS, § 7.

## CHASTISEMENT.

Homicide by, see Homicide, § 9.

## CHASTITY.

Actionability of words reflecting on, see LIBEL AND SLANDER, § 12.

Presumptions and burden of proof as to chastity where it is an ingredient of the offense or a condition of conviction. 43 L.R.A.(N.S.) 476.

Evidence of specific instances to prove character for. 14 L.R.A. (N.S.) 714; L.R.A. 1916B, 965.

Evidence of specific instances of unchastity of alleged victim of sexual offense. L.R.A.1916B, 965.

Right of accused to show unchastity of prosecutrix in statutory rape. L.R.A. (N.S..) 269.

Impeachment of character of prosecutrix for chastity by proof of prior acts of intercourse with defendant. 30 L.R.A. (N.S.) 173.

Mental anguish as element of damage for trespass on person of woman affect-ing her character or reputation for chastity. 33 L.R.A. (N.S.) 98.

## CHATTEL.

Mortgage of, see CHATTEL MORTGAGE. In general, see PERSONAL PROPERTY.

Begin with this book on every law question.

## CHATTEL MORTGAGE.

I. In general, § 1.

II. What constitutes, \$ 2.

III. Execution and delivery, § 3.

IV. Validity generally, §§ 4-6.

V. Description of property, \$ 7. VI. Property covered, § § 8-12.

VII. Rights and remedies of creditors,

§\$ 13-15.

VIII. Filing; recording; renewal, \$\$ 16-22.

IX. Effect generally, \$\$ 23, 24. X. Rights of parties; priorities, \$\$

XI. Sale or removal of mortgaged chattels, § 28. XII. Assignment; discharge; loss or

waiver of lien, \$\$ 29-31.

XIII. Enforcement, remedies, \$ 82.

#### I. In general.

§ 1. Generally.

Conflict of laws as to, see CONFLICT OF Laws, § 32.

For purchase money, see PURCHASE MONEY, § 8.

On vessel; jurisdiction of admiralty as to. 66 L.R.A. 200, 234.

Specific performance of contract to give. 6 L.R.A.(N.S.) 588.

How far proceeds of exempt property on which chattel mortgage is given are exempt. 19 L.R.A. 39.

Federal courts following state decisions as to. 40 L.R.A. (N.S.) 416.

Accession to property which is the subject of chattel mortgage. L.R.A.1916E, 256.

#### II. What constitutes.

§ 2. Generally.

Mortgage as distinguished from pledge, see PLEDGE AND COLLATERAL SECURITY, § 2.

Parol evidence that written instrument which on its face imports a complete transfer was intended to operate as a mortgage or pledge. L.R.A.1916B, 18.

Mortgage of land including profits, as a chattel mortgage with respect to crops.

L.R.A.1917C, 51.

## III. Execution and delivery.

\$ 3. Generally.
Validity of mortgage partially made on Sunday and perfected on secular day.
4 L.R.A.(N.S.) 1151.

Effect of chattel mortgagee taking possession before any specific right or lien of creditors has attached to cure original defect in execution. 25 L.R.A.(N.S.)

## IV. Validity generally.

§ 4. Generally. Validity as against creditors, see infra, §§ 13-15.

Consult also L.R.A. Digests of Cases.

CHATTEL MORTGAGE, IV .- cont'd Effect of failure to file on record, see infra,

§ 17. Effect of filing or recording, see infra, § 21.

Validity of verbal chattel mortgage. L.Ř.A.(N.S.) 418.

Validity of mortgage partially made on Sunday and perfected on secular day. 4 L.R.A. (N.S.) 1151.

Voidability of chattel mortgage within four months previous to bankruptcy given pursuant to executory agreement ante-dating such period. 17 L.R.A.(N.S.)

§ 5. Partial invalidity.

May a chattel mortgage fraudulent as to a portion of the property be up-held as to the remainder. 13 L.R.A. (N.S.) 921.

## § 6. Pre-existing debt as consideration

As against other creditors or equities. L.R.A. 305.

To give rights as a bona fide purchaser or mortgagee. 19 L.R.A. 590.

## V. Description of property.

§ 7. Generally.

On sale or mortgage of future crops. 23 L.R.A. 458; L.R.A.1917C, 22.

Curing of insufficient or inaccurate description by chattel mortgagee taking possession before any specific right or lien of creditors has attached. 25 L.R.A. (N.S.) 117.

## VI. Property covered.

§ 8. Generally.

On buildings upon leased premises. L.R.A. 347.

What articles are included in such general terms as appurtenances, fixtures, and the like, employed in chattel mortgage. 46 L.R.A.(N.S.) 206.

§ 9. After-acquired or manufactured property.

after-acquired property, generally. L.R.A.(N.S.) 451.

Effect of mortgagee taking possession before any specific right or lien of creditors has attached. 25 L.R.A.(N.S.) 117.

Voidability of mortgage on after-acquired property given within four months of bankruptcy pursuant to executory agreement antedating such period. 17 L.R.A. (N.S.) 938.

Efficacy of mortgage on chattels to be manufactured or acquired, as independent articles, and not as the increase or fruits of existing property. 18 L.R.A. 298.

Effect of attempt to cover after-acquired property in mortgage of merchandise with provision for mortgagor's possession with power of sale. 18 L.R.A. ROR

CHATTEL MORTGAGE, VI.—cont'd § 10. Future earnings.

Future accounts or carnings. 14 L.R.A. 126.

Of future earnings of threshing outfit. 20 L.R.A. (N.S.) 505.

§ 11. Future crops.

Mortgage of future and growing crops. 23 L.R.A.449; L.R.A.1917C, 8.

On crops to be grown on land on which mortgagor has no present interest. 19 L.R.A.(N.S.) 910; L.R.A.1917C, 14.

#### 12. Increase of animals.

Does chattel mortgage on domestic animals cover their increase when not men-

tioned therein. 14 L.R.A.(N.S.) 431. Title to increase of animals as between mortgagee of dam and other claimants. 17 L.R.A. 82.

Necessity that increase of animals be in gestation at time of execution of mort-gage in order to be covered thereby. 17 L.R.A.(N.S.) 203.

## VII. Rights and remedies of creditors.

§ 13. Generally.

Effect of failure to record, see infra, § 17.

Governing law of, as affected by fraud against creditors. 11 L.R.Å.(N.S.) 1007.

Pre-existing debt as consideration against other creditors. 33 L.R.A. 305. May mortgage for an actual contempora-

neous loan be set aside as fraudulent against creditors. 26 L.R.A.(N.S.) 1**ŏ6**8.

Is chattel mortgage within scope of sales in bulk law. 12 L.R.A.(N.S.) 178.

Garnishment of claim to surplus on chattel mortgage. 59 L.R.A. 370.

Admissibility of declarations by mortgagor made out of court as to his purpose in making mortgage attacked as fraudulent as against creditors. 41 L.R.A. (N.S.) 1.

## § 14. Permitting mortgagor to retain possession generally.

Law governing necessity of change of possession. 64 L.R.A. 355, 361.

Necessity for change of possession to uphold sale under, as against creditors of former owner. 36 L.R.A.(N.S.) 1018.

Setting aside pledged or mortgaged property retained by pledgor or mortgagor on his own premises, or under his own control, as a delivery or change of possession. 25 L.R.A.(N.S.) 525.

Retention of possession by mortgagor as badge of fraud in case of mortgage of Necessity of filing or recording in state future crops. L.R.A.1917C, 16.

CHATTEL MORTGAGE, VII.—cont'd § 14a. — with power of sale.

Effect of statutes making fraud a question for the jury where mortgagor of mer-chandise is left in possession with power of sale. 18 L.R.A. 611.

Validity of a chattel mortgage of stock of merchandise as affected by a provision or agreement giving the mortgagor the possession with power of sale. 18 L.R.A. 604; 36 L.R.A.(N.S.) 1181.

#### § 15. Effect of mortgagee's taking possession.

Effect of chattel mortgagee taking possession before any specific right or lien of creditors has attached to cure origina' defect in mortgage as against creditors. 25 L.R.A. (N.S.) 110.

## VIII. Filing; recording; renewal.

§ 16. Generally.

Extraterritorial force of record. 17 L.R.A. 127.

§ 17. Necessity of.

Failure to record as fraud on other creditors. 31 L.R.A. 638.

Necessity of recording mortgage of future crops. 23 L.R.A. 463.

When local law deemed to require registering or recording of a transfer within § 60 a. of the Bankruptcy law. 5 L.R.A.(N.S.) 148; 18 L.R.A.(N.S.) 1233.

Effect of chattel mortgagee taking possession before any specific right or lien of creditors has attached to cure failure to record. 25 L.R.A.(N.S.) 115.

Validity of statute or ordinance requiring persons engaged in the business of loaning money on chattel security or security of wages to file a record of loans made. 25 L.R.A.(N.S.) 686.

§ 18. Sufficiency.

Sufficiency of record notice of mortgage on chattels to be manufactured or acquired as independent articles and not as the increase or fruits of existing property. 18 L.R.A. 303.

§ 19. Time.

First and last days in computing time for. 49 L.R.A. 243.

Chattel mortgage not filed before death of mortgagor. L.R.A.1918A, 327.

§ 20. Place.

where property located. 64 L.R.A. 361.

Begin with this book on every law question.

CHATTEL MORTGAGE, VIII.—cont'd Necessity of recording mortgage in state to which property is subsequently removed. 64 L.R.A. 356; 6 L.R.A. (N.S.) 940; 35 L.R.A. (N.S.) 386; L.R.A.1917D, 942.

§ 21. Effect.

Effect of recording mortgage of future crops. 23 L.R.A. 463.

Effect of recording on validity of mortgage of merchandise leaving mortgagor in possession with power of sale. 18 L.R.A. 610.

Retroactive effect of filing chattel mortgages for record in regard to liens acquired on the same property after the execution of the mortgage. 33 L.R.A. 163.

Effect of recording, within four months' period prescribed in bankruptcy act of 1898, mortgage given for a present loan or future advances. 25 L.R.A. (N.S.) 144.

Recording mortgage as notice of rights of mortgagee to agent selling or disposing of property intrusted to him by his principal. 50 L.R.A.(N.S.) 58.

Effect of filing chattel mortgage after giving of subsequent mortgage, but before filing of the same. L.R.A.1916D, 244.

§ 22. Renewal.

Failure to renew chattel mortgage as affecting purchaser or encumbrancer of property before lien of mortgage had expired. 47 L.R.A.(N.S.) 668.

#### IX. Effect generally.

§ 23. Generally.

Effect of mortgage of future crops. 23 L.R.A. 465.

Effect of, to create a maritime lien. 76 L.R.A. 417.

Effect of instrument in form of chattel mortgage to create a lien on real estate. 11 L.R.A.(N.S.) 869.

Assumption of individual debts of partner by mortgage of partnership property. 29 L.R.A. 692.

Mortgage of receipts or property as indebtedness within meaning of debt limit provision. 37 L.R.A. (N.S.) 1085; L.R.A.1917E, 447.

Mortgaging property as a ground of attachment. 30 L.R.A. 479.

Mortgaging chattel as waiver of purchaser's right to return. 38 L.R.A.(N.S.) 1035. Relief from mistake of law as to effect of. 28 L.R.A.(N.S.) 826.

§ 24. Efficacy of mortgage on fixtures. Generally. 15 L.R.A. 56.

As against mortgagor and persons consenting to or recognizing them as valid. 15 L.R.A. 56.

Consult also L.R.A. Digests of Cases.

CHATTEL MORTGAGE, IX.—cont'd

As against landlord. 15 L.R.A. 56.
As against real-estate mortgage. 15 L.R.A.
57.

Effect of execution of chattel mortgage before annexation. 15 L.R.A. 57.

Effect of agreement that articles shall remain chattels. 15 L.R.A. 58.

Execution of mortgage as evidence of agreement. 15 L.R.A. 59.

Effect of chattel mortgage as against subsequent purchaser or encumbrancer. 15 L.R.A. 61.

Filing mortgage as constructive notice. 15 L.R.A. 61.

Prior New Hampshire decisions. 15 L.R.A. 63.

Right of seller of chattel who retains title and takes mortgage for purchase price as against purchaser of realty to which it is affixed by owner. 49 L.R.A.(N.S.) 396.

## X. Rights of parties; priorities.

§ 25. Generally.

Rights of mortgagee of bailee to claim title as against the bailor. 25 L.R.A.(N.S.) 782.

Rights of mortgagee of conditional vendee, to assert title as against conditional vendor. 25 L.R.A.(N.S.) 789.

Effect of death of mortgagor in possession upon right of mortgagee under chattel mortgage. 21 L.R.A.(N.S.) 182.

Forfeiture of rights of innocent mortgagee in property used in violation of law. L.R.A.1916E, 343.

Agreement between landlord and tenant for removal of fixtures by latter as affecting rights of mortgagee of fixtures. L.R.A.1915E, 828.

Effect of unlawful seizure of property by mortgagee assuming to act under mortgage. L.R.A.1915E, 193.

Right of mortgagee of ship to take possession. 4 B. R. C. 529.

Right of mortgagee of ship as to freight.
4 B. R. C. 538.

§ 26. Effect of "danger," "safety," or "insecurity" clause.

Generally. 17 L.R.A. 209; 23 L.R.A. 780; 19 L.R.A. (N.S.) 915.

Right to interfere with third persons. 23 L.R.A. 780.

Effect of taking possession. 23 L.R.A. 781. How far right is without control. 23 L.R.A. 781.

The effect of malice. 23 L.R.A. 783. Facts which justify taking possession. 23 L.R.A. 783.

Selling. 23 L.R.A. 784.

Construction of different provisions and circumstances. 23 L.R.A. 784.

Other rights conferred. 23 L.R.A. 784. Acceleration provision as affecting negotiability of notes. 35 L.R.A.(N.S.) 390; L.R.A.1915B, 473. CHATTEL MORTGAGE, X.—cont'd § 27. Priorities.

Priority of mortgages on buildings upon leased premises. 21 L.R.A. 348.

Priority between mortgage of land including profits and subsequent chattel mortgage on crops. L.R.A.1917C, 51.

Priority as between agister's lien and chat-tel mortgage. 17 L.R.A. 792; 12 L.R.A. (N.S.) 310.

Right of seller of chattel retaining title thereto or a lien thereon as against existing mortgagees of the realty to which it is affixed by the owner. 37 L.R.A.(N.S.) 119.

Rights of seller of fixtures, retaining title thereto or a lien thereon, as against purchasers or encumbrancers of the realty. 1 B. R. C. 664.

Priority as between a chattel mortgagee who surrenders mortgage and accepts new form of security on same property, and an intervening lienor. 26 L.R.A. (N.S.) 496.

Retroactive effect of filing chattel mortgage for record in regard to liens acquired on same property after execution of the mortgage. 33 L.R.A. 163.

Priority of right of mortgagee of ship as to freight. 4 B. R. C. 545.

Effect of filing chattel mortgage after giving subsequent mortgage but before filing of the same. L.R.A.1916D, 244.

Priority as between lien of chattel mortgage and claim of one taking animals damage feasant. L.R.A.1916E, 528.

Priority of lien for services on personal property over prior chattel mortgage. L.R.A.1915D, 1149.

## XI. Sale or removal of mortgaged chattels.

§ 28. Generally.

Validity of sale of mortgaged property in violation of law. 12 L.R.A. (N.S.) 599. Personal liability of purchaser of property

subject to mortgage. 59 L.R.A. 737. Injunction against execution sale of mort-

gaged chattels. 30 L.R.A. 125. Necessity of refiling or re-recording in state to which property removed after execution of mortgage. 64 L.R.A. 356; 6 L.R.A.(N.S.) 940; 35 L.R.A.(N.S.)

386; L.R.A.1917D, 942. Mortgagee's consent to the removal of mortgaged property from state as affecting his lien. 6 L.R.A. (N.S.) 940; L.R.A.1917D, 942.

Failure to renew chattel mortgage as affecting purchaser of property before lien of mortgage had expired. 47 L.R.A. (N.S.) 668.

Sale of mortgaged chattels by, or with consent of, mortgagee, and application of proceeds to payment of mortgage, as a foreclosure cutting off intervening liens. 45 L.R.A.(N.S.) 1137.

Begin with this book on every law question.

CHATTEL MORTGAGE, XI.-cont'd

Consent to sale of property by mortgagor after the mortgage is given as waiver of lien. 43 L.R.A. (N.S.) 302.

Waiver of lien by accepting proceeds of sale of property. L.R.A.1917A, 1262.

Right of lienor to proceeds where property is sold with his consent under agreement that proceeds shall be applied toward payment of debt. L.R.A.1915C, 166.

#### XII. Assignment; discharge; loss or waiver of lien.

§ 29. Assignment.

Rights of assignee as against subsequent bona fide purchaser or encumbrancer relying on apparent discharge by mort-

gagee. 15 L.R.A.(N.S.) 1025. Effect of assignment of mortgage by or with consent of mortgagor to third person after payment of debt originally secured. 27 L.R.A. (N.S.) 111.

§ 30. Discharge, loss, or waiver. By sale or removal of property, see supra, § 28.

Renewal of notes as discharge of chattel

mortgage. 35 L.R.A.(N.S.) 89.
Rights of assignee as against subsequent bona fide purchaser or encumbrancer relying on apparent discharge of mortgage by mortgagee. 15 L.R.A.(N.S.) 1025.

Who may make a tender which will discharge the lien of a mortgage. L.R.A. 1918C, 186.

Waiver of lien of, by attachment or execution. 50 L.R.A. 714; 24 L.R.A. (N.S.) 490; 51 L.R.A. (N.S.) 1068.

§ 31. — effect of unaccepted tender. Generally. 33 L.R.A. 235.

Before and at maturity. 33 L.R.A. 235. After maturity. 33 L.R.A. 235; 15 L.R.A. After maturity. (N.S.) 1165.

By whom made. 33 L.R.A. 236. Sufficiency. 33 L.R.A. 236.

Equivalent of tender. 33 L.R.A. 237. Remedy of the mortgagor. 33 L.R.A. 237.

## XIII. Enforcement; remedies.

§ 32. Generally.

Amount in dispute in case of injunction to restrain enforcement of, against specific property. 61 L.R.A. 785.

Attempt to enforce lien under clause in a lease giving landlord a lien on crops and chattels as election preventing its enforcement as a chattel mortgage. 20 L.R.A. (N.S.) 259.

Chattel mortgagee as real party in interest by whom action relating to property must be brought. 64 L.R.A. 618.

Insisting on cash sale under a chattel mortgage. 40 L.R.A.(N.S.) 627.

Foreclosure of chattel mortgage when property is out of state. 39 L.R.A.(N.S.) 627.

CHATTEL MORTGAGE, XIII.—cont'd Sale of mortgaged chattels by or with consent of, mortgagor, and application of proceeds to payment of mortgage, as a foreclosure cutting off intervening liens. 45 L.R.A.(N.S.) 1137.

Liability for use of leased premises, of chattel mortgagee seizing tenant's goods or chattels. 43 L.R.A.(N.S.)

527.

May a power of sale be implied where a mortgage gives no express power. B. R. C. 921,

#### CHATTELS.

Mortgage on, see CHATTEL MORTGAGE. In general, see PERSONAL PROPERTY.

Conveyance of chattels held adversely. L.R.A.1916E, 72.

#### CHAUFFEUR.

See AUTOMOBILES.

#### CHEATING.

Illegal intent of prosecutor as affecting guilt of obtaining property by. L.R.A.(N.S.) 276.

Cruel and unusual punishment of. 35 L.R.A. 571.

#### CHECK ROOM.

Liability of carrier for loss of property in. 18 L.R.A. (N.S.) 295; 29 L.R.A. (N.S.) 834.

Liability of innkeeper for loss of goods from. L.R.A.1918C, 674.

## CHECKS.

1. Generally. Duty and liability of bank with respect to, see BANKS, §§ 22-26, 31-35. Collection of, by banks, see BANKS, §§ 31-

As to bills and notes, see BILLS AND NOTES.

Gift by, see GIFT, § 4. Sufficiency of tender of, see TENDER, § 5.

As to traveler's checks, see TRAVELER'S

As subject of gift by maker. 27 L.R.A. (N.S.) 308.

Banking customs as to. 21 L.R.A. 443.

Tender by. 36 L.R.A.(N.S.) 232. Discrepancy between words and figures in the body of a check describing the § 5. Effect of amount thereof. L.R.A.1918C, 331. Consult also L.R.A. Digests of Cases.

CHECKS--cont'd

Right of holder of check to maintain action thereon against bank. L.R.A.1916C,

Effect of death of drawer of check as a revocation thereof. 43 L.R.A.(N.S.) 109; L.R.A.1916A, 717.

Power of president of corporation as to

drawing. 14 L.R.A. 357. Right of payee of check to sue drawer thereon instead of on original consideration. 21 L.R.A.(N.S.) 704.

Risk of giving second check, upon alleged loss of first. 29 L.R.A.(N.S.) 623.

Right of holder of draft or check as against receiver of drawer, as affected by provision of negotiable instrument law, that check shall not operate as assignment.

2 L.R.A. (N.S.) 83.
Rights and duty of one receiving check
payable to his own order from hands of one not a party thereto. 31 L.R.A. (N.S.) 613.

Obtaining check by false pretenses. L.R.A. 1916E, 1106.

Mere drawing of check on bank in which drawer has no funds or credit, and passing same, as false pretense. L.R.A.(N.S.) 244; 27 L.R.A.(N 1032; 52 L.R.A.(N.S.) 919. L.R.A. (N.S.)

Giving post-dated check as a false pretense.
41 L.R.A.(N.S.) 173.

Check as subject of larceny or embezzlement. 42 L.R.A.(N.S.) 498.

Personal liability of one who signs check by adding words indicating representative capacity to his signature. 42 L.R.A. (N.S.) 26, 32, 43.

Exemption from state taxation of checks given for interest on obligations of Federal government. 5 L.R.A.(N.S.) 608.

Limitation of actions on. 22 L.R.A. 110.

§ 2. What are. Drafts on bank as. 23 L.R.A. 173.

§ 3. Payable to imposter or fictitious person.

Bills and notes payable to, see BILLS AND NOTES, §§ 13, 14.

Who must bear loss when check is issued to impostor. 50 L.R.A. 75; 17 L.R.A. (N.S.) 514; 38 L.R.A. (N.S.) 1111.

Fictitious payee as affecting validity of. 39 L.R.A. 427.

§ 4. Negotiability.

Of bill or note, see BILLS AND NOTES, §§ 19-23.

Definitions. 26 L.R.A. 568. Date of check. 26 L.R.A. 568. Notice. 26 L.R.A. 569. Payee. 26 L.R.A. 570. Proof. 26 L.R.A. 571. Lost or stolen checks. 26 L.R.A. 571.

Statutes. 26 L.R.A. 571. Payable in money. 26 L.R.A. 571. Possession. 26 L.R.A. 571.

As accord and satisfaction. 20 L.R.A. 791.

## CHECKS—cont'd

As an assignment of funds drawn upon. 2 L.R.A.(N.S.) 83.

When may check be admitted to probate or otherwise be given effect as a will? 41 L.R.A.(N.S.) 43.

Check as affecting garnishment of deposit. 43 L.R.A.(N.S.) 100.

Effect of giving check for an indebtedness or part thereof, to toll statute of limitations upon the original indebtedness. 18 L.R.A.(N.S.) 223.

Effect of acceptance of check for part of a liquidated and undisputed debt as a consideration for the discharge of the whole. L.R.A.1917A, 722.

#### § 6. Indorsement; transfer.

Of bills and notes, see BILLS AND NOTES, §§ 26-42.

Gift of check. 18 L.R.A. 855. Indorsement "for deposit." 23 L.R.A. 164. Power of agent to indorse. 27 L.R.A. 401. Indorsement of check by agent in a manner not contemplated by his restricted authority. L.R.A.1918B, 576.

Effect of transfer without indorsement of worthless check or note of third per-

son. 10 L.R.A.(N.S.) 510. Remedy of payee of a check against one who has taken it on indorsement of unauthorized agent. 13 L.R.A. (N.S.) 211.

Effect of transfer, on time allowed for presentment. 10 L.R.A.(N.S.) 1153.

May indorser of lost check maintain an action thereon. 24 L.R.A. (N.S.) 645.

Bona fides of purchaser of check as affected by his knowledge that there are no funds to meet it. 39 L.R.A.(N.S.) 1207.

Release of indorser by delay in presenting check. 22 L.R.A. 785.

Certification of check as release of drawer or indorser. 9 L.R.A.(N.S.) 698; 29 L.R.A.(N.S.) 205.

Defense against check transferred after maturity. 46 L.R.A. 808.

Who must bear loss when check is indorsed to impostor. 50 L.R.A. 75; 17 L.R.A. (N.S.) 514; 38 L.R.A.(N.S.) 1111.
Who must bear loss where check is pur-

chased upon the spurious indorsement of one who bears the same name as payee or indorsee. 34 L.R.A.(N.S.) 1101.

Effect of exchange of check to constitute one a holder in due course for value. 17 L.R.A.(N.S.) 747.

Right of bank to set off unmatured claim against deposit as against bona fide holder of check. 27 L.R.A.(N.S.) 814.

Effect of negotiation prior to day of date to put purchaser on inquiry. 44 L.R.A. (N.S.) 405; L.R.A.1918F, 1155.

## § 7. Certification.

Parol certification. 7 L.R.A. 428.

Effect of certification of postdated check. L.R.A.1917F, 1099.

## CHECKS-cont'd

Certification of check as release of drawer or indorser. 16 L.R.A. 510; 9 L.R.A. (N.S.) 698; 29 L.R.A.(N.S.) 205.

Certifying check as payment of debt for which given. 35 L.R.A.(N.S.) 35.

Effect of transfer without indorsement of worthless certified check of third person. 10 L.R.A.(N.S.) 536.

Right of drawer to stop payment of certified check. 20 L.R.A.(N.S.) 290.

Limitation of actions on certified check. 22 L.R.A. 111.

Right of holder of certified check to maintain action thereon against bank. L.R.A.1916C, 171.

Right of bank in respect to certified check or draft fraudulently altered. 4 B. R. C. 588.

Duty of owner of certified check as to giving notice of forgery independently of examination of vouchers. L.R.A.1916E,

Right of drawee of forged check which has been certified to recover money paid thereon. 10 L.R.A.(N.S.) 69.

#### § 8. Payment.

Stopping payment, see Banks, § 25a. Dishonor of check, see Banks, § 26. Collection of, see Banks, §§ 31-35.

Of bill or note, see BILLS AND NOTES, §§ 58-60.

Payment by check, see PAYMENT, § 11.

Powers of president of corporation as to. 14 L.R.A. 357.

Accepting something besides money as payment. 25 L.R.A. 200.

Liability of one to whom an insolvent bank has paid a check. 13 185; 50 L.R.A.(N.S.) 239. 13 L.R.A. (N.S.)

Effect of direction on check to pay same through specified agency. 30 L.R.A. (N.S.) 697.

Who must bear loss where check is paid on spurious indorsement of one bearing same name as payee or indoree. 34 L.R.A.(N.S.) 1101.

## § 9. Presentment.

Of bill or note, see BILLS AND NOTES, §§ 43-53.

#### 10. — necessity.

Of bill or note, see BILLS AND NOTES, § 44.

Necessity of actual presentation of commercial paper to effect its dishonor. L.R.A. (N.S.) 303.

Effect of loss of check upon right of holder to recover against maker without presentment. 14 L.R.A.(N.S.) 616.

## 11. - time; delay and its effect.

Of bill or note, see BILLS AND NOTES, §§ 52, 53.

Effect of transfer on time allowed for. 10 L.R.A.(N.S.) 1153.

Release of indorser of check by delay in presenting it. 22 L.R.A. 785.

Begin with this book on every law question.

CHECKS—cont'd

Effect on drawer's liability of delay in presenting check where drawee remains solvent. 53 L.R.A. 432; 38 L.R.A.(N.S.) 255.

Time of closing or departure as affecting time allowed for mailing check or no-tice of dishonor. 4 L.R.A.(N.S.) 132.

§ 12. Forged paper.

Rights and liabilities of bank and depositor, see Banks, § 24.

Recovery back of money paid on forged check, see BANKS, § 29.

Forgery of bill or note, see BILLS AND Notes, § 16.

Forgery of as a crime, see FORGERY.

Liability of person whose name is forged to. 36 L.R.A. 539.

Right of bank in respect to certified check or draft fraudulently altered. 4 B. R. C. 588.

Duty of owner of certified check as to giving notice of forgery independently of examination of vouchers. L.R.A.1916E,

#### CHECK STUBS.

Admissibility of memoranda on. 42 L.R.A. (N.S.) 727.

## CHEMICALS.

Keeping of, on insured premises. L.R.A. 1917C, 278. Liability for injury to employee from explosion of. L.R.A.1918B, 863.

## CHEST.

What passes under bequest of contents of. L.R.A.1915C, 658, 661.

#### CHICKENS.

Duty of railroad as to chickens upon tracks. 47 L.R.A.(N.S.) 1125. Injunction to prevent trespass of. L.R.A.(N.S.) 179.

#### CHIEF OF POLICE.

Voluntariness of confession to. 18 L.R.A. (N.S.) 849.

## CHILD LABOR.

55, 76-78, 122, 124. Consult also L.R.A. Digests of Cases.

#### CHILDREN.

Limitations to, under rule in Shelley's Case, see DEEDS, § 30; WILLS, § 82.

general, see INFANTS; PARENT AND CHILD.

Does term "child" or "children" in statute governing distribution of decedent's estate include adopted children.

L.R.A. (N.S.) 914; L.R.A.1918F, 1082. Right of children or representative of deceased child to share in proceeds of policy of life insurance payable to "child." 41 L.R.A.(N.S.) 250.

Extrinsic evidence to establish identity of children named as legatees or devisees in will. 47 L.R.A.(N.S.) 532.

Right of adult child to maintain action for death of parent where statute gives right of action to "children." L.R.A. 1916E, 177.

## CHILLING BIDDING.

At judicial sale. 42 L.R.A.(N.S.) 1198.

#### CHIMNEYS.

Liability for fire set by sparks from chimney. 32 L.R.A.(N.S.) 1003.

Liability of landlord to third persons for fall of. 26 L.R.A. 200.

Landlord's liability for injuries from defective condition of. 4 L.R.A. (N.S.)

Liability of landlord to third person for smoking chimney. 26 L.R.A. 201.

#### CHINA.

Jurisdiction and powers of consul in China in civil cases. 45 L.R.A. 486.

#### CHINESE.

Statute creating prima facie rule of evidence in deportation cases. L.R.A. 1915C, 736.
Right of a Chinese person to bail in deportation.

tation proceedings. 31 L.R.A. (N.S.) 1088.

Constitutionality of discrimination based on race or color in police regulations affecting morality. 34 L.R.A.(N.S.) 604.

Validity and enforceability of contract or covenant in relation to real property which discriminates against persons because of race, color, or religion. L.R.A. 1916B, 1208.

See MASTER AND SERVANT. §§ 12, 50, 51, How far use of mails by Chinese physician is fraudulent. 70 L.R.A. 989.

#### CHIROPODISTS.

Application to, of statutes regulating practice of medicine. L.R.A.1917C, 827.

## CHIROPRACTIC.

Application of statutes regulating the practice of medicine to treatment known as. 33 L.R.A.(N.S.) 179; L.R.A.1917C, 823.

## CHISELS.

Master's liability for injury by defect in. 13 L.R.A. (N.S.) 676; 51 L.R.A. (N.S.) 338; L.R.A.1918D, 1141.

#### CHLOROFORM.

Use of, as affecting responsibility and capacity. 39 L.R.A. 262.

#### CHOICE.

Between different kinds of action, see Elec-TION OF REMEDIES, §§ 2-12.

## CHOLERA.

Liability of carrier for loss of live stock by cholera contracted during transit. 26 L.R.A.(N.S.) 712.

## CHOSE IN ACTION.

Assignment of, see Assignment.

Specific performance of contract as to. L.R.A.1918E, 628.

Attachment of, in hands of assignee for creditors. 26 L.R.A. 593.
Equitable remedy to subject to judgment after return of no property found. L.R.A. 673; 15 L.R.A. (N.S.) 976.

Voluntary release of debt as fraud upon creditors of releasor. L.R.A.1918A, 404.

#### CHRISTIAN NAME.

See NAME.

## CHRISTIAN SCIENCE.

Applicability. of statute regulating practice of medicine. 3 L.R.A. (N.S.) 763; 24 L.R.A. (N.S.) 103: 25 L.R.A. (N.S.) Law prohibiting manufacture of, upon cer-1297; L.R.A.1917C, 827.

CHRISTIAN SCIENCE-cont'd Effect of failure to provide medical attendance because of belief in, to render one guilty of manslaughter. 6 L.R.A. (N.S.) 685; 45 L.R.A. (N.S.) 559.

## CHURCHES.

Charitable bequest for, see CHARITIES. Sale of liquor within prohibited distance of, see Intoxicating Liquors, § 27. See also Religious Societies.

Mandatory injunction to require opening of church. 20 L.R.A. 167.

Power of state or municipality to forbid location of places of amusement near. L.R.A.1916D, 99.

#### CHURCH PARSONAGE.

See PARISH HOUSE.

(N.S.) 528.

#### CHURCH WARDEN.

Injunctive relief affecting. 3 L.R.A.(N.S.)

## CIDER.

As intoxicating liquor. 20 L.R.A. 648. Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 306.

#### CIGARETTES.

As articles of commerce. 48 L.R.A. 230. Prohibition or regulation of the manufacture, sale, or importation of. 51 L.R.A. (N.S.) 562; L.R.A.1918B, 988.
Right of state to confiscate cigarettes imported for personal use.

# CIGAR MAKERS' UNION.

Protection of trade union labels or trademarks. 29 L.R.A. 200.

#### CIGARS.

tain premises. 44 L.R.A. (N.S.) 46. Begin with this book on every law question.

#### CINDERS.

Liability of railroad company for personal injury to person struck by. 18 L.R.A. (N.S.) 241; 31 L.R.A. (N.S.) 983.

Liability of elevated railway company for personal injury by falling cinders to person on surface of street. 42 L.R.A. (N.S.) 92.

Right to compensation for consequential damages to property from. 17 L.R.A. (N.S.) 1054.

#### CINEMATOGRAPH.

See MOVING PICTURES.

#### CIPHER MESSAGES.

Duty of telegraph company with respect to. 41 L.R.A. (N.S.) 1196; 43 L.R.A. (N.S.) 502.

#### CIRCUIT COURTS.

Jurisdiction of civil actions against consuls. 45 L.R.A. 581.

## CIRCUIT COURTS OF APPEALS.

Review of decision of, by Supreme Court on certiorari. 50 L.R.A. 801.

#### CIRCULARS.

Admissibility of, as proof of partnership. 20 L.R.A. 598.

Publication by, of matters derogatory to parties to litigation as contempt of court. 2 B. R. C. 498.

## CIRCULATING NOTES.

Effect of transfer without indorsement of worthless circulating note to third person. 10 L.R.A.(N.S.) 526.

Validity of contract as to, which violates statute. 12 L.R.A. (N.S.) 610.

## CIRCUMSTANTIAL EVIDENCE.

Admissibility of, see EVIDENCE, § 271. Weight of, see EVIDENCE, §§ 293, 319.

Of guilt of burglary by one in possession of recently stolen property. 12 L.R.A. (N.S.) 220.

Consult also L.R.A. Digests of Cases.

CIRCUMSTANTIAL EVIDENCE—cont'd Character and reputation of deceased as affecting homicide in cases depending on. 3 L.R.A.(N.S.) 362.

#### CIRCUS.

Liability of proprietor for injury to patron. 1 L.R.A. (N.S.) 427; 32 L.R.A. (N.S.)

Contract exempting railroad company from liability for negligent injury to employee of circus company. 11 L.R.A. ployee of circus company. 11 L.R.A. (N.S.) 432; 50 L.R.A. (N.S.) 433; L.R.A.1917D, 650.

#### CITATION.

On appeal or writ of error to or from Federal Supreme Court. 66 L.R.A. 843.

#### CITIZENS.

Corporations as, see Corporations, § 10. See also CITIZENSHIP; TAXPAYERS.

Privilege of comment upon conduct of citizen deemed to be acting in opposition to public welfare. L.R.A.1917E, 516. Internment of naturalized citizens. 7 B. R. C. 772.

## \*\*\* CITIZENSHIP.

§ 1. Generally.

Jurisdiction as affected by, see COURTS, § 19-26.

Presumptions and burden of proof as to, see EVIDENCE, § 23.

Removal of cause to Federal Court on ground of diverse citizenship, see RE-MOVAL OF CAUSES, §§ 7-9. See also DOMICIL AND RESIDENCE.

Libel by charging that officer or candidate for office is not a citizen. L.R.A.1918E, 27.

As affecting governing law in action for death or bodily injury. 56 L.R.A. 218
As a qualification of grand juror. 28
L.R.A. 196.

Question relating to citizenship as Federal question. 62 L.R.A. 537.

Presumption of, from residence. 8 L.R.A.

(N.S.) 1245. Constitutionality of requirement that hold-er of liquor license must be resident of

state. 16 L.R.A.(N.S.) 1033.

Who may raise objection that statute contains an unconstitutional discrimination based on citizenship. 32 L.R.A. (N.S.) 958.

§ 2. Who are citizens.

Of corporation, see CORPORATIONS, § 10. For purpose of jurisdiction of Federal Court, see Courts, §§ 42, 43.

Effect of marriage on woman's status as an alien. L.R.A.1916D, 132.

CITIZENSHIP-cont'd

Status of person who has devested himself § 2. By dissolution of corporation. of national character without acquiring a new one. 7 B. R. C. 887.

§ 8. Rights of citizens. Right of citizen to locate mining claim. 7 L.R.A. (N.S.) 812.

#### CITY.

See MUNICIPAL CORPORATIONS.

#### CITY COMPTROLLER.

Character and extent of relief by mandamus against. 7 L.R.A.(N.S.) 525.

#### CITY HALL.

Power of municipality to construct for purposes other than use by public officers. 26 L.R.A.(N.S.) 425.

Liability for municipality for torts in connection with. 25 L.R.A.(N.S.) 91.

## CIVIL ACTION.

Arrest in, see ARREST, § 9. In general, see Action or Suit.

## CIVIL DAMAGE ACT.

See Intoxicating Liquors, § 41.

#### CIVIL DEATH.

§ 1. By conviction of crime. Law as to, in United States. 18 L.R.A. 82. Effect of civil death of debtor after judgment upon the remedy by execution. 61 L.R.A. 386.

Effect of civil death on gift conditioned upon contingency of death of devisee or legatee without child or issue. 25 L.R.A.(N.S.) 1045.

Effect of civil death on contingency of death of legatee or devisee without child or issue on which a gift is conditioned. 25 L.R.A.(N.S.) 1172.

At what time does suspension of civil or political rights of one under sentence commence. 17 L.R.A.(N.S.) 502.

Effect of conviction and sentence upon marriage relation. 31 L.R.A. 515.

Effect of suspension of sentence upon right to vote. 18 L.R.A.(N.S.) 684.

Restoration of right to vote by service of sentence upon conviction for crime. 32 L.R.A. (N.S.) 418.

Capacity of convict to contract. 52 L.R.A. (N.S.) 320.

CIVIL DEATH—cont'd

Dissolution of corporation as affecting liability for running contract for services. 69 L.R.A. 137.

#### CIVIL ENGINEER.

Authority of, to contract for services of other persons. L.R.A.1918F, 71, 73, 77.

#### CIVIL POWER.

Discretion and authority of military when called to aid. 65 L.R.A. 198.

#### CIVIL RIGHTS.

§ 1. Generally.

As to passengers, see CARRIERS, § 43. Civil death of convict, see CIVIL DEATH. In schools, see Schools, § 7.
Civil death of convict, see CIVIL DEATH.

Right of negroes to equal privileges, immunity, and protection. 14 L.R.A.

Constitutionality of discrimination based on race or color in police regulations affecting morality. 34 L.R.A.(N.S.) 604.

At what time does suspension of civil rights of one under sentence commence. 17 L.R.A. (N.S.) 502.

Who is a negro, mulatto, or person of color within statutes not specifically defining same. 31 L.R.A. (N.S.) 180; L.R.A. 1915A, 828.

Forbidding burial of negroes in cemetery controlled by white persons. 7 L.R.A. (N.S.) 155; L.R.A.1917B, 948.
Right of educational, charitable, or reli-

gious institution to exclude person on account of race or color. 24 L.R.A. (N.S.) 447.

Question relating to, as a Federal question. 62 L.R.A, 538.

Removal of cause to Federal court because of discrimination against negroes. 53 L.R.A. 574.

Who may raise objection that statute contains unconstitutional discrimination based on race. 32 L.R.A.(N.S.) 960.

Validity of segregation statute or ordinance prohibiting persons of different race or color from living in same locality. 47 L.R.A.(N.S.) 1087; L.R.A.1915D, 684; L.R.A.1918C, 220.

Right of innkeeper to refuse to accept one as a guest on account of race or color. 52 L.R.A.(N.S.) 744, 745.
What are places of public accommodation,

within the meaning of civil rights acts. 9 L.R.A. (N.S.) 601; L.R.A.1918F, 829.

## § 2. In places of amusement.

What are places of amusement within civil rights acts. 19 L.R.A.(N.S.) 907; L.R.A.1918F, 829.

Begin with this book on every law question.

CIVIL RIGHTS—cont'd

Humiliation as element of damages for exclusion from place of amusement because of race or color. 14 L.R.A. (N.S.) 1242.

8 3. Right of suffrage. See Elections, §§ 1-8.

§ 4. As to jury. Negroes as grand jurors. 28 L.R.A. 204. Removal of cause from state to Federal court because of discrimination against negroes as jurors. 53 L.R.A. 574.

## CIVIL SERVICE.

§ 1. Generally. Constitutionality of civil service laws, see 🗥 Constitutional Law, 🖠 59. 🕾

Right to compel public employees, to submit to physical examination to determine fitness. 33 L.R.A.(N.S.) 259.

Course to be pursued when some of the per-sons certified from eligible list do not appear, are ineligible, or decline appointment. L.R.A.1918A, 842.

2. Veterans.

§ 2. Veterans.

Validity of statute giving veterans preference in appointment to office. 10 L.R.A. (N.S.) 825.

Power of legislature to require municipality to pension veterans. 34 L.R.A. (N.S.) 608.

#### CIVIL SERVICE COMMISSION.

Delegation of power to civil service commissioners, see Constitutional Law,

## CLAIM AGENT.

Implied authority of, to promise employment to induce settlement of claim. 38 L.R.A.(N.S.) 826.

Authority of, to contract for services of other persons. L.R.A.1918F, 60.

## CLAIM AND DELIVERY.

In general, see REPLEVIN.

Possessory action for tax receipts. 45 L.R.A.(N.S.) 785.

## CLAIMS.

🖇 1. Generally.

Accord and satisfaction of, see ACCORD AND SATISFACTION.

Alabama claims, see ALABAMA CLAIMS. Against estate of bankrupt, see BANKEUPT-cr, §§ 24-31.

Against estate of insolvent, see INSOLVENCY, §§ 5-8.

Consult also L.R.A. Digests of Cases. 18

CLAIMS—cont'd

Against carrier, time for presenting, see CARRIERS, § 133.

Against county, see Counties, §§ 9-11.

Against municipality, see MUNICIPAL COR-PORATIONS, §§ 102-107. Against state, see STATES, §§ 13, 13a. Against United States, see United States,

Against decedent's estate, see EXECUTORS AND ADMINISTRATORS, §§ 33-46. Against receiver, see RECEIVERS, IV.

In favor of estate of decedent, see EXECU-TORS AND ADMINISTRATORS, §§ 28, 29.

In favor of municipality, see MUNICIPAL CORPORATIONS, § 108.

In favor of United States, see UNITED STATES, §§ 5, 6.

Court of claims, see Courts, \$.45. Compromise of claim for death, see DEATH,

§ 14. Set-off of or against, see SET-OFF AND COUNTERCLAIM.

Presentation of claim for delay or nondelivery of telegram, see TELEGRAPHS, § 21.

Mining claims, see MINES.

Impugning claim or good faith of claimant. LR.A.1915E, 275.

Power of corporate president to settle or surrender. 14 L.R.A. 359.

Illegality of, as defense to mandamus to compel payment of municipal debt. 14 L.R.A. 779.

Valuation and adjustment of claims against insolvent insurance company. L.R.A. 100.

Power of consul to assert claims for his citizens and country. 45 L.R.A. 496.

Right to file claim against estate of guardian after termination of guardianship but before settlement of account. 26 L.R.A.(N.S.) 793.

Agreement to defend against as maintenance. 1 B. R. C. 176.

Constitutionality of statute imposing penalty or added liability for failure of carrier to pay. 42 L.R.A. (N.S.) 106; L.R.A.1917B, 926.

§ 2. Time to present.

Right to compute statutory period for presentation of claims from date of filing message. 34 L.R.A.(N.S.) 185.

## CLAIRVOYANCE.

Application to, of statutes regulating practice of medicine. L.R.A.1917C, 828.

## CLASS.

Legacy to, see WILLS, §§ 96-98.

Right of member of class to maintain action for libel based on charges against the class to which he belongs. 23 L.R.A. (N.S.) 726; 25 L.R.A. (N.S.) 382; 42 L.R.A. (N.S.) 870.

## CLASSICAL EDUCATION.

As a necessary for an infant. 42 L.R.A. (N.S.) 1115.

### CLASSIFICATION.

Of cities, see MUNICIPAL CORPORATIONS, § 4. By statutes, see STATUTES, §§ 15-18. For purpose of succession tax, see TAXES, **105.** 

#### CLAW BARS.

Master's liability for injury by defect in. 13 L.R.A.(N.S.) 681; L.R.A.1916D, 1141.

#### CLEARANCE CARD.

Duty to give to discharged employee, see MASTER AND SERVANT, § 46.

#### CLEARING.

Life tenant's rights as to clearing land. 37 L.R.A. (N.S.) 770.

Mechanics' lien for clearing land. L.R.A. 1917D, 353.

## CLEARING-HOUSE.

See BANKS, § 38.

#### CLEARNESS.

Of special verdict. 24 L.R.A.(N.S.) 54.

#### CLEAVER.

Liability of master for injury by defect in. L.R.A.1918D, 1141.

## CLERGY HOUSE.

See PARISH HOUSE.

## CLERGYMEN.

See RELIGIOUS SOCIETY, §§ 6-9. Begin with this book on every law question.

#### CLERK.

I. In general, \$\$ 1, 2.
II. Of court or county, \$\$ 3-7.

#### I. In general.

§ 1. Generally.

Authority of, to contract for services of other persons. L.R.A.1918F, 69. Communication to, as publication of libel.

1 B. R. C. 455.

Character of occupancy of premises by. 4 L.R.A.(N.S.) 711.

Maritime lien for services of. 70 L.R.A. 387.

Validity of contract restraining practice of profession after expiration of term of service with another. 26 L.R.A. (N.S.) 961.

Execution of certificates of, in name of dep-

uty. 42 L.R.A.(N.S.) 883.

Effect of insertion of unauthorized provisions in bond of. L.R.A.1917B, 990.

2. Liability of, or for acts of. Liability of clerk of auction for return of money. 35 L.R.A.(N.S.) 481.

Storekeeper's liability for malicious acts of. 4 L.R.A.(N.S.) 485.

## II. Of court or county.

3. Generally. Effect of insertion of unauthorized provi-

sions in bond of. L.R.A.1917B, 990. In whose name deputy clerk should act.

19 L.R.A. 181.

Improper influence or interference with grand jury by. 28 L.R.A. 371.
Certification of copies of records by, for

5 L.R.A. evidence in other state. (N.S.) 955, 967. Right to attach or garnish fund in hands

of, after he has been ordered to pay same to party. 13 L.R.A.(N.S.) 758; 30 L.R.A.(N.S.) 720.

Reliance upon clerk for information as to time of trial or hearing as ground of relief from judgment. L.R.A.1917C, 1194.

Admissibility in evidence of books of account kept by. 52 L.R.A. 570. Right of sureties of clerk who have made

good a loss occasioned by their principal's default or misconduct to be subrogated to rights of obligee or beneficiary of the bond against a third person. 14 L.R.A.(N.S.) 155; 46 L.R.A. (N.S.) 557.

## § 4. Women as.

Right of women to be. 38 L.R.A. 213. Women as deputy clerks. 13 L.R.A. 721.

5. Powers of. Power of, to take bail. 1 L.R.A. (N.S.) 849.

6. Compensation of.

Fees of, on filing record and docketing cause in Federal Supreme Court. 66 L.R.A. 850.

CLERK, II.—cont'd

Right of clerk on salary basis to retain fee for naturalization. 30 L.R.A. (N.S.) 810.

7. Liability of.

Liability of, for defective abstract. L.R.A. 99.

Liability on official bond for loss by bank failure. 22 L.R.A. 449.

Character and extent of relief by mandamus against circuit court clerk who has rendered decision on grounds not within his discretion. 7 L.R.A.(N.S.) 525.

Liability of clerk of court for accepting in-sufficient appeal bond. 44 L.R.A. (N.S.) 175.

#### CLOSED SHOP.

See Conspiracy, III.

## CLOSE TIME.

For fishery. 39 L.R.A. 385; L.R.A. 1916E, **521**.

#### CLOTHING.

Power to regulate traffic in secondhand clothing. 24 L.R.A. (N.S.) 1168.

Law regulating making of, upon certain premises. 44 L.R.A.(N.S.) 47.

Making to measure as manufacturing for purposes of tax laws. 44 L.R.A.(N.S.) 303.

Liability for injury to clothing worn by customer or patron. 43 L.R.A.(N.S.)

Measure of damages for loss or conversion of, or injury to. L.R.A.1917D, 495.

## CLOUD ON TITLE.

1. Generally.

Bill to quiet title on invalid sale of property for sewer assessment. 60 L.R.A. 243.

Right of one in possession under void foreclosure sale as against action to quiet title. 40 L.R.A. (N.S.) 845.

Bar of statute of limitations as ground for quieting title as against encumbrance. 6 L.R.A.(N.S.) 516; L.R.A.1916B, 1220.

Applicability of statute of limitations. 29 L.R.A. (N.S.) 930.

Reimbursement of taxes paid by purchaser upon cancelation of invalid tax deed as cloud on title. L.R.A.1915C, 492.

Equitable estoppel as basis of suit to quiet title. 49 L.R.A.(N.S.) 776.

Right to open default judgment in action to quiet title as affected by character of defense. L.R.A.1916F, 853.

Consult also L.R.A. Digests of Cases.

CLOUD ON TITLE—cont'd

§ 2. Equity jurisdiction of action to remove.

Jurisdiction of equity of suit to remove cloud on title to land in other state or country. 69 L.R.A. 682; 23 L.R.A. (N.S.) 924.

Jurisdiction upon constructive service of process against a nonresident as to lands within state. 29 L.R.A. (N.S.)

§ 3. — effect of remedy at law. The general rule. 12 L.R.A.(N.S.) 50.

Effect of statutes enlarging equitable jurisdiction. 12 L.R.A. (N.S.) 67.

Effect of statutes enlarging legal remedy. 12 L.R.A. (N.S.) 78. Miscellaneous statutes. 12 L.R.A. (N.S.)

81.

§ 4. Injunction to prevent.
Injunction against tax as a cloud. L.R.A. 765.

Jurisdiction of equity when only relief sought is an injunction or receiver to preserve status quo pending litigation before another tribunal to determine title to land. 38 L.R.A.(N.S.) 229.

5. Who may sue.

Sufficiency of possessory title. 46 L.R.A. (N.S.) 502.

Right of purchaser on execution to set aside fraudulent conveyance. 15 L.R.A.

Right of one holding a bond for title to maintain a bill against a third person to remove cloud. 15 L.R.A. (N.S.) 413.

Right of one who has placed a purchaser in possession to maintain a bill to quiet title against an outstanding claim. 12 L.R.A.(N.S.) 652.

§ 6. Conclusiveness of, and attack on, judgment in action to remove.

Collateral attack for fraud not affecting

jurisdiction on judgment confirming title to land. 36 L.R.A.(N.S.) 983.

Judgment dismissing bill to set aside tax deed as a cloud on title, as res judicata in action under tax deed to recover possession of property. 25 L.R.A. (N.S.) 1011.

#### CLUB.

§ 1. In general. Sale of liquor by, see INTOXICATING LI-QUORS, § 22.

As deadly weapon. 21 L.R.A. (N.S.) 504. Character of occupancy of steward. 4 L.R.A. (N.S.) 718, 728.

§ 2. Members of.

Enforceability of dues of members of social clubs. 34 L.R.A.(N.S.) 647.

Jurisdiction of equity on the ground of preventing a multiplicity of suits to enfore liability of members of a club or corporation. 28 L.R.A.(N.S.) 743. 1:2

-cont'd

Distribution of suits by tailor among members of club as lottery. 21 L.R.A.

(N.S.) 876.
Power of courts to review decisions of, against members. 49 L.R.A. 359, 362, 365.

Use of lodge or club building for entertainment or social purposes as affecting right to exemption from taxation. L.R.A.1915F, 694.

Right of trustees or executive committee of club to indemnity for obligations in-curred by them. 5 B. R. C. 763.

§ 3. Dissolution of.

Annulling charter of club for violating the law. 14 L.R.A.(N.S.) 683.

Disposition of real estate upon dissolution of corporation created for social purposes. 35 L.R.A.(N.S.) 895.

## COACH LINE.

See STAGE COACHES.

111

#### COAL.

In mine, see MINES, §§ 31, 32.

Use of soft coal as a nuisance. 13 L.R.A. (N.S.) 465.

Discrimination by carrier in furnishing coal cars. 44 L.R.A. (N.S.) 651; L.R.A. 1918D. 274.

Right to coal in railroad right of way as between company and fee owner. 45 L.R.A.(N.S.) 802.

Validity of agreement in restraint of trade ancillary to sale of coal business. L.R.A.1916C, 630.

Right of municipality to engage in business of selling coal. 31 L.R.A.(N.S.) 119; 51 L.R.A.(N.S.) 1143.

## COAL HOLE.

Res ipsa loquitur in action for injury on highway resulting from. 43 L.R.A. (N.S.) 593.

Liability of landlord to third persons as to. 26 L.R.A. 199; 50 L.R.A. (N.S.) 305.

Municipal liability for injury by. 61 L.R.A. 583: 7 L.R.A. (N.S.) 424: 19 L.R.A. (N.S.) 516: 43 L.R.A. (N.S.) 1116.
Liability for failure to guard coal hole in sidewalk for "commercial purposes, while in use by third person. 11 L.R.A. (N.S.) 993.

Spirit Charles 1 . .

## COAL MINES.

See MINES, §§ 31, 32. Begin with this book on every law question.

#### COAL OIL.

Keeping of, on insured premises. L.R.A. 1917C, 278.

#### COAL YARDS.

Servants in, as fellow servants. 50 L.R.A. 460.

As a nuisance. 32 L.R.A.(N.S.) 522. As breach of covenant against offensive business, 9 L.R.A. (N.S.) 1039.

Use of railroad right of way for, as against owner of fee. 36 L.R.A. (N.S.) 516.

Coal yards on railroad right of way as separate subjects of taxation. L.R.A. 1916E, 415.

#### COAST.

Jurisdiction over coast water. 46 L.R.A. 267.

#### COASTING.

In street, as a nuisance; municipal power

over: 89 L.R.A. 679.

Municipal liability for failure to prevent. 23 L.R.A.(N.S.) 639; 42 L.R.A.(N.S.) 862.

Injury to one while coasting in street. L.R.A. (N.S.) 865; L.R.A.1918F, 782.

Reciprocal duty of driver of automobile and child coasting in street. L.R.A.1918A, 257.

Contributory negligence of child injured while coasting in street. L.R.A.1917F,

Contributory negligence of child injured while coasting across railroad tracks. L.R.A.1917F, 158.

## COCAINE.

Furnishing or prescribing by physician. L.R.A.1918E, 669.

#### COCKTAIL.

Judicial notice of intoxicating character of. 19 L.R.A. (N.S.) 848; 48 L.R.A. (N.S.) 305.

## C. O. D.

Transfer of title on delivery to carrier of goods sent C. O. D. 22 L.R.A. 426.

Where title passes upon shipment of liquor C. O. D. 2 L.R.A. (N.S.) 383; 24 L.R.A. (N.S.) 143; 44 L.R.A.(N.S.) 459.

Shipping liquor from one state into another C. O. D., without previous order, as interstate commerce. 5 L.R.A.(N.S.)

Delivery by express agent to addressee and collection of price of intoxicating liquor sent C. O. D. as a sale thereof by the agent. 2 B. R. C. 467.

### CODE.

Power of legislature to enact or amend by single statute. 55 L.R.A. 833.

#### CODEFENDANTS.

Reversal of judgment on appeal or error by one joint defendant as affecting other joint defendant in whose favor judgment below was rendered. L.R.A. 1917D, 674.

 Right of one defendant to benefit of other's demurrer. 33 L.R.A. (N.S.) 310.

Admissibility on joint trial of admission or confession by one defendant tending to incriminate codefendant. 2 B. R. C. 353.

Communications between codefendants as privileged. 35 L.R.A.(N.S.) 585.

Opinion gained from newspaper reports of

Opinion gained from newspaper reports of trial of codefendants as disqualification of juror in criminal case. 35 L.R.A. (N.S.) 1013.

#### CODICIL.

See WILLS, § 58.

## CODIRECTORS.

Liability for acts and omissions of. 55 L.R.A. 771.

#### COERCION.

Of jury, see TRIAL, § 72.

Of wife, effect on liability for libel and slander. 30 L.R.A. 527.

## COEXISTING DEMANDS.

Set off of, on mortgage foreclosure. 21 L.R.A. 323.

## COGWHEELS.

Doctrine of "attractive nuisance" as applied to injury from. 19 L.R.A.(N.S.) 1130.

## COHABITATION.

As evidence of marriage, see MARRIAGE, § 4. Effect of, see MARRIAGE, § 7.

Presumptive agency of wife to purchase necessaries arising from. 65 L.R.A. 539; 47 L.R.A. (N.S.) 281.

Consult also L.R.A. Digests of Cases.

## COHABITATION—cont'd

As consideration for subsequent promise to pay. 53 L.R.A. 357.

Effect of removal of impediment to marriage after commencement of. 3 L.R.A. (N.S.) 244.

Inference or presumption of marriage from continued cohabitation following removal of impediment. L.R.A.1915E, 91.

#### COIN.

§ 1. Generally.

Validity of contract to pay in gold or silver, see CONTRACTS, § 89.

As medium of payment, see PAYMENT, §§ 7,

as medium of payment, see PAYMENT, §§ 7.

Judgments for. 29 L.R.A. 593.

§ 2. Sufficiency of coin tendered. Tender of old, worn, or mutiliated coin. 33 L.R.A. 824.

Tender by passenger of a worn or peculiar coin. 31 L.R.A.(N.S.) 997; 35 L.R.A. (N.S.) 1030; L.R.A.1915E, 313.

#### COLD.

Duty of carrier to protect passenger from, see CARRIERS, § 42.

Master's duty to protect servant whose work requires exposure to, see MASTER AND SERVANT, § 62.

Duty of carrier to guard freight carried against effects of. 39 L.R.A. (N.S.) 640, 645.

Presumption and burden of proof as to carrier's negligence in case of injury by cold to property carried, where contract limits liability. L.R.A.1915D, 664.

## COLD CHISEL.

Master's liability for injury by defect in. 13 L.R.A.(N.S.) 676; L.R.A.1918D, 1141.

#### COLD STORAGE.

Duty and liability of bailee of property in cold storage, see BAILMENT, § 7.

Cold storage plant as a fixture. 30 L.R.A. (N.S.) 576.

## COLLAR.

See Dog Collab.

## COLLATERAL AGREEMENT.

Oral promise to answer for debt of another, see CONTRACTS, § 37.

Parol evidence as to, see EVIDENCE, §§ 162, 163.

In general, see GUARANTY.

As defense to promissory note. 43 L.R.A.

Agreements collateral to contracts forming illegal combinations and the enforcement thereof by members of such illegal combinations. 64 L.R.A. 712; 11 L.R.A.(N.S.) 368; 19 L.R.A.(N.S.) 143; 30 L.R.A.(N.S.) 580.

Right to recover from obligor the damages which the obligee was compelled to pay because of his breach of a contract with a third person in consequence of failure or delay in performance of collateral contract. 18 L.R.A. (N.S.) 575.

## COLLATERAL ATTACK.

On judgments, see JUDGMENT, §§ 51-57, 71, On judicial sale, see JUDICIAL SALE, § 18. On sale or mortgage of land by guardian without giving bond. 33 L.R.A. 763.
On purchase by executor or administrator at his own sale. L.R.A.1918B, 48. On decisions or findings of the Land Department. L.R.A.1918D, 597. Review of proceedings to establish drains and sewers. 60 L.R.A. 225.

## COLLATERAL-INHERITANCE TAX.

See Taxes, §§ 90-105.

#### COLLATERAL KINDRED.

Damages recoverable by, for negligent killing of relative. 11 L.R.A. (N.S.) 623.

## COLLATERAL SECURITY.

See PLEDGE AND COLLATERAL SECURITY.

## COLLECTION.

By bank, see BANKS, §§ 31-35. Of costs, see Costs and Fees, §§ 9, 10. Of debts, see DEBT, § 3. Effort to collect debt as extortion, see

EXTORTION.

Limitation of action on money collected, see Limitation of Actions, §§ 31, 32. Begin with this book on every law question.

COLLECTION—cont'd Agent's authority as to, see PRINCIPAL AND AGENT, § 19. Of tax, see TAXES, IV.

Of purchase money for land, see VENDOR AND PURCHASER, §§ 11, 12.

Authority of attorney for collection to ac-cept cancelation of his own debt as

payment. 14 L.R.A. 235.
Right of one who has collected part of judgment to appeal from the rest. 29 L.R.A.(N.S.) 15.

Effect on pledgee's rights of delivery of pledged property L.R.A. (N.S.) 890. for collection. 39

Of forged instrument as uttering or publishing. 8 L.R.A.(N.S.) 1180.

#### COLLECTION AGENCY.

Business of, as interstate commerce. 47 L.R.A.(N.S.) 648.

## COLLECTOR.

Of port, see Collector of Port. Deputy collector, see DEPUTY, § 3. Tax collectors, see TAXES, § 61.

Right to make bids on sales conducted by them. 20 L.R.A. 505.

Application to, for affixing of omitted stamp to instrument. 48 L.R.A. 316. Penalty as limit of liability on bond. 55 L.R.A. 393.

Execution of collector's bond on condition that others shall sign. 45 L.R.A. 338. Effect of insertion of unauthorized provisions in bond of. L.R.A.1917B, 990.

#### COLLECTOR OF PORT.

Character and extent of relief by mandamus against. 7 L.R.A. (N.S.) 527.

#### COLLEGE EDUCATION.

As a necessary for an infant. 42 L.R.A. (N.S.) 1115.

## COLLEGES.

1. In general. License of, see LICENSE, § 39.

Character of occupation of premises by pro-fessors. 4 L.R.A.(N.S.) 714, 719, 725. Exemption from suit as agency of state. 35 L.R.A.(N.S.) 243.

Mandamus to compel issuance of diploma. 3 L.R.A.(N.S.) 1115; L.R.A.1916B, 616. Right to require or prohibit wearing of uniforms or religious garb in. L.R.A.(N.S.) 337.

COLLEGES-cont'd

§ 2. Taxation of.

Liability of property of private educational institutions to assessment for local improvements. 35 L.R.A. 37. Property used for profit. 19 291; 50 L.R.A.(N.S.) 1197. 19 L.R.A.

Exemption from taxation of fraternity house. 52 L.R.A. (N.S.) 995.

#### COLLISION.

§ 1. Generally.

Between automobiles, or automobile and other vehicle or pedestrian, see Auto-

Injury to passenger by, see CARRIERS, § 50. Between street car and other vehicle, see STREET RAILWAYS, §§ 18, 19.

Liability of owners for wrongful or negligent acts of master of vessel causing collision. 27 L.R.A. 182.

Duty of navigator to avoid injury by pro-

pelling vessel against property of others. 64 L.R.A. 979.

Liability of municipality for damage to vessel by collision with bridge. L.R.A. 1915F, 1062.

Jurisdiction in admiralty of action growing out of collision of vessel with bridge. 21 L.R.A.(N.S.) 324.

Relative duties of steamers and small craft propelled by oars on rivers and in narrow channels. 5 L.R.A.(N.S.) 303.

Private action for violation of law and rules of navigation. 9 L.R.A. (N.S.) 375; L.R.A.1915E, 541.

Right of vessel causing collision to claim salvage for rescuing other vessel. L.R.A.(N.S.) 873.

§ 2. Interest on loss by.

Allowance of interest on value of property destroyed in collision. 18 L.R.A. 453. Right to interest on unliquidated damages incurred in collision of vessels. L.R.A.(N.S.) 7, 80.

#### COLLUSION.

As defense to divorce suit, see DIVORCE AND SEPARATION, § 31.

As ground for relief from judgment, see JUDGMENT, § 95.

See also FRAUD.

Power of court to decline jurisdiction of fictitious or collusive suits. 6 B. R. C. 336.

Carrier's liability for injury to persons wrongfully on train by collusion with train employee. 5 L.R.A.(N.S.) 1025; 37 L.R.A. (N.S.) 419.

Effect of, on compromise or release by personal representatives of claims due As element of adverse possession, see ADestate. 14 L.R.A. 415.

Consult also L.R.A. Digests of Cases.

COLLUSION—cont'd

Effect of collusion with creditor on surety's right to intervene in action against principal or vice versa. 68 Ľ.R.A.

Questioning validity of attachment for. 35 L.R.A. 779.

In obtaining judgment on unauthorized appearance by attorney. 21 L.R.A. 854. Injunction against judgment obtained by. 30 L.R.A. 392.

Right to enjoin prosecution of collusive suit in court of co-ordinate jurisdiction. 11 L.R.A.(N.S.) 581.

#### COLONIZATION.

Alien's right to inherit lands granted for. 31 L.R.A. 180.

#### COLOR.

Right of witness to express opinion as to. L.R.A.1918A, 742.

#### COLOR BLINDNESS.

State statute requiring engineers to be examined for, as interference with interstate commerce. 15 L.R.A.(N.S.) 134.

## COLORED NETTING.

Constitutionality of discriminations in statutory regulations concerning colored netting over food products. 34 L.R.A. (N.S.) 652.

## COLORED PERSONS.

See CIVIL RIGHTS; NEGROES.

#### COLORING MATTER.

Use of in food stuffs, oil, etc., as adulteration. 25 L.R.A. (N.S.) 1234.

## COLOR OF RIGHT.

As affecting question whether invalid claim may be the subject of a valid compromise. 25 L.R.A.(N.S.) 280.

## COLOR OF TITLE.

VERSE POSSESSION, §§ 15-18.

COLOR OF TITLE—cont'd

Right to allowance for improvements made before color of title. 37 L.R.A. (N.S.)

Location of mining claim on public domain occupied without color of title. L.R.A.(N.S.) 785.

#### COLUMNS.

Ornamental columns extending beyond line as violating building restriction. 52 L.R.A. (N.S.) 1050.

#### COMBINATIONS.

Illegality of, see CONSPIBACY; MONOPOLY AND COMBINATIONS.

As to contracts in restraint of trade, generally, see Contracts, §§ 107-109, 117,

Patent of, see PATENTS, § 8. Of railroads, see RAILROADS, §§ 9-11.

Common-law rights of original authors in

case of. 51 L.R.A. 379.

## COMBUSTIBLE MATERIALS.

See FIRES.

## COMITY.

See CONFLICT OF LAWS.

#### COMMAND.

Obedience of, by employee, see MASTER AND SERVANT, §§ 4, 70, 117, 126, 127.

## COMMENCEMENT.

Of action, see Action or Suit, § 21.

## COMMENTATOR.

Common-law rights of commentator upon literary work. 51 L.R.A. 358.

#### COMMENTS.

Libel or slander by, see LIBEL AND SLANDER,

Begin with this book on every law question.

## COMMERCE.

- I. State control of domestic commerce, **§** 1.
- II. Interstate commerce, \$\$ 2-21.
  - a. In general, 🕻 2.
  - b. Control of navigable waters and navigation, § 3.
  - o. Regulation of carriage and transportation, §§ 4-12.
  - d. Forbidding exportation from state, \$ 13.
  - e. Regulation of sales and other business, \$\$ 14-18.
  - 1. Relation between carrier and employees, 🖇 19.
  - g. Taxation, \$\$ 20, 21.
- I. State control of domestic commerce.
- § 1. Generally. State sovereignty over domestic commerce. 12 L.R.A. 673.\*

#### II. Interstate commerce.

#### a. In general,

§ 2. Generally.

Combinations in restraint of, see MONOPO-LIES AND COMBINATIONS, II.

Contracts in restraint of trade, generally, see CONTRACTS, §§ 107-109, 117, 118.

As to Interstate Commerce Commission, see INTERSTATE COMMERCE COMMISSION.

Business of collection or commercial agency as interstate commerce. 47 L.R.A. (N.S.) 648.

State regulations as affected by Federal pure food law. 47 L.R.A. (N.S.) 985.

Restraint on, in violation of anti-trust act. 64 L.R.A. 689.

Effect and construction of Federal antitrust law. 64 L.R.A. 698.

What is interstate commerce under anti-trust laws. 64 L.R.A. 700. State regulation of right to fish as inter-

ference with commerce. 60 L.R.A. 504.

Natural gas as a subject of interstate commerce. 12 L.R.A. 652.

Instruction by correspondence as interstate commerce. 27 L.R.A.(N.S.) 493. State legislation for protection of health of

live stock, as interference with inter-

state commerce. 26 L.R.A.(N.S.) 279. Federal or state jurisdiction to make regu-

lations as to infected animals. 43
L.R.A.(N.S.) 1066.
State legislation for prevention of immorality as interference with interstate commerce. 51 L.R.A. (N.S.) 157.

Effect of commerce clause on validity of state police regulations as to branding or labeling articles of commerce. 40 L.R.A. (N.Š.) 880.

Jurisdiction under commerce clause to pun-ish crimes committed by or against

Indians. 21 L.R.A. 169.

COMMERCE, II. a-cont'd

Effect of commerce clause on admiralty jurisdiction of contracts. 66 L.R.A. 213.

Mandatory injunction in matters affecting. 20 L.R.A. 166.

Injunction against strikes affecting. L.R.A. 467.

## b. Control of navigable waters and navigation.

3. Generally.

Local license tax on vessels licensed by the United States. 27 L.R.A. 414.

Regulation of ferries as interference with commerce. 59 L.R.A. 519; 52 L.R.A. (N.S.) 574.

Effect of commerce clause on right to maritime lien for ship's services. 70 L.R.A.

Does transportation over navigable waters between points in same state by route part of which is in another state constitute interstate commerce. 28 L.R.A. (N.S.) 988.

#### c. Regulation of carriage and transportation.

4. Generally.

Relation between carrier and employees, see infra, § 19.

As to governmental regulation of carriers generally, see CARRIERS, V.

Includes transportation and intercourse. 6 L.R.A. 579;\* 13 L.R.A. 107.

Applicability of commerce clause or statutes thereunder to street railways or to interurban roads. 46 L.R.A. (N.S.) 385.

Exclusion of foreign railroad company as interference with commerce. 24 L.R.A.

State regulation of equipment of railroad rolling stock as interference with interstate commerce. 32 L.R.A. (N.S.)

State regulations requiring carriers to furnish cars to shipper as interference with interstate commerce. 42 L.R.A. (N.S.) 984.

Implied contract for through carriage in case of interstate shipments. L.R.A. (N.S.) 27.

State statutes imposing penalty on carrier for failure to settle claims as interference with interstate commerce. 15 L.R.A.(N.S.) 983; 42 L.R.A.(N.S.) 107; L.R.A.1917B, 926.

Right to require the stopping of interstate trains. 14 L.R.A. (N.S.) 293.

Right to limit speed of interstate or mail train. 14 L.R.A. (N.S.) 293; L.R.A. 1917F, 1187.

Power to compel stoppage of interstate trains at stations. .44 L.R.A.(N.S.) 478.

Full crew acts as interference with interstate commerce. 49 L.R.A.(N.S.) 978. Power of state as to demurrage charges by carrier on interstate shipments. L.R.A.(N.S.) 137.

Consult also L.R.A. Digests of Cases.

COMMERCE, II. c-cont'd

§ 5. When transportation is interstate. Effect of breaking continuity of passage or shipment upon its interstate character. L.R.A.1917D, 1184.

Shipment within a state as part of interstate or foreign transportation. L.R.A. 643.

Does transportation between points in same state over a route part of which is in another state constitute interstate commerce. 17 L.R.A. 443; 28 L.R.A. (N.S.) 985; L.R.A. 1918A, 805.

Altering destination during shipment as af-fecting interstate character. L.R.A. 1916E, 533.

Interstate telegrams as interstate commerce. 24 L.R.A. 161.

6. Connecting carriers.

State statutes regulating the liability of carriers with respect to shipments over connecting lines as interference with interstate commerce. 7 L.R.A. (N.S.) 388.

§ 7. Charges of carriers. Regulation of freight rates, generally, see CARRIERS, §§ 154-160.

Effect of interstate business on reasonableness of railroad rates prescribed by the state for local traffic. 15 L.R.A.(N.S.) 112.

Right of shipper where carrier negligently misquotes rate which has been filed or published as required by statute. L.R.A.(N.S.) 391.

Power of state court to pass upon interstate rates. 28 L.R.A. (N.S.) 108.

Effect of provisions of interstate commerce act against rebates upon contracts prescribing rates less than those established in accordance with the act. 14 L.R.A. (N.S.) 400.

Effect of interstate commerce act on shipper's common-law right of action for discrimination by carrier. 45 L.R.A. (N.S.) 614.

Power of state court to review rulings of Interstate Commerce Commission. L.R.A.1917E, 919.

§ 8. —contracts fixing rates other than those established in accordance with interstate commerce act. General rule. 38 L.R.A.(N.S.) 353.

Shipper's right of action against carrier for damages. 38 L.R.A. (N.S.) 355.

Particular classes of contracts. 38 L.R.A. (N.S.) 357.

Criminal liability. 38 L.R.A. (N.S.) 363.

9. Limitation of liability.

Validity of stipulation limiting carrier's liability to agreed valuation as affected by the Hepburn act. 28 L.R.A. (N.S.) 293.

"Carmack amendment" as affecting state regulations as to stipulations limiting liability of common carriers for the loss or damage to goods. 44 L.R.A.(N.S.) 257; 50 L.R.A.(N.S.) 819.

COMMERCE, II. c—cont'd

10. Furnishing of cars.

Duty of carrier under interstate commerce act to furnish cars to shippers. 43 L.R.A. 230.

State regulations requiring carriers to furnish cars to shippers as interference with interstate commerce. 17 L.R.A. (N.S.) 364; 29 L.R.A.(N.S.) 802.

Validity of penalty imposed by state for failure to furnish freight cars. 15 L.R.A.(N.S.) 733.

Effect of interstate commerce act on damages for carrier's failure to furnish cars. 44 L.R.A.(N.S.) 649.

11. Telegraph and telephones.

Exclusion of foreign telegraph company as interference with commerce. 24 L.R.A.

Power to states to control or impose burdens upon interstate telegraph and telephone companies. 24 L.R.A. 161

State statutes imposing penalties upon tele-graph companies for failure to transmit or deliver messages properly. 31 L.R.A. 807.

State statutes imposing license fees on telegraph companies. 24 L.R.A. 161; 31 L.R.A. 808.

Statutes regulating telephone prices and requiring service on equal terms to all. 31 L.R.A. 807.

State law affecting telegraphs as regulation of interstate commerce. 36 L.R.A. (N.S.) 220.

Transmission of message between points in same state over a line part of which is in another state as interstate commerce. 28 L.R.A. (N.S.) 985; L.R.A. 1918A, 807.

12. Express companies.

Exclusion of foreign express company as interference with interstate commerce. 24 L.R.A. 312.

Statute requiring express companies to make free deliveries in certain cities, as interference with interstate commerce. 19 L.R.A.(N.S.) 94.

d. Forbidding exportation from state.

§ 13. Generally.

Right of state to forbid exportation of natural resources. 35 L.R.A. (N.S.) 1193.

e. Regulation of sales and other business.

§ 14. Generally.

Regulation of carriers, see supra, II. c. Regulation of telegraph and telephone companies, see supra, § 11.

Prohibiting or restricting advertising as interference with interstate commerce. L.R.A.1917E, 701.

Business of collection or commercial agency as interstate commerce. 47 L.R.A. (N.S.) 648.

COMMERCE, II. e-cont'd

Power of state to regulate nursery business. 15 L.R.A. (N.S.) 138.

Police regulations as to branding or labeling articles of commerce. (N.S.) 184. 1 L.R.A.

Statutes in relation to vinegar as interference with interstate commerce. L.R.A.(N.S.) 1206.

Constitutionality of statute requiring announcement that article is imported. L.R.A.1916E, 1186.

Validity of state inspection laws as applied to commodities in interstate commerce. 27 L.R.A.(N.S.) 677; L.R.A.1916D, 196.

Right of state to confiscate cigarettes imported for personal use. 4 L.R.A. (N.S.) 528.

Contracts for "futures" to be executed in other states as interstate commerce. 14 L.R.A.(N.S.) 1081.

§ 15. Intoxicating liquor.

Power of state to prohibit solicitation of orders for intoxicating liquors by mail sent from another state. 36 L.R.A. (N.S.) 443.

Shipping liquor from one state into another C. O. D. without previous order, as interstate commerce. 5 L.R.A. (N.S.) 630.

Regulating sale of intoxicants on vessels engaged in interstate commerce. 1 L.R.A. (N.S.) 639; L.R.A.1915F, 1143.

Right of prohibition as limited by constitutional power of Congress to regulate interstate and foreign commerce (U. S. Const. Art. 1, sec. 8). 15 L.R.A. (N.S.) 923.

What is sufficient to terminate interstate transportation of intoxicating liquors. 11 L.R.A. (N.S.) 550; 23 L.R.A. (N.S.) 1020; 29 L.R.A.(N.S.) 745.

Constitutionality, construction, and effect of Webb-Kenyon act. L.R.A.1916C, 299; L.R.A.1918B, 455.

Effect of removal of constitutional objections to state statute. 48 L.R.A. (N.S.) 349

Effect of violation of Federal pure food law on status of intoxicating liquors. 47 L.R.A.(N.S.) 987.

§ 16. Original packages.
As to original packages generally, see ORIGINAL PACKAGES.

What are. 60 L.R.A. 664; 39 L.R.A. (N.S.) 1051.

Prohibition or regulation of the sale or importation of tobacco. L.R.A.1918B, 989. Cigarettes in original packages as articles of commerce. 48 L.R.A. 230.

Effect of removal of constitutional objections to state statute. 48 L.R.A. (N.S.) 349.

State regulations as affected by Federal pure food law. 47 L.R.A.(N.S.) 985.

Begin with this book on every law question.

COMMERCE, II. e-cont'd

§ 17. Foreign corporations.

As to foreign corporations, generally, see

CORPORATIONS, XI.

Doing of business within state by foreign corporation, see Corporations, §§ 145-

Generally. 60 L.R.A. 677. Telegraph companies. 24 L.R.A. 311. Insurance companies. 24 L.R.A. 312.
Packet company. 24 L.R.A. 312.
Express companies. 24 L.R.A. 312.
Railroad companies. 24 L.R.A. 312. Bridge company. 24 L.R.A. 313. Trading companies. 24 L.R.A. 313. Publishing companies. 24 L.R.A. 314. Loaning companies. 24 L.R.A. 314. Liability of foreign corporation engaged in interstate commerce to franchise tax. 57 L.R.A. 92.

Sale by foreign corporation of goods stored in state as intrastate business. L.R.A.(N.S.) 134.

Agreement by foreign corporation to install articles within the state as bringing it within the statute relating to for-eign corporations. 14 L.R.A.(N.S.) 674; L.R.A.1917C, 1014.

18. License; peddlers. Liquor license, see supra, § 15.

Tax on occupations as interference with commerce. 60 L.R.A. 691.

License tax on advertising as interference with interstate commerce. L.R.A. 1917E, 701.

State statutes imposing license fees on telegraph companies. 31 L.R.A. 808.

Local license tax on vessels licensed by the United States. 27 L.R.A. 414.

License or occupation tax on hawkers and peddlers, and persons engaged in soliciting orders by sample or otherwise as a violation of the commerce clause. 14 L.R.A. 97; 19 L.R.A. (N.S.) 297; 28 L.R.A. (Ń.S.) 265.

Blue Sky Law as violation of commerce clause. L.R.A.1917F, 524.

## 1. Relation between carrier and employees.

§ 19. Generally.

As to construction and effect of Federal safety-appliance act, generally, see MASTER AND SERVANT, § 96.

State regulation of relations between railroad companies engaged in interstate commerce and their employees. 15 L.R.A.(N.S.) 134; 29 L.R.A.(N.S.) 240; 52 L.R.A.(N.S.) 266.

Gathering laundry or other articles in one state, performing services thereon in another, and returning to owners, as interestate commerce. L.R.A.1917B, 843.

Workmen's Compensation Act as imposing burden on interstate commerce. L.R.A. 1917D, 57.

Consult also L.R.A. Digests of Cases.

COMMERCE, II. f—cont'd

Track repairing and work in connection therewith as furthering interstate commerce within the Federal Employers' Liability Act. L.R.A.1918E, 859.

Effect of Federal Employers' Liability Act on applicability of State Compensation Statutes to non-negligent injuries of railroad employees while engaged in interstate commerce. L.R.A.1918C, 450.

Limitation by Federal laws of application of workmen's compensation statute to injuries received in interstate commerce. L.R.A.1916A, 461; L.R.A.1917D, 85.

#### g. Taxation.

§ 20. Generally.

License tax, see supra, § 18,

Whether state tax violates commerce clause, as a Federal question. 62 L.R.A. 530. Power of state to tax interstate telegraph messages. 24 L.R.A. 161.

Invalidity of state laws imposing taxes or penalties upon immigration. 13 L.R.A.

Taxation of bridge over a navigable river as regulation of interstate commerce. 29 L.K.A. 71.

Liability of grain to taxation while in elevator in course of interstate transportation. 44 L.R.A. (N.S.) 586.

§ 21. Corporate taxation and the com-

merce clause.

Taxation of corporations generally, see
Taxes, §§ 11, 33-39, 45, 46, 67.

Generally. 60 L.R.A. 641.

What is commerce. 60 L.R.A. 642.

Congressional inaction means freedom. 60 L.R.A. 647.

State powers. 60 L.R.A. 649. Property taxation. 60 L.R.A. 651. Intercourse. 60 L.R.A. 666.

Internal commerce. 60 L.R.A. 669. Receipts from commerce across state lines.

60 L.R.A. 671.

Excises. 60 L.R.A. 674. Charges for facilities, services, and policing. 60 L.R.A. 693.

Taxation of receipts of corporations engaged in interstate or foreign commerce. 57 L.R.A. 59.

Liability of domestic corporation engaged in interstate commerce to franchise tax. 57 L.R.A. 79.

Liability of foreign corporation engaged in interstate commerce to franchise tax. 57 L.R.A. 92.

## COMMERCIAL AGENCIES.

Libel by, see Libel and Slander, §§ 17, 26.

Business of, as interstate commerce. 47 L.R.A. (N.S.) 648.

Misrepresentations to, as a fraud upon seller. 14 L.R.A. 264.

Reliance on fraudulent statements to. L.R.A. 613.

#### COMMERCIAL BONDS.

See Bonds, §§ 17-27.

#### COMMERCIAL EDUCATION.

As a necessary for an infant. 42 L.R.A. (N.S.) 1115.

## COMMERCIAL ESTABLISHMENTS.

Validity of statute or ordinance requiring closing of, at certain hours. L.R.A. 1916A, 654.

#### COMMERCIAL PAPER.

See BILLS AND NOTES; BONDS, §§ 17-27; CHECKS.

#### COMMERCIAL TRAVELERS.

Extent of authority of, see PRINCIPAL AND AGENT, § 13.

Drummers as related to interstate com-merce. 14 L.R.A. 97. Innkeeper's liability for loss or destruc-tion of samples. 35 L.R.A.(N.S.) 350.

Liability of carrier for loss of baggage of. 4 L.R.A.(N.S.) 1035; L.R.A.1918C, 108. Agreement in restraint of future employment of. 24 L.R.A. (N.S.) 937.

Notice to traveling salesman as notice to his employer. 25 L.R.A. (N.S.) 231.

Commercial travelers as peddlers or hawkers. L.R.A.1916B, 1298.

Implied or apparent authority to bind principal for board or traveling expenses. L.R.A.1916B, 754.

Criminal responsibility of, for sale of goods that do not comply with statutory requirements. L.R.A.1918D, 726.

#### COMMISSION.

Delegation of power to, see Constitution-AL LAW, § 13.

Constitutionality of commission form of government, see MUNICIPAL CORPORA-TIONS, § 8.

Railroad commission, see RAILROAD COMMIS-STON.

Suits against state commissions as suits against the state. 44 L.R.A.(N.S.) 196.

*.*, .

## COMMISSIONERS.

Delegation of power to, see CONSTITUTIONAL Law, § 13.

COMMISSIONERS—cont'd

Of drains and sewers, see DRAINS AND SEWERS, § 7.

Right to make bids on sales conducted by them. 20 L.R.A. 505.

Right of woman to be. 38 L.R.A. 211. Harbor commissioners as independent contractors. 65 L.R.A. 474.

Right to attach or garnish fund in hands of, after direction to pay same to party. 13 L.R.A. (N.S.) 758.

Injunction against acts of food commissioner which affect sale of foods. 15 L.R.A.(N.S.) 331.

Power of court to set aside award in condemnation for misconduct of commissioners. 27 L.R.A.(N.S.) 567.

Character and extent of relief by mandamus against commissioner of patents. L.R.A.(N.S.) 527.

Binding effect on municipality of knowledge or notice of street commissioner of defect or obstruction in street. L.R.A.1918B, 650.

#### COMMISSION FORM OF GOVERN-MENT.

See MUNICIPAL CORPORATIONS, § 8.

## COMMISSION MERCHANT.

See FACTORS.

#### COMMISSIONS.

Of broker, see Brokers, §§ 8-13. Of personal representative, see EXECUTORS AND ADMINISTRATORS, § 52.

Of insurance agent, see INSURANCE, § 21.
Of agent generally, see PRINCIPAL AND

AGENT, § 36. Commissions charged by lender's agent as

usury, see Usury, § 3.

Admissibility of books of account to prove delivery for sale on commission. 52 L.R.A. 695.

Priority of claims against property in hands of receiver for. 2 L.R.A. (N.S.) 1051, 1067.

Creation of partnership by provision for division of commissions. 18 L.R.A.

(N.S.) 1040. Effect of fact that one is entitled to commissions out of fund on his prosecution for embezzlement on his retaining the whole fund. 13 L.R.A. (N.S.) 511. Right to recover in action for wrongful

dismissal, damages for loss of commissions. 1 B. R. C. 123.

Payment of, for sale of bonds as violating requirement that bonds shall not be sold for less than par. 39 L.R.A.(N.S.)

Begin with this book on every law question.

### COMMISSIONS—cont'd

Priority of claims for, against property in hands of receiver over recorded liens. 41 L.R.A.(N.S.) 710.

Liability of one party to a contract or transaction to the other because of commission allowed by the former to the latter's agent. 49 L.R.A.(N.S.) 101.

Right of one employed on commission to recover for loss of profits where employment is unlawfully terminated. L.R.A.1916B, 872.

Funds on which guardian is entitled to commissions. L.R.A.1917C, 193.

Agreements for commissions, bonuses, etc., in favor of mortgagee as clog on equity

of redemption. 6 B. R. C. 442.
Employees paid by commission as "employees" within meaning of Workmen's Compensation Acts. L.R.A.1918F, 205.

#### COMMITMENT.

Warrant of, see CRIMINAL LAW, § 33. Of person convicted of crime, see CRIMINAL

LAW, VI.
To hospital, see Hospitals, § 3. See also CONTEMPT.

Necessity of commitment to render imprisonment valid. 38 L.R.A.(N.S.)

Informality of, as justification of prison breach. 15 L.R.A. 191.

#### COMMITTEE.

## 1. Generally.

Of incompetent persons, see INCOMPETENT PERSONS, IX.

Liability of corporate directors for acts and omissions of. 55 L.R.A. 773.

Power of, to employ one of its own members as counsel, or to render other special services. 3 L.R.A.(N.S.) 849.

Authority of committee or its agent to contract for services of other persons. L.R.A.1918F, 70, 71.

Report by, as privileged communication. 5 L.R.A. (N.S.) 164.

Right of taxpayer, in absence of statute, to enjoin unlawful expenditures by municipality for entertaining commit-tee. 36 L.R.A. (N.S.) 2.

Personal liability of committee appointed at public meeting for services or supplies. 51 L.R.A.(N.S.) 406.

## 3. Of legislature.

Failure to refer bill to. 40 L.R.A. (N.S.)

Impeachment of enrolled bill by committee reports. 40 L.R.A.(N.S.) 32.

Appropriation for expenses of legislative committee. 1 L.R.A.(N.S.) 409.

Power of legislature or branch thereof to appoint a committee to sit after close of session. 10 L.R.A. (N.S.) 172; L.R.A. Right of jurors to act on. 37 L.R.A. (N.S.) 1915E, 496.

Consult also L.R.A. Digests of Cases.

### COMMODITIES.

Discrimination by carrier against commodities with respect to transit privileges. L.R.A.1918A, 187.

#### COMMON.

#### COMMON ASSAULT.

Upon female, liability of infant for. 36 L.R.A. 205.

#### COMMON CALAMITY.

Presumption of survivorship among these perishing in. 51 L.R.A. 863. 

## COMMON CARRIERS.

See CARRIERS.

## COMMON COUNCIL.

Meetings of, see MUNICIPAL CORPORATIONS, § 20.

#### COMMON COUNTS.

Sufficiency of the common counts under the Code. 34 L.R.A.(N.S.) 364.

Recovery on common counts by one who abandons a contract for work or labor or services without cause or justification. L.R.A.1916E, 790.

#### COMMON DEALER.

Necessity that indictment or information for sale of-liquor by comon dealer state name of purchaser. 23 L.R.A.(N.S.)

#### COMMON EMPLOYMENT.

Persons engaged in, as fellow servants, see MASTER AND SERVANT, §§ 139-143.

## COMMON KNOWLEDGE. ....

793.

COMMON KNOWLEDGE—cont'd Appeals by counsel in argument to common knowledge of jurors. L.R.A.1918D, 75.

## COMMON LAW.

§ 1. Generally. Common-law bonds, see Common-Law Bond. Common-law right of action for death, see DEATH, § 5.

As to title under nontidal rivers. 42 L.R.A.

Common-law right of action of parent for loss of services of child killed. L.R.A. 807.

Conflicting interpretations of common-law rules in different jurisdictions. 6 L.R.A.(N.S.) 212; 18 L.R.A.(N.S.)

When rules of common law differently interpreted in different states. 56 L.R.A. 219.

Federal courts following state decisions based on. 40 L.R.A.(N.S.) 388.

Oral proof of modification of. 25 L.R.A.
462.

Sufficiency of common-law indictment for forgery to support conviction for similar statutory offense. 33 L.R.A.(N.S.)

Effect upon common-law right to change one's name of statute providing for such change by judicial proceedings. 26 L.R.A.(N.S.) 1167.

#### 2. Presumption as to.

Jurisdiction with respect to which presumption in favor of common law may

be indulged. 67 L.R.A. 40. Conflict between presumption in favor of common law and presumption that law of other jurisdiction is the same as that of the forum. 67 L.R.A. 41.

Presumption as to common law of other state. 21 L.R.A. 472.

Presumption in favor of, when law of other state not proved. 34 L.R.A.(N.S.) 270.

§ 3. Adoption of, in United States Adoption of the common law in the United States. 22 L.R.A. 501.

#### COMMON-LAW BOND.

May bond of public officer intended as statutory bond, but not binding as such, be enforced as a common-law bond. 21 L.R.A.(N.S.) 766; L.R.A.1917B, 1017.

#### COMMON-LAW MARRIAGE.

See MARRIAGE, § 5.

As a "dependent" within meaning of Workmen's Compensation Statutes. L.R.A. 1918F, 484.

## COMMON PRACTICE.

See Custom and Usage.

## COMMONS.

What use of, amounts to diversion from the use for which they were dedicated. 25 L.R.A. (N.S.) 980; 50 L.R.A. (N.S.) 465.

#### COMMON SCHEME.

Evidence of other crimes to show. L.R.A. 199, 218, 291.

#### COMMON SCHOOLS.

See SCHOOLS.

## COMMON SCOLD.

Cruel and unusual punishment of. L.R.A. 571.

#### COMMUNISM.

Public policy as related to communistic life or tenure of property. 8 L.R.A.(N.S.) 909; 52 L.R.A.(N.S.) 459.

Disposition of property of communistic society upon dissolution. L.R.A.1918D. 115Ŏ.

#### COMMUNITY OF INTEREST.

Creation of partnership by community of interest in capital stock. 18 L.R.A. (N.S.) 1084.

# COMMUNITY PROTERTY.

See HUSBAND AND WIFE, \$8 28-32.

## COMMUNITY RESIDENCE.

As violation of restrictive covenant in deed. 41 L.R.A.(N.S.) 615.

## COMMUTATION.

Of sentence, effect on marriage relation. 31 L.R.A. 519.

Effect of commutation of sentence of crime on conjugal rights. 7 L.R.A.(N.S.) 272.

## COMMUTATION—cont'd

Time allowance to prisoner whose sentence has been commuted from life to a term of years. L.R.A.1915B, 95.

#### COMMUTATION RATES.

Power of Public Service Commission to regulate. L.R.A.1918C, 480.

# -+++ COMORTGAGEES.

As parties to proceeding to enforce mort-gage for part of debt. 37 L.R.A. 741.

## COMPACT.

Effect of, on jurisdiction over boundary rivers. 65 L.R.A. 957.

# ---COMPANION.

Injury to companion of driver of automobile, see AUTOMOBILES, § 8. Imputing negligence of driver to, see NEGLI-GENCE, §§ 42, 44.

### COMPANY LAW.

See CORPORATIONS.

## COMPARATIVE INJURY.

Doctrine of, in injunction suit, see INJUNO-TION, §§ 26, 69a.

#### COMPARATIVE NEGLIGENCE.

In case of violation of police ordinance affecting operation of railroads. 5 L.R.A.(N.S.) 239.

Burden of proof as to. 33 L.R.A. (N.S.) 1151.

## COMPARISON.

Admissibility of instrument for purpose of, see Evidence, § 149.

Of handwriting, see EVIDENCE, §§ 149, 201-203.

Of typewriting, see Evidence, § 205a.

Exhibition of person for purpose of comparison, in order to show resemblance. 52 L.R.A. 502.

Exhibition of child for purpose of determining paternity in bastardy proceedings. L.R.A.1917B, 1148.

Consult also L.R.A. Digests of Cases.

#### COMPENSATION.

Of attorney, see ATTORNEYS, §§ 18-22.

Of broker, see BROKERS, §§ 8-13.

Of corporate officers, see Corporations, § 49.

Of personal representative, see EXECUTORS AND ADMINISTRATORS, § 52.
Of insurance agent, see Insurance, § 21.

Of employee, see MASTER AND SERVANT, §§ 24-31.

Of officers, see MUNICIPAL CORPORATIONS, § 120; OFFICERS, §§ 31-37, 44.

Of copartner, see PARTNERSHIP, §§ 27, 35,

Of physician, see Physicians and Surgeons, §§ 19, 20.

Of agent, see PRINCIPAL AND AGENT, § 36.

Of seamen, see SEAMEN, § 2.

Of trustee, see TRUSTS, § 24.

Of witnesses, see WITNESSES, §§ 48-51.

Measure of, see DAMAGES, III.

For private property taken for public use, see DAMAGES, §§ 82-93; EMINENT Do-

MAIN, §§ 45-53.
For use of land by tenant, see LANDLORD AND TENANT, V

Right to compensation for property destroyed in abating nuisance, see Nui-**BANCES, § 23.** 

Receiver's right to, see RECEIVERS, § 13. Compensation charged by lender's agent as usury, see Usury, § 3.

Right of finder of property to. 37 L.R.A.

Right of pastor to. 38 L.R.A. 689; 52 L.R.A. (N.S.) 171.

Right of promoter to recover from fellowpromoters compensation for promotion services. L.R.A.1918E, 844.

For services by member of syndicate. 40 L.R.A. 226.

Of carrier for pens and stock yards. . 44 L.R.A. 295.

For purchase of plant for supplying water to municipality. 61 L.R.A. 48.

For water power granted. 67 L.R.A. 401. Right of abutting owner for compensation for vacation of highway. 36 L.R.A. (N.S.) 1115.

Tenant's right to compensation for improvements under covenant by landlord to pay at expiration of term, where lease is forfeited for default of tenant. 24 L.R.A.(N.S.) 1082.

Libel in charging one with exacting excessive compensation for goods or services. 40 L.R.A.(N.S.) 79.

#### COMPETENCY.

Of judge, see JUDGES, § 3. Of juror, see JURY, §§ 11, 14. Of witnesses, see WITNESSES, §§ 9-25.

## COMPETING RAILROADS.

Consolidation of, see RAILBOADS, §§ 9-11.

#### . COMPETITION.

As to contracts in restraint of, see Con-TRACTS, §§ 107-109, 117, 118; MONOP-OLY AND COMBINATIONS.

Injunction against engaging in, see Injunc-TION, §§ 13, 14.

Suppression of, at judicial sale, see Judi-CIAL SALE, § 9a.

Agreement by servant not to engage in competing business, see MASTER AND SERV-

ANT, §§ 8, 16.
Right to trademark as against competitor, see TRADEMARK.

Right to trade name as against competitor, see TRADENAME.

Unfair competition, see UNFAIR COMPE-TITION.

Does the competition with one's business, which results from the ultra vires act of a corporation, entitle him to challenge the power of the corporation to engage therein. 12 L.R.A.(N.S.) 757. Right of one selling business and good will

to engage in competing business. 19 L.R.A.(N.S.) 762.

Liability of individual in absence of any element of conspiracy for driving away another's customers. 22 L.R.A.(N.S.) 1224; L.R.A.1915B, 1180.

Right of husband to prevent wife engaging in separate business in competition with his own. 32 L.R.A.(N.S.) 837.

Competition with owner of fee as affect-ing use to which railroad right of way may be devoted, 36 L.R.A.(N.S.) 515.

Subsequent competition with employer as defense to action for damages by wrongfully discharged employee. 6 L.R.A. (N.S.) 79.

Validity of agreement to surrender right to purchase property at private sale. 44 L.R.A.(N.S.) 1115.

Right of public service corporation to challenge powers or privileges of rival. L.R.A.1916B, 1087.

## COMPILATION.

Of laws, power of legislature to enact or amend by single statute. 55 L.R.A. 833.

## COMPILER.

Common-law right of compiler of literary materials. 51 L.R.A. 358.

--- işir.

In contempt proceedings, see Contempt, § 4. In criminal prosecution, see Indicament, ETC.

In civil cases, see PLEADING, §§ 16-35.

Begin with this book on every law question.

#### COMPLETE OWNERSHIP.

Of insured property, see INSURANCE, § 67.

#### COMPLICATED ISSUES.

Denial of jury trial because of. 39 L.R.A. (N.S.) 45.

## COMPLIMENTARY PASS.

Right of person riding on. 22 L.R.A. 796.

#### COMPOSITIONS.

Power of school authorities to require preparation of, by pupils. 47 L.R.A.(N.S.)

Giving prize for composition as lottery. 6 B. R. C. 780.

## COMPOSITION WITH CREDITORS.

1. Generally. Validity of, generally. 20 L.R.A. 802. Set-off in case of overpayment. 55 L.R.A.

New promise after discharge by. 53 L.R.A. 363.

Applicability to composition agreements of rule as to payment of part of liquidated and undisputed debt as consideration for discharge of the whole. 11 L.R.A. (N.S.) 1024.

Composition with creditors: preference created by act or undertaking of third party. 2 B. R. C. 460.

§ 2. Effect of giving one creditor a secret advantage.

Effect on the composition. 27 L.R.A. 33. Action on original claims. 27 L.R.A. 35. Contracts to induce assent to a composition. 27 L.R.A. 36.

Action for balance. 27 L.R.A. 38. Reservation of part of the original claim from the composition. 27 L.R.A. 38. Liability to creditor on obtaining a fraudu-lent preference. 27 L.R.A. 39. Composition not general. 27 L.R.A. 39.

## COMPOUNDING FELONY.

Validity of contracts for, see CONTRACTS, § 91.

Effect of award founded upon. 58 L.R.A.

Compounding, injunction against enforcing contract for. 48 L.R.A. 848.

As ground of injunction against judgments by confession. 30 L.R.A. COMPOUNDING FELONY—cont'd

Actual commission of antecedent crime as an ingredient of the offense. 7 L.R.A. (N.S.) 709.

Right to recover back money paid to suppress a threatened prosecution for a crime. L.R.A.1918C, 73.

Right to recover back money loaned for the purpose of being used to compound a felony or with knowledge of borrower's intention so to use it. L.R.A. 1918C, 248.

#### COMPOUNDING MEDICINE.

Duty of druggist or apothecary in. LR.A. (N.S.) 900; 47 L.R.A. (N.S.) 673.

## COMPOUND INTEREST.

In general, see Interest, § 20. As usury, see Usury, § 8.

Conclusiveness of stated or settled account containing inaccuracy or erfor in charging. 23 L.R.A. (N.S.) 790.

## COMPRESSED AIR.

Liability of employer for injury to employee by air forced into body by other employees. L.R.A.1918E, 508.

Recovery under Workmen's Compensation Act for injuries resulting from turning of compressed air hose on fellow-employee in sport. L.R.A.1918E, 505.

#### COMPRESSING COTTON.

Delegation by legislature to railroad commission of power as to. 32 L.R.A. (N.S.) 652

Effect of breaking continuity of shipment of cotton for purpose of compressing it, upon its interstate character. 1917D, 1190.

Transit privilege as to. L.R.A.1918A, 178.

# COMPROMISE AND SETTLEMENT.

§ 1. Generally.

Of suit by client, see ATTORNEYS, § 20.

Of claim for wrongful death, see DEATH, § 14. Of divorce suit, see DIVORCE AND SEPAR-ATION, § 6.

Of infant's cause of action, see INFANTS, § 34. Effect of good faith in respect to, see Good FAITH, § 3.

See also ACCORD AND SATISFACTION.

Attempt to compromise action for death or bodily injury in other state as condition of maintaining action. 56 L.R.A.

As défense on action for debts assumed on dissolution of partnership. 9 L.R.A. (N.S.) 111.

Basis for computing share of attorney entitled to certain proportion of recovery, where suit is compromised for certain sum and attorney's fee. 22 L.R.A. sum and attorney's fee. (N.S.) 776.

Consult also L.R.A. Digests of Cases. 14

COMPROMISE AND SETTLEMENTcont'd

Liability of public officer to sureties of another public officer for loss sustained by them through former's neglect to require proper settlement of accounts. 28 L.R.A.(N.S.) 115.

Injunction against judgment obtained in violation of agreement for. 30 L.R.A.

Voluntariness of confession induced by promise to obtain compromise of criminal prosecution. 18 L.R.A. (N.S.) 822.

Voluntariness of confession induced by promise to settle civil action. 18 L.R.A.(N.S.) 823.

Loss by attorney of compensation by unauthorized compromise. 42 L.R.A. (N.S.) 852.

Right of minority stockholders to prevent. 43 L.R.A. (N.S.) 498.

Fraud or perjury as ground of attack upon a judgment entered upon stipulation or compromise. 45 L.R.A.(N.S.) 1159.

Propriety of reference by counsel in argument to jury to offers of settlement. L.R.A.1918D, 58.

§ 2. What is a proper subject of.

Must a claim be doubtful to sustain a compromise. 15 L.R.A. 438.

May void, invalid, or unfounded claim be the subject of a valid compromise. 25 L.R.A. (N.S.) 275.

Right to compromise or settle bastardy proceedings. L.R.A.1918D, 291.

§ 8. Who may make.

Authority of attorney to compromise cause of action, see ATTORNEYS, § 14.

Of action for death, who may make. 21 L.R.A. 158.

Validity of contract between husband and wife to compromise pending or contemplated divorce suit. 60 L.R.A. 406. By assignce for creditors. 23 L.R.A. 578.

Right of parent, guardian, or next friend to compromise infant's cause of action for personal injuries. 338; L.R.A.1918C, **58.** 21 L.R.A. (N.S.)

By personal representative of claim due estate. 14 L.R.A. 414.

Settlement of cause of action for death by beneficiaries without assent of executor or administrator. 35 L.R.A. (N.S.) 207.

Authority of pledgee to compromise obliga-tions held as collateral security. 28

L.R.A. (N.S.) 980.

Implied authority of claim agent to promise employment to induce settlement of claim. 38 L.R.A.(N.S.) 826. Power of president and vice president of

corporation to compromise or settle claims. 14 L.R.A. 359.

Power of indemnity insurer with respect to settlement of claims, 6 L.R.A.(N.S.) 562; 52 L.R.A.(N.S.) 126.

Right of town, county or municipality to surrender valid claim on partial payment thereof.: 10 L.R.A. (N:84)1,320. a ja malina sandi nasa Kanara

COMPROMISE AND SETTLEMENTcont'd

Right of insured under policy indemnifying against liability for damages or injury, to settle the part of a claim in excess of insurer's liability. L.R.A.1917D, 957.

Right of parties to compromise or settle bastardy proceedings. L.R.A.1918D,

§ 4. Consideration for.

Consideration for compromise of bastardy proceedings. L.R.A.1918D, 300.

Sufficiency of consideration for compromise of void, invalid, or unfounded claim. 25 L.R.A.(N.S.) 288.

Partial payment of liquidated and undisputed debt as consideration for discharge of entire debt. 11 L.R.A.(N.S.) 1018; 21 L.R.A. (N.S.) 1005; L.R.A.1917A, 719.

Promise of additional compensation for completing an executory contract other than for the payment of money. 11 L.R.A.(N.S.) 789; 28 L.R.A.(N.S.) 450.

§ 5. As consideration for promise. Compromise or settlement of invalid claim as consideration for a promise. L.R.A. (N.S.) 725.

§ 6. Validity; effect.

Effect of fraud on, see FRAUD AND DECEIT, § 17.

Effect of mistake, see MISTAKE, § 13.

Binding effect of settlement by sole heir or distributee of claim belonging to estate upon administrator. 11 L.R.A. (N.S.) 148.

Validity of new contract based on compromise of illegal contract. (N.S.) 568.

Effect of compromise of void, invalid, or unfounded claim. 25 L.R.A.(N.S.) 283. Effect of compromise agreement locating

division line at place known not to be the true boundary. 10 L.R.A.(N.S.) 610.

Does settlement by injured person of his claim against tort feasor preclude an action for his death resulting from the injury. 27 L.R.A. (N.S.) 176; L.R.A. 1915E, 1163.

Settlement by beneficiary with trustee as preventing former from holding latter liable for losses to trust estate from investments. 44 L.R.A.(N.S.) 980.

Right to maintain action on original claim for mere failure to pay at time stipulated in compromise agreement. 45 L.R.A.(N.S.) 1062.

Effect of settlement of claim on liability of indemnity insurance company. L.R.A. (N.S.) 128.

Effect of, on right to maintain an action for malicious prosecution. L.R.A. 1915A, 601.

Effect of compromise by original insurer on liability of reinsurer. 6 B. R. C. 896. Of pilot, see Pilor, § 2. Begin with this book on every law question.

COMPROMISE AND SETTLEMENTcont'd

Settlement between insured and tort-feasor as affecting insurer's rights to subroga-

tion. L.R.A.1916A, 1282.
Unaccepted offer of, as tolling statute of limitations. 37 L.R.A.(N.S.) 885.

As affecting right to protection under re-cording law of mortgage given for preexisting indebtedness. 33 L.R.A.(N.S.) 61.

Termination of civil action by, so as to support suit for malicious prosecution. 2 L.R.A. (N.S.) 952.

Termination of criminal prosecution by, so as to support suit for malicious prosecution. 2 L.R.A.(N.S.) 945.

7. Relief from.

Rescission of compromise of void, invalid, or unfounded claim. 25 L.R.A.(N.S.) 308.

Relief from mistake as to compromise and settlement. 28 L.R.A.(N.S.) 841.

Mistake as to state of account or amount due as ground of relief from compromise agreement. 46 L.R.A.(N.S.) 279.
Collateral attack for fraud not affecting jurisdiction. 36 L.R.A.(N.S.) 982.

In case of settlement under accident insur-

ance policy under mistake as to extent of injury. L.R.A.1918E, 931. Settlements and releases of each other by corporate promoters. L.R.A.1918E, 840.

#### COMPTROLLER.

Power of courts to enforce ministerial duties of state comptroller. 52 L.R.A. (N.S.) 438.

#### COMPULSION.

See DURESS.

## COMPULSORY ATTENDANCE.

At school, see Schools, §§ 3, 3a.

## COMPULSORY DRAINAGE.

Compulsory provision for permitting connection of property with drain or sewer. 70 L.R.A. 242. with drain or

## COMPULSORY EDUCATION.

See Schools, § 3a.

## COMPULSORY FEES.

#### COMPULSORY INDUSTRIAL INSUR- | \ ANCE.

See Insurance, § 3.

## COMPULSORY MILITARY SERVICE.

Validity of statute making military service compulsory. 7 B. R. C. 593.

Purchase of substitute for husband in army as a family expense or necessary within statute rendering wife or her property liable therefor. L.R.A.1917F, 864.

Court decisions under Selective Service Act of May 18, 1917. L.R.A.1918E, 1018.

#### COMPULSORY PAYMENT.

Recovery back of money paid involuntarily, see Assumpsit, § 4.

Extinction of judgment against principals by compulsory payment by surety. 68 L.R.A. 583.

When payment of license fee is compulsory. 22 L.R.A. (N.S.) 873.

## COMPULSORY REFERENCE.

See REFERENCE, § 2.

#### COMPULSORY SERVICE.

Compulsory military service, see Compulsory Military Service.

By carrier, see CARRIERS, §§ 40, 109, 139, 140, 149.

By gas company, see Gas, §§ 5, 6. By innkeeper, see INNKEEPERS, § 12.

By railroad company, see RAILROADS, § 44. By street railway company, see STREET RAILWAYS, § 9.

By telegraph company, see TELEGRAPHS, § 6. By telephone company, see TELEPHONES, § 8. By water company, see WATERS, §§ 114, 115.

By party whose business it is to serve the public. 15 L.R.A. 321.

Power to require carriers to transport persons in public service at reduced rates. 33 L.R.A. (N.S.) 956.

Power to require public service corpora-tion to carry municipal wires on its poles. 32 L.R.A.(N.S.) 997.

Compulsory use of private property in road work. 42 L.R.A. (N.S.) 1045; L.R.A. 1918D, 974.

## COMPULSORY VACCINATION.

See VACCINATION. Consult also L.R.A. Digests of Cases.

## COMPULSORY WITNESS.

Right of party calling to impeach. L.R.A. 422.

#### COMPUTATION.

Of time, see TIME, §§ 16-19.

Mistake in computation by contractor as ground for relief. L.R.A.1917D, 745.

Mistake in computation by contractor as ground for relief. 10 L.R.A.(N.S.) Ĩ14.

Necessity of jury to compute damages on default judgment. 20 L.R.A. (N.S.) 1.

#### CONCEALED WEAPONS.

Carrying of, see CARRYING WEAPONS.

#### CONCEALMENT.

Of property by bankrupt, see BANKRUPTCY, § 21.

As defense to action for breach of promise, see Breach of Promise, §§ 4, 5.

Effect of concealment as to character on marital relation, see CHARACTER, § 3. As basis of estoppel, see ESTOPPEL, § 28. As fraud, see FRAUD AND DECEIT, § 6.

Effect of generally, see FRAUD AND DECERT, §§ 29-31.

Effect of, on running of limitations, see LIMITATION OF ACTIONS, § 36.

Effect of delay in probating concealed wills. 57 L.R.A. 258.

Of other crime, as motive for crime charged. 62 L.R.A. 211.

Of document as ground for disbarment or suspension of attorney. L.R.A.1917B, 384.

Of cause of action as suspending Statute of Limitation against action for personal injuries or death. L.R.A.1917B, 1259.

#### CONCERTS.

As violation of Sunday laws. 30 L.R.A. · (N.S.) 468.

#### CONCESSIONARIES.

Liability of one conducting place of amusement for injury to patron through negligence of. 14 L.R.A.(N.S.) 284; 32 L.R.A.(N.S.) 717; 42 L.R.A.(N.S.) 1073; L.R.A.1915F, 696.

#### CONCLUSIVENESS.

Of account stated, see Accounts, § 2.

Of findings on appeal, see APPEAL AND ERROR, §§ 31-34.

Of bill of lading, see CARRIERS, § 108.
Of decisions of tribunals of associations, see Court, § 11.

Of evidence, see EVIDENCE, XIJI.
Of judgment, see JUDGMENT, III.
Of an enrolled bill, see STATUTES, § 12.

Of recitals in legislative journals. 40 L.R.A.(N.S.) 35.
Of witness's statement that documents

ordered to be produced would tend to criminate him. 24 L.R.A.(N.S.) 170.

Of witness's statement that answer to question against which he pleads his privi-lege would tend to incriminate him. 49 L.R.A.(N.S.) 826.

#### CONCUBINE.

Right to recover for household services rendered by. 29 L.R.A.(N.S.) 787; L.R.A.1917B, 683.

#### CONCURRENT ACTIONS.

For death and injury. 34 L.R.A. 801.

#### CONCURRENT INSURANCE.

See INSURANCE, §§ 80, 199, 200.

## CONCURRENT JURISDICTION.

Of court, see Courts, §§ 48-54.

## CONCURRENT LIABILITY.

Of insurers, see INSURANCE, VIII. g.

In case of injury by electric wires in highway. 31 L.R.A. 586.

For injuries caused by condition of chat-

tels delivered to master of one injured

thereby. 46 L.R.A. 122.

Municipal liability for injury by defect or obstruction in street concurring with liability of third person. 20 L.R.A. (N.S.) 760.

## CONCURRENT NEGLIGENCE.

In general, see MASTER AND SERVANT, § 49; NEGLIGENCE, § 8.

Of master and fellow servant, see MASTER AND SERVANT, §§ 133, 134.

As affecting doctrine of last clear chance, see NEGLIGENCE, § 50.

## , CONCURRENT REMEDIES.

In patent cases. 51 L.R.A. 801.

#### CONCUSSION.

from concussion caused by blasting. 12 L.R.A.(N.S.) 389; 27 L.R.A.(N.S.) 425; L.R.A.1915E, 356.

## CONDEMNATION PROCEEDINGS.

In general, see EMINENT DOMAIN. Measure of damages in, see DAMAGES, §§ 82-93.

#### CONDITION.

Of money tendered as fare, see CARRIERS, § 19. Conditions, see Conditions.

#### CONDITIONAL ESTATE.

See CONDITIONS, II.

# CONDITIONAL GUARANTY.

See GUABANTY.

## CONDITIONAL INSTRUMENT.

Forgery of. 24 L.R.A. 43.

### CONDITIONAL PARDON.

See CRIMINAL LAW, § 86.

#### CONDITIONAL PROMISE.

Effect of to constitute account stated. 27 L.R.A. 817. By indorser to pay note after dishonor. 29. L.R.A. 313.

## CONDITIONAL SALE.

Conflict of laws as to, see Conflict or Laws, § 33. In general, see SALE, §§ 15-20, 48-52.

#### CONDITIONS.

I. In general, §§ 1-7. II. Relating to real property, \$\$ 8-13.

#### I. In general.

§ 1. Generally.
To transfer of cause to appellate court, see APPEAL AND ERROR, § 13.

Conditions at auction, see AUCTION.

Conditions of issuance of commercial bonds, see Bonds, § 22.

In railway ticket or pass, see CARRIERS, III. g.

As to performance of contract, see Con-TRACTS, §§ 140-142.

To rescission of contract, see CONTRACTS, § 155.

Covenants, see Covenants.

Conditions upon which foreign corporation may transact business in state, see CORPORATIONS, XI. b.

In pardon, see CRIMINAL LAW, § 86. Parol evidence as to, see EVIDENCE, §§ 173,

180. In insurance policy, see INSURANCE, V, h. To cancelation of insurance policy, see

INSURANCE, § 51. In restraint of marriage, see MARRIAGE, § 3. Condition in violation of rule against per-

petuities, see PERPETUITIES. In contract of sale, see SALE, §§ 15-20, 48-

52. To specific performance of contract, see SPECIFIC PERFORMANCE, § 3.

In telegraph blank, see TELEGRAPHS, § 20, 21.

Of suit against heirs for debts of ancestor. 21 L.R.A. 92.

Effect of payment on condition to take debt out of bar of limitations. L.R.A. 320.

Reasonableness of new by-laws as implied condition of consent to change of bylaws. 8 L.R.A.(N.S.) 521.

Continuance of family as condition of continuance of homestead where its existence is a condition of the inception of the homestead. 16 L.R.A.(N.S.) 111.

Independent advice as condition of valid gift inter vivos between parties occupying confidential relations. 16 L.R.A. (N.S.) 1087.

In penal bond, effect on form of judgment. 62 L.R.A. 433.

Rebuttal of presumption of acceptance of assignment or deed of trust for creditors by conditions in. 24 L.R.A. 374.

Imposition of conditions indicating intent to retain title on delivery of personalty to carrier. 22 L.R.A. 424.

Sufficiency of conditional tender of amount due on mortgage or pledge. 33 L.R.A. 234, 236.

Is servant bound by restrictive provision against conducting rival business where he is wrongfully discharged. 1 B. R. C. 502.

Consult also L.R.A. Digests of Cases.

CONDITIONS, I.—cont'd

Condition imposed by manufacturer as to retail price as binding upon retailer purchasing from middleman. 3 B. R. C. 299.

Enforceability of conditional subscriptions to charity. 48 L.R.A.(N.S.) 802.

Modification prior to sale of conditions imposed upon judicial sale of property. L.R.A.1915A, 699.

Requiring examinations as condition of admission or promotion of school pupils. L.R.A.1917C, 997.

1a. In will. See WILLS, §§ 83-90.

§ 2. Relating to bills or notes.

Extrinsic evidence to show who is liable as maker of note where signature is conditional. 20 L.R.A. 713.

Contemporaneous agreements constituting condition of delivery of note. 43 L.R.A.

Admissibility of parol evidence to show that bill or note was delivered upon con-18 L.R.A.(N.S.) 288; L.R.A. dition. 1917C, 306.

Admissibility of parol evidence that written instrument for payment of money was executed in reliance upon parol promise that payment was subject to a condition not incorporated therein. 18 L.R.A. (N.S.) 434.

§ 3. Relating to corporations. Statutory conditions as to right of foreign corporation to do business in the state, see Corporations, § 147.

Conditional sanction by legislature to consolidation of corporation. 52 L.R.A.

Condition against foreign corporation invoking Federal jurisdiction. 24 L.R.A. 294.

Express or implied condition in service of process on foreign corporation. L.R.A. 590.

§ 4. To consent by municipality.
On giving consent to laying of street railway tracks, see STREET RAILWAYS, § 6.

Imposition of conditions upon municipality on permitting use of highway for water pipes. 61 L.R.A. 78.

Municipal power to impose conditions when giving consent to railway in street. 36 L.R.A. 33.

Power to impose conditions on right of burial. 27 L.R.A. (N.S.) 265.

§ 5. Conditions precedent.
To action, see Action on Suit, §§ 8-11.

To judgment creditor's right to receivership, see RECEIVERS, § 4.

To rescission of contract of sale, see SALE, §§ 63, 64.

To recovery back of tax paid, see TAXES,

In will, see WILLS, § 89.

CONDITIONS, I .-- cont'd

Condition against taking effect of deed until signed by others. 45 L.R.A. 341.

Character, as creating a condition precedent or subsequent, of testamentary provision that beneficiary shall assume or use a certain name. 7 B. R. C. 192.

Provision in devise for payment of a sum of money, or for the support of a third person, as a condition precedent. L.R.A. 1917A, 626.

Conditions precedent to issuance of mandamus to compel issuance of bonds of municipality or other public corporation. L.R.A.1918C, 421.

Execution of contract on condition that others shall sign. 45 L.R.A. 321.

Sale with particular description as to kind or quality as a condition precedent or a warranty. 35 L.R.A.(N.S.) 265.

Condition in fire policy as to keeping, producing, and preserving books as a condition precedent. 51 L.R.A. 699, 702, 710.

Payment for, as condition precedent to use

of party wall. 66 L.R.A. 691.
To equitable relief against forfeiture of estate. 69 L.R.A. 836.

Conditions precedent to execution sale of property owned by third parties. 30 L.R.A. 170.

Conditions precedent to rescission or abandonment of contract for other party's default. 30 L.R.A. 36.

Membership in association as condition of right to transact particular kind of business. 6 L.R.A. (N.S.) 433.

Demand for trial as condition precedent to discharge of accused for delay. L.R.A. 538; 44 L.R.A. (N.S.) 871.

Necessity of strict compliance with conditions of escrow agreement. L.R.A. 1916A, 502.

Order of arrest or capias ad respondendum as condition to body execution. L.R.A. 1915A, 706.

Conditional subscriptions to charity. 48 L.R.A. (N.S.) 802.

Return of consideration as condition pre-cedent to right to set up defense that contract was made on Sunday. L.R.A.(N.S.) 289.

Condition precedent to relief of member of labor union from unlawful fine or suspension. 45 L.R.A.(N.S.) 356.

Compensation upon revocation of license with respect to real property. L.R.A.(N.S.) 557.

Furnishing of receptacles by buyer as provided in contract, as condition precedent to obligation of seller. 1.R.A. 1916D, 730.

Payment by lessor of tax or assessment as condition precedent to recovery lessee under covenant in lease. L.R.A. 1915A, 355.

6. Condition subsequent.

Character, as creating a condition precedent or subsequent, of testamentary provision that beneficiary shall assume or Sale use a certain name. 7 B. R. C. 192.

Begin with this book on every law question.

CONDITIONS, I.—cont'd

Provision in devise for payment of a sum of money, or for the support of a third person, as a condition subsequent. L.R.A.1917A, 629.

Effect on a condition subsequent of a succeeding law or act of God preventing its performance. 21 L.R.A. 58.

7. - forfeiture for breach of.

Forfeiture for breach of covenants, see Cov-ENANTS, §§ 20, 24.

For breach of condition subsequent in will, see WILLS, § 89.

For breach of conditional pardon. L.R.A. 288.

Municipal declaration of forfeiture of street franchise or privilege for breach of conditions as a judicial determination. 4 L.R.A.(N.S.) 321.

Effect of provision for forfeiture of sums paid or retained under executory contract to prevent recovery of any other damages after breach of contract. L.R.A. (N.S.) 755.

What amounts to a contest within forfeiture clause in a will. 21 L.R.A.(N.S.) 953.

#### II. Relating to real property.

§ 8. Generally.

Restrictive conditions or covenants, see COVENANTS, §§ 5-7, 21-25.

As to delivery of deed, see DEEDS, §§ 6-9; Escrow.

In wills, see WILLS, §§ 83-90.

Effect of language in deed indicating purpose of grant or use to which property is to be put. L.R.A.1918B, 696.

Liability of grantee upon a condition in deed poll. 23 L.R.A. 396.

Right of purchaser under title bond in possession to question grantor's right to collect purchase money where conditions of title bond are dependent. 21 L.R.A. (N.S.) 380.

Condition in deed that land is to be used for a specified charitable or quasi public purpose. 19 L.R.A. 262.

Validity of restraint on alienation of fee simple during limited time. L.R.A. (N.S.) 668.

Condition in deed against sale during lifetime of grantor. L.R.A.1916D, 930.

Validity of restraints on alienation of legal life estates. L.R.A.1918E, 571.

Validity of limitation of power of aliena-tion imposed upon grant of equitable estate to married woman. 28 L.R.A. (N.S.) 426; L.R.A.1917A, 679.

Validity and effect of a provision in a lease or deed against using or leasing other property for competing business. L.R.A.1918E, 665.

Parol evidence that release was delivered on condition. 36 L.R.A. (N.S.) 1147.

Dower in conditional estate. 22 L.R.A. (N.S.) 691; 39 L.R.A.(N.S.) 307. Sale of real property as an abandonment.

10 L.R.A. (N.S.) 633.

CONDITIONS, II.—cont'd

§ 9. For construction of railroad within specified time.

Character and effect of provision in deed to railroad for construction of road within a specified time, 32 L.R.A.(N.S.) 117.

10. Conditions subsequent.

Effect on a condition subsequent of a succeeding law or act of God preventing its performance. 21 L.R.A. 58.

Effect of license to commit a breach of a

Effect of license to commit a breach of a condition subsequent, or waiver of a past breach thereof, to extinguish the condition. 11 L.R.A.(N.S.) 398.

Right to compensation, in eminent domain, of grantor in conveyance of determinable fee, or estate upon condition subsequent. 22 L.R.A.(N.S.) 1063.

Relief of grantor in conveyance in consideration of agreement to support, which is broken by grantee. 43 L.R.A.(N.S.) 916; L.R.A.1917D, 627.

Provision in lease as to use of property as condition subsequent or special limitation. 52 L.R.A.(N.S.) 718.

Effect of attempted conveyance to extinguish a possibility of reverter upon breach of condition subsequent. L.R.A.1916F, 311.

Owner's right to compensation for improvements made by taker entering subject to a condition subsequent. L.R.A. 1916F, 991.

§ 11. — forfeiture for breach of. Equitable relief against forfeiture of estate for breach of condition. 69 L.R.A. 836, 841, 842.

Suit for damages as waiver of right to forfeit deed for breach of condition. 5 L.R.A.(N.S.) 603.

Tender of deed or abstract of title as condition of enforcing forfeiture for vendee's failure to pay last instalment of purchase money. 28 L.R.A. (N.S.) 956.

Effect upon remainder of forfeiture of life estate for breach of condition subsequent. 21 L.R.A.(N.S.) 605.

Suit for damages on waiver of right to forfeit deed for breach of condition. 5 L.R.A.(N.S.) 603.

Necessity of entry or formal declaration of forfeiture as a condition of maintaining action other than for damages, based on breach of condition subsequent in conveyance of freehold. 14 L.R.A.(N.S.) 1188; 23 L.R.A.(N.S.) 938; L.R.A. 1917C, 882.

Reverter of land dedicated or conveyed for purposes of courthouse upon removal of courthouse, or failure to use land for courthouse purposes. 35 L.R.A.(N.S.) 603.

§ 12. — right of entry on condition broken.

Landlord's right of re-entry for, see LAND-LORD AND TENANT, § 94.

Nature of the right. 60 L.R.A. 750. Rule against transferability. 60 L.R.A. 754. Exceptions to rule. 60 L.R.A. 760. Consult also L.R.A. Digests of Cases.

§ 13. — right to rescind for breach.

Does grantor's right to rescind for breach
of condition as to support descend to

his heirs or representatives. 23 L.R.A. (N.S.) 232.

#### CONDITIONS BROKEN.

See Conditions, §§ 7, 11-13.

### CONDITIONS PRECEDENT.

See Conditions, § 5.

#### CONDITIONS SUBSEQUENT.

See CONDITIONS, §§ 6, 7, 10-13.

#### CONDONATION.

As defense to divorce, see DIVORCE, § 32.
Of servant's breach of duty, see MASTER
AND SERVANT, § 39.

#### CONDUCT.

Estoppel by, see ESTOPPEL, §§ 13-15.

Right of witness to express opinion as to. L.R.A.1918A, 673.

Effect of conduct of traveler on innkeeper's duty as to shelter and entertainment.

2 B. R. C. 692.

#### CONDUCTORS.

In general, see CARRIERS, III.

As fellow servant of other railway employees, see MASTER AND SERVANT, § 150.

Authority of, to contract for services of other persons. L.R.A.1918F, 64.

#### CONDUIT.

See also PIPE LINE; PIPES.
Under highway, see HIGHWAYS, §§ 22, 23, 25.

## CONFECTIONERY.

Law prohibiting operation of confectionery establishment upon certain premises. 44 L.R.A. (N.S.) 48.

## CONFEDERATE BONDS.

Personal liability of a trustee for losses to estate from investments in. 44 L.R.A. (N.S.) 888.

## CONFEDERATE MONEY.

As medium of payment, see PAYMENT, § 9. Award on contract for. 58 L.R.A. 183. Injunction against enforcing contracts for. 48 L.R.Ă. 843. Injunction against judgment on debt for. 31 L.R.A. 758.

## CONFEDERATE SOLDIERS.

Validity of pension or bounty to. 45 L.R.A. (N.S.) 692.

#### CONFEDERATE STATES.

Conclusiveness of judgment of courts of. 20 L.R.A. 681.

#### CONFESSION.

Admissibility of, see EVIDENCE, IX. Of judgment, see JUDGMENT, §§ 5, 6, 30, 68,

#### CONFIDENCE GAME.

See FALSE PRETENSES.

#### CONFIDENTIAL ADVISER.

Oral promise by confidential adviser to one conveying land to him to hold in trust as giving rise to constructive trust. 39 L.R.A.(N.S.) 924.

## CONFIDENTIAL COMMUNICATION.

Admissibility in evidence, see EVIDENCE, §§ 220-226. Privilege of, see LIBEL AND SLANDER, III. e. Liability for disclosing confidential com-munications. L.R.A.1917C, 1131.

#### CONFIDENTIAL RELATIONS.

See FIDUCIARY RELATIONS.

#### CONFINEMENT.

Of convicted criminal, see CRIMINAL LAW, VI.

Of incompetent person, see INCOMPETENT PERSONS, § 17.

Begin with this book on every law question.

CONFINEMENT—cont'd
Danger to health from, as ground for removal or release on bail. 31 L.R.A. (N.S.) 916.

#### CONFIRMATION.

Of judicial sale, see JUDICIAL SALE, § 16a. Of bid for public contract. 26 L.R.A. 711.

#### CONFISCATION.

Right of state to confiscate cigarettes imported for personal use. 4 L.R.A. (N.S.) 528.

property found in bawdyhouse. L.R.A. (N.S.) 932.

Of personal property used in violation of game or fish laws. 3 L.R.A.(N.S.) 997; L.R.A.1916F, 913.

Of property used in violation of law, effect on rights or interests of innocent persons. L.R.A.1916E, 343.

By rates established for public service corporations. L.R.A.1915A, 5.

#### CONFLICTING GRANTS.

Of water power. 67 L.R.A. 372.

### CONFLICT OF AUTHORITY.

As to ratification of forged instrument. 36 L.R.A.(N.S.) 1007.

## CONFLICT OF INTERESTS.

Of principal and agent, see PRINCIPAL AND AGENT, §§ 33-35.

### CONFLICT OF LAWS.

- I. As to rights, §§ 1-87.
  - a. In general, \$ 1.
  - b. As to contracts; insurance, \$\$ 2-12.
  - c. Domestic relations, §§ 13-17. d. Corporate matters, §§ 18-19a.

  - e. Torts and crimes generally; penal statutes, §§ 20-24. f. Assignment for creditors; in-
  - solvency and bankruptcy procecdings; receivers, § 25.
  - g. Rights in property generally, \$\$ 26, 27.
  - h. Transfers of property generally, §§ 28-31.
  - i. Chattel mortgages; conditional sales, §§ 32, 33.

CONFLICT OF LAWS, I .- cont'd

j. Descent and distribution; § 3. Sunday contracts. ıpillə, \$\$ 34, 35.

k. Taking liquor into prohibition territory, \$ 36.

l. As to copyrights, \$ 87.

II. As to remedies, \$\$ 88-45.

Abatement of action by pendency of suit in other state, see ABATEMENT AND REVIVAL, § 6.

Jurisdiction over nonresidents generally, see Courts, §§ 19-26.

Jurisdiction of action with respect to land in another state, see Courts, §§ 21, 22. Conflict of jurisdiction, generally, see

COURTS, §§ 48-54.

Presumption as to foreign laws, see Evi-DENCE, § 20.

Situs of property for purposes of taxation, see TAXES, III.

Jurisdiction as affected by mode of service of process, see WRIT AND PROCESS, II.

## I. As to rights.

# a. In general.

§ 1. Generally.
Conflicting interpretations of common-law rules in different jurisdictions. 6 L.R.A. (N.S.) 212; 18 L.R.A.(N.S.) 880.

Enforcement of wife's liability under statute of another state, for a debt contracted by her husband. 17 L.R.A. (N.S.) 426.

Federal courts following state decisions as to. 40 L.R.A.(N.S.) 426.

#### **b.** As to contracts; insurance.

§ 2. Generally. Measure of damages for breach of contract. 56 L.R.A. 301, 62 L.R.A. 37.

Interest by way of damages for breach of contract. 56 L.R.A. 303, 62 L.R.A. 37. Law governing stipulation in contract mak-

ing notice of damages a condition of right of action. 7 L.R.A.(N.S.) 191. Place of consummation of contract when offer by letter is accepted by telegram or vice versa. 6 L.R.A.(N.S.) 1016; L.R.A.1916A, 1302.

Law governing warrant of attorney to confess judgment. 38 L.R.A.(N.S.) 814. Law governing limitation of actions on contract. 48 L.R.A. 625; 6 L.R.A. (N.S.)

658.

Validity of provisions in contract as to place where action may be brought. L.R.A.1916D, 696.

Conflict of laws as to contracts in relation to real property. L.R.A.1916A, 1011. Right to recover on obligation given for a consideration which is unlawful under the law of the place where the obliga-tion is payable, but good under the law of the place where it was executed. 4 B. R. C. 374.

Enforcement of contract entered into under circumstances not constituting duress by its proper law, but so regarded by the law of the forum. 4 B. R. C. 423. Consult also L.R.A. Digests of Cases.

CONFLICT OF LAWS, I. b-cont'd

Contracts made on Sunday. 34 L.R.A.

(N.S.) 67. Contract perform Contract performable on Sunday. 34 L.R.A.(N.S.) 72. Public policy of forum. 34 L.R.A.(N.S.) 72.

§ 4. Gambling and lottery contracts. Conflict of laws as to gambling and lottery contracts. 64 L.R.A. 160; 46 L.R.A. (N.S.) 650.

Right to recover money loaned to be employed in a gambling transaction which, though valid by its proper law, would have been unlawful in the state of the forum. 4 B. R. C. 409,

§ 5. Bills and notes.

General commercial principles as opposed to local law. 61 L.R.A. 193; 19 L.R.A. (N.S.) 666.

Time of payment. 61 L.R.A. 195.

Mode of acceptance of bill. 61 L.R.A. 196. Collateral effect of instrument. 61 L.R.A. 199.

Character and liability of irregular indorser. 61 L.R.A. 200; 19 L.R.A.(N.S.) 668.

Character of holder. 61 L.R.A. 202; 19 L.R.A. (N.S.) 668.

Negotiability in general; bill or note fraudulently transferred. 61 L.R.A. 205; 19 L.R.A.(N.S.) 667.

Liability of, and defenses available to, maker, or acceptor. 61 L.R.A. 206; 19 L.R.A. (N.S.) 670.

Liability of, and defenses available to, drawer or indorser. 61 L.R.A. 212; 19 L.R.A. (N.S.) 672.

Who may bring action; sufficiency of the indorsement or assignment. 61 L.R.A. 222.

Right to join primary and secondary obligors. 61 L.R.A. 226.

Law governing extent of recovery. 56 L.R.A. 307.

Conflict of laws as to the validity of transfer of commercial paper. 2 B. R. C.

As to acceptance of commercial paper as payment of debt. 35 L.R.A.(N.S.) 108. Law governing notes given for insurance premiums. 20 L.R.A. 409.

Estoppel to deny that note was made in the state where it is dated and payable. 2 L.R.A.(N.S.) 299.

Right to recover on obligation given for a consideration which is unlawful under the law of the place where the obliga-tion is payable, but good under the law of the place where it was executed. 4 B. R. C. 374.

6. Mortgages. Usury in, see infra, § 7a.

Law governing real estate mortgage. L.R.A. 1916A, 1020, 1028.

CONFLICT OF LAWS, I. b—cont'd Law governing covenant in real estate mort-gage. 17 L.R.A. (N.S.) 1094; L.R.A. 1916A, 1027.

Enforcement of mortgage on real property valid according to the law of the place where made and payable, but usurious according to the lex fori et rei sitæ.
4 L.R.A.(N.S.) 1191.

Conflict as to stipulation in mortgage for attorneys' fees. L.R.A.1916A, 1040.

§ 7. Interest.

General principles. 62 L.R.A. 34.

Contractual interest. 62 L.R.A. 35.

Interest as damages. 56 L.R.A. 303; 62 L.R.A. 37.

Interest on legacy. 2 L.R.A. (N.S.) 458. Rate allowed by admiralty court in case of maritime tort as affected by place of occurrence or suit. 51 L.R.A. (N.S.) 966.

Presumption as to law of state as to. 21 L.R.A. 471; 67 L.R.A. 60.

§ 7a. Usury.

As affected by penal or remedial character of foreign statute. 62 L.R.A. 42; L.R.A. 1916D, 751.

General principles governing choice of law; intention. 62 L.R.A. 44; L.R.A.1916D,

Rule that law upholding contract will be applied. 62 L.R.A. 49; L.R.A.1916D,

When contract usurious by lex loci contractus but not by lex loci solutionis. 62 L.R.A. 51; L.R.A.1916D, 755.

When contract usurious by lex loci solutionis but not by lex loci contractus. 62 L.R.A. 55; L.R.A.1916D, 755.

When contract usurious by both lex loci contractus and lex loci solutionis. 62 L.R.A. 60.

When claim of usury is based on transactions witih drawer or indorser. L.R.A. 59.

Effect of mortgage security. 55 L.R.A. 933; 62 L.R.A. 61; L.R.A.1916D, 755.
Place where money is to be used. 62 L.R.A.

62; L.R.A.1916D, 755.

62 L.R.A. 63; Lex loci considerationis. L.R.A.1916D, 755.

Renewal contract. L.R.A.1916D, 756.

Contracts of foreign building and loan associations. 62 L.R.A. 64; L.R.A.1916D, 757.

Which contract is to be regarded contract of principal and surety. 62 L.R.A. 73.

Effect of restriction as to rate of interest in charter of corporation. 62 L.R.A. 76.

Statute forbidding corporation to plead usury. 62 L.R.A. 79; 16 L.R.A. (N.S.)

Applicability of lex fori. 62 L.R.A. 76. Law determining consequences of usury. L.R.A.1916D, 759.

Presumption as to law of other state. 21 L.R.A. 471; 67 L.R.A. 60.

Statute of Limitations as to action for recovery back. 62 L.R.A. 637.

Begin with this book on every law question.

CONFLICT OF LAWS, I. b-cont'd

§ 8. Insurance.

Where contract of insurance deemed to have been made. 63 L.R.A. 834; 23 L.R.A. (N.S.) 968; 52 L.R.A. (N.S.) 275.

Choice of laws. 63 L.R.A. 847; 23 L.R.A. (N.S.) 971; 52 L.R.A.(N.S.) 277.

Laws of state in which insurance company is incorporated as binding in other states. L.R.A.1916A, 770.

Law governing notes given for insurance premiums. 20 L.R.A. 409.

As to whether insurance broker is agent for the insured. 38 L.R.A.(N.S.) 640.

9. Carriers' contracts.

63 L.R.A. 513; 18 General principles. L.R.A. (N.S.) 874.

Application of general principles to particular matters. 63 L.R.A. 525.

§ 10.—limitation of liability.

As to limitation of carrier's common law liability. 63 L.R.A. 525; 18 L.R.A. (N.S.) 881.

Refusal to give effect to foreign contract exempting carrier from liability. L.R.A.(N.S.) 425.

Interstate or foreign shipment as affected by Hepburn act and Carmack amendment in relation to liability of connecting carrier for loss beyond its own line. 31 L.R.A.(N.S.) 27.

Law governing limitation of liability of shipowner, L.R.A.1916B, 642.

§ 11. Telegraph companies. Law governing liability of telegraph company. 63 L.R.A. 532; 5 L.R.A. pany. 63 L.R.A. 532; 5 L.R.A. (N.S.) 751; 23 L.R.A. (N.S.) 648; 28 L.R.A. (N.S.) 490; 29 L.R.A. (N.S.) 795; 41 L.R.A. (N.S.) 223.

§ 12. Contracts of married women. Capacity of married woman to contract. 57 L.R.A. 513; 26 L.R.A. (N.S.) 764; L.R.A.1916A, 1054.

Enforcement of personal contract of married woman capable of contracting according to the law of another state or country where the contract was made. 26 L.Ř.A. (N.S.) 774.

Enforcement of wife's liability under statute of another state for a debt contracted by the husband. 17 L.R.A. (N.S.) 426.

#### c. Domestic relations.

13. Marriage.

Contracts of married women, see supra. § 12.

Manner or form of solemnization; preliminaries. 57 L.R.A. 155; 11 L.R.A. (N.S.) 1082; 17 L.R.A.(N.S.) 800; 26 L.R.A.(N.S.) 179; 28 L.R.A.(N.S.) 753; 43 L.R.A. (N.S.) 356.

Polygamous marriages; temporary marital unions. 57 L.R.A. 159.

Matrimonial capacity of the parties. L.R.A. 161.

Incestuous marriage. 57 L.R.A. 166; 43 L.R.A.(N.S.) 358.

CONFLICT OF LAWS, I. e-cont'd

Marriages between members of different races. 57 L.R.A. 167; 43 L.R.A. (N.S.) 358.

(N.S.) 358.

Remarriage of divorced person. 24
L.R.A. 831; 57 L.R.A. 169; 43
L.R.A. (N.S.) 358.

Former husband or wife living. 57
L.R.A. 171; 43 L.R.A. (N.S.) 362.

Nonage; consent of parents or guardian. 57 L.R.A. 172; 43 L.R.A.

(N.S.) 357

(N.S.) 357.

Effect on marriage relation of conviction - in another state. 31 L.R.A. 520.

§ 14. Divorce; alimony.

Jurisdiction of suit for divorce, as affected by residence, see DIVORCE AND SEPARA-TION, §§ 8, 9.

Foreign judgment of divorce, see DIVORCE AND SEPARATION, § 15.

In general. 59 L.R.A. 136.

What law determines right to divorce. 59 L.R.A. 141.

Jurisdiction of subject-matter. 59 L.R.A. 142.

Jurisdiction of the person or of the res; foreign decrees upon constructive service. 59 L.R.A. 162.

Decrees rendered upon constructive service. 19 L.R.A. 814; 59 L.R.A. 162; 7 L.R.A.(N.S.) 1127; 18 L.R.A.(N.S.) 647; L.R.A.1917B, 1032.

Custody of children when international elements involved. -59 L.R.A. 177; 7 L.R.A. (N.S.) 306; 10 L.R.A. (N.S.) 690; 39 L.R.A. (N.S.) 988; L.R.A.1915B, 154.

Effect upon property rights of divorce involving international elements. 59 L.R.A. 178.

On dower. 59 L.R.A. 181; 41 L.R.A. (N.S.) 219.

Impeaching decree granted in other state.
59 L.R.A. 183.

Suits for same cause in different jurisdictions. 59 L.R.A. 187.

Valid divorce granted in one state as affecting independent suit for alimony in another. 34 L.R.A. (N.S.) 1106; L.R.A.1915E, 421.

Validity of divorce according to Indian custom. 35 L.R.A. (N.S.) 795; L.R.A. 1917D, 574.

Action to recover instalments of alimony accruing under a decree rendered in another state. 9 L.R.A.(N.S.) 1168; 28 L.R.A.(N.S.) 1068.

Equitable jurisdiction to enforce a foreign 9 L.R.A. (N.S.) decree for alimony. 1071.

Validity of a foreign divorce for a cause not recognized in the jurisdiction in which the marriage was contracted. 5 B. R. C. 747.

15. Legitimacy.

In general. 65 L.R.A. 177.

Consult also L.R.A. Digests of Cases.

CONFLICT OF LAWS, I. e-cont'd

What is proper law after eliminating lew domicilii decedentis, and lex rei sita, as such. 65 L.R.A. 182; 10 L.R.A. (N.S.) 600; 39 L.R.A.(N.S.) 988; L.R.A.1913B, 154.

As affecting membership in class named in will. 2 L.R.A.(N.S.) 450.

§ 16. Adoption.

Adoption. 65 L.R.A. 186.

Extraterritorial effect of adoption of chil-

dren. 17 L.R.A. 439.
Right of child adopted in other state to take under local statute of descent or distribution. 21 L.R.A.(N.S.) 679, 25 L.R.A.(N.S.) 1285; L.R.A.1916A, 666.

17. Custody and control of children. Recognition of right, emanating from foreign power, to the custody and control of a child. 7 L.R.A. (N.S.) 306.

#### d. Corporate matters,

§ 18. Generally.

As to foreign corporations generally, see CORPORATIONS, XI.

Applicability of statute forbidding corpo-ration to interpose defense of usury as affected by its foreign or domestic character, the situs of the contract, or the place of suit. 16 L.R.A.(N.S.) 616. Enforceability, in Federal court, or court of

another state, of a contract made by a foreign corporation which had not complied with the conditions of doing business within the state. 26 L.R.A. (N.S.)

§ 19. Stockholder's liability. Right to enforce stockholder's liability outside of state of incorporation. 34 L.R.A. 737; 33 L.R.A. (N.S.) 895. What statute of limitations will govern as

to liability of stockholder. 48 L.R.A. 637.

§ 19a. Liability of directors.

Extraterritorial enforcement of statutory liability of directors of corporations. 41 L.R.A.(N.S.) 379.

e. Torts and crimes generally; penal . statutes.

§ 20. Generally.

Damages for, generally. 56 L.R.A. 312. Penalty as part of recovery for tort. 66 L.R.A. 315.

§ 21. Conversion.
Right to maintain action for conversion of timber, crops, buildings, etc., from land in another state or country. 34 L.R.A. (N.S.) 994.

Interest by way of damages for detention of property. 56 L.R.A. 303; 62 L.R.A.

Applicability of lew rei sitæ, or lew § 22. Personal injuries; death.

domicilii decedentis. 65 L.R.A. As to action for death or bodily injury. 56 L.R.A. 193.

CONFLICT OF LAWS, I. e-cont'd

Action for death, under foreign statute. 15 L.R.A. 585; 56 L.R.A. 211.

Action for death when negligent act is done in one jurisdiction and death occurs in another. 9 L.R.A.(N.S.) 1078.

Law governing as to survival of cause of action or revival of action for personal injuries. 5 L.R.A. (N.S.) 756; L.R.A. 1915E, 1129.

Jurisdiction of action for death under statute of another state as affected by penal or remedial character of statute, or differences between less loci delicti and less fori as to character of damages. 40 L.R.A.(N.S.) 1095.

Law governing distribution of fund collected or recovered for negligent killing of

person. 4 L.R.A.(N.S.) 814.

Right of foreign or domestic representative to maintain action for death of decedent under statute of another state which provides that the action shall be brought by the personal representative.

18 L.R.A. (N.S.) 1252; L.R.A.1917A, 37.

What statute of limitations will govern as to. 48 L.R.A. 638; 56 L.R.A. 208.

As to application and effect of Workmen's Compensation Act. L.R.A.1916A, 443; L.R.A.1917D, 83.

Jurisdiction of, and law governing, action for death on waters. L.R.A.1916A, 1157.

May substantive law of state be invoked in an action for personal injuries, not resulting in death, on waters within the maritime jurisdiction. L.R.A.1917F, 678.

Duty of courts of one state, under the full faith and credit provision of the Federal Constitution, to entertain an action for death arising under statute of another state. L.R.A.1915F, 955.

§ 23. Penal laws.

Penalty as part of recovery for tort. 56 L.R.A. 315.

Conflict of laws as to right of action under penal statute for death or bodily injury. 56 L.R.A. 209.

Effect of penal or remedial character of foreign usury statutes. 62 L.R.A. 42; L.R.A.1916D, 751.

Enforcement of foreign laws requiring affixing of stamp to instruments. 48 L.R.A. 319.

Question whether suit for statutory penalty is a civil or criminal prosecution as affecting extraterritorial enforcement. 27 L.R.A. (N.S.) 758.

§ 24. Crimes.

Locality of crime committed through the agency of the mails or of carriers. 19 L.R.A. 775.

What law defines larceny for purposes of a statute against bringing stolen property into the state. 15 L.R.A. 722; 14 L.R.A. (N.S.) 556.

Effect of prior conviction in other state or country to enhance penalty. 34 L.R.A.

dos.

Chat

Begin with this book on every law question.

CONFLICT OF LAWS, I. e-cont'd

Prosecution for receiving stolen property where property in question was stolen in foreign state or country. 28 L.R.A. (N.S.) 750.

Locality of crime committed by shooting or striking across state boundary. 28 L.R.A. 59.

Question whether suit for statutory penalty is civil or criminal prosecution as affecting extra-territorial enforcement. 27 L.R.A. (N.S.) 758.

 Assignment for creditors; insolvency and bankruptcy proceedings; receivers,

§ 25. Generally.

Foreign proceedings in bankruptoy, see BANKBUPTCY, § 4.

Effect of foreign bankruptcy or insolvency assignment on personal property where no rights of creditors are involved. 17 L.R.A. (N.S.) 173.

As to transfer of property out of the state by bankruptcy or insolvency proceedings or assignment for creditors. 23 L.R.A. 33; 65 L.R.A. 353.

Rights of receiver as to property in other jurisdiction. 23 L.R.A. 52.

Power of receiver to sue out of jurisdiction of appointment. 4 L.R.A.(N.S.) 824.

Injunction against insolvency proceedings in foreign jurisdiction. 21 L.R.A. 74.

Injunction against action or proceeding in foreign jurisdiction when insolvency proceedings are pending. 25 L.R.A. (N.S.) 270.

## g. Rights in property generally.

§ 26. Liens.

Mechanics' lien under contract made in other state. 33 L.R.A. 410.

Right of attorney under local statute to lien on money in hands of adverse party to suit or proceeding in another state. 31 L.R.A.(N.S.) 1215.

27. Matrimonial property.

In general. 57 L.R.A. 353; 29 L.R.A. (N.S.) 781.

When lew domicilii is opposed to the lcx rei sitæ or lew fori. 57 L.R.A. 353. When law of matrimonial domicil is op-

When law of matrimonial domicil is opposed to that of place where marriage celebrated. 57 L.R.A. 359.

How original matrimonial domicil ascertained. 57 L.R.A. 360.

Change of matrimonial domicil. 57 L.R.A. 363.

Marriage settlements. 57 L.R.A. 368; 29 L.R.A. (N.S.) 783.

Conflict of laws as to capacity of married woman to contract with reference to. 57 L.R.A. 524.

# h. Transfers of property generally.

§ 28. Generally.

Real estate mortgages, see supra, § 6. Chattel mortgages, see infra, § 32.

CONFLICT OF LAWS, I. h-cont'd Transfer of property by bankruptcy or insolvency proceeding or assignment for creditors, see supra, § 25.

Law governing covenant in deed of real property. 17 L.R.A. (N.S.) 1094; L.R.A. 1916A, 1027.

Conflict of laws as to contracts in relation to real property. L.R.A.1916A, 1011.

§ 29. Power of appointment. In ascertaining donee's intent to exercise power of appointment. 64 L.R.A. 892. As to validity of attempt to exercise power of appointment by will. 64 L.R.A. 892.

\$0. Sale of personal property. Distinction between personal rights and obligations and rights in property. L.R.A. 823. 14 1457

Place of contract; distinction between executory and executed contract. 64 L.R.A. 34 7

Personal rights and obligations under the contract. 64 L.R.A. 825.

The contract as affecting the title to, or interest in, property. 64 L.R.A. 828. Place of consummating sale where goods are delivered to carrier. 22 L.R.A. 425.

Governing law of sales of personal property as affected by fraud against creditors. 11 L.R.A.(N.S.) 1007.

§ 31. — intoxicating liquor. General principles. 61 L.R.A. 418.

Where executed contract consummated; delivery to carrier generally. 61 L.R.A. 419.

When executory contract consummated in one state and executed contract in another. 61 L.R.A. 424.

Effect of soliciting order within state having prohibitory law. 61 L.R.A. 427.

Public policy of forum; intention to violate prohibitory statute of forum. 61 L.R.A. 429.

New or substituted contract. 61 L.R.A. 433.

When sale invalid by law of place where made, but valid by law of forum. 61 L.R.A. 434.

·Place of sale of intoxicating liquor. 44 L.R.A. (N.S.) 435.

C. O. D. shipments. 2 L.R.A. (N.S.) 383; 24 L.R.A. (N.S.) 143; 44 L.R.A. (N.S.) 459.

## i. Chattel mortgages; conditional sales.

§ 32. Chattel mortgage. As contract inter partes. 64 L.R.A. 353. As a lien or right prior to claims of third persons. 64 L.R.A. 355.

Necessity of refiling or re-recording in state to which property removed. 64 L.R.A. 356; 6 L.R.A. (N.S.) 940; 35 L.R.A. (N.S.) 386; L.R.A.1917D, 942.

Governing law of mortgages of personal property as affected by fraud against creditors. 11 L.R.A.(N.S.) 1007.

Consult also L.R.A. Digests of Cuses.

CONFLICT OF LAWS, I. i-cont'd Foreclosure of chattel mortgage when property is out of state. 39 L.R.A.(N.S.) 627.

§ 33. Conditional sale.

Necessity of recording instrument reserving title to personal property sold in state to which property is subsequently removed. 35 L.R.A.(N.S.) 387.

## f. Descent and distribution; wills.

§ 34. Descent and distribution; claims against estate.

Law governing distribution of fund collected or recovered for negligent killing of person. 4 L.R.A.(N.S.) 814.

Distribution of assets to next of kin in jurisdiction of ancillary administration. L.R.A.1915A, 431.

Right of child adopted in other state to take under local statute of descent and distribution. 21 L.R.A.(N.S.) 679; 25 L.R.A.(N.S.) 1285; L.R.A.1916A, 666.

Widow's right to allowance for support out of personal assets of deceased husband, who was a nonresident. 11 L.R.A. (N.S.) 361.

Effect of failure to present claim within time allowed by administration statute of domicil as bar to its allowance in state of ancillary administration or vice versa. 19 L.R.A.(N.S.) 553.

§ 35. Wills.

Character of property as personal or real, movable or immovable. 2 L.R.A. (N.S.)

Capacity of testator. 2 L.R.A.(N.S.) 414. Formal validity. 2 L.R.A.(N.S.) 415. Essential validity. 2 L.R.A. (N.S.) 430.

Construction of will. 2 L.R.A.(N.S.) 443. Effect, as distinguished from construction, of will. 2 L.R.A.(N.S.) 453.

Capacity of legatee or devisee. 2 L.R.A. (N.S.) 456.

Equitable conversion. 2 L.R.A.(N.S.) 457. Election. 2 L.R.A.(N.S.) 459; L.R.A.1915F, 680.

Effect of election in one jurisdiction for or against the provisions of a will, upon right to elect as to property situated in another jurisdiction. 3 B. R. C. 519. Dower; disinheritance. 2 L.R.A. (N.S.) 459. Effect of subsequent events upon wills. L.R.A. (N.S.) 464.

Medium of payment of, and interest upon, legacies. 2 L.R.A.(N.S.) 468.

Effect of delay in probating will from other state. 57 L.R.A. 263.

As to validity of attempt to exercise power of appointment by will. 64 L.R.A. 892.

Law governing validity of testamentary disposition of leasehold property. 7 B. R. C. 459.

By what law are members of class to whom testamentary gift is made to be ascertained. 2 L.R.A. (N.S.) 447; 2 B. R. C. 557.

CONFLICT OF LAWS, I. j—cont'd
Jurisdiction to admit to probate will not
probate at testator's domicil. 33
L.R.A.(N.S.) 658.

Distribution of assets to beneficiary under will in jurisdiction of ancillary administration. L.R.A.1915A, 431.

k. Taking liquor into prohibition territory.

§ 86. Generally. As to sale of liquor, see supra, § 31.

Constitutionality of statute forbidding carrying of intoxicating liquors into prohibition district. 17 L.R.A. (N.S.) 299.

## l. As to copyrights.

'§ 37. Generally.

Sufficiency of compliance with law of origin to secure protection under intentional copyright act. 1 B. R. C. 785.

#### II. As to remedies,

# 88. Generally.

Foreign judgment, see Judgment, §§ 66-73.

Oral proof of foreign laws. 25 L.R.A. 449. Injunction against suit in foreign jurisdiction. 21 L.R.A. 71; 25 L.R.A. (N.S.) 267.

Enforcement of personal contract of married woman capable of contracting according to law of another state or country where the contract was made. 26 L.R. A.(N.S.) 776.

Law governing matters relating to remedy on contract as to real property. L.R.A.

1916A, 1046, 1048.

Extraterritorial effect of statute limiting jurisdiction in which action may be brought. L.R.A.1916D, 688.

 Rate of interest allowed by admiralty court in case of marine tort as affected by place of occurrence or suit. 51 L.R.A. (N.S.) 966.

§ 39. When proper foreign law not proved.

How case determined when proper foreign law not proved. 67 L.R.A. 33; 34 L.R.A.(N.S.) 261; 38 L.R.A.(N.S.)

§ 40. Attachment; garnishment.

Attachment or garnishment of foreign railroad cars. 64 L.R.A. 501; L.R.A. 1915D, 838.

Where debt garnishable. 19 L.R.A. 577; 67 L.R.A. 209; L.R.A.1915F, 880.

Place of payment of debt as affecting jurisdiction to garnish same. 3 L.R.A.(N. S.) 608; 20 L.R.A.(N.S.) 264.

41. — of exempt property.

Action for loss of exemption by garnishment in another state. 19 L.R.A. 580; 36 L.R.A. 582; 48 L.R.A.(N.S.) 689.

Law governing exemption from garnishment. 19 L.R.A. 578; 67 L.R.A. 222; 1 L.R.A. (N.S.) 195; L.R.A.1915F, 885. CONFLICT OF LAWS, II .- cont'd.

Injunction against suit in another state to evade local exemption law. 15 L.R.A. (N.S.) 1008.

§ 42. Statute of frauds.

Generally. 19 L.R.A. 792; 64 L.R.A. 119.

As between law of forum and substantive law of contract. 64 L.R.A. 119; 51 L.R.A. (N.S.) 908.

As between law of place where contract is made and that of place where it is performable. 64 L.R.A. 122; 51 L.R.A. (N.S.) 910.

As between law of place where contract is made and that of place where property is situated. 64 L.R.A. 123; 51 L.R.A. (N.S.) 911.

§ 43. Limitation of action.

Absence from forum as affecting running of statute, generally, see LIMITATION OF ACTIONS, § 46.

What statute of limitations will govern action in another state or country. 48 L.R.A. 625.

Law governing limitation where action is brought in one state upon a cause of action created by a statute of another. 46 L.R.A. (N.S.) 687.

Applicability of statute referring question of limitation to the law of the state where contract was to be performed.

L.R.A.1915C, 976.

Applicability of statute of the forum referring limitation to law of other jurisdiction, where period at forum is shorter than that prescribed by the foreign statute. 51 L.R.A. (N.S.) 96.

Different limitations as to time for bringing action for death or bodily injury.

L.R.A. 208.

Statute requiring notice of claim before commencing an action as a statute of limitations. 8 L.R.A.(N.S.) 997.

Law governing limitation of actions on contract. 6 L.R.A. (N.S.) 658.

Construction and effect of statute of forum admitting bar of statute of state or country in which cause of action arises or accrues.. 4 L.R.A.(N.S.) 1029; 14 L.R.A. (N.S.) 776.

Effect of failure to present claim within the time allowed by the administration statute of the domicil as a bar to its allowance in the state of the ancillary administration, or vice versa. 19 L.R. A. (N.S.) 553.

Amendment of pleadings after limitation period by changing from statute of one jurisdiction to statute of another. 30

L.R.A.(N.S.) 1099.

§ 44. Exemption laws. Garnishment of exempt property, see supra, § 41.

Enforcing exemption laws of other state. 1 L.R.A.(N.S.) 195.

Injunction against suit in another state to evade local exemption laws. 15 L.R.A. (N.S.) 1008.

CONFLICT OF LAWS, II.-cont'd. Liability for evasion of exemption laws of

domicil by action in other state. 36 L.R.A. 582; 48 L.R.A. (N.S.) 689.

Widow's right to exemption out of personal assets of deceased husband who was nonresident. 11 L.R.A.(N.S.) 361.

§ 45. Measure of damages.

For breach of contract, generally. 56 L.R. A. 301; 62 L.R.A. 37.

Damages for tort generally, 56 L.R.A. 312. Law governing measure of damages for death or bodily injury. 56 L.R.A. 312.

May substantive law of state as to dam-

ages be invoked in an action for personal injuries, not resulting in death, on waters within the maritime jurisdiction. L.R.A.1917F, 678.

Interest by way of damages. 56 L.R.A. 303.

#### CONFUSION.

See Accession and Confusion.

#### CONGRESS.

1. Generally.

Members of, as public officers. 17 L.R.A. 247.

Privilege of members of, as to service of process. 23 L.R.A. 632.

2. Congressional elections.

Extent of Federal control of. 53 L.R.A.

Provision in primary election law for popular election of United States senators. 22 L.R.A.(N.S.) 1147.

Constitutionality of popular elections of United States senators. 41 L.R.A.(N. S.) 140.

§ 3. Powers of. Power of, as to commerce, generally, see COMMERCE.

Power to punish for contempt. L.R.A. 1917F, 288.

Powers of, as to equality of privileges, im-

munities, and protection. 14 L.R.A.

Power to proclaim and maintain martial law. 65 L.R.A. 195.

Right of Congress to prohibit or delegate power to prohibit sales of intoxicating liquors in the territories. 15 L.R.A. (N.S.) 922.

## CONNECTING CARRIERS.

See CARRIERS, §§ 98, 142, 143. Consult also I.R.A. Digests of Cases.

#### CONNECTIONS.

With drains and sewers, see DRAINS AND SEWERS, § 5.

With water mains, see WATERS, § 112.

Liability of telephone company for failure to make connections for subscribers. 21 L.R.A.(N.S.) 115; 28 L.R.A.(N.S.) 554; 39 L.R.A. (N.S.) 402; L.R.A.1915C,

#### CONNIVANCE.

As defense to divorce suit, see DIVORCE AND SEPARATION, § 31.

By obligee in principal's fraud in obtaining guaranty or surety. 21 L.R.A. 410. Of successful party in perjury as ground for relief against judgment. 10 L.R.A.(N.

## CONSCIENTIOUS SCRUPLES.

Disqualifying grand juror. 28 L.R.A. 202. Exemption from provisions of Selective Service Act of May 18, 1917, because of religious convictions. L.R.A.1918E, 1024.

#### CONSCRIPTION.

For military service, see COMPULSORY MILI-TARY SERVICE.

Of labor for working highway as a tax. 5 L.R.A.(N.S.) 1139.

#### CONSENT.

§ 1. Generally.

8.) 224.

Presumption and burden of proof as to, see EVIDENCE, § 33.

Age of, see AGE OF CONSENT.

Effect of, on liability for assault and battery, see Assault and Battery, § 4.

To crime, see CRIMINAL LAW, § 20. Estoppel by, see Estoppel, § 17.

To making of improvements, see IMPROVE-MENTS, § 3.

Judgment by, see JUDGMENT, § 29.

Owner's consent to work as essential to mechanics' lien, see MECHANICS' LIENS, §§ 6, 7.

Of parent to adoption of child, see PARENT AND CHILD, § 18.

Liability of newspaper proprietor for libel published without. 26 L.R.A. 779.

Liability for improperly issuing marriage license or performing marriage ceremony as affected by person who gave consent. L.R.A.1917E, 871, 874.

Nonenforceability for want of, of contract procured by threat to prosecute relative. 26 L.R.A. 51.

Use of negative or engraved plates without consent of party paying for same. 50 L.R.A. 397.

CONSENT-cont'd

To assignment or deed of trust for creditors. 24 L.R.A. 369; 26 L.R.A. 599.

To erection of party wall. 66 L.R.A. 705.

To obstruction of navigation. 59 L.R.A. 88. To suppression of competition at judicial sale. 42 L.R.A.(N.S.) 1204.

Effect of owner's consent to dam back water of stream. 59 L.R.A. 841.

Effect of master's consent to giving of lien on vessel under charter for supplies and repairs. 70 L.R.A. 395.

Effect of consent of debtor to appointment of a receiver of his property at the instance of a simple contract creditor. L.R.A.1918C, 640.

Necessity of, to entitle third person to sue on contract for his benefit. 25 L.R.A. · 265.

To delegation of power of taxation to local board. 15 L.R.A. (N.S.) 70.

To violation of injunction as justification therefor. 9 L.R.A.(N.S.) 304.

Validity and effect of stipulation in contract for sale of land against assignment by a vendee without vendor's consent. 35 L.R.A. (N.S.) 1064.

Validity and effect of conditions requiring consent to marriage of legatee or devi-

see. L.R.A.1917D, 468.

Acceptance of remittance of part of unliquidated or disputed claim with statement that it is "in full" as consent to its receipt in full payment. 14 L.R.A. (N.S.) 443; 27 L.R.A. (N.S.) 439.

Requiring or permitting another to make improvements on land at his own expense as a consent by the owner which will subject his interest to a lien. 11 L.R.A.(N.S.) 764.

Validity of provision in contract for con-tingent fee, forbidding client to settle the claim without attorney's consent. 14 L.R.A.(N.S.) 1101.

Right of one whose property has been taken for public use without his consent and without condemnation proceedings to maintain action for compensation or for permanent damages. 28 L.R.A. (N.S.) 968.

Power of municipality to make right to transact certain business dependent on consent of municipal authorities. 9 L.

R.A.(N.S.) 659.

Power of municipal corporations to make use of property for particular purpose or in a particular manner, conditional upon consent of neighbors. 8 L.R.A. (N.S.) 978.

Of municipality to making improvements in street by abutting owner. 44 L.R.A.

(N.S.) 553.

Power of vendee to subject owner's interest to mechanics' liens where statute gives lien for improvements made with owner's consent. 23 L.I L.R.A.1917D, 582, 583. 23 L.R.A. (N.S.) 612;

Power of attorney to bind client by consent decree. 46 L.R.A.(N.S.) 753.

Effect of consent of beneficiary on personal liability of a trustee for losses to trust estate from investments. 44 L.R.A. (N.S.) 980.

CONSENT—cont'd

Of court to entry of nolle prosequi in a criminal case. 45 L.R.A.(N.S.) 1120.

Doctrine of equitable conversion as affecting one's right to sign consent or remonstrance as landowner. 50 L.R.A. (N.S.) 32.

## § 2. To change in, or abandonment of, contract.

Necessity for mutual consent to rescission or abandonment of contract. 30 L.R.A.

To discharge after part performance of contract. 24 L.R.A. 233.

Effect of servant's consent to wrongful dis-

charge on right to recover wages for subsequent period. 5 L.R.A. (N.S.) 448.

To alteration of note. 35 L.R.A. 467,
As affecting alteration of deed after delivery. 32 L.R.A. (N.S.) 291; L.R.A. 1918B, 491.

Consent to removal of insured property as affecting insurer's liability. 26 L.R.A. 242.

### 8. To account stated.

Want of consent to account stated. 27 L.R. A. 816.

Effect of dispute as to certain items of account on assent to other items. 7 L.R. A.(N.S.) 924.

## 4. To sale of expectancy.

Of ancestor to sale of expectancy by prospective heir. 33 L.R.A. 274, 281; 25 L.R.A. (N.S.) 438.

### § 5. Matters as to mortgages.

Of mortgagee to removal of mortgaged property from state as affecting his lien. 6 L.Ř.A.(N.S.) 940.

Effect of consent of mortgagee to removal of property to other state on necessity of recording mortgage in state to which property is removed. L.R.A.1917D, 942.

Effect of consent by mortgagee of realty to affixing thereon of a chattel, the seller of which retained title thereto or a lien thereon. 37 L.R.A.(N.S.) 127.

Effect of assignment of mortgage by or with mortgagor's consent to third person after payment of debt originally secured. 27 L.R.A.(N.S.) 111.

Of mortgagor to repair or improvement of property by mortgagee in possession. 49 L.R.A. (N.S.) 126.

§ 6. Corporate matters. Acquiring jurisdiction over foreign corporation by. 70 L.R.A. 536.

Liability of corporate directors for acts in excess of their powers as affected by. 55 L.R.A. 761.

Duty of officers or majority stockholders, against consent of minority to sell property of corporation essential to its existence as a going concern. 35 L.R.A. (N.S.) 396.

To assessment on paid up stock. 45 L.R.A.

CONSENT—cont'd

Liability on unpaid subscription of transferee of corporate stock who does not consent to transfer. 30 L.R.A.(N.S.)

By stockholders to consolidation of corporations. 52 L.R.A. 381.

Effect of consent of holders of all corporate stock issued at time of transaction to sale of property to corporation by promoter. 18 L.R.A.(N.S.) 1116.

To appointment of receivers of corporation. 20 L.R.A. 213.

## § 7. Partnership matters.

Of creditor to assumption of debts on dissolution of partnership. 9 L.R.A.(N. S.) 79; 48 L.R.A.(N.S.) 552.

Application of partnership assets with consent of all partners to payment of in-dividual debt of partner as a voidable preference under bankruptcy act. 17 L.R.A.(N.S.) 1040.

Right to purchase one partner's interest in real property belonging to partnership, without consent of other partners. 18 L.R.A.(N.S.) 1180.

§ 8. Between landlord and tenant.

Waiver of provision for consent to assignment of lease. 36 L.R.A.(N.S.) 488.

Effect of proviso in lease against assignment without consent upon right of assignee to assign. 2 B. R. C. 803.

Enforcement of landlord's consent to sub-

letting or assignment of lease. 25 L. R.A. (N.S.) 1173.

Necessity of consent by tenant who has abandoned premises to reletting by landlord. 13 L.R.A. (N.S.) 403.

Power of lessee or vendee to subject owner's interests to mechanics' liens where statute gives lien for improvements made with owner's consent. 23 L.R.A.(N.S.)' 612; L.R.A.1917D, 582, 583.

§ 9. Between husband and wife. Implication of wife's authority to purchase necessaries from husband's assent to previous transactions. 65 L.R.A. 548; 47 L.R.A. (N.S.) 282.

Sufficiency of husband's consent to wife's will. 37 L.R.A. (N.S.) 1133.

Revocation of consent given by one spouse to will of the other in the latter's lifetime. L.R.A.1915E, 815.

Husband's power to create easements in homestead without wife's consent. 27 L.R.A. (N.S.) 963.

Husband's power without wife's consent to abandon homestead or convey premises by his sole deed after abandonment. 37 L.R.A.(N.S.) 807.

To divorce, effect on right to contest its validity. 60 L.R.A. 294; 51 L.R.A. (N.S.) 534.

Lease as encumbrance or conveyance within statute requiring consent of spouse. 39 L.R.A.(N.S.) 675.

Effect of consent to separation between hushand and wife on question of desertion by spouse leaving. 39 L.R.A. (N.S.) 1121.

Consult also L.R.A. Digests of Cases. 15

CONSENT—cont'd

§ 10. By employee.

Of employee to particular risk, necessity for proving. 47 L.R.A. 192.

To discharge after part performance of contract. 24 L.R.A. 233.

Effect of servant's consent to wrongful discharge on right to recover wages for subsequent period. 5 L.R.A.(N.S.) 448.

§ 11. Matters as to infants.

Rape of female infant under age of consent, see RAPE, § 3.

Consent of parents to marriage of infants. 22 L.R.A.(N.S.) 1206; L.R.A.1916C, 741.

Of parent or guardian to marriage of infant, conflict of laws as to. 57 L.R.A.

172; 43 L.R.A.(N.S.) 357. Validity of adoption without consent of

natural parents. 30 L.R.A.(N.S.) 146.
Constitutionality of statute permitting adoption of children without consent of parents. 18 L.R.A.(N.S.) 926.

Of mother or reputed father to custody or control of illegitimate child. 36 L.R.A. 696.

Parent's right to recover for injury to minor servant employed without his consent. 30 L.R.A. (N.S.) 311.

Guardian's consent as affecting infant's contract. L.R.A.1915C, 362.

§ 11a. Matters as to incompetent persons.

Power of court or guardian of incompetent or habitual drunkard to consent to conveyance by trustee under trust requiring consent by cestui que trust. 39 L.R.A.(N.S.) 39.

#### § 12. Matters as to insurance.

By insurance company or its agent to modification of policy, see INSURANCE, VII.
Of person whose life is insured, see INSUR-ANCE, § 35.

Right to surrender insurance policy without beneficiary's consent, see INSURANCE,

Consent to removal of insured property as affecting insurer's liability. 26 L.R.A.

Variance between assignment or transfer of insured property and insurer's consent thereto. 42 L.R.A.(N.S.) 173.

Necessity of insurer's consent to change of beneficiary. L.R.A.1915A, 109.

§ 13. To railway in street.

Of municipality to construction of street railway tracks, see STREET RAILWAYS,

Effect of consent by town or muricipality to construction or use of railroad in street or highway to estop it from objecting thereto. 7 L.R.A.(N.S.) 1187. property owners to laying of railway

in street as an element to be considered in valuing property of railroad company. 48 L.R.A.(N.S.) 1083. CONSENT—cont'd

To railroad in street as affecting abutting owner's right to compensation. 36 L.R.A.(N.S.) 789.

Remedy of abutting owner as affected by his consent to construction of railroad or street railway in street or highway. 7 L.R.A.(N.S.) 991; 23 L.R.A.(N.S.) 433.

Abutter's right to enjoin railroad in street for lack of consent. 36 L.R.A. (N.S.) 828.

§ 14. To surgical operation. See Physicians and Surgeons, § 14.

§ 15. To assault. Consent to assault, see Assault and Bat-TERY, § 4.

§ 16. To mode of service. On nonresident. 50 L.R.A. 584.

17. Matters as to jury.

To less than full jury. 43 L.R.A. 59; 46

L.R.A.(N.S.) 38.
Showing consent by record to verdict by less than full jury. 43 L.R.A. 73.

To communication by judge with juror not in open court. 17 L.R.A.(N.S.) 614.

Of defendant to separation of jury in capital case. 24 L.R.A.(N.S.) 781.

Of parties to separation of july in criminal cases other than capital, after finding but before rendition of verdict. 31 L.R.A.(N.S.) 1007.

#### CONSEQUENTIAL DAMAGES.

Allowance for, in eminent domain, see Damages, §§ 87, 88.

Extent of trespasser's liability for consequential injuries. 53 L.R.A. 626.

By act of municipality with reference to surface water. 65 L.R.A. 269.

Jurisdiction of action at law for consequential damages to real property in another state or country. 26 L.R.A.(N.S.) 936.

## CONSERVATION.

Of natural resources, see Constitutional LAW, § 60.

Right of one who pumps oil, gas, or water on his premises to enjoin similar acts by his neighbor. 30 L.R.A. (N.S.) 1057.

#### CONSERVATOR.

Power of conservator to adeem legacy. 28 L.R.A.(N.S.) 401. Begin with this book on every law question.

#### CONSIDERATION.

Of bills or notes, see BILLS AND NOTES. In general, see CONTRACTS, II. c.

For release of liability for personal injuries or death, see RELEASE.

Consideration in deeds for school purposes as negativing resulting trust in favor of the grantor. 44 L.R.A.(N.S.) 1223.

## CONSIGNMENT CONTRACTS.

Construction of contract having some provisions peculiar to consignment and agency contracts, and others to sale contracts. L.R.A.1917B, 626.

#### CONSIGNOR AND CONSIGNEE.

Right of agent as consignee of freight, see CARRIERS, § 105.

Consignee as proper party to sue, see Parties, § 15.

Liability of consignor for freight. L.R.A. 1917A, 665. Passing of title as between consignor and

consignee by delivery to carrier. 22 L.R.A. 418.

When title passes under consignment of goods for sale with provision in effect that consignee purchase balance of consignment. 39 L.R.A. (N.S.) 620.

Dividing consignment of liquor as a sale. 11 L.R.A. (N.S.) 872.

Rights and liabilities of assignee of bill of lading with draft attached as against consignee who does not get the goods or finds them defective. 49 L.R.A. 679; 1 L.R.A. (N.S.) 242; 18 L.R.A. (N.S.) 1221; 32 L.R.A.(N.S.) 1173; 52 L.R.A. (N.S.) 241.

Negotiability of draft against consignment. 35 L.R.A. 650.

Lien of consignee for advances. 70 L.R.A.

Liability of consignee for injury to servants of carrier. 46 L.R.A. 97.

Duty of consignor or consignee to his employees, as to condition of car. 14 L.R.A. (N.S.) 972; 45 L.R.A. (N.S.)

Carrier's liability for personal injuries to consignor or consignee or their employees caused by unsafe car. 9 L.R.A. (N.S.) 857.

To whom delivery may be made under consignment to consignor's agent. 38 L.R.A. 366.

Consignee's right as against carrier to reject consignment of freight for delay 12 L.R.A. (N.S.) in transportation. 431.

Right to charge demurrage for detention of cars by consignees. 22 L.R.A. 536.

Liability of shipper for freight and demurrage upon refusal of consignee to accept goods. 52 L.R.A. (N.S.) 398.

#### CONSOCIATION.

Of duties as test of common employment. 50 L.R.A. 444.

Mere consociation as affecting legal relation of servant of employer and servant of contractor as fellow servants. 17 L.R.A. (N.S.) 335.

#### CONSOLIDATION.

Of corporations, see Corporations, III. Of criminal prosecutions, see Indictment, Information, and Complaint, § 9. Of railroads, see RAILROADS, § 9.

#### CONSORTIUM.

See Husband and Wife.

## CONSPIRACY.

I. In general, § 1.
II. To injure business of another. \$\$ 2-4. III. Of laborers; strikes, §§ 5-8.

#### 1. In general.

§ 1. Generally.

Blacklisting employees, see BLACKLISTING. Equity jurisdiction in case of, see EQUITY, § 14.

Criminal liability for acts of co-conspirator, see CRIMINAL LAW, § 27.

Combinations in restraint of trade or commerce, see Monopoly and Combinations, II.

Admissibility of acts and declarations of co-conspirator, see EVIDENCE, § 237.

Homicide in carrying out, see Homicide,

Instigation or consent to, for purpose of detecting criminal as a defense to pros-ecution. 51 L.R.A. (N.S.) 829.

Cruel and unusual pun shment for. 35 L.R.A. 571; L.R.A.1915C, 566.

Illegal intent of prosecutor as affecting guilt of obtaining property by means of. 17 L.R.A.(N.S.) 277.

Civil liability of persons who join in a petition addressed to public authorities. L.R.A.1916D, 394.

Liability of individuals having contracts with the same person for combining to breach the same. L.R.A.1918C, 151.

Indictment for conspiracy to encourage violation of Selective Service Act of May 18, 1917. L.R.A.1918F, 1026.

Indictment, of woman transported in viola-tion of the white slave traffic act, for conspiracy to violate the laws of the United States. L.R.A.1915D, 281.

Combination of foreign corporations to discontinue business within the state. 46

L:R.A.(N.S.) 955.
Right of action for conspiracy to injure reputation as asset of bankrupt. L.R.A.(N.S.) 942.

Consult also L.R.A. Digests of Cases.

CONSPIRACY, I.—cont'd

Between real estate broker and purchaser, effect on commissions. 45 L.R.A. 39. To suppress competition at judicial sale as

ground for avoiding same. 42 L.R.A. (N.S.) 1206.

To alienate affections. 3 L.R.A.(N.S.) 470. Attempt to procure violation of Elkins act as conspiracy. 17 L.R.A. (N.S.) 720.

Several offenses growing out of same facts. 31 L.R.A. (N.S.) 731.

Criminal responsibility of corporation for. 2 B. R. C. 246.

Right of party to a conspiracy to the aid of equity to compel a corporation to transfer on its books stock acquired in aid of conspiracy. 24 L.R.A. (N.S.) 108.

Effect of overt act within limitation period, where the conspiracy was originally formed and the first act committed beyond the period of limitation. 12 L.R.A.(N.S.) 1053.

Necessity and sufficiency of description of offense in bail bond or recognizance, 38 L.R.A.(N.S.) 317.

Validity of conviction of criminal conspiracy where co-conspirators are acquitted or discharged. 4 B. R. C. 929.

## II. To injure business of another.

§ 2. Generally. To injure trade. 2 L.R.A. 33;\* 6 L.R.A. 457;\* 8 L.R.A. 500.\*

3. Boycott.

Interference by competitor or others with agents of dealer or manufacturer. 9 L.R.A. (N.S.) 904.

Lawfulness of boycott by other than labor union. 33 L.R.A. (N.S.) 1034.

Legality of combination by dealers not to patronize wholesalers who sell to undesirable persons. 35 L.R.A.(N.S.) 1054; L.R.A.1915A, 789.

4. — by labor union.

Right of labor union to notify persons not to deal with a certain individual. 16 L.R.A.(N.S.) 85; 18 L.R.A.(N.S.) 707; 32 L.R.A.(N.S.) 748; L.R.A.1917E, 391.

Right of labor union to forbid its members to handle one's product. 12 L.R.A. (N.S.) 642; 32 L.R.A. (N.S.) 792; 51 L.R.A. (N.S.) 778.

Right of labor union to forbid its members serving a certain person. L.R.A.1915E, 1037.

Liability of members of trade combination for injury to boycotted dealer. 2 L.R.A. (N.S.) 824.

Recovery of money paid to labor organiza-tion in order to avoid boycott. 4 L.R.A.(N.S.) 1198.

Injunction against publishing or circulating statements relative to industrial disputes by labor union. 32 L.R.A. (N.S.) 1013.

Right of labor union to divert trade from one with whom it is in controversy. 1 B. R. C. 245.

CONSPIRACY, II.—cont'd

Liability of members of trade combination for injury to boycotted dealer. 2 L.R.A. (N.S.) 824.

Liability of labor union or its members to persons with whose employment it has interfered. 1 B. R. C. 514.

## III. Of laborers; strikes.

5. Generally.

Injury by labor organization to business of another, see supra, § 4.

Civil liability for inducing discharge of employee. 48 L.R.A.(N.S.) 893.

Liability of labor union for procuring one's discharge or preventing employment. 5 L.R.A. (N.S.) 899; L.R.A. 1917C, 1056.

🖇 6. Strikes.

Inducing servant to quit to aid strike, see CASE, § 5a.

Contract by employer to protect employees from personal violence by strikers. L.R.A.1918C, 929.

Injunction against strikes. 28 L.R.A. 464.
Injunction, generally. 28 L.R.A. 464.

Constitutionality of statute restricting remedy by injunction in labor disputes. L.R.A.1916F, 836.

Lawfulness of strike or of threat to cause, or to so act as to induce strike, when there is no dispute between the strikers

and their own employers. 6 L.R.A. (N.S.) 1067; L.R.A.1916C, 989. Right of labor union to impose fine on mem-

bers as a means of inducing them to join in strike. 23 L.R.A.(N.S.) 1236. Controversy over "open" or "closed" shop as justification for means employed to aid strike. 17 L.R.A.(N.S.) 162; 35 L.R.A.(N.S.) 787; L.R.A.1917F, 760.

System of work as justification for strike.

37 L.R.A. (N.S.) 179. Forcing discharge of foreman or coemployee as justification for strike. 42 L.R.A.(N.S.) 1048.

Right, in aid of strike, to employ peaceable persuasion to induce persons not under contract to quit, or not accept em-

ployment. 41 L.R.A.(N.S.) 445. Right, in aid of strike, to use money to induce persons not under contract, to quit or not accept employment. 41 L.R.A.(N.S.) 453.

Civil liability of trade union or its members for wrongful strike. 5 B. R. C. 476.

7. — effect of.

Construction and effect of "strike" clause in contract of sale and delivery. 9 L.R.A.(N.S.) 1187.

Strike as affecting carrier's liability. 35 L.R.A. 623.

Effect of, on carrier's duty to furnish cars. 43 L.R.A. 623.

Effect and construction of express provision in charter party against demurrage in case of strike. 5 L.R.A.(N.S.) 126.

Effect of, on liability for statutory penalty for refusal to receive goods offered for shipment. 22 L.R.A.(N.S.) 1200.

CONSPIRACY, III.—cont'd

Liability of carrier for injury to passenger by strikers. 55 L.R.A. 713; L.R.A. 1915C, 681.

Liability of telegraph company for delay in transmitting or delivering message due to strike of its employees. 22 L.R.A. (N.S.) 1214.

§ 8. — picketing. Law as to picketing. 4 L.R.A. (N.S.) 302; 50 L.R.A. (N.S.) 412.

## CONSTABLE.

1. Generally. Bond of, see Bonds, §§ 12-15. Deputy constables, see DEPUTY, § 2.

as public officers. 17 L.R.A. 247.

Place at which official acts of, may be performed. 33 L.R.A. 92.

Right to make bids on sales conducted by them. 20 L.R.A. 505.

Voluntariness of confession to. 18 L.R.A. (N.S.) 849.

Effect upon surety on bond of, of judgment against principal. 40 L.R.A. (N.S.) 704, 732; L.R.A.1918E, 816.

2. Liability.

Liability on bond, see Bonds, §§ 12-15.

Liability of constable or his bond for shooting a person while attempting to arrest him. 51 L.R.A.(N.S.) 1179.

Liability for making arrest. L.R.A.1915B, 505.

Liability of, for his deputy's tort in making arrest. 12 L.R.A. (N.S.) 1019; L.R.A. 1915E, 172.

Liability of officer who uses criminal process to collect a debt. 24 L.R.A. (N.S.) **3**01.

## CONSTITUTION.

Of state or country, see Constitutional LAW.

Of insurance company, see Insurance, §§ 46, 47.

#### CONSTITUTIONAL LAW.

I. In general, §§ 1, 2.

II. Adoption; amendment; construction, §§ 3-6.

III. Ex post facto laws, § 7.

IV. Betroactive statute §§ 8-10.

V. Delegation of powers, \$\$ 11-17.

VI. Separation of powers, \$\$ 18-20. VII. Local self government, \$ 20a.

VIII. Republican form of government,

\$ 21.

CONSTITUTIONAL LAW-cont'd IX. Rights of persons and property, \$\$ 21a-194.

a. In general, § 21a.

b. Privileges and immunities; equal protection, § 22.

c. Due process of law, \$ 23.

d. Police power, § 23a.

e. Restrictions on contracts and business, § 24.

f. Property rights, §§ 25-28. g. Vested rights, §§ 29, 29a.

h. Freedom of speech, press, and worship, \$ 29b. 4. Guaranties of justice, \$ 29c.

j. Impairment of obligation of

contract, \$\$ 30-38. 1. In general, **\$\$** 30-33.

2. What are contracts, § 34. 3. As to remedies, §§ 35-

**37**.

4. By change in decisions, § 38.

k. Rights on various particular subjects, §§ 39-194.

1. In general; regulation of business; license, 89-177.

2. Remedies and procedure, §§ 178-192. 8. Criminal matters; im-

prisonment, §§ 193-194.

#### I. In general.

1. Generally.

Matters of interstate commerce, see Com-

Constitutional guaranty against self crimination, see CRIMINAL LAW, §§ 49-53. Constitutionality of statutory credits for good behavior of convict, see CRIMINAL LAW, § 81. Power of eminent domain, see EMINENT Do-

MAIN.

Imprisonment for debt, see Imprisonment FOR DEBT.

Recognition of judgment of other state under full faith and credit provision, see JUDGMENT, §§ 67-70.

Powers of legislature generally, see LEGIS-LATURE, § 3.

Constitutionality of modern anti-trust laws, see Monopoly and Combina-TIONS.

Purposes for which public money may be used, see Public Money, § 4.

Searches and seizures, see SEARCH AND SEIZ-URE.

Who may attack constitutionality of statute, see STATUTES, § 9.

Partial unconstitutionality of statute, see STATUTES, § 10.

As to enactment, entitling, and construction of statutes, see STATUTES, II.

Plurality of subjects in statute, see STAT-UTES, §§ 13, 14.

Title of statute, see STATUTES, §§ 13, 14. Consult also L.R.A. Digests of Cases. CONSTITUTIONAL LAW, I.-cont'd

Special legislation, generally, see STAT-UTES, §§ 15-18.

Corporate taxation as affected by contract clause, see TAXES, § 37.

Consideration of extrinsic evidence to show unconstitutionality of statute. L.R.A. 459; L.R.A.1915D, 458.

The effect of removal of constitutional objections to a statute. 48 L.R.A.(N.S.) 349.

Constitutional command to enact law as implied prohibition against further legislation on the same subject. 1 L.R.A. (N.S.) 489.

Validity of claims against state as affected by state constitution. 42 L.R.A. 37.

Right of municipal corporation to recover back money paid out in violation of the Constitution. 13 L.R.A.(N.S.) 157.

§ 2. Constitutional objection in mandamus proceeding.

Right of relator in mandamus proceedings to attack constitutionality of statute relied upon by respondent. 16 L.R.A. (N.S.) 266.

Unconstitutionality of statute as against mandamus to compel its enforcement. 47 L.R.A. 512; 24 L.R.A.(N.S.) 1260; 34 L.R.A.(N.S.) 1060.

#### II. Adoption; amendment; construction.

3. Adoption.

Effect of adoption of Constitution upon Ordinance of 1787. 52 L.R.A.(N.S.) 305. Power of court to determine the question of adoption. 15 L.R.A. 524.

Upon what basis is the majority essential to the adoption of constitutional or other special propositions submitted at a general election to be computed. 22 L.R.A. (N.S.) 478.

§ 4. Amendment.

Amendment of statute, see STATUTES, §§ 14, 29, 30,

Power to cure unconstitutional statute by amendment. 60 L.R.A. 564.

Effect of noncompliance with prescribed method of amending Constitution. 10 L.R.A.(N.S.) 149.

Validation of unconstitutional statute by constitutional amendment. 38 L.R.A. (N.S.) 77.

Amendments proposed by initiative or subject to referendum. 50 L.R.A. (N.S.) 205; L.R.A.1917B, 23.

§ 5. Construction.

Federal courts following state decisions as to construction of Constitution. L.R.A. (N.S.) 393.

Condition as to vote by people to adopt statute. 23 L.R.A. 113.

Construction of particular constitutions as to legislative divorce. 18 L.R.A. 96.

Constitutional provisions as to number and agreement of jurors necessary to verdict. 43 L.R.A. 37.

CONSTITUTIONAL LAW, II.--cont'd When "may," in constitutional provision, deemed to be mandatory. 5 L.R.A. (N.S.) 340.

Scope and effect of constitutional provision exempting property from eminent do-main proceedings. L.R.A. 1916A, 1097. Constitutional limitation of the power to

exempt property from taxation as affecting public obligations or property. L.R.A.1917B, 308.

§ 6. — self-executing provisions. Generally. 16 L.R.A. 281. Prohibitions generally. 16 L.R.A. 282.

Cases as to taking property for public use,
16 L.R.A. 283. Exemptions may be regarded as prohibi-tions. 16 L.R.A. 284. Taxation. 16 L.R.A. 284. Appropriations. 16 L.R.A. 285. Stockholders' liability. 16 L.R.A. 285. Constitutional provisions as to initiative

# III. Ex post facto laws.

and referendum. 50 L.R.A.(N.S.) 198;

7. Generally.

L.R.A.1917B, 18.

Right of prohibition against sale of liquors as limited by provisions of Federal constitution against em post facto laws. 15 L.R.A. (N.S.) 929.

Constitutional or statutory provisions for prosecution of felony upon information without indictment as an ex post facto law. 38 L.R.A.(N.S.) 600.

Statute reducing number of presiding judges at criminal trial. 37 L.R.A. (N.S.) 567.

Statute affecting challenges to the jury as ex post facto. 31 L.R.A. (N.S.) 820.

Repeal of statute excluding evidence dis-covered or obtained by judicial proceed-ings against accused. 37 L.R.A.(N.S.)

Constitutionality of statute providing for increased punishment because of prior conviction. 34 L.R.A. 399.

#### IV. Retroactive statutes.

8. Generally.

§ 8. Generally. What statutes are retroactive, see STAT-UTES, § 28.

Constitutionality of laws charging the expense of police regulations on the business to be regulated. 16 L.R.A. 380.

Constitutionality of retroactive statute creating right of action or of setoff on account of past acts or transactions. 52 L.R.A. 934.

Power to impose succession tax retrospectively. 33 L.R.A.(N.S.) 602.

Retrospective statute prescribing grounds of divorce. L.R.A.1917C, 160.

Statute passed after final decree of divorce to enable court to modify decree so as to provide for maintenance of children. L.R.A.1917D, 333.

CONSTITUTIONAL LAW, IV .-- cont'd

§ 9. Curative acts.

Statutes legalizing invalid municipal contracts, see MUNICIPAL CORPORATIONS,

Curative act as special legislation. 5 L.R.A.(N.S.) 327; 22 L.R.A.(N.S.) 534; 42 L.R.A.(N.S.) 465.

Curing constitutional defect in prior statute. 1 L.R.A.(N.S.) 431.

Power to cure unconstitutional statute by amendment. 60 L.R.A. 564.

Validation of unconstitutional statute by constitutional amendment. 38 L.R.A. (N.S.) 77.

Validation of municipal act judicially declared invalid as invasion of powers of judiciary. L.R.A.1917E, 827.

Constitutionality of statutes curing defect-ive acknowledgments of conveyances of real property. 31 L.R.A.(N.S.) 1076.

Curative act relieving officer from lia-bility for loss of funds deposited in bank. 36 L.R.A.(N.S.) 294.

Curative statutes for purpose of curing statutory defects in map or plat. 42 L.R.A.(N.S.) 591.

What provision for notice under curative act is necessary to due process of law in tax proceedings. L.R.A.1916E, 38.

10. — acts legalizing contracts. Constitutionality of statute legalizing invalid private contract. L.R.A. 379.

Statutes legalizing municipal contract. L.R.A. 696.

## V. Delegation of powers.

11. Generally.

Relation of courts to other departments, see

COURTS, §§ 14-18.

By municipality, see MUNICIPAL CORPORA-TIONS, § 18.

Power to fix tolls, rates, and prices. L.R.A. 182.

Power to compel prisoner to labor. L.R.A. 603.

Delegation of legislative power to regulate internal management of corporations. 10 L.R.A. (N.S.) 251.

By primary election law. 22 L.R.A. (N.S.) 1146; L.R.A.1917A, 264.

Delegation of power to determine place of confinement of prisoners committed for crime. 42 L.R.A.(N.S.) 978.

Power to receive verdict in a criminal case. L.R.A.1917E, 1090.

Power of legislature to delegate power to appoint judges. L.R.A.1916E, 848.

Delegation of power as to regulations in regard to infected animals. 43 L.R.A. (N.S.) 1068.

Delegation of power as to regulations concerning care or improvement of cemetery lots. L.R.A.1915E, 168.

§ 12. To people.

Power of legislature to make a statute contingent on approval by a vote of the people. 23 L.R.A. 113.

CONSTITUTIONAL LAW, V.—cont'd Initiative and referendum. 11 L.R.A. (N.S.) 1092; 33 L.R.A.(N.S.) 969; 50 L.R.A.(N.S.) 197; L.R.A.1917B, 15.

Validity of local option laws and submissions to popular vote. 15 L.R.A. (N.S.) 942.

§ 13. To commission.

Power of legislature to delegate to commission the right to fix rates to be charged by a public service corporation. 18 L.R.A.(N.S.) 713.

Constitutionality of commission form of government as against objection to delegation of legislative power to municipalities. 35 L.R.A.(N.S.) 802; 51 L.R.A.(N.S.) 632.

Workmen's compensation act as illegal delegation of power. L.R.A.1916A, 425; L.R.A.1917D, 55.

Statute establishing fund for bonding of public officials. L.R.A.1918B, 179.

§ 14. To civil service commissioners. Legislative power. 34 L.R.A.(N.S.) 481. Judicial power. 34 L.R.A.(N.S.) 481.

§ 15. To local authorities and boards. Delegation of power by municipality, see MUNICIPAL CORPORATIONS, § 18.

Delegation of legislative power to county board of supervisors. 16 L.R.A. 161. Power of the legislature to delegate to a

municipality authority to form or amend its charter. 43 L.R.A.(N.S.) 339.

Statutes conferring powers upon municipalities or counties in respect to their officers as a delegation of legislative

power. L.R.A.1916D, 921.

To legislate on subjects covered by state laws. 1 L.R.A.(N.S.) 382.

As to local option law. 1 L.R.A.(N.S.) 483.

To what boards or bodies may power of taxation be delegated. 15 L.R.A. (N.S.) 61; 32 L.R.A.(N.S.) 1078.

Authority of legislature to make punishable, failure to comply with rule of health board. 6 L.R.A.(N.S.) 143.

16. To courts or judges.

May appointment of municipal officers be

constitutionally delegated to courts or judges thereof. 19 L.R.A.(N.S.) 579.

Constitutionality of succession taxes with respect to jurisdiction of probate courts. 33 L.R.A.(N.S.) 600.

Validity of statute establishing courts for juvenile offenders. 3 L.R.A.(N.S.) 564;
45 L.R.A.(N.S.) 210

45 L.R.A.(N.S.) 910.

Delegation to judiciary of investigation of election frauds. L.R.A.1917D, 1046.

17. As to railroads and carriers. To apportion liability for cost of abolishing grade crossing. 26 L.R.A. 94.
Consult also L.R.A. Digests of Cases.

CONSTITUTIONAL LAW, V.—cont'd Delegability of power to compel railroads to fence tracks. 31 L.R.A.(N.S.) 867.

By legislature of power to fix tolls, rates, or prices. 33 L.R.A. 182.

Delegation by legislature of power to regulate carriers. 32 L.R.A.(N.S.) 639.

## VI. Separation of powers.

18. Generally.

Relation of courts to other departments of government, see Courts, III.

By commission form of government. 35 L.R.A. (N.S.) 802; 51 L.R.A. (N.S.) 632. Initiative and referendum. 11 L.R.A. (N.S.) 1092; 33 L.R.A. (N.S.) 969; 50 L.R.A. (N.S.) 197; L.R.A.1917B, 15.

Right of executive officer to fix date of execution in a capital case. 14 L.R.A.

(N.S.) 268.

The Torrens Law as devolving executive duties upon court. L.R.A.1916D, 21.

§ 19. Usurpation of power by courts. Power of courts generally, see Courts. Relation of courts to other departments, see COURTS, §§ 14-18.

Constitutional power of courts or judges to appoint officers. 16 L.R.A. 737.

Power of judiciary to fix rates to be charged by public service corporation. 8 L.R.A. (N.S.) 529.

Judicial power over the right of eminent domain. 22 L.R.A.(N.S.) 1.

May judges of municipal or police courts be vested or burdened with powers or duties of a nonjudicial character. 19 L.R.A. (N.S.) 615.

Power of legislature to impose upon judges the duty to assist in drawing jurors. 23 L.R.A.(N.S.) 1115.

§ 20. Encroachment on judicial power. Power of legislature to abridge power of court to punish for contempt, see Con-**TEMPT, § 12.** 

By the Torrens Law, L.R.A.1916D, 21. Statute creating prima facie rule of evidence for criminal cases as encroachment upon judicial power. 1915C, 727.

Statute requiring county or municipality to pay a claim against it as an invasion of powers of judiciary. L.R.A. 1917E, 827.

Legislative divorce as conflicting with judicial power. 18 L.R.A. 95.

Legislative authority to abridge power of courts to punish for contempt. 36 L.R.A. 254.

Power of legislature to prescribe the qualifications of attorneys. 10 L.R.A. (N.S.) 289.

CONSTITUTIONAL LAW, VI.—cont'd Constitutionality of statute requiring husband, upon conviction of abandonment, to provide for support of wife or family. 23 L.R.A. (N.S.) 854.

Permitting chancery to set aside a verdict upon an issue directed by it to a law court as an unconstitutional infringement upon the latter's powers. L.R.A.(N.S.) 866.

## VII. Local self-government.

§ 20a. Generally.

Local self-government in Rhode Island. 50 L.R.A. 330.

Right of local self-government; legislative regulation of municipal officers. 1 L.R.A. (N.S.) 512.

Right of state to control municipal fire department. 15 L.R.A. (N.S.) 575.

Power of the legislature to impose burdens upon municipalities and to control their local administration and property. 48 L.R.A. 465.

Power to impose burdens. 48 L.R.A. 467.

Compelling payment of nonlegal demands. 48 L.R.A. 473; L.R.A. 1915D, 927.

Power in respect to officers and local

administration. 48 L.R.A. 479.

Power in respect to property and franchises. 48 L.R.A. 485.

Statute establishing juvenile court as interfering with right of local self-gov-ernment. 45 L.R.A.(N.S.) 909.

## VIII. Republican form of government.

21. Generally.

Initiative and referendum as violation of guaranty of. 50 L.R.A.(N.S.) 197; L.R.A.1917B, 17.

Commission form of government as infringement of guaranty of. 41 L.R.A. (N.S.) 112; 51 L.R.A. (N.S.) 632.

## IX. Rights of persons and property.

## a. In general.

21a. Generally.

Right to bear arms, see CARRYING WEAPONS. Right to jury trial, see JURY, §§ 3-7.

Protection of private rights from interference by public. 18 L.R.A. 543. Decision against constitutional right as a

nullity subject to collateral attack. 39 L.R.A. 449.

Right to enjoin acts under unconstitutional statute as affected by other remedies in case such acts are done. 8 L.R.A. (N.S.) 124.

#### b. Privileges and immunities; equal protection.

3 22. Generally.

Equal protection and privileges as to par- Discrimination between residents of city ticular matters, see infra, IX. k. Civil rights, see CIVIL RIGHTS.

Begin with this book on every law question.

CONSTITUTIONAL LAW, IX. b—cont'd As to general or special legislation, see STATUTES, §§ 15-18.

Equal privileges and immunities. 14 L.R.A. 579.

Unjust discrimination. 14 L.R.A. 585.

As to attorneys' fees. 14 L.R.A. 586. Class legislation restricting contracts in business. 21 L.R.A. 790.

Consideration by Federal Supreme Court of questions relating to equal protection in reviewing judgment of state court. 63 L.R.A. 581.

Question relating to equal protection as Federal question. 62 L.R.A. 531.

Validity and enforceability of contract or covenant in relation to real property which discriminates against persons because of race, color, or religion. L.R.A.1916B, 1208.

#### c. Due process of law.

§ 23. Generally.

Due process of law as to particular mat-ters, see infra, IX. k.

As affecting commerce, see COMMERCE.

Denial of, making judgment void. 39 L.R.A. 449.

As a Federal question. 62 L.R.A. 530. Continuance of constitutional guaranties

during war or insurrection. 45 L.R.A. (N.S.) 996.

Due process in arrest and imprisonment of a citizen of Mexico suspected of organizing in the United States military against Mexico. L.R.A. expedition 1917A, 281.

#### d. Police power.

23a. Generally.

Police power as to particular matters, see-infra, IX. k.

Equal protection as to matters within police power. 14 L.R.A. 584.

Municipal police power over railroads in public streets. 70 L.R.A. 851.

Games or amusements which are proper subjects for exercise of police power. L.R.A.1917E, 318.

#### e. Restrictions on contracts and business.

24. Generally.

Restrictions as to particular kinds of business, see infra, IX. k, 1.

Restrictions as to contracts with employees. see infra, §§ 82-87.

Constitutionality of statutes restricting contracts and business. 21 L.R.A. 789.

Constitutionality of statute forbidding contracts ousting jurisdiction of court. 48 L.R.A. (N.S.) 855.

Validity of public restrictions as to location of mercantile business. 49 L.R.A. (N.S.) 438; L.R.A.1917F, 1060.

and other residents of state. 16 L.R.A. 49.

CONSTITUTIONAL LAW, IX. e—cont'd Power to prohibit stipulation forbidding purchaser to handle goods of other dealers. 11 L.R.A.(N.S.) 968.

Police regulations of business in which patents are used. 29 L.R.A. 791.

### f. Property rights.

§ 25. Generally.

Property rights to particular matters, see also infra, IX. k.

Right to compensation for private property taken for public use, see EMINENT DOMAIN, §§ 45-53.

Equal privileges and immunities as to property rights. 14 L.R.A. 582.

Equal protection as to property. 14 L.R.A.

Power to make use of property for particular purposes, or in a particular manner, conditional upon consent of neighbors. 8 L.R.A.(N.S.) 978.

Constitutionality of the Torrens Law, L.R.A.1916D, 15.

Statutes infringing freedom to deal with one's property, enacted in order to prevent larceny. L.R.A.1915B, 213.

Validity of statute providing for removal of covenant restrictions on use of land. L.R.A.1918B, 61.

§ 26. Contingent interests.

Legislative power to defeat contingent interests in property. 19 L.R.A. 247.

Power of legislatures to change or destroy estates by dower, curtesy, or similar estates. 19 L.R.A. 256.

§ 27. Disposal of private property. Constitutionality of private statutes to authorize. 16 L.R.A. 251.

§ 28. — power of husband as to. Power of legislature to restrict husband's right to alienate or encumber community property. 36 L.R.A. (N.S.) 1040.

Power of legislature to take away husband's right to convey or encumber homestead property. 36 L.R.A.(N.S.) 1029.

#### g. Vested rights.

29. Generally.

Impairment of obligations of contract, see infra, IX. j.

In statute of limitations, see LIMITATION OF ACTIONS, § 3.

Of original beneficiary in life insurance. L.R.A.1918F, 311.

Of injured employee or of his dependents in right to compensation under Workmen's Compensation Act. L.R.A.1917D, 166.

Exemptions of firemen from jury or militia duty as. 8 L.R.A.(N.S.) 498.

Effect of constitutional provision asserting title to navigable water on vested riparian rights. 6 L.R.A.(N.S.) 257.

Increase in proportion of tax or assessment imposed on property as impairment of vested rights. S. L.R.A. (N.S.) 546.

Consult also L.R.A. Digests of Cases.

CONSTITUTIONAL LAW, IX. g—cont'd License to engage in profession or occupation as creating a vested right to continue in same. 8 L.R.A.(N.S.) 1272.

Question relating to vested water rights as Federal question. 62 L.R.A. 537.

§ 29a. In pension.

Military pension. 50 L.R.A.(N.S.) 1018. Firemen's and policemen's pensions. 50 L.R.A.(N.S.) 1019.

Provision for officer's family. 50 L.R.A. (N.S.) 1021.

School teachers' pensions. 50 L.R.A.(N.S.) 1021.

h. Freedom of speech, press, and worship.

§ 29b. Generally.

Requiring employer to furnish discharged employee with statement of cause of his discharge as violation of. L.R.A.1917B, 1115.

Constitutional freedom of speech and press. 32 L.R.A. 829.

As affecting civil service laws. 34 L.R.A. 482.

Invasion, by forbidding mailing of obscene publications. 24 L.R.A. 112.

## i. Guaranties of justice.

§ 29c. Generally.

Statute requiring payment of court fees as a violation of the guaranty of justice. L.R.A.1918B, 150.

j. Impairment of obligation of contracts.

#### 1. In general.

§ 30. Generally.

As to vested rights, see supra, § 29.

Consideration by Federal Supreme Court of questions relating to, in reviewing judgment of state court. 63 L.R.A. 578.

§ 31. Exemptions.

Application to existing judgments of statute abolishing or diminishing exemptions. 25 L.R.A.(N.S.) 189.

§ 32. Taxes and assessments.

Contract as to extent of street railway company's liability for paving assessment. 46 L.R.A. 203.

Corporation taxation as affected by contract clause in Federal Constitution. 60 L.R.A. 33.

Change of law as to effect of tax certificates as evidence of title. 4 L.R.A.(N.S.) 1074.

Constitutionality of succession tax. 33 L.R.A.(N.S.) 592; 50 L.R.A.(N.S.) 994.

§ 88. Miscellaneous.

Nullification or breach of state contract as impairment of obligation of contract. 45 L.R.A.(N.S.) 721.

Constitutionality of statute forbidding change of beneficiary in insurance policy. 49 L.R.A.(N.S.) 487.

CONSTITUTIANAL LAW, IX. j, 1—cont'd | CONSTITUTIONAL LAW, IX. j, 3—cont'd Impairment of third person's rights on legalizing invalid private contract. 22 L.R.A. 385.

Contract exemptions against power of legislature to fix tolls, rates or price. 33 L.R.A. 186.

Right to reduce rates of public service corporation fixed by franchise or charter. L.R.A.1915C, 261.

Effect of contract with patrons to preclude regulation of rates of public service corporations. L.R.A.1915C, 282.

By police regulation of electric companies. 31 L.R.A. 804.

Power of municipality to prevent laying an additional track under a franchise to lay double tracks. 36 L.R.A. (N.S.) 850.

Statute extending mortgagor's right of possession on foreclosure of pre-existing mortgages. 31 L.R.A. 721.

Statute limiting hours of labor. 65 L.R.A. 42.

Statute regulating time of payment of wages. 51 L.R.A.(N.S.) 1097.

Impairment of contract obligations by workmen's compensation act. L.R.A.1916A,

426; L.R.A.1917D, 56. Effect of legislation limiting cost of new insurance on existing contracts with agents. 19 L.R.A. (N.S.) 946.

Right under reserved power to amend or repeal charter of corporation to change the rights of stockholders as to voting the stock. 22 L.R.A.(N.S.) 420.

Alteration of stockholders' liability as impairment of the obligation of contract.

L.R.A.1915B, **797**.

Statutes requiring railroad company to fence tracks and build cattle guards as impairing contract obligation. L.R.A. (N.S.) 866.

Right to prohibit sale of liquors as limited by provision of Federal Constitution against. 15 L.R.A.(N.S.) 929.

## 2. What are contracts.

§ 84. Generally.

Generally. 17 L.R.A. 611.

Change of interest on judgments. 17 L.R.A. 612.

Constitutional provisions as to impairment of obligation. 17 L.R.A. 613.

Obligations created by judgments. 17 L.R.A. 614.

Privilege of using streets as a contract. 50 L.R.A. 142; L.R.A.1918E, 892.

Provision as to rates in franchise or charter of public service corporation as a contract. L.R.A.1915C, 268.

#### 3. As to remedies.

§ 85. Generally.

Effect of statutory declaration that murder committed by certain means or while engaged in commission of felony shall be murder in first degree upon right of jury to pass upon decree. L.R.A.1916D, 610.

§ 36. Limitation of actions.

Reasonableness of period allowed by statute of limitations in respect to existing cause of action. 21 L.R.A.(N.S.) 157.

App'icability to existing contracts of statute avoiding contractual stipulations limiting time for action. 38 L.R.A. (N.S.) 1016.

§ 87. Enforcement of liability of stockholder.

Validity of act changing remedy to enforce stockholder's liability. 3 L.R.A.(N.S.) 954; L.R.A.1915B, 802.

By change of remedy for enforcement of stockholder's liability in foreign jurisdiction. 33 L.R.A. (N.S.) 909.

Impairment of obligation by change of remedy of creditor of corporation against stockholder. 1 L.R.A.(N.S.) 1171.

#### 4. By change in decisions.

§ 38. Generally.

Effect of change of judicial decision to impair the obligation of a contract. L.R.A. 646; 5 L.R.A. (N.S.) 860; 23 L.R.A. (N.S.) 500.

k. Rights on various particular subjects.

1. In general; regulation of business; license.

§ 39. Generally.

As to licenses, generally, see LICENSE, II. Revocation of license, see LICENSE, §§ 17, 18.

Discrimination as to license fees, see LI-CENSE, §§ 46, 46a.

Municipal regulation of business, see Mu-NICIPAL CORPORATIONS, §§ 42-50.

§ 40. Aliens.

Treaty guaranties to alien. 16 L.R.A. 277. Equal protection of rights of aliens. 14 L.R.A. 583.

Power of state, under 14th Amendment to the United States Constitution, to deny to aliens the right to engage in a lawful occupation. 11 L.R.A.(N.S.) 799.

Discrimination against, by statute or ordinance imposing license or occupation tax. 40 L.R.A.(N.S.) 281.

Validity of discrimination against aliens by inheritance tax law as affected by treaties with foreign government. L.R.A.1916A, 474.

41. Amusements. Moving pictures, see infra, § 123.

Power of state to determine location of places of amusement. L.R.A.1916D, 99. Legislation forbidding speculation in theater tickets. L.R.A.1918D, 388.

Games or amusements which are proper subjects for police power. L.R.A.1917E, **3**18.

CONSTITUTIONAL LAW, IX. k, 1—cont'd | CONSTITUTIONAL LAW, IX. k, 1—cont'd

Right to kill dogs under police power. 15 L.R.A. 249; 40 L.R.A. 510; 19 L.R.A. (N.S.) 835; 28 L.R.A. (N.S.) 673; L.R.A.1915C, 360.

Killing of unlicensed dogs as taking property without due process of law. 40 L.R.A. 523.

Constitutionality of statutes authorizing seizure of animals by humane officers. 15 L.R.A.(N.S.) 554.

Validity of statutory regulations as to infected animals. 43 L.R.A. (N.S.) 1066.

Power to require destruction of diseased domestic animals without making com-pensation therefor. 18 L.R.A.(N.S.) 369.

Validity of statute permitting the summary killing of domestic animals other than running at large. 21 L.R.A. (N.S.) 699.

Constitutionality of statute allowing cattle to graze on highway. 33 L.R.A.(N.S.) 1055.

Constitutionality of statutes making railroad companies absolutely liable for damage to stock irrespective of negligence. 35 L.R.A.(N.S.) 1018.

Police power as to dead animals. 38 L.R.A. 330; 48 L.R.A.(N.S.) 979.

Constitutionality of statute or ordinance for prevention of cruelty to animals. L.R.A.1916A, 951.

42a. Army and Navy.

Power of state under Federal Constitution to legislate with respect to Army and

Navy. L.R.A.1918C, 307.

Validity of statute making military service compulsory. 7 B. R. C. 593.

43. Assessments.

Impairment of contract obligations, see supra, § 32.

As to taxes, see infra, §§ 154-157.

Special assessment as a tax. 3 L.R.A. (N.S.) 837.

Power of legislature to make special assessment superior to prior liens. 35 L.R.A. 373: 30 L.R.A. (N.S.) 762.

Assessments for improvements by front-foot rule. 17 L.R.A. 330; 28 L.R.A. (N.S.) 1124: 50 L.R.A.(N.S.) 922; L.R.A.1917D, 372.

Personal liability of property owner to pay assessments for local improvements. 18 L.R.A. (N.S.) 1259; 29 L.R.A. (N.S.) 770.

Selection of interested person to assesss benefits for improvements. 16 L.R.A. (N.S.) 292.

Increase in proportion of assessment imposed on property as impairment of vested rights. 8 L.R.A.(N.S.) 546. Impairment of obligation of contract as to

extent of street railway company's liability for paving assessment. 46 L.R.A. 203.

Landowner's right to notice and hearing of assessment for public improvements. 28 L.R.A.(N.S.) 1201.

Consult also L.R.A. Digests of Cases.

§ 44. Assignments.

Statute restricting assignment of salary or wages. 28 L.R.A.(N.S.) 1108; 43 L.R.A.(N.S.) \( \nabla 46. \)

§ 45. Associations.

Building and loan associations, see infra, § 53.

Corporations, see infra, § 62.

Religious societies, see infra, § 146.

Right to prohibit wearing badge of society by nonmember. 24 L.R.A. (N.S.) 795.

§ 46. Attorneys, compensation and lien of.

Attorneys' fees, see infra, § 180.

Constitutionality of statute requiring an attorney to perform services for the public without L.R.A.(N.S.) 527. remuneration.

Constitutionality of statutes providing for attorneys' liens. 40 L.R.A.(N.S.) 529. Constitutionality of statutes relating to disbarment of attorneys. 44 LR.A.

§ 47. Automobiles.

(N.S.) 1195.

Validity of statute making owner liable for injury by automobile being used by another. 45 L.R.A. (N.S.) 699; L.R.A. 1918A, 918.

Constitutionality of acts regulating speed of automobiles. L.R.A.1918D, 132.

Constitutionality of statutes giving lien on automobile for injuries done by it. L.R.A.1917E, 928.

§ 48. Bakeries.

Power to regulate the location or condition of bakeries. 26 L.R.A.(N.S.) 842.

§ 49. Bankers.

stitutionality of statute prohibiting private banking. 15 L.R.A. 477. Constitutionality

Power to prohibit or regulate banking business by individuals. 5 L.R.A.(N.S.). 874; 25 L.R.A.(N.S.) 1217.

Constitutionality of bank guaranty law. 32 L.R.A. (N.S.) 1065.
Constitutionality of statute authorizing

officer to take charge of assets of bank upon suspicion of insolvency. L.R.A. 1915E, 675.

§ 50. Barbers.

Constitutionality and effect of restrictions on right to practise trade of barber. 40 L.R.A. (N.S.) 629.

§ 51. Bread. See infra, § 118.

§ 51a. Bonds.

Constitutionality of statute establishing fund for bonding of public officials. L.R.A.1918B, 179.

Constitutionality of Blue Sky Laws. L.R.A. 1917F, 524.

CONSTITUTIONAL LAW, IX. k, 1—cont'd | CONSTITUTIONAL LAW, IX. k, 1—cont'd Constitutionality of statute requiring bond to protect laborers and materialmen upon entering into a building contract. L.R.A.1918A, 1199. .

#### § 52. Brokers.

Police power to restrict business in case of ticket brokers. 24 L.R.A. 152.

Power of legislature to prohibit offering another's real estate for sale without written authority. 12 L.R.A. (N.S.) 707.

Power of legislature to require that con-tracts for commissions for finding a purchaser for real estate shall be in

writing. 33 L.R.A.(N.S.) 973.
Constitutionality of Blue Sky Laws. L.R.A. 1917F, 524.

§ 58. Building and loan association. Validity and effect of statute requiring deposit of securities by building and loan association as a prerequisite to the right to transact business. 9 L.R.A. (N.S.) 461.

## 54. Buildings.

Police power over condition of buildings.
16 L.R.A. 400.

Power of municipality to require permit to

limiting height of building. 2: (N.S.) 1160; L.R.A.1918C, 78.

Right of municipality to permit use of public buildings for private purposes. 31 L.R.A.(N.S.) 580.

Constitutionality of statutory regulations as to safety and sanitary conditions of tenement, lodging, and boarding houses. 17 L.R.A.(N.S.) 486.

Constitutionality of party wall statutes. 66 L.R.A. 710.

Validity of public restriction as to location of mercantile business. L.R.A.1917F, 1060.

#### § 55. Bulk sale.

As to construction and effect of "bulk sale" laws, see Fraudulent Conveyances,

Constitutionality of bulk sale legislation. 2 L.R.A.(N.S.) 331; 20 L.R.A.(N.S.) 160; L.R.A.1915E, 917.

## § 56. Carriers.

Governmental regulation of carriers generally, see CARRIERS, V.

Action of public authorities under police power as defense to carrier for delay or nondelivery of freight. 28 L.R.A. (N.S.) 139.

Constitutionality of statute requiring carrier to sell tickets good on connecting line. 42 L.R.A.(N.S.) 541.

Constitutionality of legislation affecting the amount of liability or penalty for delay in delivery, or for destruction, of freight. 20 L.R.A.(N.S.) 126. Constitutionality of statute making bill of lading conclusive proof of receipt of property. 22 L.R.A. (N.S.) 821.

Constitutionality of statute which makes shipper's statement as to weight conclusive. L.R.A.1917E, 1022.

Constitutionality of statute fixing mini-mum rate of speed at which carrier may transport special kinds of freight. 26 L.R.A. (N.S.) 1018; L.R.A.1917C, 142.

Constitutionality of statute imposing penalty or added liability for failure of carrier to pay claim. 42 L.R.A. (N.S.) 106; L.R.A.1917B, 926.

Constitutionality of full crew acts. 49
L.R.A.(N.S.) 978.

Constitutionality of statute requiring unoccupied upper berth to be left closed. L.R.A.1916A, 1189.

### 57. Children. Minor employees, see infra, § 83.

Constitutionality of statute permitting adoption of child without consent of parents. 18 L.R.A.(N.S.) 926.

Validity of statute regulating admission of minors to saloons. 22 L.R.A.(N.S.) 1007.

Restraint on freedom of child as impairment of child's constitutional rights. 18 L.R.A.(N.S.) 886.

Statute authorizing commitment of minors to reformatories without conviction of crime. 16 L.R.A. 691.

Constitutionality of statutes establishing juvenile courts. 45 L.R.A.(N.S.) 908.

## § 58. — after born children.

Divestiture of estates of persons not in being. 8 L.R.A.(N.S.) 49.

# å 59. Civil service laws.

Delegation of legislative power. 34 L.R.A. (N.S.) 481.

Delegation of judicial power. 34 L.R... (N.S.) 481.

Privileges and immunities of citizens. 34 L.R.A.(N.S.) 481.

Free speech and action. 34 L.R.A.(N.S.) 482.

Right of trial by jury. 34 L.R.A.(N.S.) 482.

Penalties. 34 L.R.A.(N.S.) 483. Local and special legislation. 34 L.R.A. (N.S.) 483.

Sufficiency of title. 34 L.R.A. (N.S.) 483. Partial invalidity. 34 L.R.A. (N.S.) 484. Power of appointment. 34 L.R.A. (N.S.)

484.

Tenure of office. 34 L.R.A. (N.S.) 485.

Examination as illegal test. 34 L.R.A. (N.S.) 486. Provision as to fitness. 34 L.R.A.(N.S.)

486.

Validity of statute giving veterans pref-crence in appointment to office. 10 L.R.A. (N.S.) 825. Begin with this book on every law question,

CONSTITUTIONAL LAW, IX. k, 1—cont'd CONSTITUTIONAL LAW, IX. k, 1—cont'd § 60. Conservation of natural re-

sources.

Constitutionality of statute to prevent waste of subterranean waters, natural gas, or oil. L.R.A.1918B, 134.

Constitutionality of legislation restricting or regulating the right to cut timber on private land. 19 L.R.A. (N.S.) 422.

Constitutionality of statutes to prevent waste of subterranean water, natural gas, or oil. 23 L.R.A.(N.S.) 436.

Right of state to forbid exportation of natural resources. 35 L.R.A.(N.S.) 1193.

## § 61. Convict labor.

Constitutional objections to convict labor contracts. L.R.A.1916D, 660.

62. Corporations.

Impairment of obligations of contract as to enforcing liability of stockholders, see supra, § 37.

As to carriers, see supra, § 56.

As to railroad companies, see infra, § 142. As to foreign corporations, see Corpo-RATIONS, XI.

Status of corporations as persons or citizens, see Corporations, §§ 9, 10.

Equal protection as to. 14 L.R.A. 585. Constitutionality of provisions as to bonus stock of corporation. 38 L.R.A. 491.

Constitutionality of retroactive statute creating right of action against private corporation. 52 L.R.A. 938.

Right under reserved power to amend or re-peal charter of corporation to change rights of stockholders as to voting the

stock. 22 L.R.A.(N.S.) 420.

Power of public to determine capacity or suitableness of particular officer, agent, or employee of private corporation, or corporation whose business is affected with a public interest. L.R.A.1915E, 708.

## § 63. Cremation.

Regulations concerning cremation of human bodies. 52 L.R.A.(N.S.) 408.

§ 64. Crops. See infra, § 130.

§ 65. Curtesy.

Power of legislature to change or destroy estates by curtesy. 19 L.R.A. 257.

§ 66. Dentists.

Constitutionality of statute affecting right to practise dentistry of one who has practised in another state. L.R.A. 1915D, 588.

## § 67. Department stores.

Restrictive statutes against stores." 21 L.R.A. 797. "company

Legal restrictions on department stores. 48 L.R.A. 261.

Consult also L.R.A. Digests of Cases.

§ 68. Divorce; alimony.

stitutionality of retroactive statute creating right of action or set-off on Constitutionality account of past acts or transactions as to. 52 L.R.A. 934.

Imprisonment for failure to pay alimony. 17 L.R.A.(N.S.) 1140.

#### § 69. Descent and distribution.

Power to give child under existing adoption, right to inherit from parent or parent's relatives. 35 L.R.A.(N.S.) 216.

§ 70. Destruction of property by mob. Constitutionality of statutes imposing liability for property destroyed by mob. 24 L.R.A. 600; 44 L.R.A. (N.S.) 361.

#### 71. Devestiture of estates.

Devestiture of estates of persons not in being. 8 L.R.A. (N.S.) 49.

# 72. Disbarment.

Of attorney, see supra, § 46.

#### 73. Disorderly houses.

Forfeiture of property found in bawdy-house. 52 L.R.A. (N.S.) 932. Constitutionality of statutes or ordinance against. L.R.A.1917B, 1078.

# 74. Dower.

Power of legislature to change or destroy

estates by dower. 19 L.R.A. 256.

Power of legislature to increase dower right. 17 L.R.A. (N.S.) 319.

#### § 74a. Drains and sewers.

Power to compel connection of property with public sewer. L.R.A.1918C, 258.

## § 75. Elections.

Constitutional right to vote, see Elec-TIONS, I.

Equal privileges and immunities as to right to vote. 14 L.R.A. 580.

Constitutionality of popular elections of United States senators. 41 L.R.A. (N.S.) 140.

Statutes restricting vote of elector to less than all when several officers are to be chosen for same office. 33 L.R.A. 141.

Constitutionality of decision of tie vote by lot. 47 L.Ř.A. 554.

Constitutionality of statute prescribing property qualification on right to vote on establishment of drainage district. 44 L.R.A. (N.S.) 539.

Constitutionality of preferential system of voting. L.R.A.1916B, 939.

Constitutionality of statute requiring voter to vote for all officers. L.R.A.1915B. 402.

#### § 76. — ballots.

Constitutionality of Australian ballot statutes. 16 L.R.A. 754.

Constitutionality of statute for numbering ballots. 8 L.R.A. (N.S.) 888.

Validity of statute as to marking official ballot. 47 L.R.A. 806.

Constitutionality of legislation affecting | Validity of statutes and ordinances for proparty representation on official ballot. 35 L.R.A.(N.S.) 353.

Constitutionality of legislation restricting

candidate to one place on ballot. 37 L.R.A. (N.S.) 825.

Constitutionality of provision limiting names of candidates on official ballot. L.R.A.1915A, 1190.

Constitutionality of statute providing for election of judicial officers by separate ballot. 44 L.R.A.(N.S.) 712.

77. — voting machine.

Use of voting machine as violation of constitutional requirement that all elections shall be by ballot. 7 L.R.A.(N.S.) 621; 24 L.R.A.(N.S.) 188.

3 78. — primary elections.

Constitutionality of primary election laws. 22 L.R.A. (N.S.) 1136; 41 L.R.A. (N.S.) 132; L.R.A.1917A, 259.

Constitutionality of statute imposing fee for filing nominations. L.R.A.1915B, 197.

§ 79. Electric companies.

Police regulation of electric companies. 31 L.R.A. 804.

Privilege of using streets for electric light poles and wires, etc., as a contract. L.R.A.1918E, 907.

80. Elevators.

Validity of regulations concerning. L.R.A. (N.S.) 899.

Legislative power to fix tolls, rates, or prices. 33 L.R.A. 178.

81. Eminent domain.

Constitutionality of statute authorizing taking of more property than is intended to be used to effect public purpose. 46 L.R.A.(N.S.) 1196.

82. Employers and employees.

As to convict labor, see supra, § 61.

As to employment agencies, see infra, § 88. Constitutionality of statutes affecting relation generally, see MASTER AND SERV-ANT, § 10.

Prohibiting or restricting employment of aliens. L.R.A.1916D, 569.

Constitutionality of statute requiring preliminary apprenticeship or experience for railroad employees. L.R.A.1915D, 677.

Who may raise question that employers' liability law involves unconstitutional discrimination. 32 L.R.A. (N.S.) 958. Constitutionality of workmen's compensa-

tion and industrial insurance statutes. L.R.A.1916A, 409; L.R.A.1917D, 51.

Constitutionality of Federal employers' liability act. 47 L.R.A. (N.S.) 38; L.R.A. 1915C, 47.

Validity of statute abrogating fellow-servant rule. 12 L.R.A.(N.S.) 1040; 47 L.R.A.(N.S.) 84.

Constitutionality of statute rendering master liable for injury to servant, irrenegligence. 34 L.R.A. spective of (N.S.) 162.

CONSTITUTIONAL LAW, IX. k, 1-cont'd CONSTITUTIONAL LAW, IX. k, 1-cont'd tection or comfort of street car operatives. 42 L.R.A.(N.S.) 1060.

Constitutionality of full crew acts. L.R.A. (N.S.) 978.

Statute requiring mine owner or operator to furnish wash rooms or similar conveniences for employees. L.R.A.1915B, 420.

Constitutionality of statute requiring one advertising for help during strike to mention its existence. 49 L.R.A.(N.S.)

Constitutionality of statute restricting remedy by injunction in labor disputes. L.R.A.1916F, 836.

Constitutionality of statutes restricting right of employer to discharge employee. L.R.A.1917B, 1122.

Constitutionality of statutes requiring the employer to furnish a discharged employee with a statement of the cause of his discharge. L.R.A.1917B, 1115.

§ 83. - children and women employees.

See Master and Servant, § 12.

§ 84. — affecting right to contract. See MASTER AND SERVANT, § 11.

\$ 85. — hours of labor. See Master and Servant, § 33.

§ 86. — wages. See Master and Servant, §§ 30, 31.

§ 87. — labor organizations.

Constitutionality of statutes forbidding employer to exact an agreement from employee not to join labor union. 7 L.R.A. (N.S.) 282; L.R.A.1915C, 960.

Right of municipality or other public body to discriminate in favor of organized labor. 23 L.R.A. (N.S.) 815; 52 L.R.A. (N.S.) 728.

Exempting wage earners from anti-trust laws. 52 L.R.A.(N.S.) 525.

Constitutionality of statute restricting remedy by injunction in labor disputes.

L.R.A.1916F, 836. Constitutionality of statutes for protection of union labels. 39 L.R.A.(N.S.) 1199. Validity of statute or ordinance against

picketing. L.R.A.1918C, 282.

88. Employment agencies.

Police power to license employment agencies. 2 L.R.A. (N.S.) 859; 21 L.R.A. (N.S.) 263; L.R.A.1916E, 1150.

Constitutionality of statute forbidding taking of fee for securing employment for another. L.R.A.1917B, 1280.

§ 89. Esthetics.

Exercise of police power for esthetic purposes. 34 L.R.A.(N.S.) 998; L.R.A. 1917A, 1220.

§ 90. Exemptions.

Application to existing judgments of stat-ute abolishing or diminishing exemptions. 25 L.K.A.(N.S.) 189.

§ 91. Firemen.

Validity of law imposing tax on insurance! Validity of regulations as to milk. L.R.A. companies for benefit of firemen. 13 L.R.A.(N.S.) 1147.

§ 92. Fish and game laws.

Legislative grants of right to fish. 60 L.R.A. 490.

Constitutionality of governmental control over right of fishery. 39 L.R.A. 591.

Prohibition or regulation of fishing over private land. L.R.A. 1916E, 523.

Extension of regulation as to shell fishing, to private bed. 12 L.R.A.(N.S.) 869; L.R.A.1918E, 111.

Confiscation of nets found in illegal use. 3 L.R.A.(N.S.) 997.

Statutory prohibition of pollution of water to protect fishery. 34 L.R.A. (N.S.) 286.

Discrimination as to waters in legislation restricting or regulating fishing rights. 41 L.R.A.(N.S.) 469.

What discrimination as to persons is permissible. 26 L.R.A.(N.S.) 794.

Forbidding possession of game during closed season. 3 L.R.A.(N.S.) 163.

Power to prohibit sale, by person lawfully in possession, of game taken within the state. 21 L.R.A. (N.S.) 608.

Constitutionality of the "migratory birds" provision in the act of Congress of March 4, 1913. L.R.A.1915F, 1031.

Constitutionality of game laws as affected by the fact that game protected is destructive of private property. L.R.A. 1918C, 404.

§ 93. Flag.

Statutes against desceration of flag. 7 L.R.A.(N.S.) 1079.

§ 94. Food and drink.

Water supply, sec infra, § 174. Intoxicating liquors, see infra, § 109.

Legislative power to fix tolls, rates, or prices. 33 L.R.A. 181.

Regulation of price of food as valid exercise of the war power. 7 B. R. C. 663

Validity of statute or ordinance for destruction of food products below prescribed standard or unfit for use. 29 L.R.A. (N.S.) 260.

Constitutionality of discriminations in statutory regulations concerning food products. 34 L.R.A.(N.S.) 650.

Validity of regulations as to weight of loaf of bread. 44 L.R.A. (N.S.) 632.

Constitutionality of statutes in relation to vinegar. 49 L.R.A. (N.S.) 1206. Regulations affecting ice cream. L.R.A.

1917B, 207.

Constitutionality of statute requiring announcement that article is imported. L.R.A.1916E, 1186.

Power to prescribe the manner or method of determining quantity or amount of commodity. L.R.A.1916E, 379.

Consult also L.R.A. Digests of Cases.

CONSTITUTIONAL LAW, IX. k, 1—cont'd CONSTITUTIONAL LAW, IX. k, 1—cont'd § 95. — milk.

1917C, 243.

Discriminations. 34 L.R.A. (N.S.) 650; L.R.A.1917C, 244.

Requiring license. 1 L.R.A. (N.S.) 936; 27 L.R.A. (N.S.) 1151; L.R.A. 1917C, 245.

Regulations affecting quality. L.R.A. 1917C, 246.

Prescribing standard. 1 L.R.A. (N.S.) 918; L.R.A.1917C, 246. Destruction of milk below stand-

ard. L.R.A.1917C, 247. Adulteration. 1 L.R.A. (N.S.)

928; L.R.A.1917C, 248.
Tests or analyses. 1 L.R.A.(N.S.)
926; L.R.A.1917C, 249.

Regulations affecting the handling or transportation of milk. L.R.A. 1917C, 250.

Prohibiting sale of milk except in bottles. 33 L.R.A.(N.S.) 401; L.R.A.1917C, 252.

Regulations as to herds. L.R.A.1917C. **253**.

Infected milch cattle and tuber-culin test. 43 L.R.A.(N.S.) 1072; L.R.A.1917C, 254.

Food for milch cows. 1 L.R.A. (N.S.) 932.

Requiring that samples of milk be given to inspectors. L.R.A.1917C, 256. Inspection fees. L.R.A.1917C, 256.

§ 96. — soft drinks. See Intoxicating Liquors, § 4.

§ 97. Gambling device.

Gambling device as property within constitutional protection. 12 L.R.A. (N.S.)

§ 98. Game laws. See supra, § 92.

§ 99. Garage. Prohibition or regulation of. L.R.A.1915D, 603.

§ 100. Gas.

Privilege of using streets for gas pipes as a contract within rule against impairing obligation of contracts. 50 L.R.A. 146; L.R.A.1918E, 908.

Validity of statute or ordinance making property or property owner liable for light furnished tenant. L.R.A.1918D, **364.** 

§ 101. Habitual drunkards. See infra, § 106.

. . . . . .

§ 102. Health.

Protection of health of employees. 32 L.R.A. 853.

Power of health authority to require alteration on private property in a particular manner to abate nuisance endangering public health. 24 L.R.A. (N.S.) 241. CONSTITUTIONAL LAW, IX. k, 1—cont'd Constitutionality of laws prohibiting carrying on of employments or occupations upon certain premises. 44 L.R.A. (N.S.) 46.

Prohibition or regulation of the manufacture, sale, or importation of tobacco. L.R.A.1918B, 988.

§ 103. Highways.

As to automobiles, see supra, § 47. Regulation of use of jitney busses on, see infra, § 110.

State or municipal regulations affecting those engaged in handling United States mails. L.R.A.1918C, 940.

Power of municipality to prohibit loitering on public street. 15 L.R.A.(N.S.) 973. Validity of enactments restricting use of highways by bicyclists. 47 L.R.A. 290. Privilege of using streets as a contract. 50 L.R.A.142; L.R.A.1918E, 892.

Validity of statutes or ordinances regulating horse drawn vehicles in city streets. 31 L.R.A.(N.S.) 682.

Constitutionality of statute allowing cattle to graze on highway. 33 L.R.A.(N.S.) 1055.

Forbidding or restricting teaming on certain public ways. 51 L.R.A. (N.S.) 1203.

Compelling occupant or owner of property bordering on public street to remove snow and ice from sidewalks. L.R.A. 1918D, 1019.

Power to require railroad to construct sidewalk across its tracks or right of way. L.R.A.1918D, 1157.

§ 104. Horse racing.

Power of state to prohibit or regulate horse racing. 25 L.R.A.(N.S.) 905.

§ 105. Imported articles.

Constitutionality of statute requiring announcement that article is imported. L.R.A.1916E, 1186.

§ 106. Inebriates.

Validity of statute providing for governmental assistance of. 7 L.R.A.(N.S.) 1196.
Validity of statute providing for commitment of inebriates, without their consent, to private or public institution.
17 L.R.A.(N.S.) 984.

\$ 106a. Incompetent persons.

Power of state to make estate of person committed to insane asylum, or his relatives, liable for cost of his maintenance therein. 24 L.R.A.(N.S.) 295.

§ 107. Insurance.

Fire insurance as a business affected by public interest. 29 L.R.A.(N.S.) 1195; L.R.A.1915C, 1189.

Power of legislature to regulate life insurance rates. 37 L.R.A. (N.S.) 778.

Constitutionality of compulsory industrial § 11 insurance. 37 L.R.A.(N.S.) 466. See a Begin with this book on every law question.

CONSTITUTIONAL LAW, IX. k, 1—cont'd Validity of law imposing tax on insurance companies for benefit of firemen. 13 L.R.A.(N.S.) 1147.

Power of legislature to forbid defense of suicide in life insurance. 31 L.R.A.

(N.S.) 831.

Effect of legislation limiting cost of new insurance on existing contracts with agents. 19 L.R.A.(N.S.) 946.

Constitutionality of statute denying insurer's right of subrogation against person responsible for destruction of property. 41 L.R.A.(N.S.) 1202.

§ 108. Interest; usury.

Constitutionality of statutory discrimination as to interest rates. 2 L.R.A. (N.S.) 813; 27 L.R.A.(N.S.) 898. Impairment of obligation of contracts by

Impairment of obligation of contracts by change of interest on judgments. 17 L.R.A. 612.

Constitutionality of statutes exempting building and loan associations from general usury laws. 26 L.R.A.(N.S.) 1135.

Power of legislature to restrict fees in connection with loans. 11 L.R.A.(N.S.) 175.

Power to make taking of usury a criminal offense. 3 L.R.A. (N.S.) 530.

§ 109. Intoxicating liquors; saloons. Prohibition and regulation of, generally, see Intoxicating Liquons, §§ 2-8.

Constitutionality of prohibition, see In-TOXICATING LIQUORS, §§ 3, 4.

As to exclusion from saloons, see Intoxicating Liquors, § 6.

Of local option laws, see Intoxicating Liquoss, § 8a.

Of provisions as to licenses, see Intoxicat-

ING LIQUORS, §§ 13a, 14.

As to revocation of license, see INTOXICATING LIQUORS, § 15a.

§ 110. Jitney buses.

Constitutionality of regulation of jitney buses. L.R.A.1915F, 842; L.R.A.1918B, 912; L.R.A.1918F, 475.

§ 111. Junk dealers, etc.

Municipal control over, see MUNICIPAL CORPORATIONS, § 28.

Power to regulate traffic in rags, secondhand articles and junk. 32 L.R.A. 116; 24 L.R.A.(N.S.) 1168.

Statute making receiving of certain kinds of property a criminal offense. L.R.A. 1917F, 709.

Validity of statute making possession of certain marked articles presumptive evidence of unlawful traffic therein. L.R.A.1915C, 734.

§ 112. Juvenile offenders. See supra, § 57.

§ 113. Labels.

Police regulations as to branding or labeling articles of commerce. 1 L.R.A. (N.S.) 184: 17 L.R.A.(N.S.) 684.

§ 113a. Labor organizations. See supra, § 87. CONSTITUTIONAL LAW, IX. k, 1—cont'd | CONSTITUTIONAL LAW, IX. k, 1—cont'd § 114. Liens.

Mechanics' liens, see infra, § 120.

Constitutionality of statute making license, occupation, or privilege tax a lien on real property owned by one other than person assessed. 20 L.R.A.(N.S.) 42.

Validity of statute or ordinance making property or property owner liable for water or light furnished tenant. water L.R.A.1918D, 364.

Constitutionality of statutes giving lien on automobile for injuries done by it. L.R.A.1917E, 928.

115. Lights.

Validity of statute holding property of owner liable for light furnished tenant. 6 L.R.A.(N.S.) 198; L.R.A.1918D, 364.

Privilege of using street for electric light poles and wires as a contract within rule against impairing obligation. 50 L.R.A. 147.

116. Logs.

Legislative power to fix tolls, rates, or prices for care or salvage of logs. 33 L.R.A. 182.

£ 117. Low lands.

Power to fill low lands at expense of owner. 30 L.R.A.(N.S.) 709.

118. Marriage.

Power to torbid marriage. 2 L.R.A. (N.S.) 531; 52 L.R.A.(N.S.) 778.

119. Master and servant. See supra, §§ 82\_87.

120. Mechanics' liens. See MECHANICS' LIENS, §§ 2, 3.

121. Money lenders.

Validity of statute or ordinance requiring persons engaged in the business of loaning money on chattel security or se-curity of wages to file a record of loans made. 25 L.R.A.(N.S.) 686.

Validity of legislation respecting lenders of money based upon classification relating to the nature of the security taken. 11

L.R.A. (N.S.) 635.

Validity of license upon business of lending money as affected by excessive amount of the license fee. 25 L.R.A.(N.S.) 583.

122. Mortgages.

Statute extending mortgagor's right of possession on foreclosure of pre-existing mortgages as impairing obligation of contracts. 31 L.R.A. 721.

123. Moving pictures.

Constitutionality of moving picture censor-ship acts, L.R.A.1916C, 228.

Power of state to determine location of. L.R.A.1916D, 99.

Consult also L.R.A. Digests of Cases. 16

§ 124. Municipal corporations; coun-

Delegation of power to municipality, see supra, § 15.

Local self-government of municipalities, see supra, § 21.

Constitutionality of commission form of government for municipalities. L.R.A. (N.S.) 111; 51 L.R.A. (N 41 L.R.A. (N.S.) 111; 51 L.R.A. (N.S.) 632; L.R.A.1917A, 1260.

Vested right of municipal corporation in defense of statute of limitations. L.R.A.(N.S.) 1188.

Constitutionality of retroactive statute creating right of action against. 52 L.R.A. 940.

Power of legislature to require municipality to pension employees. 34 L.R.A. (N.S.) 608.

Power of legislature to impose burdens upon municipalities and to control their local administration and prop-48 L.R.A. 465.

Power of legislature to compel payment by municipal corporations of nonlegal demands. 48 L.R.A. 473; L.R.A.1915D,

Authority of legislature to remove municipality from trusteeship. 13 L.R.A. 217;\* 16 L.R.A. 695.

Constitutionality of legislation relieving municipalities, counties, or towns, from liability for defects in highway, street, or sidewalk. 42 L.R.A.(N.S.) 493.

Power to authorize counties or other political divisions to build or acquire railroad or street railway as affected by limitations or restrictions on power to aid private enterprises. 28 L.R.A. (N.S.) 412.

125. — annexation to.

Extending boundaries of municipality. 27 L.R.A. 741.

Annexation of territory to municipality as taking property without due process of law. 27 L.R.A. 741.

Discrimination between resident or property owner within a territory annexed as to right to defend against annexation to municipality. 17 L.R.A. (N.S.) 421.

§ 126. Natural resources. Conservation of, see supra, § 60.

127. Nonresidents. Aliens, see supra, § 40.

Discrimination in favor of residents in transfer of property out of state by bankruptcy or insolvency proceedings. 23 L.R.A. 37.

Discrimination against, in imposing license or occupation tax. 16 L.R.A. 49; 40 L.R.A.(N.S.) 279.

Discrimination between resident and nonresident creditors of insolvent. L.R.A. 354, 368.

CONSTITUTIONAL LAW, IX. k, 1-cont'd CONSTITUTIONAL LAW, IX. k, 1-cont'd Constitutionality of discrimination in statutory regulations as to nonresident dealers in food products. 34 L.R.A. (N.S.) 653.

# § 128. Nuisances.

Municipal control of nuisances, see MUNICI-PAL CORPORATIONS, §§ 34-41.

Municipal authority as defense to liability for nuisance, see NUISANCES, § 27.

Legislative authority as defense to liability for nuisance, see Nuisances, §§ 28, 29.

Constitutionality of statutes expressly granting power to create nuisance. L.R.A.(N.S.) 115.

Power of health authorities to require alteration on private property in particular manner to abate nuisance endangering public health. 24 L.R.A. (N.S.) 241.

#### · § 129. Officers.

As to bonds of, see supra, § 51a. Civil service laws, see supra, § 59.

Equal privileges and immunities as to right to hold office. 14 L.R.A. 580.

Policeman or fireman as an officer within constitutional provisions. 36 L.R.A. (N.S.) 883.

Constitutionality of statute regulating appointment to public office with reference to party affiliation. 27 L.R.A. (N.S.) 720.

Constitutionality of provision for testing election of city officer before city council or other municipal body. 26 L.R.A. (N.S.) 210.

Constitutionality of statute making residence within the district a qualification of a public officer. 32 L.R.A. (N.S.) 835.

Power of legislature to add to or vary the constitutional method of selecting judges. L.R.A.1916E, 834.

Applicability to nonconstitutional officer of constitutional provision against increase of salary of officer during term. 26 L.R.A.(N.S.) 289.

Provision for compensation of additional deputy or assistant as violation of constitutional inhibition of increase of officer's salary during term. L.R.A. 1918C, 561.

Power of legislature to extend term of office beyond that fixed by the constitution. 3 L.R.A.(N.S.) 886; L.R.A.1915C, 378;

Constitutionality of statute releasing public officer or his sureties from liability for loss of public fund. 41 L.R.A. (N.S.) 97.

Constitutionality of commission form of government. 41 L.R.A. (N.S.) 111; 51 L.R.A. (N.S.) 632; L.R.A.1917A, 1260.

Constitutionality of recall of officers. L.R.A. (N.S.) 227; L.R.A.1916D, 1103. Constitutionality of statute providing for removal of officer for drunkenness. 50 L.R.A.(N.S.) 913.

Begin with this book on every law question.

§ 130. Orchards, trees, or crops.
Constitutionality of statutory regulations as to infected orchards, trees, or crops. 43 L.R.A.(N.S.) 1081; L.R.A.1915F, 894.

§ 131. Parks and squares.

Power of legislature to control use to which property taken for purposes of a park or square may be used. 27 L.R.A. (N.S.) 938.

§ 132. Party wall.

Constitutionality of party wall statutes. 67 L.R.A. 710.

# § 133. Patents.

Police regulation of business in which patents are used. 29 L.R.A. 791.

§ 134. Pawnbrokers.

Constitutionality of statute limiting hours of pawnbrokers' business. 44 L.R.A. (N.S.) 1039.

#### § 135. Peddlers: hawkers.

As affected by commerce clause, see Com-MERCE, § 18.

Right to discriminate between harmless articles in legislation regulating peddlers. 21 L.R.A. (N.S.) 349; 35 L.R.A. (N.S.) 1079; L.R.A.1918B, 853.

Validity of ordinance regulating conduct of licensed street hucksters or peddlers.

8 L.R.A. (N.S.) 304.

Validity of license or occupation tax on, hawkers and peddlers and persons engaged in soliciting orders by sample or otherwise. 19 L.R.A.(N.S.) 301 · 28 L.R.A. (N.S.) 265; 35 L.R.A. (N.S.) 1074.

#### 136. Penalties.

Excessive penalty as denial of due process of law. 46 L.R.A.(N.S.) 1039.

Exaction of penalties for acts done under supposed sanction of law as violation of due process of law. L.R.A.1916A, 1211.

# § 137. Plumbers.

Constitutionality of statute requiring plumbers to be licensed. 5 L.R.A. (N.S.) 674; 8 L.R.A. (N.S.) 1116; 27 L.R.A. (N.S.) 283; 50 L.R.A.(N.S.) 421.

# § 138. Poisons.

Constitutionality of statute prohibiting or regulating sale of poisons. 30 L.R.A. (N.S.) 519.

#### 139. Prizes.

Constitutionality of statute requiring prizes or other inducements to attract trade to be paid in cash. 41 L.R.A. (N.S.) 1041.

# 140. Public contracts.

Constitutionality of statutes requiring work incident to public contract to be done in the state or a local division thereof. 41 L.R.A. (N.S.) 711.

CONSTITUTIONAL LAW, IX. k, 1—cont'd CONSTITUTIONAL LAW, IX. k, 1—cont'd

# § 141. Public improvements. Assessments for, see supra, § 43.

§ 141a. Race segregation. Validity of segregation statute or ordinance prohibiting persons of different race or color from living in same locality.

L.R.A.1918C, 220.

§ 142. Railroads. As carriers, see supra, § 56.

Street railways, see infra, § 150.

Power to prevent consolidation of parallel or competing railroads. 45 L.R.A. 272.

Privilege of using streets for railroad tracks as a contract within rule against impairing obligation of contracts. L.R.A. 143; L.R.A.1918E, 904.

Power to require railroad to construct sidewalk across its tracks or right of way. L.R.A.1918D, 1157.

Constitutionality of statutes requiring railroad company to fence tracks and build cattle guards. 31 L.R.A.(N.S.) 861.

Constitutionality of statutes making rail-road companies absolutely liable for damage by fires set out by them or for stock killed by them, irrespective of negligence. 25 L.R.A. 161; 35 L.R.A. 1016.

Power to require railroad to establish or maintain at its own expense an overhead or underground crossing where street was open subsequently to construction of railroad. 28 L.R.A.(N.S.)

Power to authorize counties or other political divisions to build or acquire railroad as affected by limitations or restrictions on power to aid private enterprises. 28 L.R.A.(N.S.) 412.

Constitutionality of statute conferring power of eminent domain on private person or corporation other than railroad company for spur or lateral track. 35 L.R.A.(N.S.) 646.

Constitutionality of statute imposing penalty or added liability for failure to

pay claim. 42 L.R.A.(N.S.) L.R.A.1917B, 929.

\$ 143. Rates of public service corporations.

Regulation of carrier's rates by government, see CARRIERS, V. c.

Regulation of rates of public service corporations generally, see Public Service Corporations, § 2.

Regulation of water rates, see WATERS, § 121.

Legislative power to fix tolls, rates, or prices. 33 L.R.A. 177.

Power of legislature to regulate life insurance rates. 37 L.R.A. (N.S.) 778. Consult also L.R.A. Digests of Cases.

Prohibiting or restricting employment of Kinds of business affected with a public interest subjecting them to regulation and control in respect to rates or prices. 6 L.R.A.(N.S.) 834.

Power of legislature to delegate to commission the right to fix rates to be charged by a public-service corporation. L.R.A.(N.S.) 713.

Power of judiciary to fix rates to be charged by public-service corporations. 8 L.R.A. (N.S.) 529.

State regulation of rates of irrigation company. 12 L.R.A.(N.S.) 711; L.R.A. 1915D, 1205.

Power of equity to regulate charges of public warehouseman. 24 L.R.A.(N.S.) 399.

§ 144. Receptacles.

Legislation to protect manufacturers or dealers against loss of receptacles in which their products are put up. 14 L.R.A.(N.S.) 1128.

§ 145. Records and recording laws. Constitutionality of the Torrens Law. L.R.A. 1916D, 15.

Constitutionality of mortgage registration tax. L.R.A.1916A, 865.

§. 146. Religious societies.

Validity of exemption from liability to succession tax. 50 L.R.A.(N.S.) 992.

å 147. Saloons. See supra, § 109.

§ 148. Schools.

As to use of school funds, see Schools, § 38.

Equal school privileges. 14 L.R.A. 581.

Power to regulate or prohibit private schools. 29 L.R.A.(N.S.) 53.

Validity of statute giving nonresident of school district right to attend school without charge. 24 L.R.A. (N.S.) 1104. Constitutionality of statute providing for

transportation of pupils at public expense. 50 L.R.A. (N.S.) 428.

Constitutionality of Teachers' Pension Law. L.R.A.1918A, 526.

149. Sexual relations.

Equal privileges and immunities as to sexual relations. 14 L.R.A. 580.

§ 150. Street railroads.

Impairment of obligation of contract as to extent of street railway company's liability for paving assessment. 46 L.R.A.

Privilege of using streets for street railway track as a contract within rule against impairing obligation of contracts. 50 L.R.A. 143; L.R.A.1918E, 902.

Power to authorize counties or other political divisions to build or acquire street railway as affected by limitations or restrictions on power to aid private enterprises. 28 L.R.A.(N.S.) 412. CONSTITUTIONAL LAW, IX. k, 1—cont'd CONSTITUTIONAL LAW, IX. k, 1—cont'd § 151. Subways.

Privilege of using streets as subway as a contract within rule against impairing obligation of. 50 L.R.A. 147.

152. Sunday làws.

Constitutionality of Sunday laws. 22 L.R.A.

Validity of classification in Sunday law. 14 L.R.A.(N.S.) 1259; 32 L.R.A.(N.S.) 1190.

Special penalty for violation of Sunday closing act. 15 L.R.A.(N.S.) 646.

§ 153. Support of family.

Constitutionality of statute requiring husband on conviction of abandonment to provide for support of wife or family. 23 L.R.A.(N.S.) 854.

#### § 154. Taxes.

Assessments for public improvements, see supra, § 43.

As to license tax, see LICENSE, II.

Situs of property for purpose of taxation, see TAXES, III.

Taxation of corporations, see Taxes, §§ 11, 33-39, 45, 46, 67.

Purposes for which taxes may be levied, see TAXES, § 13.

Special assessment as tax. 3 L.R.A.(N.S.) 837.

Equal privileges and immunities as to taxation. 14 L.R.A. 583.

What notice is necessary to due process of law in tax proceedings. L.R.A.1916E, 5.

Fees as taxes within constitutional provision relating to taxation. 1 L.R.A. (N.S.)

To what boards or bodies may the power of taxation be delegated. 15 L.R.A. (N.S.) 61; 32 L.R.A.(N.S.) 1078.

Increase in proportion of tax imposed on property as impairment of rights. 8 L.R.A. (N.S.) 546.

Validity of statute subjecting to the doom of the assessor a tax payer who fails to furnish a list of his property. 24 L.R.A.(N.S.) 388.

Constitutionality of specific tax judgments. 32 L.R.A.(N.S.) 179.

Constitutionality of provision for deducting debts from credits or other property. 23 L.R.A. 278.

Constitutionality of statute allowing deduction of only assessed value of real estate in assessing capital stock of corporation. 30 L.R.A.(N.S.) 704.

Power of the legislature to permit appeal to court for purpose of reviewing the amount of a tax assessment. 13 L.R.A. (N.S.) 716; L.R.A.1915B, 875.

Constitutionality of statute giving priority to claims for taxes against assets of debtor. 29 L.R.A. 278.

Change of law as to effect of tax certificates as evidence of title. 4 L.R.A.(N.S.) 1074.

Constitutionality of mortgage registration tax. L.R.A.1916A, 865.

Constitutionality of classification of minerals for purposes of taxation. L.R.A. 1916F, 164.

155. — succession tax.

Constitutionality of succession taxes. 592; 50 L.R.A.(N.S.) L.R.A. (N.S.)

Power to impose retrospectively. 8 L.R.A. (N.S.) 1180; 33 L.R.A.(N.S.) 602. Classification of inheritance or gift, for

purposes of succession tax, on basis of amount. 6 L.R.A.(N.S.) 732.

Inheritance or succession tax on property covered by antecedent power of appointment. 33 L.R.A.(N.S.) 236.

Conflict of state and Federal powers in respect to succession taxes. 33 L.R.A. (N.S.) 600.

Constitutionality of tax or fees as condition of probate. 50 L.R.A.(N.S.) 997.

§ 156. — income tax. Constitutionality of income tax. 27 L.R.A. (N.S.) 864; L.R.A.1915B, 569.

§ 157. - poll tax.

Constitutionality of poll tax as affected by exemptions therefrom. 13 L.R.A. (N.S.) 901.

Power of legislature to compel employer to pay employee's poll tax. 9 L.R.A. (N.S.) 306.

§ 158. Telegraphs and telephones.

Privileges of using streets for telegraph and telephone line as a contract. 50 L.R.A. 146; L.R.A.1918E, 906.

Legislative power to fix rates, tolls, or prices. 33 L.R.A. 181.

Constitutionality of statutes permitting recovery for mental anguish in telegraph cases. 49 L.R.A.(N.S.) 337.

§ 159. Tickets.

Constitutionality of anti-scalping legislation. 3 L.R.A.(N.S.) 558; 4 L.R.A.

(N.S.) 480. Validity of legislation forbidding speculation in theater tickets. 5 L.R.A. (N.S.) 183; L.R.A.1918D, 388.

Power to restrict business in case of ticket brokers.

§ 160. Tobacco.

Constitutionality of prohibition or regulation of manufacture, sale, or importa-tion of tobacco. L.R.A.1918B, 988.

Power to prohibit or restrict use of tobac-co. 51 L.R.A.(N.S.) 562.

\$ 161. Torrens Law. See supra, § 145.

162. Trademarks. Validity of penal statute to protect trademarks. 25 L.R.A.(N.S.) 473.

CONSTITUTIONAL LAW, IX. k, 1—cont'd | CONSTITUTIONAL LAW, IX. k, 1—cont'd § 163. Trading stamps.

Forbidding or regulating use of trading stamps. 2 L.R.A. (N.S.) 588; 7 L.R.A. (N.S.) 1131; 30 L.R.A. (N.S.) 957; 49 L.R.A.(N.S.) 1123; L.R.A.1917A, 433; L.R.A.1918B, 383.

164. Traveling.

Equal privileges and immunities as to. 14 L.R.A. 580.

§ 165. Trees. See supra, § 130.

§ 166. Trusts.

Constitutionality of statute subjecting spendthrift trusts to debts. 40 L.R.A. (N.S.) 1215.

§ 167. Undertakers.

Constitutionality of restriction on business of undertaking. 23 L.R.A. (N.S.) 147.

💲 168. Union labels. See supra, § 87.

🐒 169. Usury See supra, § 108.

§ 170. Vermin.

Constitutionality of statutes or ordinances for extermination of vermin. L.R.A. 1916A, 1239.

171. Vital statistics.

Constitutionality of statutes in relation to vital statistics. 39 L.R.A. (N.S.) 1015.

§ 171a. War.

Internment of naturalized citizens. R. C. 772.

Regulation of price of food as valid exercise of the war power. 7 B. R. C. 663.

§ 172. Warehousemen.

Legislative power to fix tolls, rates, or prices. 33 L.R.A. 178.

Power of equity to regulate charges of public warehouseman. 24 L.R.A.(N.S.) 399.

§ 173. Water rights generally. Laws as to fishing, see supra, § 92.

Legislative authority to dam back water of stream. 59 L.R.A. 823.

Power over right of way on shore. 4 L.R.A. (N.S.) 881.

Effect of constitutional provision asserting title to navigable water upon vested riparian rights. 6 L.R.A.(N.S.) 257.

174. Water supply.

Privilege of using streets for waterpipes and mains as a contract. 50 L.R.A. 145; L.R.A.1918E, 905.

Validity of statute or ordinance holding property owner liable for water furnished tenant. 6 L.R.A. (N.S.) 198; L.R.A.1918D, 364.

Consult also L.R.A. Digests of Cases.

Power to forbid pollution of stream from which municipal water supply is taken. 7 L.R.A.(N.S.) 321; 11 L.R.A.(N.S.) 1164; L.R.A.1918E, 954.

Power of state or health authorities to forbid the use of a polluted water supply. 23 L.R.A.(N.S.) 766.

§ 175. Weeds.

Validity of statutes in relation to noxious weeds. 43 L.R.A.(N.S.) 1090.

176. Weights and measures.

Validity of regulations as to weight of loaf of bread. 44 L.R.A.(N.S.) 632.

Validity of statute or ordinance for the settlement of weights as between buyer and seller by public weigher. 51 L.R.A. (N.S.) 731.

Power to prescribe the manner or method of determining quantity or amount of commodity. L.R.A.1916E, 379.

Power to require weight of package to be indicated upon it. 17 L.R.A. (N.S.) 684.

§ 177. Women.

As employees, see MASTER AND SERVANT, § 12.

Discrimination against women in police regulations. 49 L.R.A. 111.

Power to exclude, from saloons. 18 L.R.A. (N.S.) 657.

Who may raise objection that statute contains unconstitutional discrimination against women. 32 L.R.A.(N.S.) 960.

# 2. Remedies and procedure.

178. Generally.

Equal protection as to courts and proceedings. 14 L.R.A. 585. Equal privileges and immunities as to liti-

gation. 14 L.R.A. 583.

Prisoner's constitutional right to appear unmanacled at the trial. 39 L.R.A. 825.

Change of remedy for enforcing stockhold-er's liability. 1 L.R.A.(N.S.) 1171; 3 L.R.A.(N.S.) 954; 33 L.R.A.(N.S.) 909; L.R.A.1915B, 802.

Constitutionality of statute for enforcement of decree for alimony or for punishment for disobedience thereof. L.R.A.1918F, 424.

Constitutionality of statute forbidding contracts ousting jurisdiction of court. 48 L.R.A.(N.S.) 855.

Constitutionality of statutes permitting recovery for mental anguish in telegraph cases. 49 L.R.A.(N.S.) 337. Constitutionality of statutes restricting

remedy by injunction in labor disputes.

L.R.A.1916F, 836. Constitutionality of discriminations as to jurisdictional requisite of residence in divorce suit. L.R.A.1916A, 710.

Abrogation of defenses and rights of action by Workmen's Compensation scheme. LR.A.1917D, 57.

CONSTITUTIONAL LAW, IX. k, 2—cont'd,

§ 179. Appeal.

Consideration by Federal Supreme Court of questions relating to, in reviewing judgment of state court. 63 L.R.A. 581.

Revival of appeal or writ of error after statute of limitations has run. 45 L.R.A. R14.

Constitutional power of appellate court upon reversing judgment for plaintiff on verdict, to direct a judgment for defendant without remanding case for a new trial. 2 L.R.A.(N.S.) 362.

Constitutionality of statute denying right of appeal from decision of courts in certain classes of cases. 19 L.R.A. (N.S.) 377; 44 L.R.A. (N.S.) 1209.

Power of legislature to permit appeal to court for purpose of reviewing amount of tax assessment. 13 L.R.A. (N.S.) 716; L.R.A.1915B, 875.

Constitutionality of statute giving state right to appeal in criminal case. L.R.A.1915F, 1093.

180. Attorneys' fees.

Unjust discrimination as to attorneys' fees. 14 L.R.A. 586.

Validity of statutory provision for attorneys' fees. 17 L.R.A. (N.S.) 910; L.R.A. 1915E, 943.

Validity of statutory provision for attorneys' fees in proceedings involving collections of taxes or special assessments. 28 L.R.A.(N.S.) 1062.

181. Costs.

Attorneys' fees as element of, see supra, § 149.

Constitutionality of statute authorizing imposition of costs of prosecution on prosecuting witness. 61 L.R.A. 489.

Constitutionality of statute requiring payment of court fees. L.R.A.1918B, 150.

§ 182. Damages.

Constitutionality of statute empowering public service commission or other general board to determine amount of compensation in eminent domain proceedings. 52 L.R.A.(N.S.) 850.

Permitting recovery for mental anguish in telegraph cases. 49 L.R.A. (N.S.) 337.

§ 183. Evidence.

Power of legislature to enact prima facie rules of evidence for criminal cases. L.R.A.(N.S.) 1007; L.R.A.1915C, 717.

Power of legislature to make injury prima facie evidence of negligence. 32 L.R.A. (N.S.) 226.

Constitutionality of statute making bill of lading conclusive proof of the receipt of property. 22 L.R.A.(N.S.) 821. Constitutionality of statute which makes

shipper's statement as to weight conclusive. L.R.A.1917E, 1022.

Power to declare liquor intoxicating irrespective of the fact in that respect. 6 L.R.A. (N.S.) 186.

As to statute making possession of liquor prima facie evidence of illegal intent to violate. 1 L.R.A.(N.S.) 626.

CONSTITUTIONAL LAW, IX. k, 2-cont'd Making weight as found by public weigher conclusive as between buyer and seller. 51 L.R.A.(N.S.) 731.

Establishment of presumptions by Workmen's Compensation Act. L.R.A.1917D,

§ 184. Judgments.

Necessity of notice and hearing, see infra, § 187.

Denial of due process making judgment void. 39 L.R.A. 449.

judgment a contract within provision against impairing obligation of contracts. 17 L.R.A. 611.

Application to existing judgments of stat-ute abolishing or diminishing exemp-tions. 25 L.R.A.(N.S.) 189.

Constitutionality of specific tax upon. 32 L.R.A.(N.S.) 179.

185. Jury; grand jury; verdict. Equal privileges and immunities as to right

to be jurors. 14 L.R.A. 581.

Constitutionality of statute requiring jurors to be taxpayers. 32 L.R.A.(N.S.) 414.

Constitutionality of statute entitling women to serve as jurors. L.R.A.1918E, 773.

Effect of provision that jury shall determine the law and the facts in libel cases. 33 L.R.A.(N.S.) 207; 51 L.R.A.

(N.S.) 369. Power of legislature as to number and agreement of jurors necessary to verdict. 43 L.R.A. 56.

Constitutionality of verdict by less than all the jurors. 24 L.R.A. 272; L.R.A. the jurors. 1917A, 91.

Power of legislature to change number of grand jurors required at common law. 27 L.R.A. 846.

§ 186. Limitation of actions.

Impairment of obligation of contracts as to,. see supra, § 36.
Vested right in defense of limitations, see

LIMITATION OF ACTIONS, § 3.

In general, see Limitation of Actions, § 4.

187. Notice and hearing.

Validity of judgment against parties designated in action as unknown. L.R.A. 1918F, 609.

Necessity of hearing before granting pre-liminary mandatory injunction. 9 L.R.A. (N.S.) 1225.

Right to revoke a license from the public

without. 13 L.R.A.(N.S.) 894. Right to, of one charged with contempt. 10 L.R.A.(N.S.) 1098.

Necessity of providing in statute for notice of hearing on question of damages or compensation in eminent domain proceedings. 4 L.R.A. (N.S.) 169.

Necessity of notice and hearing before mak-ing an assessment for public improve-ment by the front-foot rule. 28 L.R.A. (N.S.) 1201; L.R.A.1917D, 374.

Constitutionality of statutes providing for administration of estate of absentee. 4 L.R.A.(N.S.) 944.

CONSTITUTIONAL LAW, IX. k, 2-cont'd, When may notice of application for appointment of receiver of growing crop be dispensed with. 11 L.R.A. (N.S.) 960.

Necessity of notice to alleged lunatic of lunacy proceedings. 23 L.R.A. 737; 26 L.R.A. (N.S.) 232.

Under the Torrens Law. L.R.A.1916D, 15. Notice of proceedings after jurisdiction has attached as a condition of due process of law. 52 L.R.A.(N.S.) 1161.

Revocation for condition broken of condition pardon or parol without notice or hearing. L.R.A.1915F, 541. What notice is necessary to due process of

law in tax proceedings. L.R.A.1916E, 5.

\$ 188. Notice of injury.

Validity of requirement of written notice of defect to render municipality liable for injuries caused by defective highway. 11 L.R.A.(N.S.) 391.

Constitutionality of requirement of notice of defect or of injuries as a condition of liability for personal injuries. 15 L.R.A.(N.S.) 203.

§ 189. Reference.

Constitutionality of compulsory reference in actions at law. 13 L.R.A.(N.S.) 146.

190. Service of process.

What service of process is sufficient to constitute due process of law. 50 L.R.A. 577:

Validity of personal judgment rendered up, on constructive service of process. 16

L.R.A. 231.

Constructive or substituted service on resident in action in personam as due process of law. 35 L.R.A. (N.S.) 292; L.R.A.1917C, 1143.

Service of process upon foreign corporation not doing business within state, as basis of judgment in personam. 8 L.R.A.(N.S.) 538.

Validity and effect, as against defendant

not personally served within the state, of a judgment in personam against joint debtors. 35 L.R.A. (N.S.) 312.

191. Venue.

Constitutionality of statutes as to venue in action in state court against foreign corporation. 70 L.R.A. 703.

Power of legislature to provide for indict-ment in county or district other than that in which crime is alleged to have been committed. 7 L.R.A. (N.S.) 669; L.R.A.1918F, 965.

Constitutionality of statute permitting change of venue to one party and not to the other. L.R.A.1915F, 920.

Allowing a change of venue on application of the state, or by the court of its own motion. L.R.A.1915F, 922.

192. Witnesses.

Equal privileges and immunities as to right to be witnesses. 14 L.R.A. 581. Equal protection as to witnesses. 14 L.R.A. 584.

Consult also L.R.A. Digests of Cases.

CONSTITUTIONAL LAW, IX. k, 2-cont'd Right of state to require service of witness without compensation. 39 L.R.A. 115. Constitutionality of statute permitting

court to appoint expert witnesses. 33 L.R.A.(N.S.) 917.

Power to regulate or restrict constitutional right of defendant in criminal cases to compulsory process to procure attendance of witnesses in his behalf. 8 L.R.A.(N.S.) 509.

# 8. Criminal matters; imprisonment.

§ 193. Generally.

Ex post facto laws, see supra, § 7.

Matters as to evidence, see supra, § 151. Constitutional guaranty against self-crimination, see CRIMINAL LAW, §§ 49-53.

Municipal power as to crimes under state law, see Criminal Law, § 70.

Continuance of constitutional guaranties during war or insurrection. 45 L.R.A. (N.S.) 996.

Validity of penal statute to protect trade-marks. 25 L.R.A.(N.S.) 473.

Constitutional right of prisoner to appear unmanacled at the trial. 39 L.R.A. 825.

Constitutionality of statute requiring a husband upon conviction of abandonment to provide for support of wife or fam-ily. 23 L.R.A.(N.S.) 854.

Right to take or retain in rogue's gallery picture of one accused of crime before conviction. 7 L.R.A.(N.S.) 274; 23 L.R.A.(N.S.) 739.

Vested right in defense of statute of limitations. 45 L.R.A. 614.

Criminal responsibility for violation of a statute after a judicial ruling that it was unconstitutional, and before that ruling had been changed. 33 L.R.A. (N.S.) 788.

Constitutionality of statutes permitting substitution of copy of lost indictment. 41 L.R.A.(N.S.) 1083.

Power of legislature to provide for indict-ment in county or district other than that in which crime is alleged to have been committed. 7 L.R.A. (N.S.) 669; L.R.A.1918F, 965.

Power to regulate or restrict right of defendant in criminal cases to compulsory process to procure attendance of witnesses. 8 L.R.A. (N.S.) 509.

Constitutionality of statutes making receiving of deposits after bank is insolvent a crime. 22 L.R.A.(N.S.) 266.

Constitutionality of statute making the receiving of certain kinds of property a criminal offense. L.R.A.1917F, 709.

Making failure of one receiving stolen property to inquire as to possessor's right equivalent to guilty knowledge. 46 L.R.A. (N.S.) 31.

Constitutionality of statute making viola-tion of transfer rules established by carrier criminal. 30 L.R.A.(N.S.) 499. Power to make taking of usury a criminal offense. 3 L.R.A. (N.S.) 530.

CONSTITUTIONAL LAW, IX. k, 3—cont'd Constitutionality of statutes imposing criminal liability on master for misconduct of servant. 43 L.R.A.(N.S.) 36.

Statutes infringing freedom to deal with one's property enacted in order to prevent larceny. L.R.A.1915B, 213.

Constitutionality of statutes establishing

juvenile courts. 45 L.R.A.(N.S.) 908. Constitutionality of laws allowing a change of venue on application of the state,

or by the court of its own motion. L.R.A.1915F, 922.

Right to take or retain in rogues' gallery picture of one accused of crime. L.R.A. 1916A, 743.

Statute or ordinance making it an offense to associate with disreputable persons. L.R.A.1917F, 904.

§ 194. Punishment; imprisonment. Imprisonment for debt, see IMPRISONMENT FOR DEBT.

Legislative control of extent of punishment. 35 L.R.A. 562; L.R.A.1915C, 559.

Delegation of power to determine place of confinement of prisoners committed for crime. 42 L.R.A.(N.S.) 978.

Equal protection as to punishment. 14 L.R.A. 584.

Asexualization or sterilization of criminals. 41 L.R.A. (N.S.) 419; L.R.A.1918D, 236.

Constitutionality of statute punishing escape by reimprisonment for term de-pendent upon length of original term. 22 L.R.A. (N.S.) 1123.

Confinement of one acquitted of crime by reason of insanity. 1 L.R.A.(N.S.) 540; 25 L.R.A.(N.S.) 946.

Statute authorizing commitment of minors to reformatories without conviction of

crime. 16 L.R.A. 691.

Enhancing penalty for crimes committed by habitual criminals or prior offenders. 34 L.R.A. 398; 24 L.R.A. (N.S.) 432; 48 L.R.A. (N.S.) 204.

Constitutionality of statutes reducing term of imprisonment for good behavior. 34 L.R.A. 509; 1 L.R.A. (N.S.) 520.

Constitutionality of statutes establishing parol system. L.R.A.1915F, 531. Power to pardon. 34 L.R.A. 251.

Revocation for condition broken of conditional pardon or parol without notice or hearing. L.R.A.1915F, 541.

Constitutionality of restrictions upon governor's pardoning power. L.R.A.1915F, 519.

# CONSTRUCTION.

Of constitution, see CONSTITUTIONAL LAW, §§ 5, 6.

Of contract generally, see Contracts, III.
Of contract limiting carrier's liability, see
Carriers, §§ 28, 29, 91, 128-135.

Of chattel mortgage, see CHATTEL MORT-GAGE, especially §§ 8-12.

CONSTRUCTION-cont'd

Of contracts by corporation, see Corpora-TIONS, V. b.

Of subscription to corporate stock, see Cor-PORATIONS, VIII. b.

Of covenants generally, see COVENANTS, II. Of covenants in lease, see LANDLORD AND TENANT, III. b.

Of deeds, see DEEDS, III.

Of insurance policy, see Insurance, §§ 59-

Of lease, see Landlord and Tenant, § 14.

Of mortgage on land, see MORTGAGE.

Of charter party, see SHIPPING, §§ 17, 18. Of will, see WILLS, V.

Suit to construe will, see WILLS, §§ 130, 131.

Of conditions, see Conditions.

Of corporate charter, see Corporations, §§ 18, 19.

Of corporate by-laws, see Corporations, §§ 20-22.

Of provisions as to courts and their juris- . diction, see Courts.

Of provisions in regard to eminent domain, see Eminent Domain.

provisions as to exemption generally, see EXEMPTIONS.

Of provisions as to exemption of homestead, see HOMESTEAD.

Of provisions as to infants, see INFANTS.

Of license, see Intoxicating Liquors; Li-CENSE.

Of mechanics' liens, and provisions for same, see MECHANICS' LIENS.

municipal ordinance, see MUNICIPAL CORPORATIONS, V. c.

Of provisions for control and regulation of physicians and surgeons, see Physi-CIANS AND SUBGEONS, II.

Of statute, see STATUTES, §§ 19-28. Of railroad, see RAILBOADS, VI.

Of street railway, see STREET RAILWAYS, II.

#### CONSTRUCTION CONTRACTS.

See Building and Construction Con-TRACTS.

# CONSTRUCTION WORK.

As railroad hazard within statute changing fellow-servant rule. 18 L.R.A. (N.S.) 479; 47 L.R.A. (N.S.) 114,

# CONSTRUCTIVE FORCE.

Constituting robbery. 57 L.R.A. 439; 46 L.R.A. (N.S.) 1149; L.R.A.1918E, 938. Carrier's liability for ejection of trespasser

from moving train by. 13 L.R.A. (N.S.) 369.

# CONSTRUCTIVE KNOWLEDGE.

See Notice, § 12.

# CONSTRUCTIVE NOTICE.

In general, see Notice, § 12.

# CONSTRUCTIVE POSSESSION.

Right of one in constructive possession of land to sustain action of trespass quare clausum fregit. 30 L.R.A.(N.S.) **950.** 

# CONSTRUCTIVE SERVICE.

Of process, see WRIT AND PROCESS, §§ 15-19.

#### CONSTRUCTIVE TOTAL LOSS.

See also Insurance, § 173. In general, see Insurance, § 173.

Does a policy of marine insurance against total loss only, or containing an exception against liability for partial loss cover a constructive total loss. L.R.A.1916F, 1171.

# CONSTRUCTIVE TRUSTS.

See TRUSTS, §§ 12, 13.

# · CONSUL.

§ 1. Generally. Injunction against proceedings before. 21 L.R.A. 75.

§ 2. Jurisdiction and powers. Jurisdiction in criminal cases. 45 L.R.A. 481. Jurisdiction in civil cases. 45 L.R.A. 486. Powers of consul in other matters. 45 L.R.A. 496.

§ 3. Exemptions and privileges. Generally. 45 L.R.A. 579. Jurisdiction of civil actions against consuls. 45 L.R.A. 580. Jurisdiction of criminal actions against consuls. 45 L.R.A. 584. Exemption from obligation to appear as a witness. 45 L.R.A. 586. Exemption from taxation. 45 L.R.A. 587. Exemption from military and jury duties. 45 L.R.A. 587. Domicil. 45 L.R.A. 587. Consult also L.R.A. Digests of Cases.

CONSUL—cont'd

Trading with an enemy. 45 L.R.A. 588. Exemption from liability for judicial and other acts. 45 L.R.A. 588.

# CONSULTING PHYSICIAN.

What constitutes a consultation with a physician within the meaning of an application for life insurance. L.R.A.(N.S.) 362.

Does privilege as to communication or information acquired by physician extend to consulting physician. 16 L.R.A. (N.S.) 887; L.R.A.1915F, 891.

# CONSUMER.

Of water, see WATERS, III.

#### CONSUMPTION.

As element of damages for negligent injury. 48 L.R.A.(N.S.) 102.

#### CONTAGIOUS DISEASEL

§ 1. Generally.

Of animal, see ANIMALS, § 17.

Protection against and regulations as to,

see Health, §§ 6-10. Vaccination against smallpox, see Health, **§§** 9, 10.

Hospital for, see Hospitals.

Municipal liability for spread of, see MUNICIPAL CORPORATIONS, § 76.

As to syphilis, see Syphilis.

Isolation of infected persons. 26 L.R.A. **489.** 

Right of carrier to reject persons having contagious disease. 4 L.R.A. (N.S.)

Right of innkeeper to refuse to accept as guest one having contagious disease. 52 L.R.A.(N.S.) 745.

Mental anguish because of exposure to, as element of damages in telegraph cases. 49 L.R.A.(N.S.) 238.

§ 2. Liability as to.

Liability for communicating or exposure to. 19 L.R.A. 725.

Liability of municipal corporations for spreading contagious disease by its method of caring for patients. 13 L.R.A.(N.S.) 1190.

Liability of carrier for contraction of contagious disease by passenger. L.R.A. (N.S.) 337.

Landlord's duty and liability as to premises upon which a contagious disease has existed. 6 L.R.A. (N.S.) 977.

CONTAGIOUS DISEASE-cont'd 30 Infecting premises with, as waste. L.R.A. (N.S.) 474.

§ 3. Epidemics of. Protection of health during, see HEALTH,

§ 7. Power of municipality during, see MUNICI-PAL CORPORATIONS, § 26.

Right of teacher to salary during epidemic. 50 L.R.A. 371.

# CONTAINERS.

Unfair competition in using rival's container for competing product. L.R.A.1915F, 945.

# CONTEMPORANEOUS AGREEMENT.

Parol evidence as to, see EVIDENCE, §§ 162,

As defense to promissory note. 43 L.R.A.

#### CONTEMPT.

I. In general, §§ 1-4. II. What constitutes, §§ 5-9. III. Power to punish for, \$\$ 10-12. IV. Punishment, § 13.

#### I. In general.

1. Generally.

Liability of corporation for, see Corpora-TIONS, § 39.

Holding of witness for contempt during trial as ground for reversal. 43 L.R.A. (N.S.) 844.

Injunction against publication constituting. 32 L.R.A. 273.

Personal liability of judicial officer committing person for contempt. 14 L.R.A. 144; 44 L.R.A.(N.S.) 175.

Criminal responsibility of corporation for. 2 B. R. C. 246.

Punishment as for a contempt as remedy for refusal to permit access to or visitation of children as provided by decree of divorce. L.R.A.1917B, 290.

§ 2. Nature of proceeding to punish

Is proceeding for contempt for violation of an injunction civil or criminal. 13 L.R.A.(N.S.) 591; 34 L.R.A.(N.S.) 874; 42 L.R.A.(N.S.) 793.

Is contempt for violation of an injunction against interfering with another's employees civil or criminal. 13 L.R.A. (N.S.) 598.

CONTEMPT, I.—cont'd § 3. Purging; justification; defenses. Effect of denial under oath to purge one of contempt. 9 L.R.A. (N.S.) criminal contempt. 9 1119; L.R.A.1917E, 654.

Invitation or solicitation to violate injunction, or consent or acquiescence therein, as justification for so doing. 9 L.R.A.(N.S.) 304.

Inability to pay alimony as defense to con-tempt. 30 L.R.A. (N.S.) 1001; L.R.A. 1917C, 97.

Truth as defense to publication, pending trial, of article tending to influence result. 6 L.R.A.(N.S.) 572.

§ 4. Procedure.

Affidavit or complaint in contempt proceedings on information and belief. L.R.A. 1917C, 854.

Right to take judicial notice of decree in proceeding to punish violation of same as contempt. 24 L.R.A.(N.S.) 404.

Validity of statute creating prima facie rule of evidence in contempt cases. L.R.A. 1916C, 736.

Applicability in proceeding to punish criminal contempt of rules of evidence in-criminal cases. L.R.A.1917B, 118.

Necessity of finding facts before adjudging one guilty of contempt. 30 L.R.A. (N.S.) 564.

Right of one charged with contempt to notice and hearing. 10 L.R.A.(N.S.) 1098.

Collateral attack on commitment proceedings. 1 L.R.A.(N.S.) 1143.

#### II. What constitutes.

§ 5. Generally.

Failure to appear, or tardiness, of attorney, 15 L.R.A. (N.S.) 389. 88.

Disclosure by grand juror of evidence given before grand jury. 17 L.R.A. (N.S.) 1049.

Summoning biased or otherwise improper jurors or talesmen as a contempt. 20 L.R.A.(N.S.) 1013.

Intoxication in court room as. 33 L.R.A. (N.S.) 138.

Procuring one having knowledge of offense to leave jurisdiction as. 33 L.R.A. (N.S.) 976.

Bringing or inciting the bringing of a false or fictitious suit as contempt. L.R.A. 1915B, 689.

Misconduct toward juror as contempt. 46 L.R.A. (N.S.) 517; L.R.A.1916D, 1193.

Misconduct toward witness as contempt of court. L.R.A.1915D, 569.

Defamatory statements made on witness stand as. 4 B. R. C. 959.

Evasive or false answer by witness as. 41 L.R.A.(N.S.) 478.

Conduct designed to annoy a litigant and induce him to abandon suit as. L.R.A.(N.S.) 722.

Refusal to restore money or property secured under judgment subsequently reversed or set aside, as. 39 L.R.A. (N.S.) 1100.

CONTEMPT, II.—cont'd

Release of, or interference with custody of, prisoner. L.R.A.1917D, 355.

§ 6. Action toward judge; statement or publication as to case or decision.

Attorney's statement in court concerning decisions. 5 L.R.A.(N.S.) 916.

Reflection on judge as ministerial officer. 15 L.R.A. (N.S.) 621.

Publishing inaccurate report of court decision. 17 L.R.A.(N.S.) 583.

Assault on or abuse of judge after he has retired from court room. 2 L.R.A. (N.S.) 603.

Liability of newspaper proprietor in case of publication without his knowledge. 26 L.R.A. 781.

Publication of matters derogatory to par-ties to litigation. 2 B. R. C. 483.

Publication reflecting upon defendant in a criminal case. L.R.A.1917E, 713.

§ 7. - after case has ended. At common law. 68 L.R.A. 251. Under statute. 68 L.R.A. 260.

What constitutes a "pending" action. L.R.A. 261.

Personal criticism of, or insult to, court because of decision after determination of cause. 17 L.R.A.(N.S.) 585.

has been determined. 17 L.R.A.(N.S.) 572. Criticism of decision or opinion after case

§ 8. Disobedience.

Compelling payment of alimony by con-tempt proceedings. 24 L.R.A. 433.

Disobedience of void order. 16 L.R.A. (N.S.) 1063.

Violation by private citizen of decree against a municipality as contempt. 25 L.R.A.(N.S.) 226.

Failure or refusal of bankrupt or person having money or property belonging to a bankrupt to deliver it to a trustee. 23 L.R.A.(N.S.) 255.

Refusal to be sworn or to affirm as a contempt of court. 51 L.R.A.(N.S.) 1155.

Refusal to produce books or papers in response to subpœna upon ground that they contain private matter. 29 L.R.A. (N.S.) 716.

Duty to produce books or papers pursuant to order of court as affected by their location or control or by considerations of convenience or inconvenience. L.R.A. 1915B, 980.

Marrying out of state contrary to decree as contempt. 40 L.R.A. (N.S.) 765.

Right of bank officer or employee to refuse to disclose state of depositor's account.

L.R.A.1915D, 1061.

Power to punish disobedience to order in case by striking pleadings. 4 L.R.A.
(N.S.) 1185; 27 L.R.A.(N.S.) 1062.

Effect of appeal from injunction upon jurisdiction to punish for contempt for its L.R.A.1918F, 794. violation.

Consult also L.R.A. Digests of Cases.

CONTEMPT, II.—cont'd

Right to take judicial notice of decree in proceeding to punish violation of same as contempt. 24 L.R.A. (N.S.) 404.

§\_8a. — of injunction.

Nature of proceeding to punish for, see supra, § 2.

By board of health in disobeying injunction. 48 L.R.A. 708.

Disobedience of void injunction as contempt. 16 L.R.A.(N.S.) 1063.

Effect of appeal from injunction on jurisdiction of trial court to punish for contempt for its violation. (N.S.) 1150. 14 L.R.A.

Dissolution of preliminary injunction as affecting right to punish for contempt for its violation. 51 L.R.A.(N.S.) 972.

Necessity and sufficiency of notice of in-

junction to render one not a party, guilty of contempt in disobeying it. 23 L.R.A.(N.S.) 1295.

Invitation or solicitation to violate injunction, or consent or acquiescence there-

in, as justification for see doing. 9 L.R.A.(N.S.) 304. violation of preliminary injunction which would have effect of transferring In possession of property from defendant to plaintiff. 39 L.R.A.(N.S.) 32.

§ 9. — notice as essential.

Knowledge necessary to charge owner with conduct of tenants or others in selling intoxicating liquor on premises in vio-lation of injunction. 25 L.R.A.(N.S.) 602.

Necessity and sufficiency of notice of injunction to render one not a party guilty of contempt in disobeying it. 23 L.R.A. (N.S.) 1295.

# III. Power to punish for.

10. Generally.

Power of legislative body to punish for contempt. L.R.A.1917F, 288.

Notary's power to punish for contempt.
36 L.R.A. 822.

Power to punish contempt committed out of state. L.R.A 1917E, 553.

Effect of appeal from injunction upon jurisdiction of trial court to punish for contempt for its violation. 14 L.R.A. (N.S.) 1150; L.R.A.1918F, 794.

Qualification of judge to sit on trial of one for contempt consisting of reflections upon himself. 11 L.R.A. (N.S.) 619.

Dissolution of preliminary injunction as affecting right to punish for contempt for its violation. 51 L.R.A.(N.S.) 972.

§ 11. Power of magistrate to punish

witness.
In general. 1 L.R.A.(N.S.) 1135.

Want of jurisdiction. 1 L.R.A.(N.S.) 1142, Depositions to be used in another's state. 1 L.R.A. (N.S.) 1142.

CONTEMPT, III.—cont'd

Review of commitment by habeas corpus. 1 L.R.A.(N.S.) 1142.

Collateral attack on commitment proceedings. 1 L.R.A.(N.S.) 1143.

§ 12. Power of legislature to abridge court's power to punish. In general. 36 L.R.A. 254.

In case of Federal courts. 36 L.R.A. 258. Distinction between constitutional courts and others. 36 L.R.A. 258.

#### IV. Punishment.

13. Generally. Power to punish, see supra, III.

Cruel and unusual punishment for. L.R.A. 1915C, 570.

Punishment of corporation for contempt.

4 L.R.A. (N.S.) 1001. Power to punish disobedience to orders in case by striking pleadings. 4 L.R.A. (N.S.) 1185; 27 L.R.A. (N.S.) 1062.

Imprisonment for failure to pay alimony as violation of constitutional provision against imprisonment for debt. L.R.A.(N.S.) 1140.

Remedy pending appeal from decree in divorce suit, for failure to comply with order for payment of temporary ali-mony, suit money, or counsel fees. 51 L.R.A. (N.S.) 1119.

Refusal to proceed with trial of divorce suit because of noncompliance with order to pay temporary alimony, suit money, or

counsel fees. L.R.A.1915E, 567.
Punishing counsel for contempt of court during trial as prejudicing rights of party. 42 L.R.A.(N.S.) 428.

Punishment of convict for failure or refusal to testify or other contempt. L.R.A. 1917B, 588.

# CONTEST.

Of election, see Elections, §§ 27, 28. Of title to office, see MUNICIPAL CORPO-BATIONS, § 118; OFFICERS, § 27. Prize contest, see PRIZE CONTEST. Of will, see WILLS, § 57.

Of assessment for drains and sewers. 60 L.R.A. 241.

# CONTINGENCY.

Effect on contract of leaving price dependent on. 53 L.R.A. 293.

Character of tenancy created by letting until happening of a specified event. 34 L.R.A.(N.S.) 1069.

Contingencies in possible action of sendee, or other person as affecting liability deliver a telegram. 12 L.R.A.(N.S.) 748.

CONTINGENCY—cont'd

Recovery for loss of time in action for personal injury as affected by contingent character of compensation. 8 L.R.A. (N.S.) 1228.

Application of property to support of infant where his rights are contingent. 57 L.R.A. 736.

Does contingency of death without issue, children, etc., import their survival of the first taker. 37 L.R.A.(N.S.) 164.

To what time contingency of death of a

legatee or devisee without child or issue on which a gift is conditioned is referable. 25 L.R.A.(N.S.) 1045.

Allowance for, in appraising public service property on the cost to reproduce basis. 48 L.R.A.(N.S.) 1042.

# CONTINGENT CLAIMS.

Set off of, or against, see SET-OFF AND COUNTERCLAIM, § 17.

#### CONTINGENT FEE.

Of attorney, see ATTORNEYS, § 20.

For services in procuring legislation. 30 L.R.A. 738.

Validity of contract to pay attending physician percentage of damages recovered for personal injury. 33 L.R.A.(N.S.)

#### CONTINGENT INTERESTS.

Constitutional rights as to, see Constitu-

TIONAL LAW, § 26. Under deed, see DEEDS, § 31

Under will, see WILLS, §§ 99-102.

Contingency of claim against decedent's estate as affecting time for presentation, see EXECUTORS AND ADMINISTRAT-ORS, § 41.

As subject to levy, see LEVY AND SEIZURE,

As to expectancy, see EXPECTANCY.

Right of owner of, to maintain suit to establish or enforce a trust. 7 L.R.A. (N.S.) 999.

What contingent interest may be reached by creditor's bill. 27 L.R.A.(N.S.) 454.

Estates in remainder as assets which will pass to the trustee in bankruptcy. 47 L.R.A.(N.S.) 284.

#### CONTINGENT LIABILITY.

for failure properly to transmit and Set-off of contingent liability against judgment in hands of assignee. 23 L.R.A. 339.

#### CONTINGENT REMAINDERS.

See DEEDS, § 31; WILLS, §§ 101, 102.

# CONTINUANCE.

§ 1. Generally.

Presumption and burden of proof as to, see

EVIDENCE, § 61.

Master's duty to continue business, see MASTER AND SERVANT, § 35.

Continuance of family as condition of continuance of homestead where its exist-ence is a condition of the inception of the homestead. 16 L.R.A.(N.S.) 111.

Liability of one erecting or creating a nuisance on his land for its continuance after he has parted with the title. 25 L.R.A. (N.S.) 731.

Necessity of finding as to continuance of insanity of one confined after acquittal of crime for insanity. 1 L.R.A. (N.S.) 540.

2. Of trial.

Presumption and burden of proof as to, see EVIDENCE, §§ 61, 61a.

Propriety of arguments by counsel to jury citing statements in affidavita for continuances. L.R.A.1918D, 57.

Continuance because of illness of a party. 42 L.R.A.(N.S.) 660.

Injunction against judgment for refusal of. **30** L.R.A. 703.

Injunction against judgment obtained by agreement to continue. 30 L.R.A. 790. As ground for admitting to bail in capital case. 39 L.R.A. (N.S.) 768.

As ground for discharge of accused. L.R.A. 526.

By withdrawel of juror. 48 L.R.A. 432. Continuance to procure witness who is beyond the jurisdiction. L.R.A.1918E,

527. Presence of witnesses at trial as curing error in denying motion for continuance on ground of absent witnesses. L.R.A.(N.S.) 721.

Privilege of suitor or witness from service of process during adjournment. L.R.A.(N.S.) 667; L.R.A.1917B, 253.

 admission on application for. Denial of continuance, upon admissions by the prosecution, as affected by right of accused to meet witnesses. 16 L.R.A. 239.

Admissibility on subsequent trial of admission made to defeat continuance. 25 L.R.A.(N.S.) 169.

4. Of grand jury. Adjourned terms of grand jury. 27 L.R.A. 785.

#### CONTINUING CONTRACTS.

Specific performance of, see SPECIFIC PER- In general, see CONTRACTS. FORMANCE, § 10a. Consult also L.R.A. Digests of Cases.

CONTINUING CONTRACTS—cont'd Right to rescind or abandon because of

other party's default. 30 L.R.A. 69.
Acceptance of portion of instalment as affecting right to rescind contract for failure to deliver whole. 21 L.R.A. (N.S.) 864.

# CONTINUING GUARANTY.

See GUARANTY, § 6.

# CONTINUING NUISANCE.

Liability for, see NUISANCES.

#### CONTINUING OFFENSE.

Violation of Sunday law as. 20 L.R.A. (N.S.) 783.

When larceny deemed continuous. 7 L.R.A. (N.S.) 520.

Practising medicine, surgery, or dentistry without license as. 42 L.R.A.(N.S.) 768.

Concealment of assets in violation of bankruptcy act as a continuing offense. 43 L.R.A.(N.S.) 278.

# CONTINUING PARTNER.

Powers of, see Partnership, § 34.

#### CONTINUING TRESPASSES.

Injunction against. 13 L.R.A.(N.S.) 173; 21 L.R.A. (N.S.) 417.

# CONTINUITY.

Of adverse possession, see ADVERSE Possession, § 20.

Effect of breaking continuity of passage or shipment upon its interstate character. L.R.A.1917D, 1184.

# CONTRABAND.

Effect of carriage of contraband upon marine insurance, 5 B. R. C. 58.

#### CONTRACTOR.

Bond of, see Bonds, §§ 9, 10.

CONTRACTOR—cont'd

Building contractor, see Building and Con-STRUCTION CONTRACTS.

Performance or breach of contract of, see CONTRACTS, V.

Liability for injury in highway, see High-WAYS, § 92.

Liability for injury to tenant, see LAND-LORD AND TENANT, § 73.

Liability of, for injuries generally, see Mas-TER AND SERVANT, §§ 196-198.

Liability for nuisances, see NUISANCES, § 14. As to independent contractor, see MASTER AND SERVANT, IV. b.

For public improvement, see Public Im-PROVEMENTS.

Master's liability for injury to servants of, under workmen's compensation acts. L.R.A.1916A, 95.

Independent contractors and employees of subcontractors as within protection of Workmen's Compensation Act. L.R.A.

1917D, 148.
Servant of, as fellow servant with servant of employer. 17 L.R.A.(N.S.) 334.

As a necessary party to a bill to enforce a mechanics' lien. 33 L.R.A.(N.S.) 69.

Will breach of contract with municipality to keep a street or highway in repair sustain an action by a person injured directly against the contractors. L.R.A.(N.S.) 1112.

Constitutionality of statute making owner personally liable to employees of contractors or materialmen because of noncompliance with provisions for their protection. 39 L.R.A.(N.S.) 868.

Language used by owner or other person in-terested in construction of building, importing a promise to pay a subcontractor, materialman, or employee of con-tractor as a promise to answer for the debt or default of another. 5 B. R. C.

Right of contractor with public to immunity which latter enjoys from liability for damages. L.R.A.1916D, 511.

Liability of mail contractors for lost or stol-

en mail. L.R.A.1915A, 376.
Allowance of contractor's profits in appraisals of public service property, on the cost to reproduce theory. 48 L.R.A. (N.S.) 1041.

Reservation of title to, or lien upon, chattel sold to contractor or materialman who attaches it as a fixture to realty of a third person. 52 L.R.A.(N.S.) 561.

# CONTRACTS.

I. In general, § 1. II. Nature and requisites. §§ 2-60

CONTRACTS, II.—cont'd

c. Consideration, §§ 7-17. 1. In general, § 7.

2. Necessity of, § 8.

Sufficiency of, \$\$ 9-14.
 Failure of, \$ 15.
 Return of, \$ 16.

6. Proof of; recitals as to, \$ 17.

d. Mutuality, \$ 18. e. Meeting of minds; definiteness, §§ 19-23.

f. Capacity to make, § 24.

g. Formal requisites; statute of frauds, §§ 25-59. 1. In general, §§ 25-33.

2. Contracts relating to personalty, §§ 34-36.
3. Contracts to answer for

debt or default of another, § 37.

4. Contracts not to be performed within a year, §§ 38, 39.

5. Contracts as to realty, \$\$ 40-49.

6. Sufficiency of writing, §§ 50-54.

7. Effect of part performance, §§ 55-59.

h. Merger, § 60.

III. Construction, §§ 61-69a. a. In general, \$ 61.

b. Entirety, § 62.

Time, § 63.

d. Particular words, phrases, and cases, \$\$ 64-69a.

IV. Essential validity and effect, §§ 70-120.

a. In general; public pelicy, \$\$ 70-103a.

b. Fraud; unfair advantage, \$

c. Gambling and wagering contracts, §§ 105, 106.

d. In restraint of trade, \$\$ 107-109.

Ratification, §§ 110, 111.

f. Relief from, or enforcement of, §§ 112-120.

V. Performance; breach, §§ 121-142.

a. In general, §§ 121-132.

1. Generally, **§§** 121, 122.

2. Excuse for failure t perform, §§ 123-126.

3. Incomplete performance; sufficiency of performance, §§ 127-130.

4. Kreach, §§ 131, 131a. 5. Time of performance, \$

132. **b.** Building and construction

contracts, §§ 133-142. VI. Change; extinguishment, §§ 143-

a. In general, §§ 143-148.

b. Rescission; cancelation, \$\$

149-156.

a. In general, §§ 2, 2a. VII. Actions; liabilities, § 157. b. Implied agreements, §§ 3-6. VIII. Public contracts, §§ 158–168. Begin with this book on every law question.

#### CONTRACTS—cont'd

#### I. In general.

1. Generally. Particular kinds of contracts, see specific titles, e. g., Bills and Notes; Brokers; Husband and Wife; Insurance;

SALE; VENDOR AND PURCHASER. Arbitration agreements, see ARBITRATION. Admiralty jurisdiction over, see ADMIRAL-

TY, § 3. Assignability of, see Assignment, § 4. Matters peculiar to auctions, see Auctions. Automobile distribution contract, see Auto-

MOBILES, § 11. Conflict of laws, as to, see CONFLICT OF

Laws, §§ 2-12. Constitutionality of statute legalizing, see

CONSTITUTIONAL LAW, § 10. Constitutionality of statutes restricting contracts, see Constitutional Law, IX. e.

Impairment of obligation, see Constitu-TIONAL LAW, §§ 30-38.

Contracts of corporation, generally, see Corporations, V. b.

Rights and powers of corporate officers as to, see CORPORATIONS, §§ 44, 45, 48.

Liability of corporation on contracts of promoters, see Corporations, § 63.

affected by custom or usage, see Cus-TOM AND USAGE.

As to covenants, see COVENANTS.

Agreements for divorce or separation, see DIVORCE AND SEPARATION, § 58. Estoppel by, see ESTOPPEL, III. d.

Presumption and burden of proof as to, see EVIDENCE, § 90. Evidence as to, generally, see EVIDENCE, §§

278, 279.

Limitation by, of time to sue on policy, see INSUBANCE, §§ 207, 208.

Judgment as a contract, see Judgment, §

What contracts will support maritime lien, see Maritime Liens, § 2. Officer's liability on, see Officers, § 39.

Provision for penalty in, see PENALTY, § 2. Pleading in action on contracts, see PLEAD-ING, §§ 18-22. Privity of, see PRIVITY.

As to location of public buildings, see Pub-LIC BUILDINGS, § 2.

Specific performance of, see Specific Per-FORMANCE.

Compromise, see Compromise and Settle-MENT.

With corporation, see Corporations, §§ 28-34, 44, 45, 48. Of county, see COUNTIES, § 6.

Of guaranty, see GUARANTY. By husband and wife with third persons, see HUSBAND AND WIFE, § 4.

Of married woman, see HUSBAND AND WIFE, §§ 15-19.

Contracts between husband and wife, see HUSBAND AND WIFE, V.

Between landlord and tenant, see LANDLORD AND TENANT. Of employment, see Brokers; MASTER AND

SERVANT, II. Consult also L.R.A. Digests of Cases. CONTRACTS, I,—cont'd

Of municipality, see MUNICIPAL CORPORA-TIONS, §§ 53-60.

Of partnership, see Partnership, §§ 8, 9. Party wall agreement, see Party Walls.

Provision for penalty in, see PENALTY, § 2. With physician, see PHYSICIANS AND SUB-GEONS, § 19:

Pleading in action on contract, see PLEAD-ING, II. b.

Liability of surety on, see PRINCIPAL AND SURETY

As to location of public buildings, see PUB-LIC BUILDINGS, § 2.

For public improvement, see Public Im-PROVEMENTS, §§ 7-9.

Of sale of personal property, see SALE.

Counterclaims in tort in actions on contract, see SET-OFF AND COUNTERCLAIM,

Specific performance of, see Specific Per-FORMANCE.

To maintain spur track on sidings, see SPUR TRACKS AND SIDINGS.

For support, see SUPPORT, §§ 3-5. For exclusive service by telephone company, see Telephones, § 2.

Of sale of real property, see VENDOR AND PURCHASER.

Agreement to make will, see WILLS, §§ 2, 3. For work and labor, see WORK AND LABOR, § 2.

As an intangible value to be considered in public service property valuations. 48 L.R.A.(N.S.) 1082.

Rule of benevolent society requiring designation of beneficiary L.R.A.1918F, 777. by contract.

Rights of trustee as to executory contracts of bankrupt. L.R.A.1917F, 657.

Rate of interest after judgment on contract fixing rate. 3 B. R. C. 169.

Right to damages for breach of option contract which is not specifically enforceable because it contravenes the rule

against perpetuities. 4 B. R. C. 292. As to partition fences. 22 L.R.A. 109. Delegation of municipal power as to. 20 L.R.A. 727.

Private contracts for erection of wharves. 40 L.R.A. 647.

Contract rights in artificial condition of body of water. 50 L.R.A. 836.

Adverse possession following agreement as to boundary. 21 L.R.A. 833.

Acquiring right of way for drains and sewers by. 60 L.R.A. 197.

Injunction against judgment fraudulently obtained by agreement. 30 L.R.A. 787. Liability of infant for tort in inducing con-

tract, 57 L.R.A. 675. Right of one in possession of another's property to appropriate it to an executory contract with the latter. 36 L.R.A.(N.S.) 622.

Execution of chattel mortgage on fixtures

as evidence of. 15 L.R.A. 59.

Denial of making of contracts upon information and belief. 30 L.R.A.(N.S.)

Question relating to, as Federal question. 62 L.R.A. 537.

CONTRACTS, I.—cont'd

Federal courts following state decisions as to. 40 L.R.A. (N.S.) 402.

Retaking property upon failure to carry out contract as larceny. 41 L.R.A. (N.S.) 553.

Sufficiency of service of notice necessary to fix contract rights upon bankrupt after initiation of bankruptcy proceedings but before appointment of trustee. 41 L.R.A. (N.S.) 276.

When may instrument in form of contract be given effect as a will? 41 L.R.A. (N.S.) 41.

When claim against state deemed based on contract within statute permitting action against state. 42 L.R.A. (N.S.) 256.

# II. Nature and requisites.

#### a. In general.

2. Generally. Contracts by telegraph, see Telegraphs, §

Nature of contract by which owner agrees to pay another all over specified sum for procuring a sale. 35 L.R.A.(N.S.) 116.

§ 2a. What are contracts. Entries in bank book as. 24 L.R.A. 737. Offer and acceptance without execution of contemplated formal instrument. 29 L.R.A. 431.

# b. Implied agreements.

§ 3. Generally.

Election to sue on implied contract, see Election of Remedies, § 3.

Implied guaranty, see GUARANTY, § 3. By municipal corporation, see MUNICIPAL CORPORATIONS, §§ 58-60.

To pay in gold or silver. 29 L.R.A. 522. Not to use negative or engraved plates without consent of party who has paid for them. 50 L.R.A. 397.

Implied promise to share expense of party wall erected without express contract. 66 L.R.A. 705.

Implication from use of patented article of promise to pay royalty. 44 L.R.A. (N.S.) 333.

Implied contract to compensate one furnishing relief to poor person. 39 L.R.A. (N.S.) 161.

Implied contract with intoxicated person. 54 L.R.A. 440.

Husband's liability under, for wife's purchases on his credit of articles for personal use. 65 L.R.A. 549; 47 L.R.A. (N.S.) 279.

For compensation of partner. 17 L.R.A. (N.S.) 412; L.R.A.1917F, 575.

Implied contract for through carriage by initial or first contracting carrier. 31 L.R.A.(N.S.) 5.

Begin with this book on every law question.

CONTRACTS, II. b—cont'd.

Right of officer, director, or stockholder to compensation for services to corporation on theory of implied contract. L.R.A.1917F, 310.

Right of physician to recover for emergency services rendered unconscious person.

12 L.R.A.(N.S.) 1090.

Liability of one who solicits the services of a physician or surgeon for another. 46 L.R.A.(N.S.) 577.

Liability of public for services of physician or surgeon rendered prisoners. L.R.A. (N.S.) 1223.

Liability of corporation for services ren-dered before its organizaztion of which it has had the benefit. 4 B. R. C. 757.

Right of broker securing a purchaser for part of the property to recover on quantum meruit. 51 L.R.A.(N.S.) 258.

Right to quantum meruit for services rendered under parol contract unenforceable because not to be performed within a year. L.R.A.1916D, 895.

Implied contract to pay salary of pastor. 52 L.R.A.(N.S.) 172.

Implied warranty of quantity or quality of water to be furnished in case of contract to dig a well. L.R.A.1918A, 1085.

Lien upon automobile for repairs made un-der implied contract. L.R.A.1918D, 330. Implied agreement of purchaser of equity of

redemption to pay mortgage debt. L.R.A.1917C, 596.

Implied contract of a bank taking out-of-town collections. 52 L.R.A. (N.S.) 621.

Implied power of attorney to bind client for expenses incidental to trial including associate counsel's office. 23 L.R.A. (N.S.) 702.

Acceptance of chattel before agreement as to purchase price, as assent to seller's price. 11 L.R.A.(N.S.) 254.

Placing one's child in another's custody as implying contract not to reclaim child. 16 L.R.A. (N.S.) 1004.

Employer's duties as to acts of independent contractor arising out of implied con-

tract. 66 L.R.A. 150.
Statute of limitations applicable to action to enforce an implied promise arising from acceptance of devise chargeable with payment of legacy. 8 L.R.A. (N.S.) 393.

Personal liability of committee appointed at public meeting for services or supplies. 51 L.R.A.(N.S.) 406.

Right of third person to sue on. 25 L.R.A. 263.

Liability of public corporation. 39 L.R.A. (N.S.) 72.

#### § 4. To pay for services of relative or member of household.

Implication of agreement to pay for services rendered by relative or member of household. 11 L.R.A.(N.S.) 873.

CONTRACTS, II. b—cont'a Right of child who supports parent at request of other children to recover therefor from the latter. 27 L.R.A. (N.S.) 683. ·

Implied contract to pay for services to relative not living as part of same family. 1 L.R.A.(N.S.) 819.

5. — husband or wife. Right of husband or wife to compensation for services rendered to other. 15 L.R.A. 215.

§ 6. - persons living in illicit relations.

Implied contract to pay for household services where parties are living in illicit relations. 29 L.R.A.(N.S.) 787; L.R.A.1917B, 683.

#### o. Consideration.

#### 1. In general,

§ 7. Generally.

For bill or note, see BILLS AND NOTES, § 18. For compromise, see COMPROMISE AND SETTLEMENT, § 4.

For deeds, see DEEDS, §§ 13, 14.

Presumption and burden of proof as to, see EVIDENCE, § 90.

Parol evidence as to, see EVIDENCE, \$\$ 175,

For fraudulent conveyance, see FRAUDULENT CONVEYANCES, §§ 6, 7.

For antenuptial contract, see HUSBAND AND WIFE, § 57.

For real estate mortgage, see MORTGAGE, § 22.

Return of consideration on setting aside release, see Release, § 7.

Return of, as prerequisite to rescission of contract of sale, see SALE, § 64.

Sufficiency of general averment of want of consideration. L.R.A.1917F, 581.

Right to recover on obligation given for a consideration which is unlawful under the law of the place where the obligation is payable, but good under the law of the place where it was executed.
4 B. R. C. 374.

Effect of consideration moving from beneficiary originally named in certificate issued by mutual benefit association on right of member to change beneficiaries. 12 L.R.A.(N.S.) 1207; 33 L.R.A.(N.S.) 773.

Effect of consideration paid or expense in-curred on right to revoke license to maintain burden on land. 49 L.R.A.

Effect of additional consideration on protection under recording acts of mortgage given as security for pre-existing debt. 33 L.R.A.(N.S.) 61.

Injunction against judgment entered by confession where consideration is not due. 30 L.R.A. 242.

Consult also L.R.A. Digests of Cases.

CONTRACTS, II. c, 1-cont'd

Merger of mortgage by conveyance from mortgagor to mortgagee or revival thereof after such conveyance where there are intermediate encumbrances on the property and the mortgagor gives or receives additional consideration. 39 L.R.A.(N.S.) 841.

Consideration for contract of bank to collect commercial paper. 52 L.R.A.(N.S.) 612.

§ 7a. Consideration for new agreements abrogating, altering, supplementing, or supplanting prior contracts.

Necessity of consideration for secondary agreements. L.R.A.1915B, 3.

Sufficiency of consideration in secondary agreements. L.R.A.1915B, 12.

Mutuality as consideration for secondary contracts. L.R.A.1915B, 15.

Right to make secondary contracts upon consideration. L.R.A.1915B, 32.

Oral secondary contracts and their consideration. L.R.A.1915B, 37.

Need of reciprocity in consideration of secondary contracts. L.R.A.1915B, 37.

Changed conditions as consideration f changed contracts. L.R.A.1915B, 44. Reciprocity of benefits and burdens as consideration for secondary contracts.

L.R.A.1915B, 48. Consideration for modifications and substitutions of executed contracts. L.R.A.

1915B, 55. Consideration for waivers. L.R.A.1915B,

Secondary agreements as accords and satisfactions or novations. L.R.A.1915B,

Consideration of secondary agreements between landlords and tenants. L.R.A. 1915B, 62.

Pleadings and proof respecting secondary contracts. L.R.A.1915B, 68.

# 2. Necessity of.

§ 8. Generally.

58.

For secondary agreements, see supra, § 7a. New consideration as essential to waiver of presentment of commercial paper, see BILLS AND NOTES, § 47. entitle to specific performance, see

SPECIFIC PERFORMANCE, § 26.

Gift of check. 18 L.R.A. 855; L.R.A.1918C, 340.

Gift\_of\_promissory note. 26 L.R.A. 305; L.R.A.1918C, 340.

For option. 21 L.R.A. 129.

For conveyance from husband to wife. 69 L.R.A. 368.

To accord and satisfaction by part payment. 20 L.R.A. 788; 11 L.R.A. (N.S.) 198; 21 L.R.A. (N.S.) 1005; L.R.A.1917A, 719.

For assumption of debts on dissolution of partnership. 9 L.R.A.(N.S.) 52, 80. compromise of void, invalid or un-founded claim. 25 L.R.A.(N.S.) 288.

CONTRACTS, II. c, 2—cont'd For contract limiting initial carrier's lia-

bility to its own line. 31 L.R.A. (N.S.) 75.

As affecting third party's right to sue on contract for his benefit. 25 L.R.A. 257. Set-off against judgment assigned without consideration. 23 L.R.A. 338.

Lack of consideration for contract between corporations having common directors

or officers. 33 L.R.A. 793.

Lack of consideration as defense to action for specific performance of contract for sale of corporate stock. 31 L.R.A. (N.S.) 498.

Necessity for new consideration to support waiver of failure to give notice of dishonor or subsequent promise by indorser. 29 L.R.A. 305; 3 L.R.A. (N.S.) 1079.

Necessity of new consideration to bind third person who signs as surety, indorser, or guarantor after execution and delivery of original contract by principal. 44 L.R.A. (N.S.) 481; L.R.A.1918E, 579. To sustain ratification of unauthorized alteration. 39 L.R.A.(N.S.) 131.

Necessity of consideration for a subsequent agreement extending time of payment. 52 L.R.A.(N.S.) 333; L.R.A.1915B, 26. Effect of waiver, without new consideration, of time clause in a building contract.

50 L.R.A.(N.S.) 501.

# 3. Sufficiency of.

§ 9. Generally.

For secondary agreements, see supra, § 7a. Invalidity of consideration, see infra, IV. For chattel mortgage, see CHATTEL MORT-GAGES, § 6.

compromise, see Compromise and SETTLEMENT, § 4.

Compromise as consideration for promise, see Compromise and Settlement, § 5. For deed, see DEEDS, § 13.

For fraudulent conveyance, see FRAUDULENT CONVEYANCES, § 6.

For bona fide purchase of nonnegotiable property, see SALE, § 72.

Release as consideration, see Release, § 5. What consideration will make purchaser of land a bona fide purchaser, see VENDOR AND PURCHASER, § 39.

For transfer by creditor in satisfaction of debt. 36 L.R.A. 346.

For contract for permanent employment. 35 L.R.A. 515; 50 L.R.A. (N.S.) 455.

For gift of promissory note. 26 L.R.A. 306.

For contract to supply city with water. 61 L.R.A. 66.

For conveyance from husband to wife. 69 L.R.A. 368.

For bond to one spouse conditioned for maintenance of family relation or proper conduct of other spouse. L.R.A. 1917D, 445.

CONTRACTS, II. c, 3—cont'd For contract limiting initial carrier's liability to its own line. 31 L.R.A. (N.S.) 75.

For assumption of debts on dissolution of partnership. 9 L.R.A.(N.S.) 52, 80; 48 L.R.A.(N.S.) 547.

For promise to pay for securing release from a unilateral contract. L.R.A. 1918F, 666.

For obligation given to make good depletion of capital or assets of bank. L.R.A. 1917B, 688.

Validity of agreement to transfer future acquired property in consideration of maintenance. 70 L.R.A. 485.

Release of promise to marry as considera-tion for contract. 19 L.R.A. (N.S.) 656. New promise as consideration when original

promise was illegal. 53 L.R.A. 370. Will contract induced by a promise to fur-

nish a surety sustain a subsequent contract of suretyship. 27 L.R.A.(N.S.) 189

Mere forbearance to sue as consideration for promise by a third person to pay an existing obligation. 19 L.R.A. (N.S.) 842.

Forbearance to sue or disclose defendant's default as new consideration for gambling debt. 6 B. R. C. 995.

Cancelation of invalid contract as consideration. 5 L.R.A. (N.S.) 725.

Love and affection as consideration for executory promise to pay existing debt of another. L.R.A.1918C, 543.

Promise of additional compensation for completing an executory contract other than a contract for the payment of money. 11 L.R.A. (N.S.) 789; 28 L.R.A. (N.S.) 450.

Unlawfulness of consideration for contract in business which it is a misdemeanor to transact. 12 L.R.A.(N.S.) 593.

Sufficiency of consideration for contract requiring servant to elect between acceptance of benefits out of a relief fund and prosecution of his claims in an action for damages. 11 L.R.A.(N.S.) 187; 48 L.R.A.(N.S.) 442.

Necessity in a complaint for specific performance of alleging facts showing adequacy of consideration. (N.S.) 178. 19 L.R.A.

Agreement to pay interest on an obligation for an indefinite period as consideration for an agreement to release the principal. L.R.A.1916C, 387.

Furnishing medical attention as sideration for release of liability for personal injuries or death. 46 L.R.A.

(N.S.) 419. Sufficiency of consideration received upon disposal of municipal property. L.R.A.(N.S.) 1137.
Consideration for subscription to charity.

48 L.R.A. (N.S.) 785.

Consideration for a subsequent agreement extending time of payment. 52 L.R.A. (N.S.) 331; L.R.A. 1915B, 26.

Validity and enforceability of contract in consideration of naming child. 51 L.R.A.(N.S.) 1108.

CONTRACTS, II. c, 3-cont'd 10. Pre-existing debt.

Pre-existing debt as consideration for bona fide purchase of property not negotiable, see SALE, § 72.

Payment of existing debt as consideration. 34 L.R.A. 33.

Compliance with obligation to deliver papers or property. 34 L.R.A. 35.

Agreement to comply with lease. 34 L.R.A. 36.

Agreement to comply with marriage contract. 34 L.R.A. 37.

Promise to do duty. 34 L.R.A. 37.

Cases to be distinguished. 34 L.R.A. 37. Promise of additional compensation for completing contract. 34 L.R.A. 38.

Promise to perform additional duty for

same consideration. 34 L.R.A. 42.

Promise by stranger to the contract. 34 L.R.A. 43; L.R.A.1917D, 1104; L.R.A. 1918E, 1008.

Pre-existing debt as consideration for chattel mortgage as against other creditors or equities. 33 L.R.A. 305.

As a sufficient consideration to give grantee the status of a purchaser for value. L.R.A.1918D, 568.

Discharge of antecedent debt as a consideration sustaining one's character as a bona fide purchaser or encumbrancer for value entitled to protection of recording acts. 27 L.R.A. (N.S.) 620; L.R.A. 1918C, 438.

May a corporation issue stocks or bonds in payment of or as security for its antecedent debts, under statutes prohibiting the issue except for money, labor done, or property actually received. L.R.A.1916E, 570.

Parol evidence that consideration of deed was payment of grantor's debts. L.R.A. 103.

Promise to pay obligation as consideration for agreement extending time for payment thereof. 52 L.R.A.(N.S.) 337.

Payment or promise to pay existing debt as consideration for agreement extending time of payment of other debt. 52 L.R.A. (N.S.) 338.

§ 12. — payment of part of liquidated and undisputed debt as considera-

tion for discharge of whole. erally. 11 L.R.A.(N.S.) 1018; 21 L.R.A.(N.S.) 1005; L.R.A.1917A, 719. Generally. No conflict with rule relating to acceptance of payment on condition. 11 L.R.A. (N.S.) 1018.

criticized and limited. 11 L.R.A. (N.S.) 1019.

Rule repudiated. 11 L.R.A.(N.S.) 1020.

Statutory abrogation of rule. 11 L.R.A. (N.S.) 1020.

Unliquidated or disputed questions. L.R.A. (N.S.) 1021. 11

Payment of conceded part of claim. 11 L.R.A. (N.S.) 1022.

Payment less interest. L.R.A.1917A, 723. Consult also L.R.A. Digests of Cases. CONTRACTS, II. c, 3-cont'd

Composition agreements. 11 L.R.A. (N.S.) 1024.

Payment by third person; borrowing. L.R.A.(N.S) 1024: L.R.A.1917A, 724.

Effect of insolvency. 11 L.R.A. (N.S.) 1024; L.R.A.1917A, 722.

Giving security or applying exempt property. 11 L.R.A. (N.S.) 1025.

Giving debtor's own negotiable paper. L.R.A. (N.S.) 1026; L.R.A.1917A, 722. Payment before maturity. 11 L.R.A.(N.S.) 1026; L.R.A.1917A, 724.

Payment at different place. L.R.A.1917A.

Surrender of bill or note. 11 L.R.A. (N.S.) 1026.

Formal release under seal or in writing. 11 L.R.A. (N.S.) 1026; L.R.A.1917A, 724. 11 L.R.A.(N.S.)

Payment in property. 11 1027; L.R.A.1917A, 723.

Miscellaneous exceptions. 11 L.R.A.(N.S.) 1027.

§ 13. Moral obligation.

For new promise after discharge in bankruptcy, see BANKRUPTCY, § 36.

For new promise after bar of limitations, see Limitation of Actions, §§ 68-71.

In general. 53 L.R.A. 353; 26 L.R.A. (N.S.) 520.

History and abstract statement of doctrine. 53 L.R.A. 353.

Moral obligation unconnected with material or pecuniary benefit to promisor. L.R.A. (N.S.) 520.

Moral obligation arising from former legal liability no longer enforceable. L.R.A. (N.S.) 522.

Moral obligation arising from receipt of material or pecuniary benefit without any original legal liability. 26 L.Ř.A. (N.S.) 524.

When original contract was void under statute of frauds. 53 L.R.A. 370; 26 L.R.A. (N.S.) 524.

Promise to pay for past support of relative. 53 L.R.A. 305; 26 L.R.A. (N.S.) 520. Cohabitation. 53 L.R.A. 357; 26 L.R.A.

(N.S.) 520. Promise to pay for past support of pauper.

53 L.R.A. 358; 26 L.R.A. (N.S.) 520. Promise to remedy mistake or hardship or

to supplement past agreement. 53 L.R.A. 358; 26 L.R.A.(N.S.) 523. New promise after discharge by operation of law. (Restrictive). 53 L.R.A. 362.

New promise after voluntary discharge. 53 L.R.A. 363.

New promise after majority. 53 L.R.A. 365. New promise to be party to negotiable paper. 53 L.R.A. 365.

New promise after judgment. 53 L.R.A. 365.

New promise after discoverture. 53 L.R.A. 366; 7 L.R.A. (N.S.) 1053; 33 L.R.A. (N.S.) 741.

Past legal consideration. 53 L.R.A. 371; 26 L.R.A.(N.S.) 526.

CONTRACTS, II. g, 1-cont'd

Necessity of pleading statute of frauds. 49 L.R.A. (N.S.) 1.

May Statute of Frauds be raised for first time on appeal where under the pleadings it might have been raised below. L.R.A.1917B, 1071.

Effect of statute of frauds upon the power of equity to reform a contract. L.R.A.1917A, 571.

Who is bona fide purchaser within statute. 31 L.R.A. 612.

New promise as consideration when original promise was in violation of statute of frauds. 53 L.R.A. 370; 26 L.R.A. 53 L.R.A. 370; 26 L.R.A. (N.S.) 524.

Right of defendant in action for conversion to impeach plaintiff's title as being based upon a contract void under the statute of frauds. 2 B. R. C. 733.

Oral agreement to waive statute of limitations. 63 L.R.A. 195.

Admissibility of evidence of custom to create an exception to written contract. 3 L.R.A.(N.S.) 248.

Federal courts following state decisions as to construction and effect of statute of frauds. 40 L.R.A.(N.S.) 421.

Oral submissions to arbitration and awards. 47 L.R.A.(N.S.) 346.

Statute of frauds as defense to action to recover subscription for charity. L.R.A.(N.S.) 813.

Agreement void under statute of frauds as consideration for agreement extending time of payment. 52 L.R.A.(N.S.)

Consideration for oral secondary contracts abrogating or altering prior contract. L.R.Ä.11915B, 37.

Right of creditors to avoid debtor's contracts or conveyances upon the ground of the statute of frauds. L.R.A.1916D, 1213.

Necessity that waiver or tolling of statute of limitations or nonclaim by personal representative as to indebtedness of the estate should be in writing. 1915B, 1046.

Contract in consideration of naming child. 51 L.R.A.(N.S.) 1108.

26. What forms part of contract. Matter following signature as part of contract. 5 L.R.A. (N.S.) 436.

Memorandum on back of note at time of execution as substantive part thereof. 15 L.R.A.(N.S.) 612.

Effect of party's ignorance of contents of extraneous paper upon attempt to in-corporate it into contract by reference. 70 L.R.A. 106.

26a. Character in which party signs. § 26a. Unaracter in white See Bills and Character of party to note, see Bills and Notes, § 15.

Personal liability of one who signs contract by adding words indicating representative capacity to his signature. L.R.A.(N.S.) 1.

CONTRACTS, 1I. g, 1-cont'd § 27. Effect of omitting revenue stamp. See Internal Revenue, § 2.

28. Conditional execution. Under parol agreement that contract shall not take effect until others have signed it. 45 L.R.A. 321.

§ 29. Offer and acceptance without execution of contemplated formal instrument.

Sufficiency of, as contract. 29 L.R.A. 431. Offer by purchaser to sell property to a third person as acceptance which will satisfy statute of frauds. 36 L.R.A. (N.S.) 76.

§ 30. Parol modification of contract. Parol evidence as to modification, see Evi-DENCE, § 164.

Effect of the Statute of Frauds upon the right to modify, by subsequent parol agreement, a written contract required by the statute to be in writing. L.R.A. 1917B, 144.

Statute of frauds as affecting right to re-lief from mistake of law as to effect of instrument. 28 L.R.A.(N.S.) 876.

§ 31. As to liability of initial carrier. Oral contract extending initial carrier's undertaking beyond its own line. 31 L.R.A.(N.S.) 32.

Oral contracts limiting initial carrier's undertaking to its own line. 31 L.R.A. (N.S.) 64.

§ 31a. As to insurance matters.

Validity of oral insurance contract. L.R.A. 768.

Requisites of present oral contract of insurance. 5 L.R.A.(N.S.) 407.

Power of agents to bind insurer by oral waiver or estoppel in pais as to forfeitures occurring after issuance of policy and before loss under policies of insurance requiring consent waiver to be in writing. 10 L.R.A. (N.S.) 1064.

§ 32. As to commercial paper. Validity of parol promise to accept an order or bill of exchange. 26 L.R.A. 620.

Validity of promissory note given as a forfeit or as collateral to an invalid oral agreement within the statute of frauds. 18 L.R.A. 142.

Statute of frauds as affecting accommodation indorser. 28 L.R.A. (N.S.) 1045.

Necessity for writing to support failure to give notice of dishonor or subsequent promise by indorser. 29 L.R.A. 315.

Contemporaneous parol agreements as defense to note. 43 L.R.A. 449.

§ 33. Agreement to give property by will. Will as part performance. 14 L.R.A. 863.

CONTRACTS, II. g, 1—cont'd Right to recover for services rendered beyond statutory period of limitations on breach of parol contract to make provision by will. 6 L.R.A. (N.S.) 703.

Right to recover value of services rendered in consideration of contract to convey or devise property, which is void by the statute of frauds. 37 L.R.A. (N.S.) 639.

# 2. Contracts relating to personalty.

34. Generally.

Sufficiency of writing as to, see infra, §§ 50-54.

Part performance of contract, see infra, §§ 56, 57.

Parol trusts in personalty, see TRUSTS, § 11.

Receipt by carrier to satisfy statute. 22 L.R.A. 426.

Validity of verbal chattel mortgage. 7 L.R.A.(N.S.) 418.

Necessity of writing to make binding a commission to purchase personal property. 11 L.R.A.(N.S.) 650.

§ 35. Contracts of sale.

Sale of growing crops, see infra, § 44. Part performance of contract, see infra,

§§ 55-57.

Transfer of corporate stock, see CORPORA-TIONS, § 88.

Contract to transfer personal property in consideration of services, as affected by statute of frauds relating to contracts for the sale of goods, etc. 16 L.R.A.(N.S.) 381.

Right to show parol warranty in connection with a contract of sale of personalty. 19 L.R.A.(N.S.) 1183.

Necessity of writing to make binding com-

mission to purchase personal property. 11 L.R.A. (N.S.) 650.

Who may enforce contract for sale of goods where only one party signed contract. 28 L.R.A. (N.S.) 694; 43 L.R.A. (N.S.)

Conflict of laws as to sales of intoxicating liquor. 61 L.R.A. 422.

§ 35a. Contracts for work and labor. Oral contract to manufacture, see MANU-FACTURE, § 2.

Contract for manufacture as affected by statute of frauds. 14 L.R.A. 232.

§ 36. Distinction between sales and contracts for work and labor.

In general. 14 L.R.A. 230; 30 L.R.A. (N.S.) 319; 43 L.R.A. (N.S.) 97.

Tests and rules. 14 L.R.A. 230. Special orders. 14 L.R.A. 231; 30 L.R.A.

(N.S.) 320; 43 L.R.A. (N.S.) 97. Manufacture of ordinary articles not according to special directions. 14 L.R.A. Oral agreement between landlord and tenant 232.

Finishing articles already in existence. 14 L.R.A. 233.

Consult also L.R.A. Digests of Cases.

CONTRACTS, II. g, 2—cont'd

For crops to be raised. 14 L.R.A. 233; 30 L.R.A.(N.S.) 323.

For timber to be cut or for logs. 14 L.R.A. 233; 30 L.R.A.(N.S.) 324.

# 3. Contracts to answer for debt or default of another.

37. Generally.

Promise to pay third person. 25 L.R.A. 264.

Guaranty of contract of a person under disability. 33 L.R.A. 359. Contracts between sureties

to fix their shares of liability. 39 L.R.A. 378.

Statute of frauds as affecting parol violations of collateral contract. 28 L.R.A. (N.S.) 882.

Is agreement by vendee to pay encumbrance within statute of frauds as promise to answer for the debt of another. 15 L.R.A.(N.S.) 1087.

Statute of frauds as affecting right to assume debts on dissolution of partner-9 L.R.A. (N.S.) 54; 48 L.R.A. ship. (N.S.) 548.

Applicability of statute requiring that representations as to another's credit must be in writing in order to sustain an action. 13 L.R.A.(N.S.) 212.

Contemporary promise of one person to pay where benefit inures to another as a promise to answer for default of another within statute of frauds. 15 L.R.A. (N.S.) 214; 32 L.R.A. (N.S.) 598.

Is oral promise to pay another's pre-exist-ing debt made in order to secure benefit to promisor without releasing original debtor within statute of frauds. 22 L.R.A. (N.S.) 1077; 40 L.R.A. (N.S.) 242.

Love and affection as consideration for executory promise to pay existing debt of another. L.R.A.1918C, 543.

Subscribing one's name under word "surety" in written contract as satisfying statute of frauds. 23 L.R.A.(N.S.) 1197.

Agreement of shareholder to become re-sponsible for amount of company's debt, as a "promise to answer for the debt of another." 3 B. R. C. 611.

Language used by owner or other person interested in construction of building, importing a promise to pay a subcontractor, materialman, or employee of contractor, as a promise to answer for the debt or default of another. 5 B R. C. 96.

#### 4. Contracts not to be performed within a year.

§ 38. Generally.

Lease for more than a year, see infra, § 42. Parol lease for a year to commence in futuro. 49 L.R.A.(N.S.) 820.

while in possession under an existing lease for a tenancy in future. L.R.A. 1919B, 101.

CONTRACTS, II. g, 4-cont'd

Contracts for permanent employment. 35 L.R.A. 514; 50 L.R.A.(N.S.) 454.

Validity of oral contract for a year's services to commence in future. 2 L.R.A. (N.S.) 738.

Promise of marriage. L.R.A.1915D, 1190.

§ 39. Contracts for services which may, but are not intended to, be performed within a year. In general.. 15 L.R.A. (N.S.) 313.

Relating to lumber and timber, 15 L.R.A. (N.S.) 313.

For railroad privileges. 15 L.R.A.(N.S.) 315.

Building and fencing contracts. 15 L.R.A. (N.S.) 316.

Sharing profits. 15 L.R.A.(N.S.) 317. Farming contracts. 15 L.R.A. (N.S.) 318. Contracts relating to minors. 15 L.R.A. (N.S.) 318.

Contracts of employment. 15 L.R.A. (N.S.) 321; 50 L.R.A. (N.S.) 454. Contracts to support for life. 15 L.R.A.

(N.S.) 330; L.R.A.1915E, 563.

Effect of part performance. L.R.A.1916D,

Right to quantum meruit for services rendered under parol contract unenforceable because not to be performed within a year. L.R.A.1916D, 895.

# 5. Contracts as to realty.

§ 40. Generally.

Contract to devise real property, see supra, § 33.

Contracts as to, not to be performed within a year, see supra, §§ 38, 39.

Sufficiency of writing as to, see infra, §§ 50-54.

Part performance of contract as to, see infra, §§ 58, 59.

Parol trusts, see TRUSTS, § 11.

Specific performance of verbal contract, see Specific Performance, §§ 11-13.

Necessity of pleading the statute of frauds in action on land contract. 49 L.R.A. (N.S.) 33.

Transaction between heir and ancestor relating to expectancy. 32 L.R.A. 597.

Right to compensation for improvements on land, made in good faith under oral contract or gift. 53 L.R.A. 337.

Parol agreement to construct private way across railroad. 17 L.R.A.(N.S.) 702; 24 L.R.A.(N.S.) 375.

Validity of award under parol submission involving title to real property. L.R.A.(N.S.) 716.

Right of a purchaser of real estate to rely on the statute of frauds against contract by his vendor with a third person. 40 L.R.A.(N.S.) 883.

Validity of oral agreement to share contract for purchase of land. 3 L.R.A.(N.S.)

Begin with this book on every law question.

CONTRACTS, II. g, 5—cont'd Parol agreement to take title to real property, sell the same, and divide the proceeds, as affected by the statute of frauds. 8 L.R.A.(N.S.) 1137; 20 L.R.A.(N.S.) 298; 42 L.R.A. (N.S.) 1160.

Void parol conveyance of easement as foundation for easement by prescription. 13

L.R.A. (N.S.) 991.

Rights in respect to compensation for improvements on land made in good faith under an oral contract or gift. 53 L.R.A. 337.

Effect of fact that agreement is oral on question of undue influence in conveyance or transfer of property in consideration of support of the grantor or a third person. 52 L.R.A.(N.S.) 481.

Actions or suits in which equitable estoppel involving title or interest in real property is available. 49 L.R.A. (N.S.) 775.

Estoppel against assertion of title or interest in real property by concealing the same or representing it to be in another as affected by the statute of frauds. 48 L.R.A.(N.S.) 775.

Oral building restrictions as to parcels retained by grantor. 45 L.R.A.(N.S.)

963.

Right of vendee to recover back payments made upon a contract for the purchase of land which does not satisfy the statute of frauds. L.R.A.1916D, 468.

Liability of purchaser who takes possession under parol contract of sale in action for rents or for use and occupation where vendor refuses to perform. L.R.A.1915E, 405.

Degree of proof necessary to establish parol gift of real estate. 9 L.R.A. (N.S.) 508.

Measure of damages, for breach of oral contract to convey realty. 2 L.R.A. (N.S.) 713.

41. Partnership.

Effect of statute upon partnership lands. 27 L.R.A. 477.

Applicability of statute of frauds to partnership real estate. 37 L.R.A. (N.S.)

Validity of parol partnership for dealing in lands. 16 L.R.A. 745; 4 L.R.A. (N.S.) 427; 33 L.R.A. (N.S.) 883; L.R.A. 1915A, 521.

Agreement to share real property in payment for services as within the statute of frauds. 41 L.R.A.(N.S.) 184.

42. Leases.

Effect of part performance, see infra, § 58. Compensation when lease is invalid under statute of frauds, see LANDLORD AND TENANT, § 82.

Parol lease for a year to commence in futuro. 49 L.R.A. (N.S.) 820.

Oral agreement between landlord and tenant while in possession under an existing lease for a tenancy for futuro. L.R.A. 1918B, 101.

CONTRACTS, II. g, 5—cont'd Assignment of lease. 15 L.R.A. 754. Insurable interest of tenant in leased property under parol agreement. 42 L.R.A. (N.S.) 135.

43. Sale of timber.

Validity of oral sale of standing timber. 19 L.R.A. 721.

Effect of oral contract to cut standing timber to pass title to the same. L.R.A. (N.S.) 877.

Contract for timber to be sawed as a sale within the statute of frauds. 14 L.R.A. 233; 30 L.R.A.(N.S.) 324.

Purchase of standing timber as a purchase of realty. 13 L.R.A. (N.S.) 278.

Effect of statute of frauds on parol contracts relating to, which may, but are not intended to, be performed within a year. 15 L.R.A.(N.S.) 313.

Agreement for, as a contract for work and labor or a contract of sale within statute of frauds. 30 L.R.A.(N.S.) 324.

44. Sale of or agreement as to crops. Sale or mortgage of crops. L.R.A.1917C, 20.

Must a contract for the sale of growing crops or a reservation of the same by the grantor in deed be in writing? 23 L.R.A. (N.S.) 1218.

Agreement for as a contract for work and labor or a contract of sale within statute of frauds. 30 L.R.A.(N.S.) 323.

45. Agreement as to fences.

Validity of oral agreement as to erection or maintenance of fences. 27 L.R.A. (N.S.) 226.

Effect of statute of frauds on parol fencing contract which may, but is not intended to, be performed within a year. 15 L.R.A.(N.S.) 316.

§ 46. Broker's contract with princi-

Contract by real estate broker to find purchaser or effect exchange of principal's property. 44 L.R.A. 601.

Power of legislature to require contracts for commissions for finding a purchaser for real estate to be in writing. 33 L.R.A.(N.S.) 973.

Power of legislature to prohibit offering of another's real estate for sale without written authority. 12 L.R.A.(N.S.) 707.

Necessity that authority of agent to purchase or sell real property be in writing to enable him to recover compensation for his services. 9 L.R.A. (N.S.)

Ratification of agent's unauthorized contract for purchase or sale of real property as affected by statute of frauds. 38 L.R.A.(N.S.) 783.

New promise based on previous oral contract. 26 L.R.A.(N.S.) 524.

Consult also L.R.A. Digests of Cases.

CONTRACTS, II. g, 5-cont'd

§ 47. Broker's contract with purchas-

Necessity of securing written contract from purchaser to entitle real estate broker to commission. 46 L.R.A.(N.S.) 129.

Written authority to agent to contract for sale of property as dispensing with necessity that contract of sale itself be in writing. 28 L.R.A.(N.S.) 738. Written authorization of broker or agent

to buy or sell land as a memorandum of contract of sale sufficient to satisfy the statute of frauds. L.R.A.1915C, 400.

Principal's default in entering into or carrying out oral contract with purchaser as affecting broker's right to commissions. 43 L.R.A. 599.

Parol evidence that one of the persons who signed an instrument relating to real property was agent for an undisclosed principal. 24 L.R.A.(N.S.) 315.

Ratification of agent's unauthorized contract for the purchase or sale of real property as affected by the statute of frauds. 38 L.R.A. (N.S.) 783.

§ 48. Contract to purchase land in name of another.

Statute of frauds as affecting legal remedy for breach of contract to purchase land for and in the name of another. L.R.A. (N.S.) 123.

Statute of frauds as affecting right to equitable relief against one who has purchased land in his own name, in violation of his agreement to purchase it for and in the name of another. 5 L.R.A. (N.S.) 112.

§ 49. Assignment of interest in land

Validity of oral agreement to assume or assign land contract. 3 L.R.A. (N.S.) 147.

Applicability of statute of frauds to assignment or surrender of purchaser's interest under land contract. 19 L.R.A. (N.S.) 879.

Printed or stamped signature. 37 L.R.A. (N.S.) 352.

#### 6. Sufficiency of writing.

50. Generally.

§ 50. Generally.

Telegrams as writings to make a contract within the statute of frauds. 50 L.R.A. 240.

Subscribing one's name under word "surety" in written contract as satisfying statute of frauds. 23 L.R.A.(N.S.) 1197.

§ 51. Sufficiency of description.

Description of property by local appella-tion. 36 L.R.A. (N.S.) 154.

Description of land in contract by reference to street number. L.R.A.1918C, 520.

CONTRACTS, II. g, 6-cont'd Sufficiency of description in land contract which gives right to select particular tract to be conveyed. 34 L.R.A.(N.S.)

Description of property by ownership or acreage without other particular de-scription. L.R.A.1916C, 1127. May contract which purports to describe

premises by number of acres be satisfied by a conveyance of that number of acres out of a larger tract which otherwise answers the description. L.R.A. 1916C, 1100.

# 52. Sufficiency of memorandum.

Undelivered deed as memorandum to satisfy statute of frauds. 22 L.R.A. 273. Deed delivered in escrow as satisfying statute of frauds. 43 L.R.A.(N.S.) 390.

Officers' return upon judicial sale as a memorandum satisfying the Statute of Frauds. L.R.A.1917E, 899.

Written authorization of broker or agent to buy or sell land as a memorandum of contract of sale sufficient to satisfy the statute of frauds. L.R.A.1915C, 400.

May statute of frauds relating to sales of real property be satisfied by a memorandum which discloses that one of the parties acted for an undisclosed principal. 8 L.R.A.(N.S.) 733.

May an extrinsic document, not referred to

in a memorandum of sale of real property, be resorted to in aid of a defective description in the memorandum or contract, so as to satisfy the statute of frauds. 18 L.R.A. (N.S.) 616.

Necessity of specifying time of payment of purchase price in contract or memorandum for the sale of real property. 33 L.R.A. (N.S.) 84.

§ 58. Signing.

Signing by proxy. 22 L.R.A. 297.
Signing by mark. 22 L.R.A. 372.
Place of signature. L.R.A.1917A, 153. Necessity that witnesses see testator sign or that they see his signature. L.R.A. (N.S.) 161; L.R.A.1915B, 87.

# 54. — who must sign.

Who must sign note or memorandum of executory contract for the sale of real property or chattels within the statute of frauds. 28 L.R.A. (N.S.) 680; 43 L.R.A.(N.S.) 410.

May the statute of frauds be satisfied by a declaration of trust signed by the trustee alone. 38 L.R.A. (N.S.) 646.

# 7. Effect of part performance.

# 55. Generally.

right to specific performance, see SPECIFIC PERFORMANCE, § 13.

Effect of statute of frauds upon the power of equity to reform a contract which has been partly performed. L.R.A.1917A,

Effect of part performance. 14 L.R.A. 863. Begin with this book on every law question.

CONTRACTS, II. g, 7—cont'd Check as payment for purpose of taking contract out of statute of frauds. L.R.A. 1918B, 902.

Will as part performance. 14 L.R.A. 863. Part performance of grantee's oral promise to grantor to hold in trust as taking case out of statute of frauds. L.R.A.(N.S.) 928.

Part performance of contract in consideration of naming child. (N.S.) 1108. 51 L.R.A.

Action for purchase price on oral contract of sale of land where deed has been delivered. 51 L.R.A.(N.S.) 77.

Part performance to take contracts to render services not to be performed within a year out of the Statute of Frauds. L.R.A.1916D, 884.

# § 56. Of sale of personalty.

Work in fitting up for delivery as payment of price to take the contract out of the statute of frauds. 15 L.R.A. (N.S.) 654.

Symbolic delivery by sample to satisfy statute of frauds. 70 L.R.A. 321.

#### § 56a. — acceptance as taking out of statute.

Effect of subsequent acceptance to take sale out of staute of frauds. 10 L.R.A. (N.S.) 638.

Receipt and accomptance to satisfy the statute of frauds when goods are in possession of purchaser at time of agreement. 11 L.R.A.(N.S.) 1186; 20 L.R.A. (N.S.) 498; L.R.A.1916F, 393.

§ 57. — delivery to carrier. General rule. 35 L.R.A.(N.S.) 1039. Designation of the carrier. 35 L.R.A.(N.S.) 1041.

Particular circumstances indicating acceptance. 35 L.R.A.(N.S.) 1043.

Rule under particular statute. 35 L.R.A. (N.S.) 1044.

# § 58. Leases of land.

Improvements under oral contract of gift, see Improvements, § 13.

Part performance under parol lease to satisfy the Statute of Frauds. 49 L.R.A. (N.S.) 113.

Effect of performance to take parol assignment of lease out of statute of frauds.

15 L.R.A. 754; 42 L.R.A. (N.S.) 162.

Nature of tenancy by entry under lease void under statute of frauds. 42 L.R.A. (N.S.) 648.

Effect at law of entry under lease void under statute of frauds. 42 L.R.A. (N.S.) 654.

Entry under parol agreement for a lease as part performance in equity. 20 L.R.A.

Effect of making improvements under oral lease for term beyond that permitted by statute, to entitle lessee to hold during term. 3 L.R.A.(N.S.) 852.

CONTRACTS, II. g, 7-cont'd. § 59. Taking possession of land.

Effect of, on right to specific performance, see Specific Performance, § 13.

Taking possession of real property as part performance to satisfy statute of frauds. 3 L.R.A.(N.S.) 790.

Parol transfer of possession as basis of tacking for purposes of adverse possession. 35 L.R.A.(N.S.) 498.

# h. Merger.

60. Generally.

Of oral and written contracts limiting initial carrier's undertaking to its own line. 31 L.R.A.(N.S.) 64.

Merger of stipulations as to title in executory contract for the sale of real estate in subsequently executed conveyance. 31 L.R.A. (N.S.) 457.

#### III. Construction.

#### a, In general.

§ 61. Generally.

Construction of arbitration agreement, see ARBITRATION.

Automobile distribution contract, see Auto-MOBILES, § 11.

Contract for water supply, see WATERS, § 111.

Provision for penalty or liquidated damages in case of delay, see DAMAGES, §§ 38–40.

Rule that when terms of agreement have been intended in a different sense, that sense is to prevail, against either party, in which he had reason to suppose the other party understood it. 8 L.R.A. (N.S.) 1140.

Parol evidence that parties to a written contract which merely names a class or species, contemplated a particular quality or kind. 9 L.R.A.(N.S.) 967.

Perjury in statement involving matters of opinion or belief in construction of contract. 25 L.R.A.(N.S.) 658.

Typewritten matter as written or as printed matter. L.R.A.1915D, 1084.

Matter in letterhead, billhead, or on margin of paper on which contract is written as part of contract or as notice affecting the rights of the parties. L.R.A. 1916D, 1072.

Fixing the extent of liability of the sev-eral obligors to an agreement as making it joint, joint and several, or several. L.R.A.1915B, 221.

# b. Entirety.

§ 62. Generally.

Severability of insurance, see Insurance, §§ 61. 62.

Separable agreement for repair of pavement by contractor. 44 L.R.A. 539.

Divisibility of contract in restraint of trade. 22 L.R.A. 673.

Consult also L.R.A. Digests of Cases.

CONTRACTS, III. b—cont'd.
In respect of time or territorial extent. 24
L.R.A.(N.S.) 942.

Contract which fixes compensation at a certain amount per unit of work done, as entire or severable. 20 L.R.A. (N.S.)

Rights and remedies of servant discharged for good cause under entire and divisible contracts. 5 L.R.A. (N.S.) 524.

#### c. Time.

§ 63. Generally.
Time of performance, see infra, § 132. Time in contractual matters generally, see

TIME, § 3.

Making time of the essence by demand or notice. 15 L.R.A. 737.

Time for delivery of goods sold as of the essence of the contract. L.R.A.1916E,

First and last days in computation of time on. 49 L.R.A. 205.

Divisibility in respect of time, of contract in restraint of trade. 24 L.R.A. (N.S.) 942.

Intention of parties to, to adopt standard instead of sun time. 1 L.R.A.(N.S.) 364; 6 L.R.A.(N.S.) 1046.

Standard or solar time as the criterion in determining questions dependent upon time. 35 L.R.A.(N.S.) 611.

Construction and effect of provision for extension of time for removal of standing timber. 34 L.R.A.(N.S.) 615.

Duration of contract of hiring which fixes no term but specifies compensation at a certain amount per day, week, month or year. 25 L.R.A. (N.S.) 529; 51 L.R.A. (N.S.) 629.

Rent period as criterion of term implied by holding over after expiration of lease for a fixed term. 25 L.R.A.(N.S.) 855.

Provisions relating to time in irrigation contracts. L.R.A.1916F, 259.

#### Particular words, phrases, and cases.

§ 64. Generally.

As to penalties or liquidated damages, see DAMAGES, §§ 38-40.

Discrepancy between words and figures in the body of a check describing the Ľ.R.A. amount amount thereof. 1918C, 331.

Meaning of term "waterproof" employed in

contract. L.R.A.1918B, 826.

Provision of contract for payment without deduction for taxes as applicable to income tax. L.R.A.1917F, 205.

Time of payment obligation purporting to be payable on specified event, the happening of which is wholly or partially within the control of the promisor. L.R.A.1917B, 1050.

Contractor's bond for the payment of claims for labor and material as a contract of indemnity against liability, or against loss. L.R.A.1918D, 1074.

CONTRACTS, III. d-cont'd

What conditions or defects are covered by provision in paving contract requiring contractor to keep pavement in repair. 9 L.R.A. (N.S.) 154; 49 L.R.A. (N.S.) 922.

Effect of promise to pay "as soon as promisor can." 27 L.R.A. (N.S.) 300; L.R.A. 1918A, 902.

struction of promotion agreements. L.R.A.1918E, 834. Construction

Construction of irrigation contracts with consumers. L.R.A.1916F, 257.

Construction of contract to dig a well as to the quantity or quality of water fur-

nished thereby. L.R.A.1918A, 1085. Services covered by towage agreement. L.R.A.1915B, 1086.

Express agreements for lateral support. 48 L.R.A. (N.S.) 474.

§ 65. Building contracts.

Provision for penalty or liquidated damages in case of delay, see DAMAGES, §§ 38–40.

Aiding the interpretation of building contracts by extrinsic documents amples. 9 L.R.A.(N.S.) 1007.

Fixing the extent of liability of the several obligors to a building contract as making it joint and several or several. L.R.A.1915B, 225.

§ 65a. — stipulation that alterations or extras must be ordered in writing

In public contract, see infra, § 162.

Effect of stipulation that alterations or extras must be ordered in writing. 48 L.R.A. (N.S.) 564.

§ 66. Sale of personalty.

Construction of contract having some provisions peculiar to consignment and agency contracts and others to sale contracts. L.R.A.1917B, 626.

Assignability of contract to supply such quantity of goods as purchaser may require in his business. 2 B. R. C. 444.

Effect of retention of title to personal property until payment of purchase price to characterize sale as executory. 5 L.R.A.(N.S.) 475.

67. Agreements as to real property. Construction of oil and gas lease, see MINES, III. c, 2.

What constitutes "satisfactory title" within requirement of land contract or other agreement relating to land. 18 L.R.A. (N.S.) 741.

Will real estate pass under the word "effects" in a written instrument. 12 L.R.A. (N.S.) 661.

Destruction by decay rendering premises untenantable as within landlord's covenant to repair. 21 L.R.A.(N.S.) 130.

68. Damages "by the elements." What constitutes, within the meaning of of alienation, see PERPETUITIES.

contracts with stipulations refer | Contracts made on Sunday, see SUNDAY, § 4.

Unurious contract, see USURY.

CONTRACTS, III. d-cont'd

§ 69. Subscription contract. Subscription to corporate stock, see Con-POBATIONS, § 77-81a.

As to subscriptions, generally, see SUBSCRIP-TIONS.

Is a subscription contract joint or several. 22 L.R.A. 80.

§ 69a. Not to engage in rival business. Entering another's business as breach of covenant not to engage in rival business. 20 L.R.A. (N.S.) 769; 40 L.R.A. (N.S.) 1191.

IV. Essential validity and effect.

a. In general; public policy.

70. Generally.

Validity as affected by consideration gen-erally, see supra, I. c.

Mutuality as affecting validity, see supra, § 18.

Certainty and definiteness as affecting validity, see supra, §§ 20, 21.

Capacity to make valid contract, see supra, I. f. Formal requisites affecting validity, see su-

pra, I. g. Validity as affected by statute of frauds, see

supra, I. g. Of public contracts, see infra, VIII.

Validity of assignment, see Assignment, § 9.

Validity of provision against assignment, see Assignment, § 10.

Validity of assignment for creditors, see As-SIGNMENT FOR CREDITORS, § 14. Stipulation for attorney's fees, see ATTOR-

NEY'S FEES, § 2. Validity of commercial paper, see BILLS AND

Notes, §§ 10-17. Validity of bond, see Bonds.

Champertous contracts, see CHAMPERTY AND MAINTENANCE.

Validity of chattel mortgage, see CHATTEL MORTGAGE, §§ 4-6.

Of compromise, see COMPROMISE AND SET-TLEMENT, § 6.

Validity of contracts by foreign corporation which has not complied with conditions as to doing business, see CORPORATIONS, § 148.

Contract procured by duress, see Duress,

Contracts between husband and wife, see HUSBAND AND WIFE, V.

Validity of oral contract of insurance, see Insurance, § 43.

Validity of agreement as to rate of interest, see Interest, § 19; Usury.

As to illegal monopolies or trusts, see Mo-NOPOLY AND COMBINATIONS

Validity of mortgage, see MORTGAGE, §§ 20-24.

Municipal contracts, see MUNICIPAL COR-PORATIONS, §§ 53-60. Validity of conveyance suspending power

Of contract for water supply, see WATERS, § 111.

Estoppel by, see ESTOPPEL, § 11.

Injunction against illegal contract, see In-JUNCTION, § 12.

Constitutionality of statute legalizing. 22 L.R.A. 379.

Effect of war on contracts with alien enemies. L.R.A.1917C, 662.

Right of partner to compensation under express contract. 17 L.R.A..(N.S.) **409**,

Agreement that surviving partner shall have the partnership business or property. L.R.A.1918B, 907.

Validity of agreement against right to partition. 16 L.R.A. 220.

Contract not to protest against application for patent to public land. 9 L.R.A. (N.S.) 529.

Effect of contract as to standing timber to pass title to same. 6 L.R.A.(N.S.) 469; 47 L.R.A.(N.S.) 870.

Effect of express agreements or covenants for lateral support. 48 L.R.A.(N.S.)

Validity of agreement to transfer future-acquired property in consideration of maintenance. 70 L.R.A. 485.

Validity of agreement to pay money after death of promisor. 14 L.R.A. 860.

Effect of extrinsic promise to sign or indorse a note or bill. 33 L.R.A.(N.S.)

Validity of provision in contract for payment of money, that it shall be payable to obligee only, and not to his estate. 17 L.R.A.(N.S.) 1239.

Validity of stipulation against assignment in contract for payment of money. 21 L.R.A.(N.S.) 597.

Right to duplicate portrait or photograph without the consent of the person under contract with whom the original was produced. 7 L.R.A.(N.S.) 362.

Implied power to incorporate in contract for public work, a requirement that the contractor shall pay laborers and materialmen. 11 L.R.A.(N.S.) 1028; 46 L.R.A. (N.S.) 325.

Effect of agreement for set-off against holder of negotiable paper transferred after maturity. 46 L.R.A. 797.

Validity of sale of, or agreement to sell commercial paper to one primarily liable thereon. 35 L.R.A. (N.S.) 820.

Validity and effect of stipulation in contract to renew on terms to be agreed upon. 32 L.R.A.(N.S.) 201.

Validity and effect of agreement by vendor to repurchase or permit a rescission of the contract or to resell the property, at the option of his vendee. L.R.A. 1917C, 763.

Validity of contract by vendor to repurchase vendee's interest after latter's default. 35 L.R.A.(N.S.) 544.

Validity of agreement with surety as to custody or control of trust fund. 16 Recovery of purchase price of property sold L.R.A.(N.S.) 994. for illegal purpose, see infra, § 114.

Consult also L.R.A. Digests of Cases.

CONTRACTS, IV. a-cont'd

Validity, in absence of statute, of contract exempting property within improve-ment district from special assessment in consideration of acts done or other obligations assumed. 41 L.R.A.(N.S.) 781.

Contract to levy taxes for particular pur-pose as affecting power or right to levy taxes for other purposes.

1918B, 886. Validity of contract for detection of crime. 42 L.R.A.(N.S.) 847.

Contracts fixing rates other than those established in accordance with interstate commerce act. 38 L.R.A. (N.S.) 351.

Contract to induce assent to composition with creditors. 27 L.R.A. 36.

Effect of agreement for immunity of accom-

plice who testifies for prosecution. 24 L.R.A.(N.S.) 439.

Validity of contract to influence, by apparently disinterested advice, the conduct of a third person to whom the promisor owes no contractual duty. 1917F, 468.

Validity of contract to supply city with water. 61 L.R.A. 67.

Agreements to arbitrate in illegal contracts. 47 L.R.A.(N.S.) 346.

Validity of provision in contract against interest. L.R.A.1916A, 555.

Validity of provision in contract for increased rate of interest upon default. L.R.A.1916E, 728.

Validity and character of agreements contemporaneous with mortgage, constituting clogs on equity of redemption. 6 B. R. C. 431.

Validity of contract in relation to real property which discriminates against persons because of race, color or religion. L.R.A.1916B, 1208.

What misrepresentations as to the contents of an instrument will render it void in law. 4 B. R. C. 663.

71. Contract made on holiday. Contracts made on Sunday, see SUNDAY,

Law of holidays as applied to contracts other than negotiable instruments. 19 L.R.A. 317.

§ 72. Liability on original contract as affected by void renewal or substitution.

In general. 33 L.R.A. 628.

Where the renewal is void for forgery. 33 L.R.A. 628.

For want of authority. 33 L.R.A. 631.

For time, mode, and manner of execution. 33 L.R.A. 632.

For disability of party. 33 L.R.A. 633. For usury. 33 L.R.A. 633.

For other causes contrary to public policy. 33 L.R.A. 635.

§ 73. Contract connected with illegal contract or transaction.

Effect of award upon claim arising out of illegal transaction. 58 L.R.A. 181.

New promise as consideration when original

promise was illegal, 53 L.R.A. 370.

Validity of new contract based on compromise of illegal contract. 9 L.R.A. (N.S.) 568.

Is promise by a third party to pay claim arising out of performance of contract between two other persons tainted by the illegality of that contract. 28 L.R.A. (N.S.) 996.

Effect of landlord's knowledge that tenant intends to use premises for purposes of prostitution. 19 L.R.A.(N.S.) 662.

# § 74. By unlicensed person.

Effect of failure to procure license for business on validity of contract therein. 16 L.R.A. 423; 12 L.R.A.(N.S.) 613.

Extent of restriction on right of unlicensed person to transact legal business. 24 L.R.A.(N.S.) 750.

Effect of contract by unlicensed teacher. 42 L.R.A. (N.S.) 412.

Right of unlicensed person to recover for services rendered by licensed person. 2 L.R.A.(N.S.) 392; 21 L.R.A.(N.S.) 176.

Failure of money lender to procure license as affecting validity of his contract. L.R.A.1915B, 851.

Burden of proof as to physician's license in suit to recover for services. 8 L.R.A. (N.S.) 1238.

75. Contracts in violation of statute. Contracts by unlicensed person, see supra, § 74.

Right to recover for property sold for unlawful use, see infra. § 114.

Validity of contracts in business which it is a misdemeanor to transact. 12 L.R.A.(N.S.) 575.

Conducting business in violation of law as affecting contract for its sale. L.R.A. (N.S.) 810.

Validity of contract for the sale of fertilizer where statutory regulations had not been complied with. 43 L.R.A.(N.S.) 1109.

Contracts requiring servant to elect between acceptance of benefits out of a relief fund and a prosecution of his claims in an action for damages. 48 L.R.A. (N.S.) 443, 451.

Effect of discrimination among insurants upon the contract of insurance and its incidents. 49 L.R.A.(N.S.) 147.

Validity of contracts made by individual or partnership under an assumed name in violation of statute. L.R.A.1915D, 988.

Liability of municipality or other public corporation for benefits received under contract violative of statutory restrictions. 27 L.R.A.(N.S.) 1120; 46 As to compensation, see Attorneys, §§ 20, L.R.A.(N.S.) 921.

CONTRACTS, IV. a-cont'd

Municipal liability for labor performed or services accepted by it under contract violating statutory or charter restrictions on power to contract. 27 L.R.A. (N.S.) 1127.

§ 76. — use of leased premises in violation of law.

Effect of landlord's knowledge that tenant intends to use premises in violation of law. 19 L.R.A. (N.S.) 662; 39 L.R.A. (N.S.) 1104.

§ 77. Public policy generally.
Validity of claim against state which is contrary to public policy. 42 L.R.A. 39.

Estoppel of public corporation to deny validity of contract in violation of public policy. L.R.A.1915A, 1002.

Right to open default judgment to let in defense that contract was against public policy. L.R.A.1916F, 860.

Validity of agreement to surrender right to purchase property at private sale. 44 L.R.A.(N.S.) 1115.

Validity of private agreement with certain property owners to obtain their con-sent to local improvement. 50 L.R.A. (N.S.) 396.

Insurance on bawdyhouse or furniture therein. L.R.A.1917B, 257.

Validity of agreement to stay away from a certain locality. L.R.A.1918A, 1150.

78. Indemnity contract.

Validity of agreement to indemnify bail in a criminal case. 20 L.R.A.(N.S.) 58.

79. Contracts of employment.

Contract by servant relieving master from liability for injuries, see MASTER AND SERVANT, §§ 52, 53.

Constitutional objections to convict labor contracts. L.R.A.1916D, 660.

Agreements between employer and trade

union. 45 L.R.A.(N.S.) 184. Contract to employ union labor only. 2 L.R.A.(N.S.) 292; 45 L.R.A.(N.S.) 564.

Contracts for permanent employment. 35 L.R.A. 513; 50 L.R.A. (N.S.) 454.

Contract by employer to protect employees from personal violence by strikers. L.R.A.1918C, 929.

Binding effect of contract for services of 38 L.R.A. 687; 52 L.R.A. pastor. (N.S.) 172.

Validity of contract fixing minimum wage for person employed upon public work. 51 L.R.A.(N.S.) 686.

Validity under the Federal employers' liability act of contract requiring notice in writing. L.R.A.1915F, 551.

21; CHAMPERTY AND MAINTENANCE.

Validity of contract by attorney to secure suspension of criminal law as to offenses thereafter committed. 38 L.R.A. (N.S.) 842.

Right of attorney to compensation from private employer for assisting in prosecution in criminal case. L.R.A.1916D, 462.

Agreement with attorney by which compensation is dependent on success in procuring contract with public officer or board. L.R.A.1915C, 823.

#### § 81. — with physician; for medical services.

Validity of contract to pay attending physician percentage of damages recovered for personal injury. '33 L.R.A.(N.S.)

Validity of contract to furnish a patient medical services for life. 28 L.R.A. (N.S.) 1112.

Duty and liability of one other than a physician or surgeon, who contracts to provide medical or surgical attention to another. 36 L.R.A. (N.S.) 50; L.R.A.1915D, 884.

# § 82. Affecting marriage relation.

Living in illicit relations, see infra, § 120. Agreements as to divorce and separation, see DIVORCE AND SEPARATION, § 58.

Agreement as to alimony, see DIVORCE AND SEPARATION, § 35.

Validity of marriage, see MARRIAGE, §§ 5-7.

Validity of agreement to marry where one of the parties is already married. 1 B. R. C. 917; L.R.A.1918B, 68.

Validity of agreement to marry on death or divorce of present husband or wife. 52 L.R.A. 660.

Contract made to prevent attack upon divorce decree. L.R.A.1917F, 621.

Contract between husband and wife to compromise pending or contemplated divorce suit. 60 L.R.A. 406.

Validity of contract by third person to pay one spouse to return to the other. L.R.A.(N.S.) 141.

Validity of agreement made after divorce as a substitute for an award of alimony. 35 L.R.A.(N.S.) 1167.

Validity of marriage brokage contracts. 3 B. R. C. 643.

Contracts in restraint of marriage. L.R.A. (N.S.) 633; 4 B. R. C. 64.

83. To pay debt of married woman. Validity of husband's express promise to pay debt previously contracted by wife. 7 L.R.A.(N.S.) 1048.

Validity of new promise by woman after discoverture to pay debt incurred during coverture. 53 L.R.A. 371; 7 L.R.A. (N.S.) 1053; 33 L.R.A. (N.S.) 741.

# 84. To affect bid.

Validity of agreement to purchase property at judicial sale for joint benefit. 38 L.R.A. (N.S.) 719.

Consult also L.R.A. Digests of Cases.

CONTRACTS, IV. a-cont'd

§ 85. As to patents.

Validity of contract in restraint of trade as to patented articles without limitation of place. 22 L.R.A. 674.

Contract to assign future inventions upon sale of patent. 2 L.R.A.(N.S.) 1094. Validity and effect of agreement to pay royalties on device not in fact covered by

a patent, but assumed to be so covered. 14 L.R.A. (N.S.) 274.

Validity of contract for material patented or held in monopoly where a public letting to the lowest bidder is required. 18 L.R.A. 45; 5 L.R.A. (N.S.) 680; 46 L.R.A.(N.S.) 990; L.R.A.1917A, 442.

§ 86. As to wills. Validity of agreement for bequest or devise. 14 L.R.A. 860.

Effect of agreement to give property by will upon right to change will. 14 L.R.A. 861.

Effect of agreement to give property by will on right to transfer property during life. 14 L.R.A. 861. Clauses in will against public policy as

affecting right to probate. 34 L.R.A. (N.S.) 967.

Validity of contract not to contest probate of will. 13 L.R.A.(N.S.) 484.

Validity of agreement to defeat probate of will. 16 L.R.A. (N.S.) 236; 43 L.R.A. (N.S.) 575.

pacity of testator. 23 L.R.A.(N.S.) 783. Validity and effect of stipulation of inca-

Validity of agreement that costs of contesting a will shall be paid out of the estate. 2 B. R. C. 633.

§ 87. As to custody, control, and support of infant.

Custody and support of children generally, see INFANTS, §§ 6-13.

In general. 27 L.R.A. 56; 42 L.R.A. (N.S.) 1013.

Right of parent to relieve himself of his obligations. 27 L.R.A. 56; L.R.A. (N.S.) 1014.

Right to revoke. 27 L.R.A. 58; 42 L.R.A. (N.S.) 1016.

Contract not enforced. 27 L.R.A. 59.

Children restored. 27 L.R.A. 59; 42 L.R.A. (N.S.) 1017.

Right under statute. 27 L.R.A. 59; 42 L.R.A.(N.S.) 1018.

Rights of third person. 27 L.R.A. 60; 42 L.R.A.(N.S.) 1018.

Estoppel of parent. 27 L.R.A. 60; 42 L.R.A. (N.S.) 1018.

Child's welfare will be regarded. 27 L.R.A. 61; 42 L.R.A.(N.S.) 1020.

Effects of child's choice. 27 L.R.A. 61.

Child may enforce contract. 27 L.R.A. 61. Agreement as to residence of child. 27 L.R.A. 61.

Such contract, to be enforced, must be clear. definite, and certain. 42 L.R.A.(N.S.)

87a. — after or pending divorce suit. Custody and support of divorced children generally, see DIVORCE AND SEPARATION, § 55-57.

Rights of divorced persons to contract as to custody of children. 15 L.R.A. (N.S.) 744.

Validity of agreement between parents as to custody and support of child pending divorce. 2 L.R.A.(N.S.) 201.

§ 88. As to expectancy. See EXPECTANCY, §§ 2, 3.

§ 89. Special contracts and obligation to pay in gold or silver.

Before legal tender act. 29 L.R.A. 512.

Application of legal tender act to specific contracts for coin. 29 L.R.A. 512. Implied contracts or obligations imposed by law. 29 L.R.A. 522.

§ 90. As to statute of limitations. Limitation of time to sue on policy, see INSURANCE, §§ 207, 208.

Effect of promise to pay on running of limitations, see LIMITATION OF ACTIONS, §§ 68-71.

Effect on running of limitations of agreement not to plead the statute. 16 L.R.A.(N.S.) 645.

Waiver or tolling of statute of limitations or nonclaim by personal representative as to an indebtedness of the estate. L.R.A.1915B, 1016.

§ 91. Threat of prosecution; to compound felony.

Contracts procured by threats of prosecution of a relative. 26 L.R.A. 48; 20 L.R.A. (N.S.) 484; 37 L.R.A. (N.S.) 539; L.R.A.1915D, 1118.

Validity of agreement in settlement of cause of action for criminal conversation. 36 L.R.A.(N.S.) 995.

Legality of contract to pay thief for return of stolen property. 7 L.R.A. (N.S.) 175.

Validity and enforceability of contract to compensate the owner of property stolen or embezzled, in absence of duress or agreement, express or implied, to stifle prosecution. L.R.A.1915E, 139.

Effect of agreement to stifle prosecution upon contract to pay existing indebtedness, or the value of property or money feloniously obtained. 16 L.R.A. (N.S.) 971.

Injunction against enforcement of contracts for compounding crime. 48 L.R.A. 848.

§ 92. Immoral consideration general-

Right to invoke aid of court, see infra, § 120.

Right of alleged fraudulent grantee to show that judgment against grantor was based on an immoral consideration. L.R.A. 602.

CONTRACTS, IV. a—cont'd § 93. With, or as to, corporations or associations.

Ultra vires contract of corporation, see CORPORATIONS, V. b.

Foreign corporation which has not complied with conditions as to doing business, see Corporations, § 148.

Agreements between promoters of corpora-tion. L.R.A.1918E, 839.

Provision against officer being interested in contract with public as extending to corporation of which he is a stockholder or officer. L.R.A.1917C, 1099.

Validity of agreement to abide by decision of tribunal of associations or corporations. 49 L.R.A. 372.

Validity of agreement to elect dummy directors. 27 L.R.A.(N.S.) 658.

Contracts between corporations having common directors or officers. 33 L.R.A. 788.

Effect of statutes forbidding corporate officers, directors, or stockholders to be interested directly or indirectly in dealings with the corporation. L.R.A. 19Ĭ6A, 783.

Validity of contract to employ union labor only. 45 L.R.A.(N.S.) 564.

Validity of individual contract of director to pay dividends. L.R.A.1917A, 1077.

Public policy as related to communistic life or tenure of property. 52 L.R.A.(N.S.) 459.

§ 94. — as to corporate stock.
As to voting trusts, see Corporations,

§ 124.

Validity of subscription for corporate stock where subscription contract was illegal. 33 L.R.A. 597.

Illegality of contract for sale of corporate stock as defense to action for specific performance. 50 L.R.A. 508; 31 L.R.A. (N.S.) 500.

Agreements to control voting power of corporate stock. 16 L.R.A. (N.S.) 1136.

Validity of contract or option by director for purchase of stock of employee of corporation upon discontinuance of employment. L.R.A.1916D, 1117.

§ 95. — with railroad company As to contracts limiting carrier's liability, see Carriers, §§ 28, 29, 91, 128-135.

Right of common carrier to contract for use of its cars for advertising purposes. 24 L.R.A. (N.S.) 1010.

Contract by railroad company to maintain special rate to a particular locality. 38 L.R.A.(N.S.) 157.

Validity of contract made to influence lo-cation of railroad. 21 L.R.A.(N.S.)

Validity of contract which contemplates the turning over by a railroad company to a construction company of bonds and stocks of the former of a par value in excess of the cost of construction. 13 L.R.A.(N.S.) 191.

Contract to pay an officer of a railroad company for his own benefit, condi-tioned on specified location of the road or a depot. 6 L.R.A.(N.S.) 524; 25 L.R.A.(N.S.) 967.

Validity of contract of railroad to establish and maintain station. L.R.A.(N.S.) 594; L.R.A.1916F, 691.

Validity, as affected by public policy, of contract by railroad company to maintain private sidings. 17 L.R.A. (N.S.) 130.

Contract exempting railroad company from liability for burning building upon its right of way. 44 L.R.A.(N.S.) 1127.

96. - with street railway.

Effect on liability of street railway for paving assessments of agreement at time of extending tracks. 46 L.R.A. 196.

97. Contracts against liability Validity of carrier's limitation of liability, see Carriers, §§ 28, 29, 91, 128-135.

Validity of agreement by servant relieving master from liability for injuries, see MASTER AND SERVANT, §§ 52, 53.

Contract limiting liability of telegraph company, see Telegraphs, §§ 20, 21.

Contract exempting railroad company from liability for burning building upon its right of way. 44 L.R.A. (N.S.) 1127.

§ 97a. Agreements tending to influence elections or appointment to office.

Agreements tending to influence elections. 51 L.R.A.(N.S.) 549.

Agreements tending to influence appointments to office. 51 L.R.A.(N.S.) 554.

§ 98. Affecting official action.

Contracts to procure location of railroad or station, see supra, § 95.

Contract to influence action of officer, see infra, § 100.

Contract to influence legislation, see infra, § 102.

Validity of contract as affected by the fact that its performance may involve the necessity of procuring some action by public officials. 18 L.R.A.(N.S.) 1161.

Validity of agreement by which compen-sation is dependent on success in procuring contract with public officer or board. 39 L.R.A. (N.S.) 747; L.R.A. 1915C, 823.

Validity of contract to procure pardon, parole, or commutation of sentence. L.R.A.1916D, 580.

Validity and effect of agreement among banks to prevent competition for deposits of public money. 14 L.R.A. (N.S.) 1052.

Contract as to location of public buildings. 4 L.R.A.(N.S.) 589; L.R.A.1916D, 727.

§ 99. Contracts with public officers. Contracts affecting appointment or election to office, see supra, § 97a. Consult also L.R.A. Digests of Cases. 18

CONTRACTS, IV. a—cont'd

Liability of public officers on contracts made by them for the public. 15 L.R.A. 509; 43 L.R.A. (N.S.) 565.

Charging public official with graft in public contracts as libel or slander. L.R.A.(N.S.) 498.

Validity of contract by public officer to furnish police protection. 45 L.R.A. (N.S.) 38.

§ 99a. — as to compensation.

Validity of contract as to fees in violation of law. 12 L.R.A.(N.S.) 612.

Agreement to pay more than legal salary or fees of public officer or employee. L.R.A.1917C, 1093.

Promise to accept less than compensation fixed by law as affecting right to hold office. L.R.A.1917B, 196.

Agreement to accept less than amount of appropriation, salary or fee. 36 L.R.A. (N.S.) 244; L.R.A.1917B, 190.

Validity of agreement to divide fees or salary of public officer. 43 L.R.A. (N.S.) 422.

§ 100. — to influence action. Contract to influence legislation, see infra, § 102.

§ 100a. — contract in which officer is personally interested.

Provision against officer being interested in contract with public as extending to corporation of which he is a stockholder or officer. L.R.A.1917C, 1099.

Power of an officer to contract with the public body or municipality which he represents. 15 L.R.A. 520.

Obligation of municipality to pay for property purchased from an officer or member of board intrusted with the duty of making purchases. 9 L.R.A. (N.S.)

Liability of municipality or other public corporation on contract invalid because executed with officer of municipality. 27 L.R.A. (N.S.) 1123; 46 L.R.A. (N.S.) 921.

Obligation of public corporation to pay for services rendered under contract in which officer is personally in-terested. 34 L.R.A.(N.S.) 129.

Effect of indirect interest of public officer in performance of contract for construction of public improvement. 50 L.R.A. (N.S.) 1140.

Appointment of member of body having appointive power. 31 L.R.A. (N.S.) 575.

Power of municipal board or committee to employ one of its own members as counsel or to render other special services. 3 L.R.A.(N.S.) 849.

§ 100b. - for period extending beyond term of office.

Power of public officers to make contracts binding on their successors, or for a term of years. 16 L.R.A. 257.

Power of board to appoint officer or to make a contract for term extending beyond its own term. L.R.A. (N.S.) 652; L.R.A.1915E, 581.

May officer make a prospective appointment the term of which cannot begin until after his own term has expired. 26 L.R.A. (N.S.) 514.

101. - for purchase or sale of office. Validity of agreement made in consideration of withdrawal of candidacy for office. 37 L.R.A.(N.S.) 289.

Injunction against enforcing contract to obtain office. 48 L.R.A. 842.

§ 102. For services to procure or defeat legislation.

Generally. 30 L.R.A. 737; 4 L.R.A. (N.S.) 213.

Condemnation of such contracts generally. 30 L.R.A. 738.

Contracts for legitimate professional services upheld. 30 L.R.A. 738.

Contingent fee makes contract void. L.R.A. 738. 30

Contract for personal influence or lobby services. 30 L.R.A. 739.

Application of rules. 30 L.R.A. 741.

Power of municipality or governmental body to use public funds to pay for services in promoting the passage or securing the defeat of a law. L.R.A.1917B, 358.

§ 103. Contract to procure testimony. Generally. 19 L.R.A. 371; 19 L.R.A. (N.S.) 372; 30 L.R.A. (N.S.) 278; L.R.A. 1918F, 1101.

Contracts for evidence to a \*particular effect. 30 L.R.A.(N.S.) 278; L.R.A. 1918F, 1101.

Agreements for disclosure of information. 19 L.R.A. 372; 30 L.R.A.(N.S.) 279. Agreements for ascertaining facts. 30 L.R.A.(N.S.) 279; L.R.A.1918F, 1102.

Agreements with witnesses generally. 19 L.R.A. 373.

Agreements to pay witnesses extra compensation. 30 L.R.A. (N.S.) 280; L.R.A. 1918F, 1102.

Agreements with expert witnesses. L.R.A. (N.S.) 281; L.R.A.1918F, 1102.

§ 103a. Contracts as to place of ac-

Validity of provision in contract as to place where action may be brought. L.R.A. 1916D, 696.

#### b. Fraud; unfair advantage.

104. Generally.

Enforceability of, or relief from, see infra, § 119.

Fraud as ground for rescission, see infra, § 153.

Rescission of sale of personalty for fraud, see SALE, § 67.

CONTRACTS, IV. b—cont'd.

Rescission of contract for sale of land for fraud, see VENDOR AND PURCHASER, §§ 22-25.

Contract with intoxicated person, see

DRUNKENNESS, §§ 3, 4.
As to what constitutes fraud, see FRAUD

AND DECEIT, §§ 4-12. Conveyances in fraud of creditors, see FRAUDULENT CONVEYANCES.

# c. Gambling and wagering contracts.

105. Generally.

Enforcement of, or relief from, see infra, § 115. As to betting, see Berring.

Conflict of laws as to, see Conflict or LAWS, § 4.

Criminal liability for gaming, see GAMING,

Validity of wagering policy, see INSURANCE, IV.

Legality of wagers. 18 L.R.A. 859.

Effect of transfer of negotiable instruments to secure money for gambling purposes. 22 L.R.A.(N.S.) 627.

Negligence of telegraph company causing discontinuance of contract terminable at pleasure of other party thereto as ground of liability. 29 L.R.A.(N.S.) 891.

Validity of new contract based on compromise of illegal contract. (N.S.) 568.

Effect of award founded on gambling agreement. 58 L.R.A. 182.

Right of party to gambling contract to tes-tify as to his intent. 23 L.R.A.(N.S.) 39Š.

§ 106. Dealings in futures or on margin.

Relief from, see infra, § 116.

Transactions in bucket shops, see BUCKET SHOP.

Effect of award based on transactions in. 58 L.R.A. 182.

Conflict of laws as to dealings in. L.R.A. 160.

Contracts for futures to be executed in other states as interstate commerce. L.R.A.(N.S.) 1081.

Right of broker to recover commission or advance in furthering wagering contracts. 11 L.R.A.(N.S.) 575.

Inference as to character of transaction, arising from fact that it was on margin. 22 L.R.A.(N.S.) 174.

#### d. In restraint of trade.

107. Generally.

Enforcement of, or relief from, see infra, § 117.

Breach of contract, see infra, § 131a. Validity of agreements between druggists, see Drugs and Druggists, § 6.

Contract not to engage in practice as physician, see Physicians and Surgeons,

As to illegal monopolies and trusts, see MONOPOLY AND COMBINATIONS.

Validity of agreement to sell entire output. 7 B. R. C. 551.

Validity of contracts in restraint of trade without limitation of place. 22 L.R.A. 673.

Contract by selling shareholder not to engage in business in competition with corporation. 23 L.R.A.(N.S.) 506.

Validity of contract giving one an exclusive right to handle goods in a given locality. 9 L.R.A.(N.S.) 501.

Validity of agreement to patronize particular concern exclusively. 42 L.R.A.

(N.S.) 843.

Validity of stipulation to discontinue, or not to engage in, a particular business, when not ancillary to a lawful contract. 6 L.R.A. (N.S.) 847.

Effect of incorporation of business by covenantee on contract not to engage in

certain business. 9 L.R.A. (N.S.) 979.
Agreements collateral to contracts forming illegal combinations, and the enforcement thereof by members of such combinations. 41 L.R.A.(N.S.) 1034.

Provision in lease or deed against using or leasing other property for competing business. L.R.A.1918E, 665.

Provision in lease the purpose of which is to assure lessee an exclusive right to conduct a certain business on premises owned by lessor. L.R.A.1915C, 855.

108. Partial restraint.

Divisibility in respect of time or territorial extent of contracts in restraint of trade. 24 L.R.A. (N.S.) 942.

Validity of agreement in restraint of trade or profession as affected by its territorial scope. 24 L.R.A. (N.S.) 913; L.R.A.1916C, 626.

Agreement by employee not to engage in competing business. 24 L.R.A. (N. S.) 933; 40 L.R.A.(N.S.) 473.

109. Agreements by employee. Enforcement of, or relief from, see infra, § 118.

Contracts for permanent employment. L.P.A. 512; 50 L.R.A. (N.S.) 453.

Validity of agreement by employee not to engage in business in competition with employee. 6 L.R.A. (N.S.) 892.

As affecting by its scope in time and territorial extent. 24 L.R.A. (N.S.) 933; 40 L.R.A. (N.S.) 473.

Entering another's employment as breach of covenant not to engage in rival business. 20 L.R.A. (N.S.) 769.

Validity of contract restraining practice of one's profession after expiration of term of service with another. 26 L.R.A. (N.S.) 961.

# e. Ratification.

110. Generally.

Ratification of public contract, see infra, 8 163.

Consult also L.R.A. Digests of Cases.

CONTRACTS, IV. e-cont'd.

By corporation, see Corporations, § 34. Ratification of agent's contract, see PRIN-CIPAL AND AGENT, §§ 28-31.

Of contract between corporations having common directors or officers. 33 L.R.A. 790.

Of contract to supply city with water. 61 L.R.A. 74.

Of sale of expectancy by prospective heir. 33 L.R.A. 283.

Of contract made with intoxicated person. 54 L.R.A. 448; 25 L.R.A.(N.S.) 600: L.R.A.1915B, 1123.

invalid sale of pledged property. L.R.A. 760.

Necessity and effect of ratifying sale or mortgage of future crops. 23 L.R.A.

Of real estate broker's acts in finding purchaser or effecting exchange of purchaser's property. 44 L.R.A. 618.
Ratification by school district of unauthorized contracts. 20 L.R.A. 136.

Necessity of consideration to sustain ratification of unauthorized alteration. 39 L.R.A.(N.S.) 131.

§ 111. Of married woman's contract. Husband's liability by reason of ratification for wife's purchases on his credit of articles for personal use. 65 L.R.A. 549; 47 L.R.A. (N.S.) 282.

By husband's express promise to pay debt contracted by wife. 7 L.R.A. (N.S.)

1048.

By woman's promise after discoverture to pay debt incurred during coverture. 7 L.Ř.A. (N.S.) 1053.

# f. Relief from, on enforcement of.

112. Generally.

In case of foreign corporation not complying with statutory requirements, see CORPORATIONS, § 148.

Actions on contracts generally, see infra, VII.

Injunction against enforcing illegal contract. 48 L.R.A. 842. Invalidity of contract as ground for in-

junction against judgment on. L.R.A. 758.

Invalidity of contract as ground for inright of innocent third person to enforce it. L.R.A.1917C, 586.

Maxim that one must come into equity with clean hands as affecting one who has violated or induced another to violate an invalid contract. L.R.A.1915A, 820.

Power of court to require accounting between members of partnership which is illegal or void or which has been engaged in illegal business. 23 L.R.A. (N.S.) 478; L.R.A.1917A, 446.

Right of principal who has placed money in hands of agent for illegal purpose to compel its return. 13 L.R.A. (N.S.) 267.

Pursuit of remedies on contracts in business which it is a misdemeanor to transact. 12 L.R.A.(N.S.) 620.

Right to refuse payment of draft the proceeds of which are used in an illegal transaction. 39 L.R.A.(N.S.) 1005.

Right of vendor in conditional sale to recover property as affected by his knowledge that the purchaser intended to make an unlawful use of it. 40 L.R.A.(N.S.) 967.

Right to maintain action for prize offered in prize contest. 33 L.R.A.(N.S.) 305. Right of subscriber to lottery scheme to re-cover his subscription. 16 L.R.A.(N.S.)

Right to recover on quantum meruit for service performed or materials furnished under express contract, invalid because the minds of the parties did not meet as to its terms. 26 L.R.A. (N.S.) 810.

Right of attorney to recover on quantum meruit for services rendered under illegal or champertous contract. L.R.A.(N.S.) 261; 38 L.R.A.(N.S.) 1202.

Effect of solicitation of business by attorney to render contract of employment obtained thereby unenforceable. L.R.A. 1917B, 1129.

Effect of illegality in contract on right to recover loss of profits from breach. 53 L.R.A. 111.

Effect of illegality of contract on rights of beneficiaries in contractor's bond to owner against sureties. 27 L.R.A. (N.S.) 597.

Effect of illegality of contract of sale or purchase on right to recover profits lost

by breach. 52 L.R.A. 260.

Right to recover back money loaned for the purpose of being used in an illegal transaction, or with knowledge of borrower's intention so to use it. L.R.A. 1918C, 247.

Right to recover back money paid to suppress a threatened prosecution for a crime. L.R.A.1918C, 73.

Recovery of money loaned a county on invalid contract to pay its indebtedness. 15 L.R.A. (N.S.) 567.

Obligation of municipality to pay for property purchased from an officer or meniber of board intrusted with the duty of 9 L.R.A.(N.S.) making purchases. 1014.

Liability of municipality or other public corporation on contract invalid because executed with officer of municipality. 27 L.R.A. (N.S.) 1123; 46 L.R.A. (N.S.) 921.

Equitable enforcement for limited time to prevent public inconvenience, though contract is against public policy. 1 L.R.A. (N.S.) 1032.

Recovery on contract for sale of fertilizer where statutory regulations had not been complied with. 43 L.R.A.(N.S.) CONTRACTS, IV. f-cont'd

Right of maker or indorser of bill or note for illegal consideration to affirmative relief. L.R.A.1918D, 941.

Right to quantum meruit for services rendered under parol contract unenforceable because not to be performed within year. L.R.A.1916D, 895.

Parol evidence to show that instrument was intended to operate as a mortgage or pledge where party to written instrument importing an absolute conveyance seeks relief on ground of fraud, accident or mistake. L.R.A.1916B, 31.

§ 113. Doctrine of in pari delicto.

Application of doctrine in pari delicto where rescission of Sunday contract is sought. L.R.A.1917D, 450.

Allowing injunction in favor of party in part delicto against enforcing or otherwise proceeding against illegal contract. 48 L.R.A. 842.

Injunction against negotiation of note where parties are in pari delicto. 28 L.R.A. 579.

Effect of rule as to parties in pari delicto where note is transferred to a bona fide holder. 27 L.R.A. 520.

Effect of the doctrine in pari delicto on remedies which parties to an ultra vires contract are entitled to pursue apart from an action on the contract itself. L.R.A.1917A, 1045.

Remedies on contracts in business which it is a misdemeanor to transact where both parties are in pari delicto. 12 L.R.A.(N.S.) 620.

§ 114. Recovery of purchase price of property sold for unlawful purpose.

Goods sold to smugglers. 15 L.R.A. 834. Sales in aid of rebellion. 15 L.R.A. 834. Sales in aid of lotteries or gambling. 15

L.R.A. 836.

Sales of intoxicating liquors for illegal uses. 15 L.R.A. 836.

Sale of goods to keeper or inmate of house of ill-fame. L.R.A.1917B, 1168.

115. Gambling and wager contracts. Injunction against enforcement of betting and gambling contracts. 48 L.R.A. 844. Injunction against judgment for gambling debts. 30 L.R.A. 240; 31 L.R.A. 759.

Right of broker to recover commissions or advances made in furthering wagering contract. 11 L.R.A.(N.S.) 575.

Right to recover back money loaned for the purpose of being used in wagering transaction or with knowledge of borrower's intention so to use it. L.R.A. 1918C, 247.

Liability of stakeholder or depositary of funds to be held in connection with illegal transaction. L.R.A.1918F, 972.

116. - contract as to futures. Right of principal who has placed money in hands of broker for dealing in futures to compel its return. 13 L.R.A. (N.S.)

267.

117. Contracts in restraint of trade. Restraining use of secrets of trade. 13 L.R.A. 652.

Power to prohibit stipulation forbidding purchaser to handle goods of other dealers. 11 L.R.A.(N.S.) 968.

Effect of invalid provision for an exclusive agency upon right to recover for goods purchased under the contract. 6 L.R.A. (N.S.) 547.

Injunction to prevent breach of stipulation to handle or use the product of one producer only. 10 L.R.A.(N.S.) 475.

Remedy by injunction to restrain the violation of an agreement not to practice medicine or surgery within a certain territory. L.R.A.1915B, 206.

§ 118. — agreements by employee. Injunction against breach of contract, see Injunction, § 14.

Is servant bound by restrictive provision against conducting rival business where he is wrongfully discharged. 1 B. R. C. 502.

119. Fraud.

Fraud as ground for rescission, see infra, § 153.

Relief or remedies in case of transfer in fraud of creditors, see FRAUDULENT CONVEYANCES, §§ 24-26.

Failure to read contract as affecting right to assert fraud in respect thereto. 6

L.R.A. (N.S.) 463; L.R.A.1917F, 637. Relief to party defrauded by fraudulent scheme, where he went into it with intent to defraud others. 5 L.R.A.(N.S.) 906.

Secret bonus to officer or director of corporation as affecting right to enforce contract against corporation. 7 L.R.A. (N.S.) 467.

Right to recover on quantum meruit for conveyed to avoid nonexistent or unfounded demand. 1 L.R.A.(N.S.) 1007.

Right to recover on quantum meruit for services performed or materials furnished under express contract invalid because the minds of the parties did not meet as to its terms. 26 L.R.A. (N.S.) 810.

Parol evidence to show that instrument was intended to operate as a mortgage or pledge where party to written instrument importing an absolute conveyance seeks relief on the ground of fraud. L.R.A.1916B, 31.

# § 120. Parties living in illicit rela-

Right to recover for household services rendered while parties were living in illicit relations. 29 L.R.A. in illicit relations. 29 L.R.A. (N.S.) 787; L.R.A.1917B, 683.
Right to invoke aid of court to determine

rights to property accumulated in common by parties living in illicit relations. 36 L.R.A.(N.S.) 838. Consult also L.R.A. Digests of Cases.

CONTRACTS, IV. f-cont'd

Right to recover what has been paid or transferred in consideration of illicit relations. 47 L.R.A.(N.S.) 592.

# V. Performance; breach.

#### a. In general.

# 1. Generally.

121. Generally.

As to special agreement to pay in gold or silver, see supra, § 89.

Performance of broker's contract, see Brok-ERS, § 12.

Of contract of transportation, see CARRIERS, §§ 36-48.

Compliance by insured with provision in fire policy as to keeping, producing, and preserving books and papers. 51 L.R.A. 700, 703, 712.

Admissibility of books of account to prove.

52 L.R.A. 714.

Performance of contract for permanent employment. 35 L.R.A. 516; 50 L.R.A. (N.S.) 453.

Right of one who completes, in disregard of notice to desist. 16 L.R.A. 655.

Guaranty of performance of contract of agency. 16 L.R.A.(N.S.) 369.

Liability of infant for tort in performance of contract. 57 L.R.A. 680; 35 L.R.A. (N.S.) 574.

Necessity of perfecting title before time for performance in order to hold vendee 3 L.R.A.(N.S.) 103.

Gift as a fraud on contract to will property. 20 L.R.A.(N.S.) 1154.

Mandamus to compel municipality, officer, or board to perform duty resting in contract alone. 20 L.R.A. (N.S.) 801.

Pleading performance or readiness to perform contract in action for damages for wrongful discharge of servant. L.R.A. (N.S.) 67.

122. Recovery for extra work.

On building contract, see infra, § 134. Servant's right to compensation for, see MASTER AND SERVANT, § 27.

Right of partner to compensation for extraordinary services. 17 L.R.A. (N.S.) 385; L.R.A.1917F, 575.

# 2. Excuse for failure to perform.

§ 128. Generally.

Of building or construction contract, see infra, § 135.

Excuses for noncompliance with special contract as to delivery of telegram. 53 L.R.A. 736.

Excuse for failure of grantee to perform agreement to support. L.R.A.1917E, 658.

Imprisonment of one of the parties to a contract as affecting rights and obligations thereunder. L.R.A.1917F, 628.

Construction and effect of "strike" clause in contract of sale and delivery. 9 L.R.A. (N.S.) 1187.

Effect upon contract obligation of failure of third person to take action essential

§ 124. Impossibility of performance. Effect of inability to perform on right to specific performance, see Specific Per-FORMANCE, § 20.

Effect of intervening impossibility to perform. 14 L.R.A. 215; L.R.A.1916F, 10. Imprisonment of one of the parties to a contract as affecting right and obligations thereunder. L.R.A.1917F, 628.

124a. - passage of statute.

Effect of passage, before expiration of time for performance of contract, of statute rendering performance impossible. 10 L.R.A. (N.S.) 415; 41 L.R.A. (N.S.) 559; L.R.A.1916F, 66.

Effect on lease of property for saloon of passage of prohibitory laws during the term. 23 L.R.A. (N.S.) 497; 34 L.R.A. (N.S.) 773; L.R.A.1917C, 935.

Rights and remedies where agreement by carriers to issue passes is impossible of performance because of subsequent legislation. 49 L.R.A.(N.S.) 848.

# § 125. — sickness or death.

Termination of contract of employment by death of party, see MASTER AND SERV-ANT, § 37.

Sickness or physical disability as excuse for nonperformance of contract. 14 L.R.A.

217; L.R.A.1916F, 79.
Recovery for services interrupted by sickness or death. 16 L.R.A. 858.

Effect on contract of the death of a party thereto. 23 L.R.A. 707; 45 L.R.A. (N.S.) 349.

# § 126. Prevention or hindrance by other party.

Nonperformance of condition precedent as exonerating other party. 30 L.R.A.

Excuse for not performing conditions precedent to rescission or abandonment for other party's default. 30 L.R.A. 40. Effect of preventing performance on right

to recover for profits lost by breach of contract. 53 L.R.A. 59. Right to rescind or abandon partially per-

formed contract for other party's default. 30 L.R.A. 47.

Right of grantor to rescind deed executed in consideration of future support where performance by grantee is, without fault on his part, prevented by grantor. 25 L.R.A.(N.S.) 932.

Effect of grantor leaving place of performance as excuse for failure of grantee to perform agreement to support. L.R.A. 1917E. 659.

CONTRACTS, V. a, 2-cont'd

Right to rescind or abandon contract because of failure or inability of other party to perform within time designated, where time is not of the essence of the contract. 21 L.R.A.(N.S.) 691.

to performance. 33 L.R.A.(N.S.) 698. Failure of buyer to furnish receptacles as provided in contract. L.R.A.1916D. 730.

#### 3. Incomplete performance; sufficiency of performance.

§ 127. Generally.

Of building or construction contract, see infra, §§ 136-138.

Substantial performance by employer of contract for permanent employment. 35 L.R.A. 516.

Effect of partial performance of contract to obviate lack of mutuality. 8 L.R.A. (N.S.) 433.

Right to rescind or abandon partially performed contract for other party's default. 30 L.R.A. 47.

Sufficiency of performance by contractor agreeing to dig well as to the quantity or quality of water furnished thereby. L.R.A.1918A, 1087.

Effect of partial performance on relief of grantor in conveyance in consideration of agreement to support, which is broken by grantee. 43 L.R.A. (N.S.) 928; L.R.A.1917D, 627.

# § 128. Effect of part performance of contract for services.

Discharge for cause. 24 L.R.A. 231. Discharge without cause. 24 L.R.A. 231.

Accord and satisfaction, and consent. 24
24 L.R.A. 233.

Forfeiture. 24 L.R.A. 233.

Infants. 24 L.R.A. 233.

Time for payment. 24 L.R.A. 233. Slaves. 24 L.R.A. 233.

Abandonment by employee without cause. 24 L.R.A. 234.

Right to quantum meruit for services rendered under parol contract unenforceable because not to be performed within a year. L.R.A.1916D, 895.

# § 129. Recovery on part performance; quantum meruit.

Right to recover for services performed under oral contract to give property by will, see supra, § 33.

Recovery on illegal contract, see supra, §§ 112-120.

On building or construction contract, see infra, §§ 137, 138.

Garnishment of claims on quantum meruit. 59 L.R.A. 374.

Right of party rescinding to recover for what he has done. 30 L.R.A. 49.

Right to recover for services rendered on rescission or abandonment of contract. 30 L.R.A. 52.

Recovery on quantum meruit on discharge without cause. 24 L.R.A. 232.

CONTRACTS, V. a, 3-cont'd

Recovery on quantum meruit of attorney discharged without cause before com-pleting service or before expiration of time for which he was employed. L.R.A.1917F, 406.

Right of attorney to recover on quantum meruit for services rendered under illegal or champertous contract. 2°L.R.A. (N.S.) 261; 38 L.R.A.(N.S.) 1202.

Right to quantum meruit for services rendered under parol contract unenforceable because not to be performed within a year. L.R.A.1916D, 895.

As remedy for wrongfully discharged servant. 5 L.R.A.(N.S.) 582.

Infant's right to repudiate contract for

services and recover on quantum meruit. 15 L.R.A. 211.

Right to recover on, for services performed or materials furnished under express contract, invalid because the minds of the parties did not meet as to the terms thereof. 26 L.R.A. (N.S.) 810.

Right of one who breaks contract to support another for life, to recover on quantum meruit. 14 L.R.A. (N.S.) 537.

Right of public officer to be paid quantum meruit. 17 L.R.A. (N.S.) 1263.

Right of officer personally interested in contract with public corporation to recover on quantum meruit for services ren-dered. 34 L.R.A.(N.S.) 131, 136. Recovery on quantum meruit for value of

services of broker employed for definite period who claims revocation of his authority. 38 L.R.A.(N.S.) 369.

Part performance entitling one to reward offered for procuring arrest. 7 L.R.A.

(N.S.) 217.

Recovering for services and expenses under running contract with corporation ended by its insolvency and dissolution. 69 L.R.A. 124.

Right to recover for services rendered beyond statutory period of limitation on breach of parol contract to make provision by will. 6 L.R.A. (N.S.) 703.

130. Acceptance.

Of building or construction contract, see infra. § 139.

Of option contract, what is. 21 L.R.A. 131.

#### 4. Breach.

131. Generally.

Excuse for nonperformance, see supra, §§ 123-126; infra, §§ 135, 135a.

Rescission or abandonment because of other party's default, see infra, § 152.

Of agreements to arbitrate, see Arbitra-TION, § 3a.

Of automobile distribution contract, see AUTOMBILES, § 11.

Breach of marriage promise, see Breach of PROMISE.

Action on the case for, see CASE, § 2. Breach of conditions subsequent, see CONDI-

TIONS, §§ 11-13.

Measure of damages for breach of contract, see Damages, §§ 5, 21-40, 114-118. Consult also L.R.A. Digests of Cases.

CONTRACTS, V. a, 4-cont'd

Penalty or liquidated damages in case of breach, see DAMAGES, §§ 38-40. Injunction against breach, see Injunction,

88 7-14.

Of contract to make loan, see LOAN, § 5.

Negligent breach, see NEGLIGENCE, Breach of contract to support, see SUPPORT, § 4.

May action for alienation of affections rest upon a breach of contract. L.R.A. 1917B, 680.

Action for money had and received as prop-er remedy to recover damages for breach of contract. L.R.A.1918E, 781.

Maxim that one must come into equity with clean hands as affecting one who has violated an invalid or unenforceable contract. L.R.A.1915A, 820.

Right of promoter to recover damages for breach of promotion agreements.

L.R.A.1918E, 845. Garnishment of damages for. 59 L.R.A. 359.

Breach of contract to supply city with water. 61 L.R.A. 70.

Breach of contract to assume debts on dissolution of partnership. 9 L.R.A. (N.S.) 105; 48 L.R.A. (N.S.) 547. Breach of contemporaneous agreement as

defense to promissory note. 43 L.R.A. 449.

Sufficiency of general allegations of negligence. 59 L.R.A. 267.

Set-off of damages for breach in bankruptcy cases. 55 L.R.A. 37, 58.

Action for breach of option contract. 21 L.R.A. 132.

Right to abandon performance and recover for breach of other party. 30 L.R.A.

Anticipatory breach of contract as basis of suit for specific performance. 36 L.R.A.(N.S.) 408.

Damages for anticipatory breach of contract as provable claim in bankruptcy. L.R.A.1917B, 585; L.R.A.1918A, 545.

Right of seller, upon breach of an executory contract, to maintain an action for the contract price. 17 L.R.A.(N.S.) 808; 26 L.R.A. (N.S.) 248.

Jurisdiction of action at law for damages for breach of contract as to real property in another state or country. L.R.A.(N.S.) 928; 44 L.R.A.(N.S.) 267. Parents' common-law right of action for

loss of services of child killed where injury consists of a breach of contract. 41 L.R.A. 815.

Tort for negligent breach of contract between private parties. 12 L.R.A. (N.S.)

Remedy of wrongfully discharged servant by action for damages for breach of con-

tract. 6 L.R.A.(N.S.) 49.
Right to defend action on stated account, by showing breach of contract on which founded. 6 L.R.A. (N.S.) 820.

Liability for breach of contract to lease building when completed. 35 L.R.A. (N.S.) 426.

CONTRACTS, V. a, 4-cont'd

Liability of individuals having contracts with the same person for combining to breach the same. L.R.A.1918C, 151.

Constitutionality of imprisonment for breach of contract of labor or rental. 21 L.R.A.(N.S.) 242.

§ 131a. Of contract not to engage in rival business.

Entering another's employment as breach of covenant not to engage in rival business. 20 L.R.A. (N.S.) 769; 40 L.R.A. (N.S.) 1191.

Lending money to competitor of covenantee as breach of covenant not to engage in L.R.A.1915B, 1204. business.

Dealings within specified area from establishment outside as breach of covenant not to engage in business or to practice professionally within such area. 6 B. R. C. 565.

# 5. Time of performance.

§ 132. Generally.

Construction of contract as to, see supra, § 63.

Provision for penalty or liquidated damages in case of delay, see DAMAGES, §§ 38-40.

Extension of time when last day of performance falls on Sunday. 14 L.R.A. 120.

Effect of day for payment falling on Sunday. 3 B. R. C. 678.

Effect of waiver without new consideration of time clause in a building contract. 50 L.R.A. (N.S.) 501.

Of performance of real estate brokers's contract to find purchaser or effect exchange of principal's property. L.R.A. 608.

Right to rescind or abandon contract because of failure or inability of other party to perform within the time designated where time is not of the essence of the contract. 21 L.R.A.(N.S.) 691.

Time for completion of road under provision in deed to railroad for construction of road when time for completion is not

fixed. 32 L.R.A.(N.S.) 120.

Admissibility of extrinsic evidence as to time for delivery of goods where none is specified in written contract. 31 L.R.A. (N.S.) 619; L.R.A.1916B, 1039.

# b. Building and construction contracts.

133. Generally.

Measure of damages for breach of, see DAM-AGES, § 22a.

Effect of waiver without new consideration of time clause in a building contract. 50 L.R.A.(N.S.) 501.

Promises of additional compensation for completing an executory contract other than for payment of money. 34 L.R.A. 138; 11 L.R.A. (N.S.) 789; 28 L.R.A. (N.S.) 450.

CONTRACTS, V. b—cont'd. Effect of change of conditions from natural causes after completion of construction contract. 17 L.R.A.(N.S.) 698.

Duty of building contractor to protect work from freezing. 16 L.R.A. (N.S.) 801.

Effect of defective or insufficient plans upon rights and liabilities of contractors and subcontractors who do not expressly warrant them. L.R.A.1915C, 671.

§ 134. Recovery for extra work.

Construction of provision as to, see supra,

Recovery for extra work necessitated by insufficient or defective plans. L.R.A. 1915C, 675.

§ 135. Destruction of work and its

Of subject-matter as excuse for nonperformance of contract. 14 L.R.A. 216.

Who must bear loss caused by destruction of building or other structure in process of erection. 5 L.R.A.(N.S.) 1105; 22 L.R.A.(N.S.) 364; L.R.A.1917D, 1011.

Destruction of boom or dam by unprecedented flood as affecting liability of one under contract to build and maintain

it. 35 L.R.A.(N.S.) 1109. Liability of contractor to replace bridge destroyed by unprecedented flood against which he does not contract. 15 L.R.A. (N.S.) 833. Effect of change of condition from natural

causes after completion of construction contract. 17 L.R.A. (N.S.) 698.

135a. Excuses for nonperformance. Destruction of subject-matter as, see supra, § 135.

Delay in paying instalments as excusing building contractor's delay in completing contract. 35 L.R.A. (N.S.) 1223.

Responsibility of contractor, under contract for performance of entire work for gross sum, for defective condition of portion of completed work, due to interference or directions of other party. 8 L.R.A.(N.S.) 1171.

§ 136. Substantial performance. Recovery on, see infra, § 138.

§ 137. Recovery on part performance; quantum meruit.

Right of contractor to sue on quantum meruit upon breach of construction contract by other party thereto. 13 L.R.A. (N.S.) 448.

Right to recover on quantum meruit where work on local improvement is defective. 56 L.R.A. 915.

Where contract is not fully executed because of defective plans. L.R.A.1915C, 677.

Right to quantum meruit for services rendered under parol contract unenforceable because not to be performed within a year. L.R.A.1916D, 895.

Begin with this book on every law question.

CONTRACTS, V. b-cont'd

Right to recover on quantum meruit for services performed or material furnished under express contract invalid because the minds of the parties did not meet as to terms thereof. 26 L.R.A.(N.S.) 810.

Right of sureties on contractor's bond who perform contract on abandonment by contractor, to moneys unpaid on contract, as against the assignees or creditors of contractor. 14 L.R.A. (N.S.) 457.

138. — substantial performance. General rule as to recovery. 24 L.R.A. (N.S.) 332.

What constitutes substantial performance. 24 L.R.A. (N.S.) 336.

Measure of recovery. 24 L.R.A. (N.S.) 351.

§ 139. Acceptance; waiver of objections.

Use of building by owner as an acceptance of work of construction or repair, and as a waiver of known defects therein. 16 L.R.A. (N.S.) 489; 20 L.R.A. (N.S.) 872; L.R.A.1917C, 324.

Proceeding with work as waiver by contractor of stipulations by other party to furnish appliances or facilities for the work. 37 L.R.A.(N.S.) 969.

Liability of contractor to third person for defects in his work after acceptance. 26 L.R.A. 504; L.R.A.1915E, 766; 6 B. R. C. 249.

Waiver of stipulation that alterations or extras must be ordered in writing. L.R.A.(N.S.) 575, 586.

Effect of waiver without new consideration of time clause in a building contract. 50 L.R.A. (N.S.) 501.

§ 140. Conditions; certificate of performance.

Effect of stipulation to give satisfaction. 17 L.R.A. 207.

Necessity of referring to architect questions arising between owner and contractor involving dereliction of duty by the architect himself. 18 L.R.A. (N.S.) 1248.

Liability of architect or engineer for negligence in issuing certificates. 4 B. R. C. 859.

Personal liability of arbitrator. 42 L.R.A. (N.S.) 279.

-necessity for certificate.

Architect's certificate as condition precedent to recovery. 17 L.R.A. 211.

Will full or substantial performance of a construction contract excuse, as a matter of law, the failure to secure the architect's or engineer's certificate required by the contract. 6 L.R.A. (N.S.)

§ 142. --effect and conclusiveness of certificate or decision.

1 L.R.A. (N.S.) 1050.

Consult also L.R.A. Digests of Cases.

CONTRACTS, V. b-cont'd

Conclusiveness as between municipality and contractor of decision of engineer or other empowered officer as to matters concerning contract for public improvement. 23 L.R.A.(N.S.) 317.

# VI. Change; extinguishment.

#### a. In general.

148. Generally.

Consideration for new agreements abrogating or altering prior contracts, see

supra, § 7a.

Consent to change, see Consent, § 2. Effect of death of party on, see DEATH, § 17. Reformation of, see REFORMATION OF IN-STRUMENTS.

Changing terms of offer of prize after efforts to secure it have begun. 37 L.R.A. (N.S.) 183.

Contract not to engage in certain business; effect of incorporation of business by covenantees. 9 L.R.A. (N.S.) 979.

Ignorance or carelessness, as affecting the right to equitable relief from a contract by which one has been over-reached. 5 L.R.A.(N.S.) 799.

Revocability of mutual will viewed as a contract. 27 L.R.A.(N.S.) 511.

#### § 144. Modification.

Parol modification, see supra, § 30.

Consideration for new agreements altering prior contract, see supra, § 7a.

Of contract containing stipulation that alterations or extras must be ordered in writing, see supra, § 65a.

Modification of contract to supply city with water. 61 L.R.A. 73.

Modification of contract limiting initial carrier's undertaking to its own line. 31 L.R.A. (N.S.) 64.

Effect, upon mortgagor's obligation, of modification between mortgagee and subsequent grantee. 4 L.R.A. (N.S.) 666.

#### 145. Abandonment.

Of contract containing stipulation that alterations or extras must be ordered in writing, see supra, § 65a.

Consent to, see CONSENT, § 2.

Abandonment of contract for service. 24 L.R.A. 231.

Of employment as defense to action by wrongfully discharged servant for damages from breach of contract. 6 L.R.A (N.S.) 74.

Right of servant to compensation in case of abandonment of contract because of physical disability. 28 L.R.A. (N.S.) 315.

Of bid for public contract. 26 L.R.A. 709. Sufficiency of conditional or qualified architect's certificate. L.R.A.1918F, 377.

Effect of decision of architect, engineer, or umpire in case of fraud or mistake. Right to abandon contract because of other

party's default. 30 L.R.A. 33.

CONTRACTS, VI. a-cont'd

Applicability of provision for stipulated damages or penalty for delay in completion of contract where entire contract is abandoned or repudiated. 20 L.R.A. (N.S.) 350; L.R.A.1916E, 1179.

Right to abandon contract because of failure or inability of other party to per-form within the time designated, where time is not of the essence of the con-

tract. 21 L.R.A.(N.S.) 691.

Necessity for placing in statu quo on abandonment of contract for sale of land. 30 L.R.A. 66.

Duty to restore or tender back what has been received. 1 L.R.A.(N.S.) 379.

Right of sureties on contractor's bond who perform contract on abandonment by contractor to money unpaid on contract as against assignees or creditors of contractor. 14 L.R.A.(N.S.). 457; L.R.A.1918A, 937.

Right to mechanics' lien for labor or material furnished on order of architect before abandonment of contract by contractor. 20 L.R.A.(N.S.) 89.

Recovery by one who abandons a contract for work or labor or services without excuse or justification. L.R.A.1916E, 790.

§ 146. Termination; survival.

Termination of contracts of employment, see Master and Servant, §§ 34-46.

Effect of war to terminate contracts with alien enemies. L.R.A.1917C, 662.

contract for hiring of convicts. 27 L.R.A. 609.

Effect on contract of death of a party thereto. 45 L.R.A.(N.S.) 349.

Survival, after death of promisor, of contract to pay for personal services rendered to third person. 13 L.R.A. (N.S.)

Termination of contract of employment by death of one of the parties. 39 L.R.A. (N.S.) 1187.

Termination of contract of employment containing stipulations permitting rescission by employer if work is not satisfactorily performed. 12 L.R.A.(N.S.) 403; 23 L.R.A.(N.S.) 1003.

Effect of workmen's compensation act to terminate contracts relieving employers from liability. L.R.A.1916A, 128.

#### § 147. Mistake as ground of equitable relief.

As ground for rescission, see infra. § 154.

Relief from mistake of law as to effect of instrument. 28 L.R.A.(N.S.) 785. Mistake in computation by contractor as ground for relief. 10 L.R.A.(N.S.) 114; L.R.A.1917D, 745.

§ 148. — evidence as to mistake. Burden of proof as to. 5 L.R.A. 159.\* Begin with this book on every law question.

CONTRACTS, VI. a-cont'd

Character of evidence to show mistake. L.R.A. 159.\*

Showing mistake by parol proof. 5 L.R.A. 158;\* 6 L.R.A. 838.\*

#### b. Rescission; cancelation.

§ 149. Generally.

Of contract containing stipulation that alterations or extras must be ordered in writing, see supra, § 65a.

Of agreement to arbitrate, see Arbitration,

Cancelation of instruments generally, see CANCELATION OF INSTRUMENTS.

Jurisdiction to cancel contract, see Equity, §§ 15, 15a.

Right to rescission for breach of condition subsequent, see Conditions, § 13. Of deed, see DEEDS, §§ 33, 33a.

Disaffirmance of contract by infant, see In-FANTS, §§ 21, 22.

Of insurance policy, see INSURANCE, §§ 49-

Rescission of contract of employment, see MASTER AND SERVANT, § 38.

Of contract of sale of chattels, see SALE, §§ 62-70.

Of contract for sale of real property, see VENDOR AND PURCHASER, §§ 22-25.

Rescinding agreements between promoters of corporation. L.R.A.1918E, 839. Rescission of contract to supply city with

water. 61 L.R.A. 73.

When sale of expectancy by prospective heir will be set aside. 33 L.R.A. 278, 284. Contracts of members of mutual fire insurance companies. 32 L.R.A. 492.

Discretion to rescind award of public contract to lowest responsible bidder. 38 L.R.A.(N.S.) 656.

Implied power of agent to assent to. L.R.A.(N.S.) 91.

Cancelation of invalid contract as consideration for a promise. 5 L.R.A. (N.S.) 725.

# § 150. Loss of right to rescind.

Acceptance of portion of instalment, as affecting right to rescind continuing contract for failure to deliver whole. 21 L.R.A.(N.S.) 864.

#### § 151. Grounds for.

Of insurance policy, see INSURANCE, § 50.

Right of rescission of contract which is void because made on Sunday. 17 L.R.A. 779; L.R.A.1917D, 450.

Expression of opinion as ground for rescission. 35 L.R.A. 434.

Right to rescind the taking of worthless

paper. 10 L.R.A. (N.S.) 552.

Cancelation of a deed for inadequacy of consideration. L.R.A.1916D, 382.

Failure of consideration as ground for relief of grantor in conveyance in consideration to support which is broken by grantee. 43 L.R.A.(N.S.) 926.

CONTRACTS, VI. b-cont'd.

Death of promisee before that of promisor in agreement to make provision by will as ground for rescission of contract. L.R.A.1917D, 812.

# § 152. — default or inability of other party to perform.

Generally. 30 L.R.A. 33.

Right to rescind contract without liability for nonperformance. 30 L.R.A. 40.

Party seeking to rescind must not be in default. 30 L.R.A. 48.

Right of party rescinding to recover for what he has done. 30 L.R.A. 49.

Right to abandon performance and recover for breach. 30 L.R.A. 54.

What will warrant rescission. 30 L.R.A. 59.

Application of above rules to various kinds of contracts. 30 L.R.A. 64.

Right to rescind for failure or inability of other party to perform within time designated, where time is not of the essence of the contract. 21 L.R.A. (N.S.) 691.

Right to rescind contract because of anticipated inability of other party to complete the same within the time limit.

41 L.R.A.(N.S.) 60.

Relief of grantor in conveyance in consideration of agreement to support which is broken by grantee. L.R.A.1917D, 627.

# § 153. — fraud.

Invalidity of contract for fraud, see supra, § 104.

Relief generally on ground of fraud, see supra, § 119.

Rescission of subscription to stock for fraud or misrepresentation, see CORPORATIONS, 8 79.

Rescission of deed, see DEEDS, § 33a.

Jurisdiction of equity to cancel instruments, see EQUITY, § 15a.

As to fraud, generally, see FRAUD AND DE-

Transfers in fraud of creditors, see FRAUDU-LENT CONVEYANCES.

Rescission of sale for fraud, see SALE, § 67.

Right to avoid contract because of mistake as to identity of other party, induced by fraud. L.R.A.1916D, 801.

Rescission for fraud of compromise of void, invalid, or unfounded claim. 25 L.R.A. (N.S.) 308.

#### § 154. — mistake.

Reformation or rescission of contract because of mistake of law as to its effect. 28 L.R.A. (N.S.) 900.

Right to avoid, because of mistake as to identity of other party thereto. L.R.A.

Right to rescind for mutual mistake as affected by circumstance that contract has become executed. 5 B. R. C. 805. 1916D, 801.

Consult also L.R.A. Digests of Cases.

CONTRACTS, VI. b-cont'd.

Assignment or surrender of policy of life insurance, in ignorance of the death of the insured, as subject to rescission as having been made under a mistake of fact. 5 B. R. C. 797.

§ 155. Conditions; promptness; restoring benefits.

To rescission of insurance policy, see In-SUBANCE, § 51.

Conditions precedent to rescission for other party's default. 30 L.R.A. 36.

#### § 156. - restoring benefits.

Duty to place other party in statu quo. 30 L.R.A. 44.

Necessity for placing in statu quo on rescission of contract for sale of land. 30 L.R.A. 66.

30 L.R.A. 66.

Necessity for returning consideration in order to disaffirm infant's contract. 26 L.R.A. 177.

Return or tender of consideration for release of claim for personal injuries set aside on ground of fraud. 35 L.R.A.(N.S.) 660; L.R.A.1918F, 1073.

Return of consideration as condition of defending against contract because made on Sunday. 5 L.R.A.(N.S.) 295.

Necessity of returning in specie all, or part of, product received from land under a contract in relation thereto as a condition of rescinding contract. 25 L.R.A. (N.S.) 1302.

Effect of inability to restore to statu quo on right to rescind stock subscription for fraud. 33 L.R.A. 725.

# VII. Actions; liabilities.

# § 157. Generally.

Action for relief from, or to enforce, illegal contract, see supra, §§ 112-120.

Liability for breach, see supra, § 131.

Recovery on quantum meruit, see supra, §§ 137, 138.

Defenses to actions, see Action on Suit, § 13.

Assumpsit on, see ASSUMPSIT.

Right of action for damages for inducing breach of contract, see CASE, §§ 3-5.

Jurisdiction to cancel, see EQUITY, §§ 15, 15a.

Running of limitations on, see LIMITATION OF ACTIONS, §§ 22-32, 49, 50.

Liability of public officer on contract made for public, see Officer, § 39.

Right of third person to enforce, see PARTIES, §§ 12-17.

Liability of principal on contract negotiated hv agent, see PRINCIPAL AND AGENT, IV. Liability of agent on contract, see PRINCI-

PAL AND AGENT, § 41.
Liability of railroad under agreement with other road, see RAILBOADS, III.

Counterclaim based on contract, see SET-OFF AND COUNTERCLAIM, 11. CONTRACTS, VII.-cont'd

Specific performance of contract, see Specific Performance.

Question for jury as to contractual matters, see TRIAL, § 51.

Claim against state on. 42 L.R.A. 54. Right to plead inconsistent defenses. 4 L.R.A. 191.

Sufficiency of general averment of want of consideration. L.R.A.1917F, 581.

Evidence of character in action on. 14 L.R.A.(N.S.) 747.

Law governing stipulation in contract making notice of damages a condition of right of action. 7 L.R.A.(N.S.) 191.

Right to open default judgment to let in defense that contract was against public policy. L.R.A.1916F, 860.

What misrepresentations as to the contents of an instrument will render it void in law. 4 B. R. C. 663.

Right of creditor to enforce promise of one allowed to secure property at judicial sale upon faith of his promise to pay owner's debt. 15 L.R.A.(N.S.) 399.

Effect of permitting assignor of a contract to receive non-negotiable instruments issued in payment thereof to estop assignee as against a subsequent assignee of such an instrument. 11 L.R.A. (N.S.) 472.

Right of buyer to maintain separate action for nondelivery of each instalment under entire contract. 3 L.R.A.(N.S.) 1042.

Obligation of receiver on contract of the party whose property he holds. 16 L.R.A. 90.

Liability of receiver on contracts of former receiver. L.R.A.1916C, 520.

Demand as a condition precedent to an action on a promise to pay on demand the debt of another. 34 L.R.A. (N.S.) 154.

Liability of title abstracter dependent on privity of contract. 12 L.R.A.(N.S.) 452.

#### VIII. Public contracts.

§ 158. Generally.

Validity and effect of contract with public officer, see supra, §§ 99-101.

Rights of subcontractors, laborers, and materialmen on bond of contractor for public work, see Bonds, §§ 9, 10.

Impairment of obligation of public contract, see Constitutional Law.

Estoppel of public corporation by contract, see Estoppel, § 2a.

Injunction against breach of, see Injunc-TION, § 8.

Mandamus to enforce rights in, see Manda-MUS, § 7.

For municipal contracts, generally, see
MUNICIPAL CORPORATIONS, §§ 53-60.
Liability of officer on contract made by

public, see Officers, § 39.

Right of citizen to enforce contract made

for benefit of public, see Parties, § 13. Contracts for public improvements, see Public Improvements, §§ 7-9.

Begin with this book on every law question.

CONTRACTS, VIII.—cont'd

Contracts for municipal water supply, see WATERS, § 111.

Mandamus to compel public officer to execute a contract. L.R.A.1917F, 538.

Adoption of resolution by public corporation as initiating or consummating a contract. 49 L.R.A.(N.S.) 380.

Rights and remedies where contracts of a public corporation are invalid. L.R.A. 1915A, 904.

Suits compelling or enjoining the carryingout of contracts, as actions against the state. 44 L.R.A.(N.S.) 202.

Validity of contract fixing minimum wage for person employed on public work. 51 L.R.A.(N.S.) 686.

Prohibiting or restricting employment of aliens on public work. L.R.A.1916D, 569.

Provision in, for payment in gold or silver. 29 L.R.A. 522.

Liability of municipality or other public corporation on implied contract. 39 L.R.A.(N.S.) 43, 72; 46 L.R.A.(N.S.) 921.

Constitutionality of statutes requiring work incident to public contract to be done in state or a local division thereof. 41 L.R.A.(N.S.) 711.

Right to inspect public records relating to public contracts. 41 L.R.A.(N.S.) 280.

159. Letting generally.

Letting contracts for establishing drains and sewers. 60 L.R.A. 217.

Distinction between definite proposal or acceptance and mere preliminary step in negotiation of. 4 L.R.A.(N.S.) 177.

Accepting bid with knowledge of mistake

Accepting bid with knowledge of mistake as to subject-matter. 43 L.R.A. (N.S.) 654.

§ 160. Rights and remedies of lowest bidders.

Cases affirming right of lowest bidder. 26 L.R.A. 707.

Absence of statute requiring award to lowest bidder. 26 L.R.A. 707.

Rights under statute or ordinance requiring award to lowest bidder. 26 L.R.A. 707.

Discretion in choosing between bidders for public contract. 38 L.R.A.(N.S.) — 653.

Elements to be considered in determining responsibility of bidder for public contract. 38 L.R.A.(N.S.) 672.

Remedy of lowest bidder for refusal of authorities to award contract to him. 30 L.R.A.(N.S.) 126.

Injunction. 26 L.R.A. 711; 30 L.R.A. (N.S.) 127.

Mandamus. 26 L.R.A. 711; 30 L.R.A. (N.S.) 128.

Validity of contract for material patented or held in monopoly where a public letting to the lowest bidder is required. 5 L.R.A.(N.S.) 680; 46 L.R.A.(N.S.) 990; L.R.A.1917A, 442. CONTRACTS, VIII.—cont'd

§ 160a. Withdrawal of bid.

Right to withdraw bid for public contract and recover deposit. L.R.A.1915A, 225.

161. Specifications.

Sufficiency of specifications for guidance of bidder for public contract. 30 L.R.A.(N.S.) 214.

§ 162. Stipulation that alterations or extras must be ordered in writing. Effect of stipulation in building contract that alterations or extras must be ordered in writing. 48 L.R.A.(N.S.) 595.

§ 163. Ratification.
Ratification of invalid contract. L.R.A.
1915A, 1023.

CONTRACTS NOT TO BE PER-FORMED WITHIN A YEAR.

See CONTRACTS, §§ 38, 39.

### CONTRADICTION.

Of witness, see WITNESSES, § 43.

#### CONTRADICTORY STATEMENTS.

Impeachment of witness by, see WITNESSES,

Conviction of perjury upon proof. L.R.A. 1917C, 58.

#### CONTRIBUTION.

1. Generally.

Indemnity, see Indemnity. Subrogation, see Subrogation.

Between insurance companies, see INSUR-ANCE, § 199.

To cost of party wall, see PARTY WALL, §§ 4, 5.

Subrogation, see Subrogation.

To cap tal, expenses, and losses of syndicate. 40 L.R.A. 225.

between legatees and devisees to pay testator's debts. 1 L.R.A.(N.S.) 461.

Right of, as between accommodation parties 28 L.R.A. (N.S.) 1039.

Contingency of claim for, as affecting limitation of time for presentation to estate of deceased person. 58 L.R.A. 88.

Right of client to recover from third person for services rendered by attorney which benefit both. L.R.A.1915B, 856

Right of one who gives his personal obligation for a debt on which he was jointly liable with other to enforce indemnity or contribution from latter. L.R.A. 1915A, 898.

1918E, 843.

Consult also L.R.A. Digests of Cases.

CONTRIBUTION—cont'd

§ 2. Between wrongdoers.

Right to indemnity from joint tort feasor, see Indemnity, §§ 2-4.

Right of action of one legally responsible for another's death against a third person whose negligence caused the death. 36 L.R.A.(N.S.) 60.

Right of one constructively liable for tort to contribution from one actually responsible for its commissions. 40 L.R.A.

(N.S.) 1147.

Right of employer who has been held liable for tort of, or upon, servant or contractor, to recover over from the actual wrongdoer. 40 L.R.A. (N.S.) 1153. Right of municipality to recover indemnity

or contribution from one for whose tort it has been held liable. 40 L.R.A. (N.S.) 1165; L.R.A.1916F, 86.

Rule denying contribution between joint tort feasors as affected by question of proximate cause. 36 L.R.A.(N.S.) 583.

Conclusiveness of judgment against a constructive tort feasor in a subsequent action for contribution. 40 L.R.A. (N.S.) 1172.

# § 8. Between stockholders.

Between stockholders of foreign corporations. 34 L.R.A. 763.

Right of one stockholder to sue another for contribution outside state of incorporation. 33 L.R.A.(N.S.) 909.

§ 4. Between partners.

Revival of partnership debt by contribution between partners. 15 L.R.A. 660.

Between members of partnership which is illegal or which has been engaged in illegal business. L.R.A.1917A, 446.

# § 5. Between cotenants.

Liability of cotenants for improvements and repairs. 29 L.R.A. 449.

Right of successor to share of cotenant to latter's claim to allowance for improvements to common property. L.R.A.(N.S.) 738.

Repudiating cotenancy as affecting cotenant's right to contribution. L.R.A. 1915B, 961.

Liability of cotenants to account for use and occupation and rents and profits. 28 L.R.A. 829.

§ 6. Between cosureties.

When limitations commence to run against action for. 18 L.R.A.(N.S.) 585; 42 L.R.A.(N.S.) 1131.

Judgment in favor of one or more sureties and against others in action by obligee as res judicata between sureties. L.R.A. (N.S.) 797.

Right of surety who gives his personal obligation for a debt to enforce contribution from cosurety. L.R.A.1915A, 899.

Right of promoter of corporation to compel Right of reimbursement or contribution as contribution by fellow-promoter. L.R.A. between sureties of official for different terms. L.R.A.1915D, 481.

CONTRIBUTION—cont'd Right of surety to contribution from cosurety, as affected by the fact that an action by the creditor as against the co-surety would be barred. L.R.A.1917F, 1074.

# CONTRIBUTORY NEGLIGENCE.

See NEGLIGENCE, II.

#### CONTROL.

Over resale as element of monopoly, see MONOPOLY AND COMBINATIONS, §§ 5, 6.

#### CONVENTION HALL.

Power of municipality to construct assembly, convention, exhibition, or amusement hall. 26 L.R.A.(N.S.) 425.

#### CONVENTIONS.

Expenses incurred by public officers or employees in attending conventions, etc., as a proper charge on public funds. L.R.A.1917E, 332.

#### CONVENTS.

Character of occupancy of. 4 L.R.A. (N.S.) 726.

#### CONVERSATION.

By telephone, evidence of, see EVIDENCE, § 240.

Through interpreter, evidence of, see Evi-DENCE, § 241.

Admissibility of evidence of conversation expressly referred to in written contract. 32 L.R.A.(N.S.) 383.

Right of witness to express opinion as to meaning of. L.R.A.1918A, 738.

# CONVERSION.

Equitable conversion, see EquITABLE ConvERSION; WILLS, §§ 116-118.
Tortious, see Trover and ConvERSION.

# CONVEYANCE.

For support, see Support. Begin with this book on every law question.

CONVEYANCE—cont'd

See also DEED; QUITCLAIM DEED; FRAUDU-LENT CONVEYANCES.

Parol gift as. 67 L.R.A. 461. Of partnership lands, form of. 27 L.R.A.

#### CONVICTION.

Effect of, see CRIMINAL LAW, § 41. Cross-examination of witness to show, see WITNESSES, § 36.

Power of appellate court to reverse for insufficiency of evidence to sustain verdict. 17 L.R.A. 484.

# CONVICT LABOR.

See CONVICTS, § 2.

#### CONVICTS.

§ 1. Generally. Civil death of, see CIVIL DEATH.

Effect of conviction, see CRIMINAL LAW, 8 41.

As to punishment for crime, generally, see CRIMINAL LAW, VI. Pardon of, see CRIMINAL LAW, §§ 85-89.

Escape of, see ESCAPE.

Recapture of, see RECAPTURE.

Right of action for confinement in unhealthful or unfit person, see JAILS AND Prisons, § 3.

Competency of, as witness, see WITNESSES, § 10.

Release of, or interference with custody of, as contempt of court. L.R.A.1917D, 355.

Punishment of convict for failure or refusal to testify or other contempt. L.R.A.1917B, 588.
Right of convict to contest will. L.R.A.

1918A, 467.

Right of prisoner to appear unmanacled at

trial. 39 L.R.A. 821. Service of process on prisoner. 46 L.R.A. 706.

Right to put upon trial one undergoing imprisonment for another offense. L.R.A. (N.S.) 1095.

Admissibility of declarations of convict as affected by incompetency as a witness. L.R.A.1915E, 205.

Unknown disqualification of juror because of conviction of crime as ground for new trial. 50 L.R.A.(N.S.) 976.

Liability of public for services of physicians or surgeons rendered prisoners. L.R.A. (N.S.) 1223.

Right to a speedy trial of one under confinement for another offense. L.R.A. 1915E, 363.

CONVICTS—cont'd Civil liability of sheriff or other officer for injury inflicted by convict in his custody upon another prisoner. L.R.A. 1918C, 1163.

2. Convict labor.

Right to compel, see CRIMINAL LAW, § 77. Constitutional objections to convict labor contracts. L.R.A.1916D, 660.

Claim against state on contract for prison labor. 42 L.R.A. 59.

Responsibility of one hiring convict labor, for acts of laborer. 12 L.R.A.(N.S.) 317.

#### CO-OWNERS.

of Liability co-owners of automobile. L.Ř.A.1916E, 1301.

Authority of co-owner of property to contract for services of other persons. L.R.A.1918F, 19.

#### COPARCENERS.

Liability for use and occupation, and rents and profits. 28 L.R.A. 854.

#### COPY.

Admissibility of, in evidence, see EVIDENCE,

Mandamus to compel delivery of copy of act passed by legislature. 22 L.R.A. (N.S.) 1089.

Necessity of setting out copy of forged in-strument in indictment for forgery or uttering forgery. 31 L.R.A. (N.S.) 215. Stockholder's right to take from books. 45 L.R.A. 449.

#### COPYHOLD.

Equitable relief against forfeiture of. 69 L.R.A. 858.

Applicability of rule in Shelley's Case to. 29 L.R.A.(N.S.) 1036.

Owner's right to compensation for improvements made by railroad company entering with consent of tenant but without owner's consent. L.R.A.1916F, 991.

#### COPYIST.

Communication to, as affecting publication or privilege of libelous statement. L.R.A.1918F, 568.

#### COPYRIGHT.

1. Generally.

Conflict of laws as to, see CONFLICT OF Laws, § 37.

Measure of damages for, see DAMAGES, §§ 19, 95, 112,

Consult also L.R.A. Digests of Cases.

COPYRIGHT—cont'd

Copyright in report of public speech. B. R. C. 335.

Is compliance with law of origin sufficient to secure protection under international copyright act. 1 B. R. C. 785.

Suits against officers relating to patents, as suits against the state. 44 L.R.A. (N.S.) Ž17.

Is owner of original production, or owner of composition represented thereby, the proprietor within the meaning of the copyright law. 3 B. R. C. 672.

Right to copyright motion picture film, and liability for infringement of such copyright. 6 B. R. C. 734.

2. Common law rights of authors and others in intellectual productions.

Generally. 51 L.R.A. 353; 9 L.R.A. (N.S.) 174.

Prerogative publications. 51 L.R.A. 355. Parties. 51 L.R.A. 358.

Works. 51 L.R.A. 359.

Rights. 51 L.R.A. 363.

Before publication. 51 L.R.A. 363. After publication. 51 L.R.A. 367. What constitutes publication. 51 L.R.A. 374; 43 L.R.A.(N.S.) 641. Infringements. 51 L.R.A. 378.

Remedies. 51 L.R.A. 380.

Liabilities. 51 L.R.A. 380.

Copyright superseding common-law 88 rights. 43 L.R.A.(N.S.) 642.

§.3. -as between employer and employee. See MASTER AND SERVANT, § 14.

4. Effect of omitting notice of, from licensed publication.

Necessity of notice. 66 L.R.A. 444. Variant notices. 66 L.R.A. 445. Defective notices. 66 L.R.A. 446. Works in several parts. 66 L.R.A. 446. When notice is entirely absent. 66 L.R.A. 447.

Patents. 66 L.R.A. 449.

5. Control of price of copyrighted article.

Right to fix retail price of book as incident of copyright. 15 L.R.A.(N.S.) 767.

Validity of contract seeking to control price at which a copyrighted article shall be resold. 27 L.R.A. (N.S.) 401; L.R.A.1917A, 1286.

6. Transfer of.

Right of purchaser of, to sell it free from restrictions affecting it in hands of vendor. 55 L.R.A. 632.

Sale or assignment of story as carrying the exclusive right to dramatize it. L.R.A.(N.S.) 1002.

§ 7. Infringement.

Injunction against, see Injunction, § 71.

Infringement generally. 51 L.R.A. 278. Liability of officers of a corporation for its infringement. 28 L.R.A. 426.

#### COPYRIGHT—cont'd

Common-law action for infringement. 2 L.R.A.(N.S.) 913

Perforated rolls and wax cylinders as infringements of copyright of sheet music. 2 B. R. C. 91.

What constitutes infringement of dramatic copyright. 2 B. R. C. 107.

§ 8. — damages for.

Damages for infringement as affected by

loss of profits. 51 L.R.A. 801.
Punitive damages for infringement of, where amount of actual damages is not established. 37 L.R.A.(N.S.) 533.

Must penalty in aggregate for infringing copyright be multiple of what would be given for each separate offense. 1 B. Ř. C. 768.

Power of equity, upon enjoining infringement of copyright, to require defendant to pay damages sustained by complainant as distinguished from profits re-alized by defendant. 21 L.R.A.(N.S.) 526.

Burden of proof as to profits in suit for profits from infringement of. 41 L.R.A.(N.S.) 653.

§ 9. Rights after expiration of. Right on expiration of, to use of name by which article has become known. 16 L.R.A.(N.S.) 550; 1 B. R. C. 649.

§ 10. Taxation of. State taxation of. 51 L.R.A. 381; 57 L.R.A. 57.

As an element in taxation of capital stock of corporation. 58 L.R.A. 564.

#### CORAM NOBIS.

Writ of error coram nobis. 18 L.R.A. 838; L.R.A.1918A, 1178.

#### CORDIALS.

Misrepresentation as to, as affecting validity of trademark. 19 L.R.A. 55.

# CORDWOOD.

Sufficiency of delivery of, on sale out of larger lot. 26 L.R.A. (N.S.) 38.

# CORNCRIB.

Use of railroad right of way for purposes of, as against owner of fee. 36 L.R.A. (N.S.) 519.

Begin with this book on every law question.

#### CORNER.

Corner as violation of anti-trust or monopoly act. 44 L.R.A. (N.S.) 325.

#### CORNER LOT.

Assessment of, for public improvement. 50 L.R.A. (N.S.) 922.

#### CORN SHREDDER.

Recovery under Workmen's Compensation Act for injury to employee operating. L.R.A.1918F, 203.

#### CORONERS.

1. Generally.

Coroner's inquest as part of proofs of loss. 44 L.R.Ā. 853.

Liability for damages for performing autopsy. L.R.A.1918D, 404.
Liability of, for acts at inquest. 44 L.R.A.

(N.S.) 177.

Opinion gained from newspaper reports of coroner's inquest as disqualification of juror in criminal case. 35 L.R.A. (N.S.) 1010.

§ 2. Power to order inquest; when proper.

Power of, to order post mortem examination. 31 L.R.A. 540.

When coroner's inquest necessary or proper. 21 L.Ř.A. 394.

3 3. Admissibility of finding or evi-

dence at inquest.

Admissibility of testimony of accused at coroner's inquest, see EVIDENCE, § 244.

Admissibility of finding of, to show cause of death. 68 L.R.A. 285; 45 L.R.A. (N.S.) 404; L.R.A.1918E, 924.

Admissibility of previous consistent statements of witness at coroner's inquest. 41 L.R.A.(N.S.) 934.

#### CORPORAL PUNISHMENT.

Liability of school teacher for personal injury to pupil. 65 L.R.A. 896.
Right of teacher to inflict on pupil. 1

B. R. C. 718.

cruel and unusual punishment. L.R.A. 565.

#### CORPORATE CONVEYANCES.

In general, see Corporations, V. b. Creditors' bill to set aside, see CREDITORS' BILL.

#### CORPORATE STOCKS.

See Corporations, VIII.

#### CORPORATION COMMISSIONS.

Action against, as action against the state. 44 L.R.A.(N.S.) 198.

#### CORPORATIONS.

I. In general, §§ 1, 2.

creation; existence; II. Nature: franchises; governmental con-

trol \$\$ 3-12. III. Consolidation; merger; reorganization, §§ 13-17. IV. Charters; by-laws, §§ 18-22.

V. Rights, powers, duties, and liability; contracts, \$\$ 23-39. a. Rights and powers general-

ly, §§ 23-27.

b. Contracts, generally; ultra vires, §§ 28-34.

c. Liability of corporation, \$\$ 35-39.

VI. Officers and agents, §§ 40-61.

a. In general, 🔰 40-42.

b. Rights and powers of, §§ 43-48.

 In general, §§ 43-46. 2. Of president and vice-president, \$\$ 47, 48.

c. Compensation, § 49.

d. Fiduciary relation, \$\$ 50,

e. Duties and personal liabili-

ties of, §§ 52-59.

1. In general, §§ 52-56. 2. Directors, §§ 57-59.

f. Meetings; elections, § 60.

g. Removal of, § 61. romoters and incorporators, VII. Promoters \$\$ 62-65.

VIII. Capital; stock and stockholders, \$\$ 66-126.

a. In general, §§ 66-76.

b. Subscriptions, §§ 77-81a.

c. Transfer; sale, §§ 82-95.

d. Rights of shareholders, \$\$ 96-102.

e. Liabilities of shareholders, §§ 103-121.

1. In general, \$\$ 108-108.

2. Calls; assessments, §§ 109-111.

8. Effect of transfer, §§ 112, 113.

4. Proceedings to enforce, **§§** 114-121.

f. Stockholders' meetings; voting, §§ 122-126.

IX. Dissolution; winding up; for-feiture, \$\$ 127-138.

X. Insolvency; rights and preferences of creditors, §§ 134-137.

XI. Foreign corporations, \$\$ 138-151.

a. In general, \$\$ 188-144.

b. Doing business within state, §§ 145-148.

c. Actions by or against, 149-151

CORPORATIONS—cont'd.

#### I. In general.

§ 1. Generally.

Banks, see Banks.

Building and loan associations, see Build-ing and Loan Associations.

Railroad companies, see CARRIERS; RAIL-BOADS.

Clubs, see Clubs.

Insurance companies, see Insurance, II. Joint stock company, see JOINT STOCK COM-

Municipal corporations, see MUNICIPAL CORPORATIONS.

Public service corporations, see Public SERVICE CORPORATIONS.

Bonds of, see Bonds, III.

Conditions relating to, see Conditions, § 3. Conflict of laws as to corporate matters, see Conflict of Laws, §§ 18, 19.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 62.

Federal jurisdiction over, see Courts, §§ 40. 43.

Compelling production of books and papers of, see DISCOVERY AND INSPECTION.

Equity jurisdiction over, see Equity, § 19. Demand in corporate matters, see DEMAND, § 5.

Presumption and burden of proof as to corporate matters, see EVIDENCE, §§ 57, 58.

Identity or identification of, see IDENTITY AND IDENTIFICATION, § 7.

Injunction as to corporate matters, see In-JUNCTION, §§ 34-36.

Indictment against, see Indictment, Infor-MATION, AND COMPLAINT, § 3.

Larceny by, see LARCENY, § 7. Mandamus against corporation, see MANDA-

MUS, §§ 12-15. As parties defendant, see Parties, § 28.

Quo warranto as proper remedy in corporate matters, see Quo WARRANTO, § 4. Receivers of, see RECEIVERS.

Removal of suits against corporations, see REMOVAL OF CAUSES, § 8.

Taxation of, see Taxes, §§ 11, 33-39, 45, 46, 67.

Service of process on, see WRIT AND PROcess, §§ 22-29.

Status of corporation as alien enemy. 5 B. R. C. 333.

Applicability of Bulk Sales Law to transfer to corporation organized to take over the business. L.R.A.1918C, 932.

Right of agent to transfer his authority or contract to a corporation organized by him. L.R.A.1916F, 89.

Mistake in name or description of corporation as affecting judgment by default against it. L.R.A.1916F, 728.

Corporation as peddler or hawker within statutory or municipal regulations. L.R.A.1916B, 1296.

Suit against corporation of which state is a member, as suit against the state. 44 L.R.A. (N.S.) 226.

Consult also L.R.A. Digests of Cases. 19

CORPORATIONS, I .- cont'd

Action against state officer to reach propcrty deposited by corporation as security, as action against the state. 44 L.R.A.(N.S.) 201.

Seizure of property of individual under judgment purporting to be against a corporation upon theory that there was no such corporation. 45 L.R.A.(N.S.)

Parol evidence to establish identity of corporation named as legatee or devisee in will. 47 L.R.A.(N.S.) 523, 528.

Particularity required in description of document of, in subpæna duces tecum. 31 L.R.A.(N.S.) 838.

Set-off of assigned claims by and against corporations. 23 L.R.A. 309.

Effect of erroneously describing defendant in process as a corporation instead of an individual or partnership. 40 L.R.A.(N.S.) 566.

Relationship to private corporation or association for profit which will disqualify juror. 40 L.R.A.(N.S.) 973, 978. Libel or slander of a corporation. 52

L.R.A. 525.

Federal courts following state decisions as to construction and effect of statutes in relation to. 40 L.R.A.(N.S.) 433.

§ 2. Decisions of tribunals of. See Courts, §§ 11, 12.

II. Nature; creation; existence; franchises; governmental control.

\$ 3. Generally. Corporations classified. 9 L.R.A. 33.\* Judicial notice in respect to. 4 L.R.A. 36.\* Counties as quasi corporations. 1 L.R.A. 757.

§ 4. Nature generally.

What are manufacturing companies? 14 L.R.A. 107.

Nature of public corporation owned by state. 29 L.R.A. 378.

Nature of incorporated institutions belonging to the state. 29 L.R.A. 378.

5. Creation.

Effect of illegality of organization on subscriptions, see infra, § 78a.

Presumption 88 to incorporation. 22 L.R.A. 276.

At what stage in the proceedings is a corporation deemed to be organized. L.R.A.(N.S.) 748.

Fiction of incorporation to evade law. 1 L.R.A. (N.S.) 176.

Effect of subsequent incorporation to make valid a gift to an unincorporated association. 14 L.R.A. 410.

Effect of incorporation of local religious society on litigation growing out of schism or division. 24 L.R.A.(N.S.) 715.

Incorporation of covenantee as affecting covenant not to engage in a competing business. 9 L.R.A. (N.S.) 979. CORPORATIONS, II.—cont'd

Formation of and transfer of property to, as ground of attachment for fraud. 30 L.R.A. 487.

Denial of incorporation on information and belief. 30 L.R.A. (N.S.) 778.

Dissolution of partnership by reason of formation of corporation. 31 L.R.A. (N.S.) 471.

§ 6. Existence. Estoppel to deny, see ESTOPPEL, § 9.

7. Franchise.

Railroad franchise, see RAILROADS, § 3. Expiration of charter, see infra, § 132. Forfeiture of franchises, see infra, VIII. Judicial sale of, see JUDICIAL SALE, § 7. Injunction against sale of, see Injunction, § 36.

Taxation of franchise, see Taxes, § 35.

Right to be a corporation as a franchise within constitutional or statutory provisions taxing franchises as property. 28 L.R.A.(N.Š.) 255.

Suit to restrain revocation of corporation's license, as suit against the state.

L.R.A.(N.S.) 219.

Lack of or invalidity of franchise as a defense to an action by a public service corporation for service rentals. 52 L.R.A. (N.S.) 713.

8. De facto corporations. De facto foreign corporation. 24 L.R.A.

Partnership liability of stockholders in case of corporations de facto. 17 L.R.A. 551.

Right of de facto corporation to exercise power of eminent domain. 2 L.R.A. (N.S.) 144; 50 L.R.A.(N.S.) 236.

§ 9. As persons.

As persons, generally. 19 L.R.A. 223. As persons within the meaning of statutes. 19 L.R.A. 225; 60 L.R.A. 331.

persons within 14th Amendment. 10 L.R.A. 129; 14 L.R.A. 585; 60 L.R.A. 330.

Corporations as "persons" with respect to criminal responsibility. 2 B. R. C. 243.

10. As citizens.

As citizens within Federal Constitution. 14 L.R.A. 580; 60 L.R.A. 330.

Citizenship for purpose of Federal juris-diction in state other than that where created. 14 L.R.A. 184.

Consolidated interstate corporation as domestic corporation of one of the states. 15 L.R.A. 82.

11. Domicil; residence. Citizenship of, see supra, § 10. Begin with this book on every law question.

CORPORATIONS, II.—cont'd

corporation. 70 L.R.A. 693.

Domicil of corporation for taxation of tan-

gible personal property. 69 L.R.A. **431.** 

Effect of certificate of incorporation on

question of domicil. 69 L.R.A. 437.

Residence of corporation for purpose of Federal jurisdiction in state other than that where created.

L.R.A. 184. Corporation as "resident" within public improvement statutes. 43 L.R.A.(N.S.) 272.

§ 12. Governmental control and regulation.

Dissolution of corporation by government, see infra, IX.

Of foreign corporation, see infra, XI.

Governmental regulation of carriers, see CARRIERS, V.

Judicial notice as to, see EVIDENCE, § 11. Regulation of rates of public service corporation, see RATES, § 2.

Delegation of legislative power to regulate internal management of. 10 L.R.A. (N.S.) 251.

Reasonableness of regulation of public service corporation requiring payment of rentals in advance. 19 L.R.A. (N.S.) 693.

Extent and limit of state authority over consolidated interstate corporation. 24

L.R.A.(N.S.) 769.

Power and duty of public authorities to control the issuance of securities by public service corporations. 47 L.R.A. (N.S.) 1167.

#### III. Consolidation; merger; reorganization.

13. Generally.

Monopolistic combinations, see MONOPOLY AND COMBINATIONS.

Combinations of railroads, see RAILROADS, §§ 9-11.

Liability for incorporation tax upon extension, consolidation, or merger, see TAXES, § 34.

Consolidated interstate corporation as domestic corporation of one of the states. 15 L.R.A. 82.

Extent and limit of state authority over consolidated interstate corporation. 24 L.R.A.(N.S.) 769.

Loss of privilege of exemption from regula-tion of rates of public service corporation by consolidation. L.R.A.1915C, 279.

§ 14. Right to consolidate. Definition. 52 L.R.A. 369.

Necessity of legislative sanction. 52 L.R.A. 370.

Consolidation as affected by law. 52 L.R.A. 373.

Necessity of stockholder's consent. L.R.A. 381.

Consult also L.R.A. Digests of Cases.

CORPORATIONS, III.—cont'd

Constructive domestic residence of foreign | Rights and remedies upon unauthorized consolidation. 52 L.R.A. 387.

Restrictions on consolidation of parallel or competing railroads. 45 L.R.A. 271.

§ 15. Effect of; debts of old corporations.

Effect of consolidation of foreign with domestic corporation on residence or citizenship for purpose of Federal jurisdiction. 14 L.R.A. 185.

Rights of creditors on unauthorized consolidation of corporations. 52 L.R.A. 390.

Effect of consolidation, merger, or absorption of corporation, on its unse-cured liabilities, in absence of statutory or contract provision relative thereto. 11 L.R.A.(N.S.) 1119; 32 L.R.A.(N.S.) 616; 47 L.R.A. (N.S.) 1058.

Liability of a consolidated railroad company for the debts of its predecessor.

23 L.R.A. 231.

What unsecured claims are covered by the express assumption by one corporation of the indebtedness of another, upon consolidation, merger, or absorption. 26 L.R.A. (N.S.) 1101.

Right of creditor of insolvent corporation to maintain action at law against new corporation to which assets have been transferred. 11 L.R.A.(N.S.) 863.

Right of creditors of a corporation which has transferred all, or substantially all, of its assets to another corporation to subject the assets so transferred to an equitable lien or preference. 5 L.R.A. (N.S.) 520.

Lien of holders of bonds of one of two or more consolidating corporations on property of corporation which issued the bonds where the new corporation had agreed to protect them. 47 L.R.A. (N.S.) 190.

§ 16. Rights of stockholders.

Right of minority stockholders to representation in new or reorganized corpora-

tion. 10 L.R.A.(N.S.) 725.
Respective rights of life tenant and remainderman in distributions by corporation in process of consolidation or merger with other corporations. 12 L.R.A.(N.S.) 805.

§ 17. Taxation of consolidated corporations. See TAXES, § 34.

# IV. Charters; by-laws.

§ 18. Charter.

Forfeiture of, see infra, IX. Expiration of, see infra, § 132.

What is within charter power to build lateral railroad. 12 L.R.A.(N.S.) 326. Charter limitations as to period of existence. 33 L.R.A. 576.

Charter restrictions on eligibility to become shareholder. 46 L.R.A. 618.

CORPORATIONS, IV.—cont'd

Effect of charter provision granting rights in percolating waters. 19 L.R.A. 99. Charter provisions against power of legis-

lature to fix tolls, rates or prices. 33 L.R.A. 186.

Right to question power of corporation to take by will property in excess of its charter authority. 9 L.R.A.(N.S.) 689; 44 L.R.A.(N.S.) 544.

Construction of charter provisions in determining right of railroad company to guarantee the securities of another railroad company. L.R.A.1918D, 177.

Legislative sanction of consolidation. 52 L.R.A. 372.

Extraterritorial effect of restriction in charter as to rate of interest. 62 L.R.A. 76.

§ 19. — amendment or repeal. Reserved right to amend and repeal charter

as to taxation. 60 L.R.A. 69.

Right under reserved power to amend or repeal charter of corporation to change the rights of stockholders as to voting the stock. 22 L.R.A.(N.S.) 420.

Regulation of rates of public service corporation fixed by franchise or charter as exercise of reserved power to alter charter. L.R.A.1915C, 277.

§ 20. By-laws.

Of benevolent society, see BENEVOLENT So-CIETIES, § 4.

Of insurance company, see Insurance, §§ 46, 47.

Effect of, as notice. 25 L.R.A. 48.

Lien by, on corporate stock as notice of lien to pledgee or assignee. 39 L.R.A. (N.S.) 295.

Effect of change in, with respect to lien on corporate stock on priorty of lien of corporation as against pledgee or bona fide purchaser of stock. 39 L.R.A. (N.S.) 300.

Effect on lien of corporation on stock cer-tificate of failure to post by-law giving lien. 39 L.R.A. (N.S.) 300.

To compel acceptance of office. 24 L.R.A. 492.

Mandamus to enforce provision of by-laws of corporation. 32 L.R.A. 575.

 $\mathbf{21.}$  —as to voting and elections. Right to vote by proxy under. 18 L.R.A. 584; 29 L.R.A. 845.

Regulation by by-laws of elections by private corporations. 18 L.R.A. 582.

Modification by, of quorum for meeting of stockholders. 21 L.R.A. 175.

§ 22. — as to stock and stockholders generally.

Restricting transfer of stock. 27 L.R.A.

Assessments on paid up stock under bylaws. 45 L.R.A. 651.

Effect of by-law requiring transfer of stock on books. 67 L.R.A. 672.

CORPORATIONS, IV.—cont'd

Estoppel of building association to assert illegality of its by-law that the stock will mature at a fixed time. 15 L.R.A.

(N.S.) 503. Effect of by-law on stockholder's right to inspect corporate books. 20 L.R.A. (N.S.) 196.

V. Rights, powers, duties and liabilities; contracts.

a. Rights and powers, generally.

28. Generally.

Right to consolidate, see supra, § 14. Of consolidated corporation, see supra, § 15. Powers of bank, see Banks, § 2.

Powers of loan associations, see Building AND LOAN ASSOCIATIONS, § 2.

Powers of railroad company, see RAIL-BOADS, § 4.

Estoppel to deny corporate powers, see Es-TOPPEL, § 10.

Legal powers and privileges of surety and trust companies. 48 L.R.A. 587. Insurance on life of officer for benefit of

corporation. L.R.A.1915F, 979.

Injunction against judgments confessed by. 30 L.R.A. 240.

Delegation of power of taxation to corporation. 15 L.R.A.(N.S.) 61.

Power of corporation to insure life of officer for benefit of corporation. 16 L.R.A. (N.S.) 1020.

Right of corporation to circulate a black list among its own agents and employees. 63 L.R.A. 292.
Right to sue for libel. 2 L.R.A.(N.S.) 741.

Practice of law or medicine by corporation. 32 L.R.A.(N.S.) 56.

What is within charter power to build lateral railroad. 12 L.R.A. (N.S.) 326.

Implied power of railroad company to guarantee enterprise other than the transportation of goods or passengers. 2 L.R.A.(N.S.) 887; 38 L.R.A.(N.S.) 830.

24. Power to deal in its own stock. Right of, to purchase its own shares of stock. 18 L.R.A. 254; 61 L.R.A. 621; 25 L.R.A. (N.S.) 50; 30 L.R.A. (N.S.) 694; 44 L.R.A. (N.S.) 156; L.R.A. 1916F, 286.

§ 25. Power to deal in stock of other corporations.

Restriction on power to take under will, see WILLS, §§ 72, 73.

Power to deal in stock of other corporations. 18 L.R.A. 252.

Power of national bank to acquire and hold stock of other corporations. L.R.A. 1916A, 584.

§ 26. Property rights; charitable gifts to.

Disposition of property essential to corporate existence, see infra, § 133.

Of foreign corporation, see infra, § 142. Begin with this book on every law question.

CORPORATIONS, V. a-cont'd

As beneficiaries of charitable bequest. 14 L.R.A.(N.S.) 140; 37 L.R.A.(N.S.) 1019.

Law governing validity of bequest to. 2 L.R.A. (N.S.) 440.

Effect of subsequent incorporation to make valid a gift to an unincorporated association. 14 L.R.A. 410.

Right to locate mining claim. 7 L.R.A. (N.S.) 816.

Right of de facto corporation to exercise power of eminent domain. 2 L.R.A. (N.S.) 144; 50 L.R.A.(N.S.) 236.

Power of corporation to dedicate property for public use. 8 L.R.A. (N.S.) 966.

Disposition of real property, on dissolution of corporation created for benevolent or social purposes. 35 L.R.A.(N.S.) 895.

Injunction against execution sale of property of quasi public corporation. 30 L.R.A. 104.

§ 26a. — who may contest power of corporation to take or hold property.

Right of private persons to contest the power of a corporation to take or hold property. 32 L.R.A. 293; 9 L.R.A. (N.S.) 689; 46 L.R.A. (N.S.) 72.

The inability of the corporation to hold the property does not give immunity to wrongdoers. 32 L.R.A. 295.

Right of persons contracting with corporation. 32 L.R.A. 295.

Defective organization and forfeiture. 32 L.R.A. 295.

Suits by the corporation. 32 L.R.A. 296.

Specific performance. 32 L.R.A. 296.
Property acquired by will. 32 L.R.A.
297; 44 L.R.A. (N.S.) 544.
Who may take advantage of statute ren-

Who may take advantage of statute rendering foreign corporation incapable of taking title to real property. 33 L.R.A.(N.S.) 355.

§ 27. As trustee for charitable trust. As trustee for charitable trust. 14 L.R.A. (N.S.) 111; 37 L.R.A.(N.S.) 1011.

b. Contracts generally; ultra vires.

§ 28. Generally.

Of foreign corporations, see infra, § 148. Rights and powers of corporate officers as to, see infra, §§ 44, 45, 48.

Validity of contract, see CONTRACTS, §§ 93-

Power to give mortgage, see Mortgage, § 10.

Estoppel to set up plea of ultra vires. 1 L.R.A. 285;\* 11 L.R.A. 847;\* 12 L.R.A. 168;\* 20 L.R.A. 765.

Conveyance by corporation of land held adversely. 35 L.R.A.(N.S.) 748.

Consult also L.R.A. Digests of Cases.

CORPORATIONS, V. b-cont'd

Liability of insurance company on contracts of another company which it has absorbed or attempted to absorb. 36 L.R.A.(N.S.) 597.

Liability of corporation on contracts of promoters. 26 L.R.A. 544; 50 L.R.A.

(N.S.) 979.

Enforceability of loan to private corporation, which alone, or in connection with existing indebtedness, exceeds the corporation's power to incur indebtedness. 11 L.R.A.(N.S.) 598.

Recovery for services and expenses under running contract with a corporation ended by its insolvency and dissolution. 69 L.R.A. 124.

Removal for separable controversy of suit by stockholders growing out of ultra vires acts. 5 L.R.A.(N.S.) 82.

Power of corporation to contract to defray medical expenses of their injured employees. L.R.A.1915C, 793.

Power of brewing corporation to purchase or lease property to be used by retailers of its products. 47 L.R.A.(N.S.) 898.

Secret dealings between vendor and one who promoted the organization of a corporate purchaser as a ground for rescission of contract. L.R.A.1916C, 1000.

Effect of statutes forbidding corporate officers, directors, or stockholders to be interested directly or indirectly in dealings with the corporation. L.R.A. 1916A, 783.

§ 29. Contracts of guaranty.

Implied power of railroad company to guarantee enterprise other than the transportation of goods or passengers. 38 L.R.A.(N.S.) 830.

Right of railroad company to guarantee the securities of another railroad company. L.R.A.1918D, 175.

Liability under continuing guaranty running to corporation for goods sold or credits extended after a change in the corporation. 14 L.R.A.(N.S.) 1231.

Power of corporation organized for the

Power of corporation organized for the manufacture and sale of liquor to enter into contracts of guaranty or sure-tyship on behalf of its customers, or prospective customers. 27 L.R.A. (N.S.) 186; L.R.A.1918C, 1008.

§ 30. As to negotiable paper.

Rights and powers of officers as to, see infra, § 45.

Liability of corporate officers on, see infra, § 55.

Power of corporation to issue accommodation paper. 9 L.R.A.(N.S.) 193.

Circumstances sufficient to put one taking corporation paper on inquiry. 29 L.R.A. (N.S.) 359; 44 L.R.A. (N.S.) 404; L.R.A.1919F, 1153.

Commercial paper of, as payment of corporate debt. 35 L.R.A.(N.S.) 79.

Liability of corporation on negotiable paper executed by officer or agent. 21 L.R.A.(N.S.) 1046. CORPORATIONS, V. b-cont'd

Right of one who takes commercial paper of corporation in payment of, or security for, an individual debt of officer. 31 L.R.A.(N.S.) 169; L.R.A.1918F, 1163.

Power of agents to indorse. 27 L.R.A. 401. Seal as affecting negotiability of bill or note of corporation. 35 L.R.A. 606.

Effect of naming nonexistent corporation as payee in negotiable instrument. 22 L.R.A.(N.S.) 507.

Purchase of corporate paper at discount as usury. 43 L.R.A.(N.S.) 218.

Ownership of paper payable to directors or officers of a corporation. 50 L.R.A. (N.S.) 1115.

# § 31. Availability of defense of usury to or against corporation.

Effect of statute forbidding corporation to

plead usury. 62 L.R.A. 79.

Applicability of statute forbidding corporation to interpose defense of usury, as affected by the foreign or domestic character of the corporation, the situs of the contract, or the place of suit. 16 L.R.A.(N.S.) 616.

Issuance of corporate bonds at less than par as usury. 35 L.R.A.(N.S.) 1106.

# § 32. Formal requisites.

Effect of vote or resolution by directors of private corporation, without more, to complete a contract. 18 L.R.A.(N.S.) 293.

Acknowledgment of corporate instrument before one who is a stockholder or officer of corporation. 23 L.R.A. (N.S.) 1075.

Seal as affecting negotiability of bill or note of corporation. 35 L.R.A. 606.

Estoppel to raise defense of ultra vires with respect to contracts defective in point of form. L.R.A.1917A, 770.

# § 32a. Estoppel to raise defense of ultra vires.

How far a private corporation is estopped from raising the defense of ultra vires in an action brought against it. L.R.A. 1917A, 749.

Estoppel against raising the defense of ultra vires in actions brought by private corporation. L.R.A.1917B, 821.

# § 33. Who may question power of corporation to make contract.

Who may contest power of corporation to hold property, see supra, § 26a.

Does the competition with one's business, which results from the ultra vires act of a corporation, entitle him to challenge the power of the corporation to engage therein. 12 L.R.A.(N.S.) 757.

Right of subsequent creditor to question corporate mortgage in favor of, or for the benefit of, directors, in absence of fraud. 12 L.R.A.(N.S.) 825.

Begin with this book on every law question.

#### CORPORATIONS, V. b-cont'd

Laches or acquiescence by stockholder as affecting his right to complain of act by which corporation devests itself of the title or control of its entire property. 9 L.R.A.(N.S.) 606.

# § 33a. Remedies of parties to ultra vires contract.

Remedies which the parties to an ultra vires contract are entitled to pursue apart from an action on the contract itself. L.R.A.1917A, 1026.

#### § 34. Ratification.

Implied ratification of unauthorized loan effected by agent. 6 L.R.A. (N.S.) 311; 52 L.R.A. (N.S.) 571.

Ratification of acts of directors by vote of stockholders including those who are directors. 36 L.R.A.(N.S.) 199.

Of contracts of promoters. 26 L.R.A. 548; 50 L.R.A. (N.S.) 980.

Of unauthorized consolidation of corporation. 52 L.R.A. 373.

#### c. Liability of corporation.

#### 35. Generally.

Liability on contracts, see supra, V. b. Power of officers and agents to bind corporation, see infra, VI. b.

poration, see infra, VI. b.
Of consolidated corporation, see supra, § 15.

For unauthorized transfer of stock on books, see infra, § 89.

Of carrier, see CARRIERS.

Of railroads, see Railboads, VII. a.

Of street railway, see STREET RAILWAYS, IV.

Liability for libel or slander, see LIBEL AND SLANDER, II.

To employees, see MASTER AND SERVANT, III. a.

Taxation of corporations, see Taxes, §§ 11, 33-39, 45, 46, 67.

Liability for trespass, see TRESPASS, § 9.

Discretion of court as to penalty to be imposed upon a corporation for viola-

tion of law. L.R.A.1915A, 892.
Constitutionality of retroactive statute creating right of action against. 52 L.R.A. 938.

Liabilities of incorporated institutions belonging to state. 29 L.R.A. 383. Liability as between corporation and one

acting in good faith, to whom it issues new certificate of stock on forged authority. 2 B. R. C. 528.

At whose instance judgment against corporation may be set aside. 54 L.R.A. 763.

# § 36. For what liable.

May a corporation be convicted of homicide. 21 L.R.A. (N.S.) 998; 45 L.R.A. (N.S.) 344.

Liability of corporation formed by firm, partnership, or association for debts of old concern, in the absence of express assumption or fraud. 29 L.R.A. (N.S.) 589.

CORPORATIONS, V. c-cont'd

Duty to give clearance card to discharged employee. 62 L.R.A. 925.

Liability of corporation for services rendered before its organization, of which it has had the benefit. 4 B. R. C. 757.

Liability for libel or slander, see LIBEL AND SLANDER.

For malicious prosecution. 14 L.R.A. 791. Liability of corporation for exemplary damages in action for malicious prosecution or abuse of process in suing out attachment for collection of debt only. 29 L.R.A.(N.S.) 280.

Liability for torts as within express as-sumption by one corporation of indebtedness of another on consolidation, merger, or absorption. (N.S.) 1101. 26 L.R.A.

Liability of private corporation for re-moval of lateral or subjacent support while exercising power of eminent domain. 68 L.R.A. 701.

For damming back water of stream. L.R.A. 858.

Liability growing out of the giving or refusing of information affecting the character or reputation of a servant.
4 L.R.A.(N.S.) 1091.
Liability of public corporation for safety

of wharf or dock. 61 L.R.A. 953.

Liability for tort committed by partner or agent with the object of procuring business. 5 B. R. C. 88.

37. For whose acts liable.

Liability of bank for acts of officers or employees, see BANKS, IV.

Liability for tort arising while it was in the

hands of a receiver. L.R.A.1918F, 320. Criminal prosecution of corporation for acts or omissions while in hands of

receiver. 26 L.R.A.(N.S.) 710. For acts of independent contractor in respect of matters incident to the exercise of corporate franchise. 66 L.R.A. 136.

Liability of one railroad corporation possessing stock control of another for the acts and contracts of the latter. 35 L.R.A.(N.S.) 7.70.

§ 38. — for acts of officers or agents. For fraud or forgery of officers in issue of stock. 19 L.R.A. 331; 41 L.R.A.(N.S.) 187.

Of corporation for charitable purposes for

act of servant. 23 L.R.A. 200. Liability of corporation on negotiable paper executed by officer or agent. 21 L.R.A.(N.S.) 1046.

Liability of corporation for slander or libel by an agent or employee. 21 L.R.A.

ty an agent or employee. LI L.R.A. (N.S.) 873; L.R.A.1915D, 867.

Liability of, for acts of special police officer appointed by public authority. 23

L.R.A.(N.S.) 289; 30 L.R.A.(N.S.) 481; 39 L.R.A.(N.S.) 122; 43 L.R.A. (N.S.) 1164; L.R.A.1915C, 1183.

Consult also L.R.A. Digests of Cases.

CORPORATIONS, V. c-cont'd

False statements in reports required to be filed with public officers, as fraud which will sustain an action against the corporation. 35 L.R.A. (N.S.) 858.

Liability of corporation for fraud or forgery of its officers in the issue of stock. 41 L.R.A.(N.S.) 187.

§ 39. Criminal liability; contempt. Liability for homicide, see Homicide, § 4.

Criminal responsibility of corporations. 2 B. R. C. 231.

Criminal prosecution of corporation for acts or omissions while in hands of receiver. 26 L.R.A.(N.S.) 710.

Criminal responsibility of corporation for acts of servant or agent. 43 L.R.A. (N.S.) 40.

Criminal responsibility of railroad company for blocking street or highway crossing. L.R.A.1915B, 329.

Punishment of corporation for contempt. 4 L.R.A.(N.S.) 1001.

#### VI. Officers and agents.

#### a. In general,

40. Generally.

Liability of corporation for acts of officers or agents, see supra, V. c.

Of bank, see BANKS, § 6-8a.

Notice to officer or agent of corporation as binding corporation, see Notice, § 15. Service of process on, see WRIT AND PROC-ESS, § 26.

Officers as "employees" within meaning of Workmen's Compensation Act. L.R.A. 1918F, 203.

Officer of bankrupt corporation as within protection of provision of bankruptcy act as to use in criminal proceedings of testimony given by bankrupt. L.R.A. 1917B, 614.

Directors, trustees, and officers of incorporated institutions belonging to state. 29 L.R.A. 384.

Mandamus to compel surrender of office. 31 L.R.A. 360.

Mandatory injunction to. 20 L.R.A. 167. Service of process on director of foreign corporation. 23 L.R.A. 494.

Competency as an attesting witness of offi-

cer of corporation named as executor or trustee. L.R.A.1916D, 185. Power of public to determine capacity or suitableness of particular officer, agent or employee of private corporation. L.R.A.1915E, 708. Quo warranto or information in nature of

quo warranto to test title to office. 51 L.R.A.(N.S.) 1126.

Validity of contract or option by director for purchase of stock of employee of corporation upon discontinuance of employment. L.R.A.1916D, 1117. CORPORATIONS, VI. a-cont'd.

Insurance on life of officer of corporation for benefit of the corporation. 1 L.R.A. (N.S.) 1020; L.R.A.1915F, 979.

Reports to corporation by agents as privi-leged communication. 6 L.R.A.(N.S.) 325.

Right of one who takes commercial paper of corporation in payment of, or security for, an individual debt of officer. 31 L.R.A.(N.S.) 169; L.R.A.1918F, 1163.

Ratification of acts of directors by vote of stockholders including those who are directors. 36 L.R.A.(N.S.) 199.

Secret bonus to officer or director as affecting right to enforce contract against corporation. 7 L.R.A.(N.S.) 467.

Inherent jurisdiction of equity at instance of stockholder to appoint receiver, or wind up the corporation because of mismanagement or fraud of its officers. 39 L.R.A. (N.S.) 1032; L.R.A. 1915A, 606.

§ 41. Directors de facto. Who are. 15 L.R.A. 418. Eligibility. 15 L.R.A. 419. Termination of right to act as directors. 15 L.R.A. 419.

§ 42. Affidavit or verification by.

Does description of affiant in an affidavit for attachment, as a specified officer of a corporation, import that he is an agent of the corporation, as required by statute. 14 L.R.A.(N.S.) 1135. Is affidavit or verification by officer of

corporation to be regarded as made by an agent of the corporation. 16 L.R.A. (N.S.) 703.

#### b. Rights and powers of.

#### 1. In general.

§ 43. Generally. Officers of bank, see BANKS, § 8.

Bound to notice by-laws. 25 L.R.A. 48. Mow far corporation charged with knowledge of managing officer engaged in illegal act. 2 L.R.A.(N.S.) 993.

Directors and officers as preferred creditors. 22 L.R.A. 806.

Power of directors to increase capital stock. 38 L.R.A. 617.

Right of director to rely on statements made by persons in immediate charge of corporation's business. 6 B. R. C.

Right of directors, when creditors of cor-poration, to enforce stockholders' liability to creditors. 50 L.R.A. 273.

Right of officer of corporation to refuse to turn over books to a receiver upon the ground that they have a tendency to incriminate him. 30 L.R.A.(N.S.) 725.

Power of corporation to insure life of offi-cer for benefit of corporation. 16 LR.A.(N.S.) 1020; LR.A.1915F, 979.

Right of minority stockholder to restrain voluntary dissolution of corporation by directors. 23 L.R.A. (N.S.) 1177. CORPORATIONS, V. b, 1—cont'd

Right of receiver to compel officers of corporation to deliver to receiver property of corporation claimed by them adversely. 47 L.R.A.(N.S.) 751.

Effect of statutes forbidding corporate offi-cers or directors to be interested directly or indirectly in dealings with the corporation. L.R.A.1916A, 783.

Right of directors to vote bonus to officers as compensation for services. L.R.A.

1915D, 632.

44. As to contracts.

Of president or vice president, see infra.

Validity of individual contract of director to pay dividends. L.R.A.1917A, 1077. Authority to contract for services of other

persons. L.R.A.1918F, 32.

Time for which contracts of employment may be made. 49 L.R.A. 471; 17 L.R.A.

(N.S.) 177.

Implied or presumed authority of superintendent of department to contract as to matters relating to his department. 38 L.R.A.(N.S.) 1135.

Power of officers against consent of minority stockholders to sell property of corporation essential to its existence as a going concern. 35 L.R.A. (N.S.) 396.

Implied power of employee of corporation to employ physician to attend injured employee. 4 L.R.A. (N.S.) 58; 34 L.R.A. (N.S.) 351; L.R.A.1915C, 809.

#### § 45. — as to negotiable paper. Liability on, see infra, § 55.

Power of president or vice president of a corporation to make. 14 L.R.A. 357.

Liability of corporation on negotiable paper executed by officer or agent. 21 L.R.A. (N.S.) 1046.

Right of one who takes commercial paper of corporation in payment of note or as security for individual debt of offi-31 L.R.A. (N.S.) 169; L.R.A. 1918F, 1163.

Check drawn by corporate officer payable to his own order as imparting notice to drawee bank of an intended misappropriation. L.R.A.1915B, 715.

Power of agents to indorse negotiable paper. 27 L.R.A. 401.

Ownership of paper payable to director or officers. 50 L.R.A. (N.S.) 1115.

Is officer or employee of corporation chargeable with its knowledge of infirmities in commercial paper purchased from it. L.R.A.1915D, 1099.

§ 46. To take acknowledgment. Right of officer of corporation to take acknowledgment of instrument in which corporation interested. 33 L.R.A. 337; 23 L.R.A. (N.S.) 1078; 41 L.R.A. (N.S.) 375.

Begin with this book on every law question,

#### CORPORATIONS, V. b-cont'd.

# 2. Of president and vice president.

§ 47. Generally.

Powers of president. 14 L.R.A. 356.

When vice president may exercise authority of president. 14 L.R.A. 360.

# § 48. As to contracts.

As to contracts, generally. 14 L.R.A. 356. Presumption that a contract with a corporation is within the authority of its president. 7 L.R.A.(N.S.) 376.

Authority of president to contract for services of other persons. L.R.A.1918F, 33. Time for which contracts of employment may be made by. 49 L.R.A. 472.

#### c. Compensation.

§ 49. Generally.

Treatment of salaries paid officers in estimating the return of a public service corporation for rate-making purposes. 52 L.R.A. (N.S.) 53, 69.

Right of officer, director, or stockholder, in absence of special contract, to compensation for services to corporation. L.R.A.1917F, 310.

Validity of a contract to pay an officer of a railroad company for his own benefit conditioned on specified location of road or a depot. 6 L.R.A. (N.S.) 524; 25 L.R.A.(N.S.) 967.

Liability of corporate directors as affected by compensation. 55 L.R.A. 773.

Priority of claims against property in hands of receiver for services of officers. L.R.A.(N.S.) 1036, 1060.

Effect of corporate dissolution on. 69 L.R.A. 144.

Right as between trustee and cestui que trust to compensation due for former's services as director. 1 B. R. C. 313.

Right of directors to vote bonus to officers as compensation for services. L.R.A. 1915D, 632.

#### d. Fiduciary relation.

50. Generally.

Effect of statutes forbidding corporate officers or directors to be interested directly or indirectly in dealings with the corporation. L.R.A.1916A, 783.

Secret bonus to officer or director of corporation as affecting right to enforce contract against corporation. 7 L.R.A. (N.S.) 467.

Liability of promoter on sale to corpora-tion of property for sale of which he is agent. 18 L.R.A.(N.S.) 1115.

Duty of director toward one from whom

he purchases stock. L.R.A.1916B, 708.

Are directors under any obligation to disclose matters which may make shares more valuable, before purchasing shares from individual stockholders. 4 B. R. C. 792.

Fiduciary relationship to interest adverse to that of corporation as disqualifying director. 7 B. R. C. 81.

Consult also L.R.A. Digests of Cases.

CORPORATIONS, V. d-cont'd

§ 51. Dealings between corporations having common officers or directors.

Validity in general. 33 L.R.A. 788.

Ratification. 33 L.R.A. 790.

When one company controls the other. 33 L.R.A. 791.

Lack of consideration; transactions out of the usual course of business. 33 L.R.A. 793.

Actual fraud or unfair advantage to directors. 33 L.R.A. 794.

Presumption as to unfairness. 796.

# e. Dutics and personal liabilities of.

#### 1. In general.

§ 52. Generally.

Of promoters, see infra, §§ 64, 65. Liability to garnishment for corporate debt, see GARNISHMENT, § 5.

Duty of corporate officers to produce books or papers pursuant to subpœna duces tecum or order of court. L.R.A.1915B, 981.

Failure of foreign corporation to comply with conditions of doing business in the state as a defense to action by it against officer or agent. L.R.A.1916A,

Personal liability of officers of incorporated institutions belonging to state. 29 L.R.A. 385.

Personal liability of officer for act or transaction in excess of corporate powers or in violation of law. 6 L.R.A.(N.S.) 1003.

Liability of officers of mutual insurance company to members for permitting diversion of funds. 2 L.R.A. (N.S.) 165.

Personal liability to other contracting party of one who, without authority, assumes to contract as agent for a corporation. 34 L.R.A.(N.S.) 524.

Personal liability at common law of offi-cers to other party to act or transaction in excess of corporate authority. 6 L.R.A.(N.S.) 1003.

Liability of executive officers or employees to corporation for exceeding its powers. L.R.A.1918A, 922.

Responsibility of higher officials for criminal homicide in operation of railroad or street railway. L.R.A.1917C, 538.

§ 53. To purchasers of stock.

Liability of corporate officer for misrepresentations which induce the sale or purchase of stock. 1 L.R.A.(N.S.) 258.

Liability of officers of a corporation to one who purchases stock from an individual in reliance on a prospectus issued to induce purchase of treasury stock. 28 L.R.A. (N.S.) 359.

Fraud in sale of corporate stock by one officer or director to another. L.R.A. 1916B, 703.

CORPORATIONS, V. e, 1—cont'd § 54. To creditors of corporation. Liability of directors, see infra, § 58.

Garnishment of officer or agent of, by creditor of corporation. 36 L.R.A. 561.

Does statutory liability of officers for debts include liability for torts. 22 L.R.A. (N.S.) 256.

Liability of corporate officers who fail to file report required by statute, to surety or guarantor of corporate paper. 35 L.R.A.(N.S.) 855.

§ 55. On negotiable paper.

Personal liability of officers on note made for corporation. 19 L.R.A. 676.

Personal liability of officer signing paper and adding words indicating representative capacity to his signature. 42 L.R.A. (N.S.) 53.

Extrinsic evidence to show who is liable as maker of note. 20 L.R.A. 705.

Extension of time to corporation as affecting liability of officers who sign as sureties or indorsers. 47 L.R.A.(N.S.) 274.

§ 56. For torts, fraud, or negligence. Joinder of stockholders in suit against officer or director based upon transactions inter se. 46 L.R.A. (N.S.) 137. Failure of foreign corporation to comply

Failure of foreign corporation to comply with conditions of doing business in the state as defense of action by it against officer or agent for embezzlement. L.R.A.1916A, 650.

Personal liability of officers for torts or negligence of corporation. 28 L.R.A. 421.

Personal liability of officer of corporation for personal injuries from torts in connection with its business. 39 L.R.A. (N.S.) 901; L.R.A.1915C, 874.

Liability of officers to corporation for amount it has been compelled to pay because of their tort. 40 L.R.A.(N.S.)

False statements in reports required by statute to be made to public officers as basis of action by individuals at common law for deceit against officers personally. 6 L.R.A.(N.S.) 872.

Jurisdiction of equity over suits by a corporation or its representative to hold the officers liable for losses occasioned by their fraud, bad faith, or negligence. 8 L.R.A.(N.S.) 739.

Liability of editor or manager of a news-

Liability of editor or manager of a newspaper for libel published without his knowledge. 10 L.R.A.(N.S.) 332; L.R.A.1918F, 287.

#### 2. Of directors.

§ 57. Generally. Liability of bank directors, see Banks, § 7. Measure of damages against directors, see Damages, § 51.

Liability of directors for misconduct of executive officers and employees. 55 L.R.A. 766.

CORPORATIONS, V. e, 2-cont'd

Liability for nonattendance of codirectors at meetings. 55 L.R.A. 771.

Extraterritorial enforcement of statutory liability of directors of corporations. 41 L.R.A.(N.S.) 379.

Admissibility of account books in evidence to establish personal liability of directors. 53 L.R.A. 537.

Duty of director toward one from whom he purchases stock. L.R.A.1916B, 708.

§ 57a. — for torts and fraud. Liability to corporation for, see infra, § 59.

Personal liability of directors for personal injuries resulting from tort. 39 L.R.A. (N.S.) 901; L.R.A.1915C, 874.

Liability of directors to corporation for amount it has been compelled to pay because of their tort. 40 L.R.A.(N.S.) 1102.

False statements in reports required by statute to be made to public officers as basis of action by individuals at common law for deceit against directors personally. 6 L.R.A.(N.S.) 872.

§ 58. To creditors of corporation. Liability of directors for permitting business before capital stock is all subscribed. 35 L.R.A.(N.S.) 453.

Liability of directors for corporate debts where they sell the entire corporate property and distribute the proceeds. 26 L.R.A.(N.S.) 267.

Liability of directors directly to creditors of the corporation, suing in their own right, for negligence or other breach of duty owed primarily to the corporation. 45 L.R.A.(N.S.) 421.

Liability of directors under statutes purporting to make them liable for contracting debts in excess of a fixed limit. L.R.A.1915D, 1028.

Limitation of actions against directors for malfeasance or nonfeasance. L.R.A. 1917A, 980.

§ 59. To the corporation. Of promoters, see infra, § 65.

Under statutes purporting to make directors liable for contracting debts in excess of a fixed limit. L.R.A.1915D, 1028.

Right of holding corporation to maintain action against its own director for an injury to the subsidiary corporation. L.R.A.1915F, 617.

Standard or degree of care. 55 L.R.A. 752. Liability for acts in excess of their power. 55 L.R.A. 758.

Liability for exceeding powers of corporation. L.R.A.1918A, 922.

Liability for their own acts and omissions with respect to matters within their authority. 55 L.R.A. 761.

Liability for misconduct of executive officers and employees. 55 LR.A. 766.

Liability for acts and omissions of codirectors. 55 L.R.A. 771.

Begin with this book on every law question.

CORPORATIONS, V. e, 2-cont'd Liability as affected by compensation. 55

L.R.A. 773.

55 Measure of damages; items of loss. L.R.A. 774.

Jurisdiction of equity over suits by corporation or its representative to hold the directors liable for losses occasioned by their fraud, bad faith or negligence. 8 L.R.A. (N.S.) 739.

Limitation of actions against directors for malfeasance or nonfeasance. L.R.A.

1917A, 980.

# f. Meetings; elections.

§ 60. Generally.

Meetings of stockholders, see infra, VIII. f.

Mandamus to compel calling of meeting. L.R.A.1915**E**, 774.

Casual meeting of directors as a meeting of the board. 7 B. R. C. 383.

Validity of agreement to elect "dummy" directors. 27 L.R.A.(N.S.) 658. Liability for nonattendance of codirectors

at meetings. 55 L.R.A. 771.

What constitutes a unanimous or a majority vote of directors. 41 L.R.A. (N.S.) 130.

Directors voting by proxy. 29 L.R.A. 848. Effect of vote or resolution by directors of private corporation without more to complete contract. 18 L.R.A. (N.S.) 293.

Right to receiver on failure to elect officers. 20 L.R.A. 213.

#### g. Removal of.

§ 61. Generally.

Right of attorney general or other representative of state to maintain suit or proceeding to remove officers of private corporation. 18 L.R.A.(N.S.) 672.

Power of directors to remove their own appointee who is one of the class of officers to whom the management of the business is confided. 23 L.R.A. (N.S.) 1293.

#### VII. Promoters and incorporators.

§ 62. Generally.

As to payment for stock by transfer of property, see infra, § 106.

Relations and rights of syndicate members. 40 L.R.A. 216.

Validity and enforceability, inter se, of agreements between promoters. L.R.A. 1918**E,** 833.

Validity of contract which contemplates the turning over by a railroad company to a construction company of bonds and stocks of the former of a par value in excess of cost of construction. L.R.A. (N.S.) 191.

Secret dealings between vendor and one who promoted the organization of a corporate purchaser as a ground for rescission of contract. L.R.A.1916C, 1000.

§ 63. Liability of corporation on contracts of.

Liability in general. 50 L.R.A.(N.S.) 980. Consult also L.R.A. Digests of Cases.

CORPORATIONS, VII.—cont'd

Cases recognizing liability. 26 L.R.A. 544. Modification of the doctrine of liability. 26 L.R.A. 545.

Denial of liability. 26 L.R.A. 545.

Statutory liability. 26 L.R.A. 546.

Apparent exceptions to rule. 26 L.R.A. 546. Services rendered after incorporation. 26
L.R.A. 547.

Ratification. 26 L.R.A. 548.

Means of ratification. 26 L.R.A. 548.

Adoption and ratification. 26 L.R.A. 549;

50 L.R.A.(N.S.) 980. Receiving benefit. 26 L.R.A. 550.

Fraud. 26 L.R.A. 551; 50 L.R.A. (N.S.) 987. Becoming party. 26 L.R.A. 551.

Ultra vires contracts. 50 L.R.A. (N.S.) 987. Enforcing. 26 L.R.A. 551. Question for jury 26 L.R.A. 551.

§ 64. Duties and liability. Measure of damages against promoters, see Damages, § 51.

Partnership liability of stockholders in case of defective or illegal incorporation. 17 L.R.A. 550; L.R.A.1916C, 196.

§ 65. — liability to corporation and its members

In general. 25 L.R.A. 90; 18 L.R.A. (N.S.) 1106.

Nature of the relation. 18 L.R.A. (N.S.) 1106.

Character of promoter's liability. 25 L.R.A.

Duty of promoter generally. 25 L.R.A. 90.

Duty of promoter to make disclosure. L.R.A.(N.S.) 1107.

To who and how disclosure to be made. 18 L.R.A.(N.S.) 1108.

What constitutes false representations. 18

L.R.A.(N.S.) 1109. Meaning of "representation." (N.S.) 1110.

Liability of promoter for secret profits. 25 L.R.A. 92; 18 L.R.A.(N.S.) 1110.

Liability of promoter on sale to corporation of property owned by promoter. L.R.A. (N.S.) 1112.

Sales by promoter to corporation generally. 25 L.R.A. 90.

Liability of promoter on sale to corpora-tion of property on which promoter holds option. 18 L.R.A.(N.S.) 1114.

Liability of promoter on sale to corpora-

tion of property for sale of which promoter is agent. 18 L.R.A. (N.S.) 1115.

Effect on liability of promoter selling property to corporation, of assent of holders of all the stock issued at the time of the transaction. 18 L.R.A. (N.S.) 1116.

Liability of promoter for damages for failure to organize corporation. 18 L.R.A. (N.S.) 1119.

Liability of promoter to bonus givers. 18 L.R.A.(N.S.) 1119.

CORPORATIONS, VII.—cont'd Liability of aiders and principals of pro-moters. 18 L.R.A.(N.S.) 1119.

Rights and liabilities of promoters inter se. 18 L.R.A.(N.S.) 1121.

Remedies of corporation at law. 18 L.R.A. (N.S.) 1122.

Remedies of corporation in equity. L.R.A. (N.S.) 1123.

Remedies of corporation as affected by rights of third persons. 18 L.R.A. (N.S.) 1124.

Remedies of stockholders. 18 L.R.A. (N.S.) 1125.

·Measure of damages. 18 L.R.A. (N.S.) 1131.

Various defenses of promoters in actions by the corporation. 18 L.R.A.(N.S.) 1134.

Defenses of promoters in actions by stockholders or subscribers. 18 L.R.A. (N.S.)

Duty to bondholders. 25 L.R.A. 99.
Effect of promoter's fraud upon corporation's right against subscriber. 25
L.R.A. 100.

Feigned subscriptions. 25 L.R.A. 101. Waiver of fraud. 25 L.R.A. 102. How suit should be brought. 25 L.R.A. 102.

Liability of incorporators for funds subscribed to organize corporation, where the incorporation is never completed. 16 L.R.A.(N.S.) 348.

Subscriber's right to recover from promoter where subscription was procured by fraud or misrepresentation. 33 L.R.A. 721.

Liability of promoters of a corporation to one who purchases stock from an individual in reliance on a prospectus issued to induce purchase of treasury stock. 28 L.R.A.(N.S.) 359.

# VIII. Capital; stock and stockholders.

# a. In general,

§ 66. Generally.

By-laws as to, see supra, § 22.

Right of corporation to purchase its own stock, see supra, § 24.

Power to deal in stock of other corporation, see supra, 25.

Liability of promoters to, see supra, § 65. Stock in foreign corporation, see infra, XI. Of bank, see Banks, §§ 3-5.

Corporate stock of municipality, see MUNICI-PAL CORPORATIONS, § 62.

Bonds, see Bonds, III.

Validity of agreement as to stock, see Con-TRACTS, § 94.

Conclusiveness against stockholders of judgment against corporation, see JUDG-MENT, § 46.

Liability of stock to levy, see LEVY AND SEIZURE, § 3.

Rights of life tenant as to stocks, see LIFE TENANTS, § 6.

Tax on corporate stock and stockholders, see TAXES, § 36.

Investments by trustee in corporate stock or acceptance of corporate stock as

security, see Trusts, § 26a. Begin with this book on every law question.

CORPORATIONS, VIII. a-cont'd

Competency of stockholder as a witness, see Witnesses, § 24.

Right to recover money paid to a corpora-tion in expectation of receiving corporate stock which is never issued. L.R.A.1918E, 754.

Situs of corporate stock for purposes of administration. 24 L.R.A. 687.

Liability of directors for permitting business before capital stock is all subscribed. 35 L.R.A.(N.S.) 453.

Creation of partnership by community of interest in capital stock. 18 L.R.A.

(N.S.) 1084.

Assumption on dissolution of partnership of debts for capital or partnership stock. 9 L.R.A.(N.S.) 71.

Acknowledgment before stockholder of a corporation which is a party to the instrument. 23 L.R.A.(N.S.) 1075; 41 L.R.A.(N.S.) 375.

Effect of assent of all stockholders at time of transaction to promoter's sale of property to corporation. 18 L.R.A. (N.S.) 1116.

Status of holder of "voting trust" certificates as a stockholder for purposes other than voting the stock. 21 L.R.A. (N.S.) 732.

Attachment of shares of stock in foreign corporation. 55 L.R.A. 796.

Service of process on stockholder of foreign corporation. 23 L.R.A. 494.

Qualified privilege of communication be-tween members. 26 L.R.A.(N.S.) 1080.

Competency of stockholder as a witness where a corporation is a party to a suit prosecuted by or against a personal representative. 27 L.R.A.(N.S.) 816.

Competency as an attesting witness of stockholder of corporation named as executor or trustee. L.R.A.1916D, 185. Right of stockholders of corporation inter-

ested in eminent domain proceedings to serve as commissioners or jurors. 47 L.R.A.(N.S.) 169.

Effect of statutes forbidding stockholders to be interested directly or indirectly dealings with the corporation. L.R.A.1916A, 783.

Liability of agent to true owner for selling or disposing of shares of stock intrusted to him by his principal. 50 L.R.A. (N.S.) 58.

Agreement of shareholder to become responsible for amount of company's debt as a "promise to answer for the debt of another." 3 B. R. C. 611.

Validity of contract or option by director for purchase of stock of employee of corporation upon discontinuance of employment. L.R.A.1916D, 1117.

Does agreement for payment contingent on price of shares constitute insurance. 47 L.R.A. (N.S.) 300.

§ 67. Ownership of stock; who may be stockholders.

Charter restrictions on eligibility to become a shareholder. 46 L.R.A. 618.

CORPORATIONS, VIII. a-cont'd Right of nonresidents to become stockholders. 24 L.R.A. 252.

Sole ownership of stock of a corporation. 19 L.R.A. 684.

§ 68. Bonus stock.

General principles. 38 L.R.A. 490.

Constitutional and statutory provisions. 38 L.R.A. 491.

Effect of recitals and nominal payment. 38 L.R.A. 492.

Stock as bonus to purchasers of bonds. 38 L.R.A. 493.

Mere acceptance of shares; surrender; cancelation. 38 L.R.A. 494.

Rights of creditors. 38 L.R.A. 494. Bona fide purchasers. 38 L.R.A. 494.

69. Forged or fraudulent issue. Liability of corporation for fraud or forgery of its officers in the issue of stock. 19 L.R.A. 331; 41 L.R.A.(N.S.) 187.

\$ 70. Increase of capital stock. Power to increase capital stock of corporations. 38 L.R.A. 616.

Right as between owner of capital and income, to increased stock. 16 L.R.A. 461.

Right of existing stockholder to subscribe for increase. 12 L.R.A.(N.S.) 969; L.R.A.1918D, 741.

Assets of corporation as consideration for increase of stock. 50 L.R.A.(N.S.) 68.

§ 71. Reduction of capital stock. Injunction against reduction of capital stock. 1 L.R.A. (N.S.) 571.

Of preferred, guaranteed, and interest-bearing stock. 27 L.R.A. 151.

§ 72. Forseiture of corporate stock. Power to forfeit. 27 L.R.A. 305. Validity of exercise of power. 27 L.R.A. 307.

Redemption or other remedy of stockholder. 27 L.R.A. 311.

Effect of forfeiture on personal liability of stockholder. 27 L.R.A. 314.

Miscellaneous. 27 L.R.A. 321. Effect of, on right to rescind subscription for fraud. 33 L.R.A. 722.

Action by corporation for unpaid balance of stock subscription after sale of for-feited stock. 1 L.R.A. (N.S.) 902.

# 73. Condemnation of shares of minority stockholder. See EMINENT DOMAIN, § 6a.

§ 74. Preferred, guaranteed, and interest-bearing stock.

Power to issue. 27 L.R.A. 136.

Validity of guaranty L.R.A.(N.S.) 637. of dividends.

Estoppel to deny validity. 27 L.R.A. 139. Nature of interest created by. 27 L.R.A. 140.

46

Rights and preferences as to assets. 27 L.R.A. 142.

Consult also L.R.A. Digests of Cases.

CORPORATIONS, VIII. a—cont'd

Rights and preferences in dividends, 27 L.R.A. 143.

Remedy to obtain or protect dividends. 27 L.R.A. 148.

Guaranty of dividends by outside party. 27 L.R.A. 149.

Interest-bearing stock. 27 L.R.A. 149. Special stock. 27 L.R.A. 151. Reduction of shares. 27 L.R.A. 151.

Right of preferred stock to preference as to capital. 27 L.R.A. 136; 21 L.R.A. (N.S.) 228; 39 L.R.A. (N.S.) 1007.

Right to have earnings applied to payment of dividends on preferred stock of

previous years. 3 L.R.A.(N.S.) 1034. Right of holder of preferred stock, in absence of express statutory provision or agreement to share in earnings, in addition to the stipulated dividends. 24 L.R.A. (N.S.) 1078.

Right of holder of preferred stock to vote at corporate meetings. 2 L.R.A. (N.S.)

§ 75. Stolen certificates.

Rights of owner to stolen certificates. L.R.A. 605.\*

§ 76. Lien on stock.

Effect of by-laws as notice as to lien on stock. 25 L.R.A. 48; 39 L.R.A. (N.S.)

Priority as between lien of corporation and pledgee or bona fide purchaser. 39 L.R.A.(N.S.) 292.

Lien of corporation upon stock as affected by bar of limitations against action on debt of stockholder. L.R.A.1917F, 1106.

# b. Subscriptions.

§ 77. Generally.

As to liability upon, see infra, VIII. e. Effect of transfer on liability of stock-holders, see infra, VIII. e. 3. Rights as to, on insolvency of corporation,

see infra, § 135.

Right to recover money paid to a corporation in expectation of receiving corporate stock which is never issued. L.R.A.1918E, 754.

Assignability of a subscription to stock or contract to purchase stock from the corporation. 43 L.R.A.(N.S.) 790.
Whether joint or several. 22 L.R.A. 81.

Rights and remedies of subscribers on unauthorized consolidation of corporations. 52 L.R.A. 390.

Defenses of promoters in actions by subscribers. 18 L.R.A.(N.S.) 1134.

Action by corporation for unpaid balance of subscription after sale of forfeited stock. 1 L.R.A.(N.S.) 902.

Enforceability of subscription to stock of foreign corporation that has not complied with local laws. 29 L.R.A.(N.S.) 92.

Validity of subscription induced by false statements that certain other persons were to invest in the enterprise. 29 L.R.A. (N.S.) 477.

CORPORATIONS, VIII. b—cont'd § 78. Release from.

Release from subscriptions. 7 L.R.A. 706.\*

§ 78a. — on ground that corporation is not legally organized.

Right to defeat stock subscription or stockholders' liability on the ground that corporation is not legally organized. L.R.A.1915A, 475.

§ 78b. — on abandonment of business by corporation.

The effect upon a stock subscription contract of the voluntary cessation or abandonment of business by the corporation. L.R.A.1915A, 390.

§ 79. — rescission for fraud and misrepresentation.

Right to and manner of relief. 33 L.R.A. 721.

Estoppel to rescind. 33 L.R.A. 722.

No relief against equally innocent persons. 33 L.R.A. 725.

Effect of insolvency or winding up proceedings. 33 L.R.A. 727; L.R.A.1915D, 792.

Must be fraud of corporation. 33 L.R.A. 728.

What fraud will authorize rescission. 33 L.R.A. 729.

Effect of promoter's fraud on corporation's right against subscriber. 25 L.R.A. 100.

Fraud as a ground of relief from subscription to stock after insolvency of corporation. 31 L.R.A.(N.S.) 900.

§ 80. Withdrawal of.

General rule. 33 L.R.A. 593.

After organization of corporation. 33 L.R.A. 593.

Rule in case of preliminary subscriptions. 33 L.R.A. 595.

Cases holding that subscriptions cannot be withdrawn. 33 L.R.A. 595.

Cases permitting withdrawal. 33 L.R.A. 596.

Illegal contract. 33 L.R.A. 597.
Agreement to subscribe. 33 L.R.A. 597.

Statutory rules. 33 L.R.A. 597. Effect of death of subscriber. 33 L.R.A. 597.

#### § 81. Payment of.

Commercial paper as payment of subscription to stock. 35 L.R.A. (N.S.) 80.

Validity of issuance of stock for a note of the subscriber, under a provision against issuing stock, except for money, labor done, or money or property actually received. 52 L.R.A.(N.S.) 454.

May a corporation issue stock in payment of or as security for its antecedent debts under statute prohibiting the issue except for money, labor done, or property actually received. L.R.A. 1916E, 570. CORPORATIONS, VIII. b—cont'd

§ 81a. — with property.

Liability of stockholders in case of, see infra, § 106.

Payment of subscription with property. 42 L.R.A. 597.

Effect of express provision by statute or charter for payment of subscription to stock in cash or money, to exclude payment in services or property. 27 L.R.A.(N.S.) 315.

Note given in payment of stock as property under a provision against issuing stock except for money, labor done, or money or property actually received. 52 L.R.A.(N.S.) 454.

# c. Transfer; sale.

🖇 82. Generally.

Liability of corporate officers to purchasers of stock, see supra, § 53.

Effect of transfer on right to dividends, see infra, § 101.

Effect of transfer on liability of stockholder, see infra, §§ 112, 113.

Of foreign corporation, see infra, § 143.

Of bank, see BANKS, §§ 4, 46.

Bona fide holder of stock, see Bona Fide Holder, § 2.

Specific performance of contract for, see Specific Performance, § 14.

Tax on transfers, see Taxes, § 107.

Bequest of stocks, see WILLS, § 128.

Income tax on sales of corporate stock. L.R.A.1917E, 566.

Duty of director toward one from whom he purchases stock. L.R.A.1916B, 708.

Contract for the sale of corporate stock as one for the sale of "goods," etc., within statute of frauds. 51 L.R.A. (N.S.) 398.

Forged transfers. 19 L.R.A. 331.

Liability as between corporation and one acting in good faith, to whom it issues new certificate of stock on forged authority. 2 B. R. C. 528.

Absence of legal organization as defense to contract for purchase of corporate stock. 15 L.R.A.(N.S.) 410.

Contract by selling shareholder not to engage in business in competition with the corporation. 23 L.R.A.(N.S.) 506.

Effect of disposal of stock on stockholder's competency as witness in suit between corporation and a personal representative. 27 L.R.A.(N.S.) 821.

Measure of damages for breach of contract to sell or buy corporate stock. 43 L.R.A.(N.S.) 368.

Measure of damages for misrepresenting value of corporate stock sold. 43 L.R.A.(N.S.) 373.

Priority as between true owner and execution or attachment creditors of one in whose name he has placed stock on the books of the corporation. 49 L.R.A. (N.S.) 1159.

Begin with this book on every law question.

CORPORATIONS, VIII. c-cont'd

§ 83. Liability for fraud or misrepresentations inducing sale or purchase.

Liability of corporate officer for misrepre-sentations which induced the sale or purchase of stock. 1 L.R.A.(N.S.) 258.

Liability of officers of corporation to one who purchases stock from an individual in reliance on a prospectus issued to induce purchase of treasury stock. 28 L.R.A. (N.S.) 359.

Fraud of director toward one from whom he

purchases stock. L.R.A.1916B, 714.
Fraud in sale of corporate stock by one officer or director to another. L.R.A. 1916B, 703.

8 84. Gift of. Bequest of, see WILLS, § 128.

Of corporate stock; necessity of writing. 2 L.R.A.(N.S.) 806.

Donation to corporation of shares of its own stock. 18 L.R.A. 255.

Necessity of actual delivery of certificate to complete gift of shares of stock. 29 L.R.A. (N.S.) 166.

Delivery of certificate of stock without indorsement or transfer on books. L.R.A. 1915D, 733.

85. Negotiability of certificate.

Effect of putting certificates of stock indorsed in blank into another's possession to estop owner as against purchaser in good faith. 29 L.R.A. (N.S.) 254.

§ 86. Rights of transferee. Rights of pledgee, see infra, § 93. Right to dividends, see infra, § 101.

Implied warranty on sale of stock. 53 L.R.A. 153.

Rights of transferee of stock paid for by

transfer of property. 42 L.R.A. 620. Right of infant to rescind purchase of corporate stock. 28 L.R.A. (N.S.) 128.

Priority as between lien of corporation and bona fide purchaser of stock. 39 L.R.A. (N.S.) 292.

Liability of corporation to assignee of true owner for unauthorized transfer of stock on its books. 45 L.R.A.(N.S.)

Right of purchaser of stock from one with whom it was pledged or deposited by the owner without signing a transfer or power of attorney. L.R.A.1916F, or power of attorney. 491.

87. Duty of transferee. Duty of pledgee, see infra, § 94.

Duty of purchaser of corporate stock to · verify statements made as to its financial condition. 14 L.R.A.(N.S.) 1176.

§ 88. Necessity of writing; statute of

Contract for sale of corporate stock as one for sale of goods, etc., within statute of 19 L.R.A. (N.S.) 874; 51 frauds. L.R.A.(N.S.) 398.

Consult also L.R.A. Digests of Cases.

CORPORATIONS, VIII. c-cont'd

Necessity of writing to transfer shares of stock. 2 L.R.A.(N.S.) 804; 19 L.R.A. (N.S.) 874.

§ 89. Transfer on books.

Situs of corporate stock for purpose of transfer on books of corporation. L.R.A. 1915C, 471.

Right of corporation to refuse to transfer stock on its books because of objections of former holder. 27 L.R.A. (N.S.) 200.

Validity of pledge or transfer of stock of corporation when not made in books of company, as against attachments, executions, or subsequent\_transfers. 67 L.R.A. 656; 20 L.R.A.(N.S.) 996.

Power of court to compel foreign corporation to register transfer of stock. 3 L.R.A. (N.S.) 551.

Mandamus to compel transfer of corporate stock. 48 L.R.A.(N.S.) 847.

Right to the aid of equity to compel a corporation to transfer on its books stock acquired in aid of a conspiracy. 24 L.R.A.(N.S.) 108.

Effect on statutory liability of stockholder who sells his shares of a technical failure to record the transfer. 11 L.R.A. (N.S.) 818.

Removal for separable controversy of action to compel transfer. 5 L.R.A. (N.S.) 85.

Duty of transferer of shares of stock not to prevent or delay registration on corporate books. 5 B. R. C. 166.

Delivery of certificate of stock without indorsement of transfer on books. L.R.A. 1915D, 733.

Liability of corporation to true owner for unauthorized transfer of stock on its books. 45 L.R.A.(N.S.) 1076.

Failure to register transfer, due to fault of corporation, as affecting continued liability of assignor of stock. L.R.A. (N.S.) 668.

Laches of assignee in having stock transferred on the books of corporation as affecting the liability of the corporation, which subsequently makes unauthorized transfer thereof. 45 L.R.A. (N.S.) 1090.

§ 90. Duty of corporation as to transfer of stock held in trust.

Generally. 15 L.R.A. 643. What amounts to notice of trust. 15 L.R.A.

643. The English rule. 15 L.R.A. 644.

Notice from circumstances. 15 L.R.A. 645 Application of the rules. 15 L.R.A. 645. Enforcement of liability. 15 L.R.A. 646.

91. Restrictions on right to sell. By by-law. 27 L.R.A. 271.

By articles of association. 27 L.R.A. 273. Exercise of power to approve or disapprove. 27 L.R.A. 274.

CORPORATIONS, VIII. c-cont'd

92. Pledge.

Liability of pledgee as shareholder, see inira, § 113.

Necessity of writing to transfer of stock in pledge. 2 L.R.A.(N.S.) 804.

Validity of pledge of stock of corporation when not made in the books of the company as against attachments, executions, or subsequent transfers. 67 L.R.A. 656; 20 L.R.A.(N.S.) 996.

Power of national bank to take stock of other corporation as collateral security. L.R.A.1916A, 586.

§ 93. — rights of pledgee.

Right to dividends on pledged stock. 45 L.R.A. 394; L.R.A.1917B, 326.

Implied authority of pledgee to sell corporate stock. 43 L.R.A. 742.

Priority as between lien of corporation and pledgee of corporate stock. 39 L.R.A. (N.S.) 292.

Right of pledgee of stock from one with whom it was pledged or deposited by the owner without signing a transfer or power of attorney. L.R.A. 1916F, 491.

94. — duty of pledgee. Duty to sell at maturity of debt. 3 L.R.A. (N.S.) 1199; L.R.A.1918A, 442.

95. Tax on transfers. See TAXES, § 107.

# d. Rights of shareholders.

96. Generally.

In consolidated corporation, see supra, § 16. In foreign corporation, see infra, § 143. Rights of transferee, see supra, §§ 86, 93.

Right of stockholder in absence of special contract, to compensation for services to corporation. L.R.A.1917F, 334.

Stockholders as preferred creditors. 22 L.R.A. 805.

Stockholders as "employees" of the corporation within meaning of Workmen's Compensation Act. L.R.A.1918F, 202.

Rights and remedies of creditor who is also a stockholder of an insolvent corporation, as affected by his own statutory liability. 41 L.R.A.(N.S.) 981.

Necessity for stockholders' consent to con-solidation. 52 L.R.A. 381.

Effect upon one's rights as a stockholder of the fact that paid-up stock was wrongfully issued to him for a sum less than its par value. 20 L.R.A.(N.S.) 1077.

Stockholder's interest in corporation as subject of garnishment by his creditors. 18 L.R.A. (N.S.) 1158.

Laches or acquiescence by stockholder as affecting his right to complain of act by which corporation devests itself of the title to or control of its entire property. 9 L.R.A.(N.S.) 606.

Remedies of stockholders against promoters. 18 L.R.A.(N.S.) 1125.

Power of majority stockholders to dissolve corporation. 2 L.R.A.(N.S.) 493.

CORPORATIONS, VIII. d—cont'd Right of majority stockholder to purchase or lease corporate property. 16 L.R.A. (N.S.) 892.

Inherent jurisdiction of equity independent-ly of statute at instance of stockholder to wind up a corporation because of mismanagement or fraud of its officers. 39 L.R.A. 1032.

§ 97. Rights of minority stockholders. Right of minority stockholders to representation in new or reorganized corporation. 10 L.R.A. (N.S.) 725.

Power of majority stockholders against consent of minority to sell property of corporation essential to its existence as a going concern. 35 L.R.A.(N.S.) 396.

Right of minority stockholder to restrain voluntary dissolution of corporation by directors or majority stockholders. 23 L.R.A.(N.S.) 1177.

Right of minority stockholders to prevent compromise of claim. 43 L.R.A.(N.S.) 498.

Right of minority stockholder to compel corporation to take into its own name stock in another corporation which it is carrying in the names of others. L.R.A.1915D, 1128.

98. Actions by stockholders.

Whether corporation or stockholder real party in interest by whom action must be brought. 64 L.R.A. 609.

Right of stockholders of a different class to enforce liability of stockholders who. received dividends paid out of capital. L.R.A.1917C, 404.

May stockholder maintain action in the right of the corporation to recover penalty imposed by the Sherman Act. L.R.A.1917E, 1006.

Right of stockholder to assail agreement on ground that it tends to promote monopoly. 26 L.R.A. (N.S.) 153.

Necessity of applying to board of directors as a condition of right of stockholder to sue on behalf of the corporation. 51 L.R.A.(N.S.) 99.

Necessity of applying to body of stockholders as a condition of right of stockholder to sue on behalf of the corporation. 51 L.R.A.(N.S.) 112.

Necessity of making corporation a party to suit by stockholder in its behalf. 51 L.R.A.(N.S.) 123.

Requiring stockholder to seek relief from corporation before applying for appointment of receiver. 20 L.R.A. 214.

Right of stockholder to sue for appointment of receiver on account of transactions occurring prior to his acquisition of stock. L.R.A.1917F, 704.

Right of stockholder to attack fraudulent transaction occurring before he acquires his stock. 38 L.R.A.(N.S.) 988.

Inherent jurisdiction of equity at instance of stockholder to appoint receiver, or wind up the corporation because of mismanagement or fraud of its officers. 39 L.R.A. (N.S.) 1032; L.R.A.1915., 606. Begin with this book on every law question.

CORPORATIONS, VIII. d-cont'd

Mandamus to enforce the right of a stockholder of a water company to water. 24 L.R.A.(N.S.) 372.

Defenses of promoters in action by stock-holders. 18 L.R.A.(N.S.) 1134. Removal for separable controversy of suit

by stockholders growing out of ultra-vires acts. 5 L.R.A.(N.S.) 82. Right of holding corporation to maintain

action against its own director for an injury to the subsidiary corporation. L.R.A.1915F, 617.

Right of stockholder in mutual irrigation company to maintain action against the company for negligent failure to furnish water. L.R.A.1915D, 292.

§ 99. Right to inspect corporate books. In general. 45 L.R.A. 446; 20 L.R.A. (N.S.) 185; 30 L.R.A.(N.S.) 291; 42 L.R.A. (N.S.) 332.

May the right of a stockholder in a corporation, to inspect the books of the corporation, be delegated to an agent. 2 B. R. C. 976.

Power to compel production of corporate books to aid in assessing holder of stocks or his estate. 8 L.R.A.(N.S.)

8 99a. Right to inspect · corporate property.

Right of stockholder to inspect property of corporation. 43 L.R.A.(N.S.) 1112.

§ 100. Dividends; stock rights; preferred stock.

preferred, guaranteed, and interest-bearing stock, see supra, § 74.

Right of existing stockholders to subscribe for increase of stock. 12 L.R.A. (N.S.) 969; L.R.A.1918D, 741.

Right of creditor of stockholder to share in dividends. 41 L.R.A.(N.S.) 999.

Accretions in value of corporate assets as basis of dividends. L.R.A.1915D, 1052.

Appreciation in value of capital assets as fund distributable as dividend, without reference to losses. 1 B. R. C. 965.

Power of corporation to rescind declaration of dividend. L.R.A.1917B, 736.

Validity of individual contract of director to pay dividends. L.R.A.1917A, 1077.

Declaration of dividends by stockholders. L.R.A.1918B, 1051.

Liability of stockholders who received dividends paid out of capital. L.R.A.1917C,

Do stock dividends or dividends in stock of other corporations declared before testator's death pass to legatee of original stock. L.R.A.1918B, 666.

Taxation of dividends as part of capital stock of corporation. 58 L.R.A. 572,

Income tax on dividends declared after but paid from earnings accrued before act went into effect. L.R.A.1917F, 814.

Consult also L.R.A. Digests of Cases. 20

CORPORATIONS, VIII. d—cont'd

§ 101. — effect of transfer. Right to dividends on transfer of stock. 45 L.R.A. 392; L.R.A.1917B, 326.

Right to dividend declared between making of contract for sale of stock and delivery of stock. L.R.A.1917F, 553.

§ 102. — as between owner of capital and income. See LIFE TENANTS, § 6.

### e. Liabilities of shareholders.

#### In general,

§ 103. Generally.

Liability of incorporators, §§ 64, 65.

In foreign corporation, see infra, § 144.

Of bank, see BANKS, § 5.

Conflict of laws as to, see Conflict of LAWS, § 19.

Alteration of stockholder's liability as impairment of obligation of contract, see Constitutional Law, § 31a.

Contribution between stockholders, see Cox-TRIBUTION, § 3.

Self-executing constitutional provision as to. 16 L.R.A. 285.

Liability of members of incorporated religious society for its debts. 69 L.R.A.

Liability of stockholders of insolvent insurance company. 38 L.R.A. 110.

Liability of members of mutual fire insurance companies. 32 L.R.A. 481.

Who are laborers, servants, or employees under statute making stockholders individually liable. 18 L.R.A. 308.

May one who procures a judgment garnish-

ing indebtedness from a corporation to his debtor avail himself of the rights of the latter as against stockholders. 11 L.R.A.(N.S.) 230.

Effect of forfeiture of stock on stockholder's personal liability as to unpaid assessments. 27 L.R.A. 314.

Discharge of corporation as affecting stockholder's liability for its debts. 38 L.R.A.(N.S.) 648.

Personal liability at common law of stockholders of a corporation to the other party to an act or transaction in excess of the corporate powers, or in violation of law. 6 L.R.A. (N.S.) 1003.

Liability of majority stockholders for mis-appropriation of corporate funds through corporate action. 16 L.R.A (N.S.) 898.

Liability of stockholders who received dividends paid out of capital. L.R.A.1917C, 397.

Does statutory liability of stockholder or officer for debts of corporation include liability for torts. 22 L.R.A. (N.S.) 256.

CORPORATIONS, VIII. e, 1—cont'd For libel published by corporation. 26 L.R.A. 781.

Rights and remedies of creditor who is also a stockholder of an insolvent corporation as affected by his own statutory liability. 41 L.R.A.(N.S.) 981.

Right of stockholder after insolvency to set off debt due him from corporation against his liability on unpaid stock subscription. L.R.A.1918E, 243.

Right of nominal owner of shares of stock to indemnity against consequences of such ownership. 3 B. R. C. 365. Extension of time to corporation as affect-

Extension of time to corporation as affecting liability of stockholders who sign as sureties or indorsers. 47 L.R.A. (N.S.) 274.

Right to defeat stockholder's liability on the ground that corporation is not legally organized. L.R.A.1915A, 475. Necessity of issuance or tender of stock

Necessity of issuance or tender of stock certificate to render subscriber liable as a stockholder. L.R.A.1915A, 465.

# § 104. Liability of legal representa-

Personal liability of executor, administrator, or trustee on corporate stock belonging to estate or trust, but standing in his name. 30 L.R.A.(N.S.) 1092.

§ 105. Stock issued at discount.

Issuance of stock at discount as affecting stockholder's liability for debts. 8 L.R.A.(N.S.) 263; 51 L.R.A.(N.S.) 56. Effect of creditor's knowledge that stock was improperly issued as full paid up-

was improperly issued as full paid upon his right to resort to holder of same. 8 L.R.A.(N.S.) 271.

§ 106. Payment for stock by transfer of property as protection against liability to creditors of corporation.

The English law. 42 L.R.A. 593. Exceptional American cases. 42 L.R.A. 594. Subscription contracts. 42 L.R.A. 597. Purchase of property with stock. 42 L.R.A. 612.

Provisions imposing liability. 42 L.R.A. 617.

Effect of creditor's knowledge of facts. 42 L.R.A. 619.

Rights of transferee. 42 L.R.A. 620. Payment with unpatented formula or invention. 16 L.R.A. (N.S.) 520.

Right of corporation itself to complain that property purchased by it was of less value than the stock issued in exchange therefor, in the absence of actual fraud. 19 L.R.A.(N.S.) 115.

§ 107. Partnership liability in case of defective or illegal incorporation. Partnership liability of stockholders in foreign corporation, see infra. § 144.

In general. 17 L.R.A. 549; L.R.A.1916C,

Corporations not authorized by law. 17 L.R.A. 550; L.R.A.1916C, 216.

Effect of incorporation out of the state. 17 L.R.A. 550.

Begin with this book on every law question.

CORPORATIONS, VIII. e, 1—cont'd Fraudulent corporations. 17 L.R.A. 550. Corporations de facto. 17 L.R.A. 551. Defectively organized companies. 17 L.R.A. 551.

Statutory as distinguished from partnership liability. 17 L.R.A. 554; L.R.A. 1916C, 213.

Intent to incorporate. 17 L.R.A. 554. Subsequent loss of corporate character. 17 L.R.A. 554.

Estoppel by subsequent acts. L.R.A.1916C, 214.

Partnership inter sese. 17 L.R.A. 554. Foreign corporations. L.R.A.1916C, 217.

§ 108. Liability for interest.

Does statutory liability of stockholders for debts of corporation include interest thereon. 19 L.R.A.(N.S.) 428.

# 2. Calls; assessments.

#### \$ 109. Generally.

Contingent liability on call. 58 L.R.A. 85. Right to defend suit for calls where subscription was procured by fraud. 33 L.R.A. 722.

Effect of assessment on stockholders made under order of court in another state as res judicata. 34 L.R.A. 694.

# § 110. Successive assessments.

Right to make successive assessments on stockholders to pay debts. 66 L.R.A. 971.

§ 111. Assessments on paid-up stock. Generally. 45 L.R.A. 648; 22 L.R.A. (N.S.) 1013.

The question of assent. 45 L.R.A. 648. Under state statutes. 45 L.R.A. 648. Under charter provisions. 45 L.R.A. 651. Assessments under by-laws. 45 L.R.A. 651. Assessment by resolution. 45 L.R.A. 652. Voluntary assessments. 45 L.R.A. 652. Nonassessable stock; estoppel. 45 L.R.A. 653.

Injunction restraining. 45 L.R.A. 653.

# 3. Effect of transfer.

§ 112. Generally.

On liability for unpaid subscriptions. 47 L.R.A. 246; L.R.A.1918D, 1049.

Liability of transferee of corporate stock on unpaid subscription. 30 L.R.A. (N.S.) 283.

Effect on statutory liability of stockholder who sells his shares of a technical failure to record the transfer. 11 L.R.A. (N.S.) 818.

Right of nominal owner of shares of stock to indemnity against consequences of such ownership. 3 B. R. C. 365. Failure to register transfer, due to fault

Failure to register transfer, due to fault of corporation, as affecting continued liability of assignor of stock. 46 L.R.A. (N.S.) 668.

CORPORATIONS, VIII. e, 3-cont'd Liability of former stockholder for debts of corporation as affected by renewal after transfer of stock. L.R.A.1915B,

3 113. Liability of pledgee. in general. 36 L.R.A. 139; 19 L.R.A. (N.S.) 249.

Dummy holder for pledgee's benefit. L.R.A. 140; 19 L.R.A. (N.S.) 252. Payment of debt or retransfer. 36 L.R.A.

140; 19 L.R.A.(N.S.) 252.

Taking stock from corporation itself. L.R.A. 141; 19 L.R.A.(N.S.) 253.

What sales of corporate stock by pledgee amount to conversion. 43 L.R.A. 739.

Measure of damages for conversion of pledged stocks by invalid sale. 43 L.R.A. 768.

#### 4. Proceedings to enforce.

#### § 114. Generally.

. Impairment of contract obligation as to, see Constitutional Law, § 37.

Admissibility of account books in evidence to establish personal liability of stockholder. 53 L.R.A. 537.

When may local venue be disregarded upon the ground that the action or proceedings is ancillary or incidental. L.R.A. 1916D, 1134.

Removal for separable controversy of action to enforce liability. 5 L.R.A.(N.S.) 87.

Necessity of notice to stockholder to bind him by an order for unpaid stock subscription in insolvency proceeding. 36 L.R.A.(N.S.) 177.

Right, in action by corporate receiver to recover unpaid balance of stock subscriptions, to interpose a defense that would have been available against the corporation. 18 L.R.A.(N.S.) 347.

Allowance of attorney's fees in suit to enforce stockholder's liability. 54 L.R.A.

#### § 115. Prerequisites to.

Conditions precedent to right to sue to enforce statutory liability. 33 L.R.A. (N.S.) 906.

Bankruptey, insolvency, or dissolution of corporation as excusing creditor from exhausting remedies against it, as condition of enforcing stockholder's liability to stock. 24 L.R.A.(N.S.) 628.

Necessity of exhausting legal remedies against corporation before invoking jurisdiction of equity to enforce unpaid subscriptions to stock. 46 L.R.A. (N.S.) 446.

#### § 116. Who may enforce.

Who may enforce liability of stockholders who received dividends paid out of capital. L.R.A.1917C, 403.

Action by creditor to enforce liability for unpaid subscriptions outside of state. 34 L.R.A. 742; 33 L.R.A.(N.S.) 896. Consult also L.R.A. Digests of Cases.

CORPORATIONS, VIII. e, 4-cont'd

Action by creditor to enforce statutory liability outside of state. 34 L.R.A. 747; 33 L.R.A.(N.S.) 901.

Right of directors, when creditors, to enforce. 50 L.R.A. 273.

§ 116a. — receiver, assignee or trustee. Right of receiver, assignee or trustee to re-cover statutory added liability of cor-porate shareholder. 31 L.R.A. (N.S.) 365.

Suit in equity by receiver, assignee, or trustee to enforce liability on unpaid subscriptions to stock. 46 L.R.A.(N.S.)

Right of receiver to enforce liability of stockholders who received dividends paid out of capital. L.R.A.1917C, 404.

Enforcement by receiver of stockholder's liability in other state. 34 L.R.A. 738;

33 L.R.A.(N.S.) 897, 904.

Right in action by corporate receiver to recover unpaid balance of stock subscriptions, to interpose a defense that would have been available against the corporation. 18 L.R.A.(N.S.) 347.

When statute of limitations begins to run against unpaid balance of stock subscription in suit by receiver. 1 L.R.A. (N.S.) 903.

#### § 117. Nature of remedy.

Jurisdiction of equity to enforce liability on unpaid subscriptions to stock of a corporation. 46 L.R.A. (N.S.) 440.

Enforcement of stockholder's liability outside of state by action at law. L.R.A. 758.

Enforcement of stockholder's liability outside of state by suit in equity. 34 L.R.A. 759.

Equitable remedy to subject to judgment against corporation debt due it for unpaid stock. 63 L.R.A. 698.

Jurisdiction of equity on the ground of preventing a multiplicity of suits to enforce liability of members of a club or corporation. 28 L.R.A.(N.S.) 743.

Right to maintain single suit in equity to enforce separate liability of members of an insolvent insurance association. 33 L.R.A.(N.S.) 1057.

Enforcement of unpaid subscriptions to stock of foreign corporation by creditor's bill. 34 L.R.A. 743.

Remedy in Federal courts to enforce stockholder's liability outside of state. 34 L.R.A. 761.

# § 118. Change of remedy.

Impairment of obligation of contract by change of remedy of creditor of corporation against stockholder. 1 L.R.A. (N.S.) 1171; 3 L.R.A. (N.S.) 954.

Impairment of obligation of stockholder's contract by change of remedy for en-forcement of his liability in foreign jurisdiction. 33 L.R.A.(N.S.) 909. CORPORATIONS, VIII. e, 4-cont'd 119. Right of set-off.

Set-off between corporation and stockholder. 23 L.R.A. 316.

Right of set-off in bankruptcy against unpaid shares of corporate stock. L.R.A. 47.

When is an assignment by a stockholder of a claim against a corporation subject to the right to set off the stockholder's liability against such claim. 10 L.R.A. (N.S.) 472.

120. Accrual of right of action. Limitation of action, see LIMITATION OF ACTIONS, §§ 8, 34.

Contingency of liability of stockholder as affecting time for presentation of claim against his estate. 58 L.R.A. 85.

§ 121. Right to enforce outside of state of incorporation:

34 L.R.A. 737; 33 L.R.A. In general. (N.S.) 895.

In action by corporation or its representative. 34 L.R.A. 738.

In action by creditor of corporation. L.R.A. 741.

Contribution between stockholders of for-34 L.R.A. 763. eign corporations.

Right to enforce liability for unpaid sub-scription. 33 L.R.A. (N.S.) 895.

Right to enforce statutory liability. L.R.A. (N.S.) 898.

Right to enforce tax against nonresident stockholder. 33 L.R.A.(N.S.) 907.

Right of state to impose personal liability on stockholder of foreign corporation. 33 L.R.A.(N.S.) 907.

Right of one stockholder to sue another for contribution outside state of incorporation. 33 L.R.A.(N.S.) 909.

Impairment of obligation of stockholder's contract by change of remedy for en-forcement of his liability in foreign jurisdiction. 33 L.R.A.(N.S.) 909. Conclusiveness of order of assessment in

domicil of corporation. 33 L.R.A. (N.S.) 910.

#### f. Stockholders' meetings; voting.

§ 122. Generally.

By-laws as to, see supra, § 21.

Meetings of officers and directors, see supra, VI. f.

Mandamus to compel calling of meeting. L.R.A.1915E, 774.

Conclusiveness of decision of corporate tri-

bunal as to vote. 49 L.R.A. 368. Conclusiveness of decision of corporate tribunal as to notice of meeting. L.R.A. 368.

Regulation by by-laws of elections by private corporations. 18 L.R.A. 582.

What constitutes a unanimous or majority vote of stockholders. 41 L.R.A. (N.S.) 130.

Report of meeting of private corporations as subject of privilege. 19 L.R.A. (N.S.) 862.

CORPORATIONS, VIII. f-cont'd

Right under reserved power to amend or repeal charter to change rights of stockholders as to voting stock. 22 L.R.A. (N.S.) 420.

Ratification of acts of directors by vote of stockholders including those who are directors. 36 L.R.A.(N.S.) 199.

§ 123. Who entitled to vote.

Right of alien enemy to vote as stockholder in domestic corporation. 7 B. R. C. 827.

Power to vote on stock held by joint owners. 15 L.R.A. 665.

Right of holders of preferred stock to vote at corporate meetings. 2 L.R.A. (N.S.) 121.

Regulation by by-laws as to right to vote. 18 L.R.A. 583.

124. Voting trusts.

Validity of agreement to control the voting power of corporate stock. 15 L.R.A. 683; 16 L.R.A. (N.S.) 1136; 31 L.R.A. (N.S.) 1186.

Specific performance of stock pooling agreement. 51 L.R.A. (N.S.) 785.

125. Proxies.

Right to vote by proxy. 29 L.R.A. 844. Regulation by by-laws as to. 18 L.R.A. 584. Right to use corporate funds in obtaining proxies. 3 B. R. C. 137.

126. Quorum.

What constitutes a quorum. 21 174; 42 L.R.A.(N.S.) 799. 21 L.R.A.

Withdrawal of stockholders from meeting to break quorum. 36 L.R.A.(N.S.) 45,

# IX. Dissolution; winding-up; forfeiture.

§ 127. Generally.

Dissolution of club, see CLUBS, § 3. Injunction against dissolution, see INJUNC-TION, § 35.

Discretion of court as to penalty to be imposed upon a corporation for violation of law. L.R.A.1915A, 892.

Appointment of receiver for dissolved corporation. L.R.A.1917D, 1035.

Right of private person to raise question of forfeiture. 32 L.R.A. 295.

Power of majority stockholders to dissolve.

2 L.R.A. (N.S.) 493.

Right of minority stockholder to restrain voluntary dissolution of corporation by directors or other stockholders. 23 L.R.A. (N.S.) 1177.

Inherent jurisdiction of equity, independently of statute, at the instance of stockholder, to wind up a corporation because of mismanagement or fraud of its officers. 39 L.R.A. (N.S.) 1032; L.R.A.1915A, 606.

Effect of laches upon state's right to oust a corporation of its rights and franchise. 14 L.R.A.(N.S.) 336.

Begin with this book on every law question.

CORPORATIONS, IX.—cont'd Relative rights of life tenant and remaindermen in distributions by corporation in process of liquidation. 12 L.R.A. (N.S.) 805.

Removal for separable controversy of proceeding for forfeiture of corporate franchise. 5 L.R.A.(N.S.) 86.

Dissolution as excuse for not exhausting remedies at law before bringing creditor's bill. 23 L.R.A.(N.S.) 99.

Adjustment of competing claims of parties to an ultra vires contract in winding up proceedings. L.R.A.1917A, 1032.

128. What works a dissolution.

Insolvency or appointment of receiver to work dissolution which will affect right of corporation to sue. 50 L.R.A. (N.S.) 383.

129. Grounds for.

Quo warranto against corporation for making illegal charges in the course of authorized business. 63 L.R.A. 761.

Forfeiture of franchise of water company for breach of duty. 61 L.R.A. 93.

Forfeiture of charter of canal company for failure to maintain or operate the canal. L.R.A.1917F, 790.

Annulling charter of club for violation of law. 14 L.R.A.(N.S.) 683.

Migration of corporation as ground for forfeiting corporate charter. 24 L.R.A.

Dissolution of partnership by reason of formation of corporation. 31 L.R.A. (N.S.) 471.

130. Effect of.

Abatement of action by, see ABATEMENT AND REVIVAL, § 4.

As civil death, see CIVIL DEATH, § 2.

Effect upon lease of dissolution of lessee corporation. 3 B. R. C. 627.

Effect on liability of directors under statutes purporting to make them liable for contracting debts in excess of a fixed limit. L.R.A.1915D, 1052.

Effect of proceedings for dissolution of cor-

poration upon its rights of action. 15 L.R.A. 627.

Dissolution as excusing creditor from exercising remedies against corporation as condition of enforcing stockholder's liability on unpaid subscription. L.R.A.(N.S.) 628.

Effect of winding up proceedings on right to rescind subscription for fraud or misrepresentation. 33 L.R.A. 727.

Recovering for services and expenses under a running contract with a corporation ended by its dissolution. 69 L.R.A. 124.

§ 131. Period of existence of private corporation.

In general. 33 L.R.A. 576. Charter limitations. 33 L.R.A. 576. General statutes limiting existence. 83 L.R.A. 577.

Consult also L.R.A. Digests of Cases.

CORPORATIONS, IX.—cont'd

Constitutions limiting existence. 33 L.R.A. 579.

Effect of expiration of time. 33 L.R.A. 579.

§ 182. Expiration of charter.

Abatement of action by or against corporation in absence of a saving statute by expiration of charter. 32 L.R.A. (N.S.)

§ 133. Disposition of property essential to corporate existence.

Disposition of real estate upon the dissolution of a corporation created for benevolent or social purposes. 35 L.R.A.(N.S.) 895.

Execution or judicial sale of corporate franchise, or property necessary to its enjoyment. 20 L.R.A. 737.

Liability of directors for corporate debts where they sell the entire corporate property and distribute the proceeds. 26 L.R.A.(N.S.) 267.

Power of officers or majority stockholders, against consent of minority, to sell property of corporation essential to its existence as a going concern. 35 L.R.A.(N.S.) 396.

Laches or acquiescence by stockholder as affecting his right to complain of act by which corporation devests itself of the title or control of its entire property. 9 L.R.A.(N.S.) 606.

## X. Insolvency; rights and preferences of creditors.

§ 134. Generally.

Liability of stockholders of insolvent corporation, see supra, VII. e.

Insolvency of bank, see BANKS, §§ 39-42. Receivers for insolvent corporation, see RE-

Law determining validity of assignment for creditors by corporation. 65 L.R.A.

Set-off in bankruptcy cases. 55 L.R.A. 44. Distribution of assets of insolvent insurance company. 38 L.R.A. 97.

Construction on ground as manufacturing within provision defining corporations which may be adjudged involuntary bankrupts. 26 L.R.A.(N.S.) 475.

Insolvency as excuse for not exhausting remedies at law before bringing creditor's bill. 23 L.R.A.(N.S.) 97.

Removal for separable controversy of proceeding against insolvent corporation. 5 L.R.A.(N.S.) 86.

Rights and remedies of creditor who is also a stockholder of an insolvent corporation as affected by his own statutory liability. 41 L.R.A.(N.S.) 981.

Recovering for services and expenses under running contract with corporation ended by its insolvency. 69 L.R.A. 124.

Right of creditor of insolvent corporation to maintain action at law against new corporation to which assets have been transferred. 11 L.R.A.(N.S.) 866.

CORPORATIONS, X.—cont'd

Right of receiver to compel officers of corporation to deliver to receiver property of corporation claimed by them adversely. 47 L.R.A.(N.S.) 751.

§ 135. Rights as to stock and subscrip-

Necessity of notice to stockholder to bind him by an order for unpaid stock subscription in insolvency proceedings. 36 L.R.A.(N.S.) 177.

Fraud as ground of relief from subscription to stock after insolvency. 31

L.R.A. (N.S.) 900; L.R.A.1915D, 792. Stockholder's right to inspect books of insolvent corporation. 45 L.R.A. 456.

Right to recover money paid in expectation of receiving corporate stock which is never issued. L.R.A.1918E, 754.

136. Effect of insolvency.

Insolvency of corporation or appointment of receiver as affecting its right to sue. 50 L.R.A.(N.S.) 383.

Right to receiver on corporation ceasing to act. 20 L.R.A. 213.

Effect of insolvency on right to rescind subscriptions for fraud or misrepresenta-tion. 33 L.R.A. 727; 31 L.R.A. (N.S.) 900; L.R.A.1915D, 792.

Right of stockholder after insolvency to set off debt due him from corporation against his liability on unpaid stock subscription. L.R.A.1918E, 243.

Liability for unpaid subscription on transfer of stock after insolvency of corporation. 47 L.R.A. 262.

Discharge of corporation as affecting stockholder's liability for debts. 38 L.R.A. (N.S.) 648.

Effect of appointment of receiver or assignee for creditors of a corporation on com-pensation of officers, agents, or employees for unexpired term of employment. 51 L.R.A. 146.

Effect of adjudication of insolvency of corporation on its rights of action. 15 L.R.A. 627.

Effect of insolvency of corporation on competency of stockholder as witness in suit between corporation and a personal representative. 27 L.R.A. (N.S.) 820.

Bankruptcy or insolvency of corporation as excusing creditor from exhausting remedies against it, as condition of enforcing stockholder's statutory liability or liability on unpaid subscriptions to stock. 24 L.R.A. (N.S.) 628.

Right to return of premiums on adjudication of insolvency of insurance company. 19 L.R.A. (N.S.) 639.

§ 137. Preferences.

In general. 22 L.R.A. 802.

Purchase of its own stock by insolvent corporation as. 2 L.R.A. (N.S.) 130.

What classes of employees are entitled to a

preference. 18 L.R.A. 306.

Are claims of creditors of an insolvent company, who undertake to conduct its business, postponed to claims or debts incurred during their management. 24 L.R.A.(N.S.) 1166.

CORPORATIONS, X .- cont'd Injunction against judgment confessed by corporation. 30 L.R.A. 240.

#### XI. Foreign corporations,

#### a. In general.

§ 138. Generally.

As to citizenship of, see supra, § 10. Regulation of, as interference with commerce, see COMMERCE, § 17.

Jurisdiction over, see Courts, § 26. License of, see License, § 29.

Penalty against foreign corporation, see PENALTY, § 5.

Taxation of, see Taxes, §§ 11, 33-39, 45, 46, 67.

Foreign insurance companies, see INSUR-ANCE, §§ 6-8.

Foreign railroad company, see RAILROADS, § 2.

Foreign telegraph company, see TELE-GRAPHS, § 4.

Conflict of laws as to usury in contracts of foreign loan association. 62 L.R.A. 64; L.R.A.1916D, 757.

Attachment of shares of stock in foreign corporation. 55 L.R.A. 796.

Legal powers and privileges of foreign surety companies. 48 L.R.A. 592.

Right of foreign corporation to make contract. 24 L.R.A. 290.

Right of foreign corporation to plead statute of limitations. 18 L.R.A. 524; L.R.A.1915C, 544.

Sufficiency of notice to foreign corporation of cancelation of fire insurance policy. 50 L.R.A.(N.S.) 40.

Power to appoint receiver for foreign corporation for which no domiciliary receiver has been appointed. L.R.A. 1917D, 295.

Appointment of receiver for dissolved foreign corporation. L.R.A.1917D, 1036, 1038.

§§ 139, 140. Recognition or exclusion

Exclusion of, as interference with interstate commerce, see COMMERCE, § 17. Of foreign insurance company, see Insur-ANCE, §§ 6-8.

Status of foreign corporation as affected by the fact that its entire business is done outside the state of its creation. L.R.A. 1917E, 893.

Right to sue. 24 L.R.A. 289.

Right of contract. 24 L.R.A. 290. Ownership of property. 24 L.R.A. 291.

Power to act as trustee, administrator, etc. 24 L.R.A. 291.

Limitation by charter or laws of the state where incorporated. 24 L.R.A. 291.
Good faith of foreign corporation. 24

L.R.A. 291. Statutory exclusion of, or restrictions upon, foreign corporations. 24 L.R.A. 292.

De facto foreign corporations. 24 L.R.A.

Begin with this book on every law question.

CORPORATIONS, X. a-cont'd Designation of agent and place of business. 24 L.R.A. 293.

License tax. 24 L.R.A. 293. Conditions against invoking Federal juris-

dictions. 24 L.R.A. 294.
Remedies against. 24 L.R.A. 295.
What constitutes "doing business" as prohibited by statute. 24 L.R.A. 295.

Estoppel to deny character or powers. 24 L.R.A. 297.

§ 141. Revocation of license.

On account of removal of action to Federal court. 1 L.R.A. (N.S.) 1019; L.R.A. 1915F, 1187.

Suit to restrain revocation of corporation's license, as suit against the state. 44 L.R.A.(N.S.) 219.

§ 142. Right of, to own real estate. Generally. 24 L.R.A. 322.

Limitations by charter or statute of state of incorporation. 24 L.R.A. 324. Railroads. 24 L.R.A. 326.

Telegraphs. 24 L.R.A. 327.

Interest in mines. 24 L.R.A. 327.

Exercise of eminent domain. 24 L.R.A. 327.

As to mortgages. 24 L.R.A. 328.

Enforcement of restrictions. 24 L.R.A. 329. Conveyance by public service corporation to foreign corporation incapable of taking title, continued duty and liability of former to members of public. 33 L.R.A.(N.S.) 362.

Who may take advantage of statute rendering foreign corporation incapable of taking title to real property. 33 L.R.A. (N.S.) 355.

Law governing right to take title to real property in another state. L.R.A. 1916A, 1039.

§ 143. Rights of stockholders; transfers of stock.

Stockholder's right to inspect books. L.R.A. 454.

Power of court to compel corporation to register transfer of stock. 3 L.R.A. (N.S.) 551.

144. Liability of stockholders.

Right to enforce stockholder's liability outside of state of incorporation. L.R.A. 737.

Right of state to enforce personal liability of stockholders. 33 L.R.A.(N.S.) 907.

Necessity of exhausting legal remedies against corporation before invoking jurisdiction of equity to enforce liability on unpaid subscriptions to stock. 46 L.R.A.(N.S.) 447.

Partnership liability of stockholders of foreign corporation defectively or illegally incorporated. L.R.A.1916C, 217.

Partnership liability of stockholders of a foreign corporation in a state in which it is doing business. L.R.A.1917B, 574. Consult also L.R.A. Digests of Cases.

CORPORATIONS, X.—cont'd

b. Doing business within state.

145. Generally.

Regulation of business of, by state. L.R.A. 601.

Right to do business in domestic states. 70 L.R.A. 519.

Taxation of right of. 60 L.R.A. 680.

Lease of its property as affecting liability of foreign corporation to franchise tax or tax upon privilege of doing business within the state. L.R.A.1917D, 1073.

Compelling designation of person upon whom process may be served as a condition of right to do business. 1 L.R.A. (N.S.) 558.

Right of foreign corporation to discontinue business within the state. 46 L.R.A. (N.S.) 955.

Withdrawal or attempted withdrawal of foreign corporation as affecting power of state to exact a privilege tax. L.R.A. 1916C, 577.

146. What constitutes.

Institution and prosecution of suit as doing business. 24 L.R.A. 289.

Purchase of supplies by foreign mining or manufacturing corporation as doing business within state. L.R.A.1917E, 1157.

Sale of single cargo as doing business. 2 L.R.A. (N.S.) 127.

Single or isolated transaction by foreign corporation as "doing business" within the state. 10 L.R.A.(N.S.) 693.

Soliciting trade as doing business within the state. 9 L.R.A.(N.S.) 1214; 23 L.R.A.(N.S.) 834; L.R.A.1916E, 236; 6 B. R. C. 801.

Sale by foreign corporation of goods stored in state as intrastate business. L.R.A. (N.S.) 134.

Effect of agreement by foreign corporation to install article within the state to bring it within statute regulating foreign corporations. 14 L.R.A.(N.S.) 674; L.R.A.1917C, 1014. Effect of location of insured property with-14 Ľ.R.A. (N.S.)

in the state to prevent an action by a foreign insurance company upon a contract made in another state. 9 L.R.A. (N.S.) 417.

Establishing agency to handle a corporation's product within the state as doing business therein. 18 L.R.A.(N.S.) 142.

When may a foreign corporation which has entered into a contract for the local handling of its product be considered as doing business within the state. L.R.A. 1916F, 334.

Transactions pursuant to agreement with local dealer to sell product of foreign corporation within state as doing business therein. 44 L.R.A. (N.S.) 1094.

§ 147. Effect of noncompliance with statutory conditions.
As to foreign insurance company, see In-

SURANCE, § 8.

CORPORATIONS, X. b-cont'd

Effect of noncompliance with conditions to render stockholders liable as partners. L.R.A.1917B, 574.

Failure to comply with conditions of doing business in the state as a defense to action by corporation against officer or agent. L.R.A.1916A, 646.

Right of foreign corporation to set up noncompliance with conditions of doing business in order to defeat recovery against it. 25 L.R.A. 569.

Right of foreign corporation which has not complied with local laws to defend action. 17 L.R.A. (N.S.) 1117.

Effect upon right of foreign corporation to maintain suit, of compliance with local law after suit is instituted. 14 L.R.A. (N.S.) 561; 23 L.R.A.(N.S.) 492.

Enforceability of subscription to stock of foreign corporation that has not complied with local laws. 29 L.R.A.(N.S.)

Lack of authority of foreign corporation to do business within a state as affecting embezzlement by agent. 27 L.R.A. (N.S.) 415.

# § 148. — on contracts.

Validity of contracts made by foreign corporations which have not complied with statutory conditions of the right to do business in a state. 24 L.R.A. 315; 1 L.R.A. (N.S.) 1041.

Right of receiver of foreign corporation to question its contracts upon the ground that it had not complied with conditions of doing business. L.R.A.1918A,

Bona fide purchaser of negotiable paper from a foreign corporation which has not complied with the conditions of doing business in the state. L.R.A. 1918B, 840.

Statutory provision for penalty as affecting validity or enforceability of contract made by foreign corporation without complying with conditions of doing business; 4 L.R.A.(N.S.) 688; 40 L.R.A.(N.S.) 857.

Right to cancelation of contract made with foreign corporation because it has not complied with the laws entitling it to do business within the state. 21 L.R.A. (N.S.) 707.

Enforceability in Federal court, or court of another state, of a contract made by a foreign corporation which had not complied with the conditions of doing business within the state. 26 L.R.A. (N.S.) 999.

Recovery back of money paid under a contract to a foreign corporation which has not complied with the conditions of doing business in the state. L.R.A. (N.S.) 210.

CORPORATIONS, X.—cont'd

c. Actions by or against.

§ 149. Generally.

Effect of noncompliance with statutory conditions, see supra, §§ 147, 148.

Attachment against, see ATTACHMENT, § 5. Jurisdiction over, see Courts, §§ 11, 12, 23, 24, 40, 43.
Removal of causes by or against, see RE-

MOVAL OF CAUSES, § 8.

Service of process upon, see WRIT AND PROCESS, §§ 24-29.

Suit to restrain revocation of corporation's license, as suit against the state. L.R.A.(N.S.) 219.

Right of foreign corporation to avail itself of statute of limitations. L.R.A.1915C, 544.

Right of foreign corporation to sue. 24 L.R.A. 289.

Abatement of action by or against corpora-tion in absence of saving statute by dissolution or expiration of charter. 32 L.R.A.(N.S.) 446.

Right of foreign corporation to prosecute or defend pending actions after dissolution under statutes of domicil or forum. 32 L.R.A.(N.S.) 451.

Effect of consolidation of domestic with foreign corporation on residence or citizenship for purpose of jurisdiction. L.R.A. 185.

Who may take advantage of statute rendering foreign corporation incapable of taking title to real estate. 33 L.R.A. (N.S.) 355.

§ 150. Attachment or garnishment against.

Liability of foreign corporation which has complied with conditions of doing business in state to attachment as nonresident. 31 L.R.A.(N.S.) 278; L.R.A. 1916D, 116.

Garnishment of debt due from foreign corporation in state where it is engaged in business. 67 L.R.A. 214; L.R.A. 1915F, 884.

Place of payment of debt due from a foreign corporation as affecting jurisdiction to garnish the same. 3 L.R.A. (N.S.) 608; 20 L.R.A. (N.S.) 264.

§ 151. Right of nonresident to sue. Generally. 70 L.R.A. 513.

The right of foreigners to sue. 70 L.R.A. 514.

The right of foreign corporations to do business in domestic states. 70 L.R.A. 519.

Public policy. 70 L.R.A. 521.

The liability of natural persons to suits in foreign courts. 70 L.R.A. 522.

The liability of foreign corporations to suit. 70 L.R.A. 523.

The effect of entering a state by a foreign corporation. 70 L.R.A. 525.

Acquiring jurisdiction over foreign corporations. 70 L.R.A. 530.

Begin with this book on every law question.

CORPORATIONS, X. c-cont'd Judicial discretion to decline jurisdiction. 70 L.R.A. 538. Locus of the cause or subject of action.

70 L.R.A. 543.

#### CORPSE.

§ 1. Generally.

As to autopsy, see AUTOPSY. Carrier's liability as to, see CARRIERS, § 93. Cremation of, see CREMATION.

Allowance for mental anguish in respect to, see DAMAGES, 98.

Exhibition of, in court, see EVIDENCE, § 152. See also Burial; Burial Lot; CEMETERIES.

Opinion evidence as to appearance or condition of. L.R.A.1918A, 668.

Control and disposition of. 14 L.R.A. 85. Duty and liability of strangers in respect to corpse. L.R.A.1918D, 281.

## § 2. Identification.

Sufficiency of circumstantial evidence to identify remains found as those of person charged to have been killed. 7 L.R.A. (N.S.) 181.

## § 3. Mutilation.

As to unauthorized autopsy, see AUTOPSY.

Who may maintain action for. 1915B, 519. Damages for mutilation of. (N.S.) 883. 6 L.R.A.

Right of action against railroad company for mutilation of the body of person killed on track. 16 L.R.A.(N.S.) 405.

# 4. Burial permit.

Validity of regulation requiring certificate as to cause of death as a condition of burial permit. 5 L.R.A.(N.S.) 727.

# 5. Disinterment,

Injunction against, see Injunction, § 75.

Liability for. 42 L.R.A. 721.

Right of court to order disinterment of corpse for evidential purposes. L.R.A. (N.S.) 513.

Right to compel restoration of remains of deceased person removed from their resting place. 16 L.R.A.(N.S.) 332.

# CORPUS DELICTI.

Proof of, see Criminal Law, §§ 65-68.

#### CORRECTION.

In general, see Amendment. Of verdict, see TRIAL, §§ 83-86.

Alteration of note by making. 35 L.R.A. 467.

Consult also L.R.A. Digests of Cases.

#### CORRECTNESS.

Of photograph, proof of, as requisite to use in evidence. 35 L.R.A. 803; 51 L.R.A. (N.S.) 843.

#### CORRELATIVE RIGHTS.

percolating waters. 64 L.R.A. 236; L.R.A.1915A, 369.

#### CORRESPONDENCE.

Using of, as standard for comparison of handwriting. 63 L.R.A. 432. Knowledge of nonexpert witness to handwriting from. 63 L.R.A. 971. Instruction by correspondence as interstate commerce. 27 L.R.A.(N.S.) 493.

#### CORROBORATION.

Necessity of, see Evidence, §§ 289, 320, 321. Of witness, see WITNESSES, §§ 45, 46.

#### CORRUPTION OF VOTERS.

Libel or slander by charge of, against public officer or candidate. L.R.A.1918E, 31.

# . COSMETICS.

Misrepresentation as to, as affecting validity of trademark. 19 L.R.A. 56.

#### COST.

False statement as to, see FRAUD AND DE-

CEIT, § 10. Of public utility plants, as element in estimating their value, see Public Service Corporations, § 5.
Of receivership, see Receivers, § 26.

COST, INSURANCE, AND FREIGHT CONTRACTS.

Effect of war on. 7 B. R. C. 956.

#### COSTS AND FEES.

I. In general, § 1.

II. Right to recover; liability for, §§ 2-5.

III. Amount; items; priority, §\$ 6-8. IV. Practice concerning; collection, \$\$ 9, 10.

# I. In general.

§ 1. Generally.

Constitutionality of statutes as to, see CONSTITUTIONAL LAW, § 181.

COSTS AND FEES, I.—cont'd

Effect of pardon on, see CRIMINAL LAW,

As to fees for inspection, see Inspection. Fees of public officers, see Officers, §§ 31-37, 44.

Fees of witnesses, see WITNESSES, §§ 48-

On appeal, see APPEAL AND ERROR, § 42. In bankruptcy proceedings, see BANKRUPT-CY, § 7.

In ejectment, see EJECTMENT, § 15.

In action on insurance policy, see Insur-ANCE, § 206.

In action to enforce mechanics' lien, see MECHANICS' LIENS, § 25.

In suit for appointment of receiver, see RECEIVERS, § 9.

As element of damages for injuries caused by damming back water of stream. 59

L.R.A. 898. Expense of litigation as element or limit of punitive damages. 4 L.R.A.(N.S.) 907.

How far does limitation of liability in policy of indemnity insurance against liability for injuries to employees and others include expenses of litigation. 12 L.R.A. (N.S.) 479; 43 L.R.A. (N.S.) 1128; L.R.A.1918D, 187.

Effect of award on private agreement as to costs in criminal actions. 58 L.R.A. 182.

Condition against taking effect of bond for, until signed by others. 45 L.R.A. 341.

Fees as taxes within constitutional provisions as to taxation. 1 L.R.A.(N.S.)

Creation of partnership by provision for division of fees in place of compensa-tion. 18 L.R.A.(N.S.) 1040. Appeal from decree for. 1 L.R.A.(N.S.)

1083.

Acceptance of costs awarded by order allowing amendments to pleadings as affecting right to appeal from order. 29

L.R.A.(N.S.) 25. Collateral attack for fraud not affecting jurisdiction on judgment for. L.R.A. (N.S.) 985.

Power of state court to render judgment for costs in case removed to Federal court and not remanded. 30 L.R.A. (N.S.) 1059.

Right of officer conducting judicial sale to his fee where property is bid in by person at whose instance sale was made. 48 L.R.A. (N.S.) 542.

Right of purchaser to indemnity for expense of defending suit or proceeding based on Bulk Sales Act. L.R.A.1916F, 551.

Liability under policy indemnifying against liability for injuries to compensate insured for expenses incurred in successful defense or compromise of action. 44 L.R.A.(N.S.) 609.

Payment of, as consideration for agreement extending time of payment of obliga-tion. 52 L.R.A.(N.S.) 339.

Recovery of, as element of damages to be paid public utility company upon taking its plant. 47 L.R.A.(N.S.) 791.

COSTS AND FEES-cont'd

II. Right to recover; liability for.

§ 2. Generally.

Under the Torrens Law. L.R.A.1916D, 48. Recovery of, under Workmen's Compensa-tion Act. L.R.A.1916A, 181; L.R.A. 1917D, 185.

Exemption of homestead from liability for. 24 L.R.A. 790.

Liability of vessel or owner for compulsory pilotage fees. 39 L.R.A. 177.

On withdrawal of jurors. 48 L.R.A. 437. Effect, on costs, of allowance of compound interest. 29 L.R.A. 658.

Claims against state for. 42 L.R.A. 41. Effect of pardon on. 15 L.R.A. 395; 43 Effect of pardon on. L.R.A.(N.S.) 207.

Allowance for, in recovery on bond. 55 L.R.A. 386.

Constitutionality of statute authorizing costs of prosecution to be imposed upon prosecuting witness. 61 L.R.A. 489.

Liability for, of party controlling or carrying on litigation in name of another. 62 L.R.A. 618.

Liability of covenantor in conveyance of real property for expense of successful defense. 39 L.R.A.(N.S.) 67.

Personal liability of arbitrator to costs on bill of discovery. 42 L.R.A.(N.S.) 280. Right to tax amount paid to surety com-

pany for undertaking. 48 L.R.A. 591. Right of accommodation party who is obliged to pay bill or note to recover

costs from accommodated party. 37 L.R.A.(N.S.) 788.

Right of receiver to be indemnified for costs of defending an action charging him with fraud or misconduct. 2 B. R. C. 423.

Clerks' fees on filing record and docketing cause in Federal Supreme Court. 66 L.R.A. 850.

Right of clerk on salary basis to retain fee · for naturalization. 30 L.R.A.(N.S.) 810.

Of view by jury. 42 L.R.A. 393.

In proceedings to perpetuate testimony. 25 L.R.A. (N.S.) 681.

In replevin action as element of damages in action on replevin bond. 30 L.R.A. (N.S.) 373.

§ 3. Against personal representative.

Personal liability of executors and administrators for. 14 L.R.A. 696.

In suit by or against executor or administrator to enjoin execution sales. L.R.A. 122.

Right of executor or administrator to suc, defend, or appeal in forma pauperis. 68 L.R.A. 418.

Allowance of attorneys' fees in suit for administration of decedent's estate. 54 L.R.A. 820.

Begin with this book on every law question.

COSTS AND FEES, II.—cont'd 4. Out of fund or estate.

What fund is chargeable with costs and expenses of sale when encumbered property is sold in bankruptcy free of liens. 29 L.R.A.(N.S.) 737.

Allowance of attorneys' fees out of fund for attorneys of creditors who sue in behalf of themselves and other creditors. 54 L.R.A. 817.

Validity of agreement that costs of contesting will shall be paid out of the estate. 2 B. R. C. 633.

5. Security for.

Effect of insertion of unauthorized provisions in cost bond. L.R.A.1917B, 1008.

Right to sue in forma pauperis at common law or in the absence of a statute. L.R.A.1918B, 319.

Right of executor or administrator to sue, defend, or appeal in forma pauperis. 68 L.R.A. 418.

Duty of attorney to secure costs in action taken by him on contingent fee. 11 LR.A.(N.S.) 1153.

Failure to give security for, as termination of prosecution for purpose of action for malicious prosecution. L.R.A.(N.S.) 939.

Effect upon surety on, of judgment against principal. 40 L.R.A. (N.S.) 747; L.R.A. 1918E, 821.

### III. Amount; items; priority.

§ 6. Generally.

Cost of defending possession seeking to obtain possession as special damages from breach of warranty by existence of unexpired lease. 35 L.R.A.(N.S.) 781.

Liability for cost of receivership where final judgment is against the party who procured the receivership. L.R.A.(N.S.) 412.

Of correction of record after appeal or writ

of error. 31 L.R.A.(N.S.) 213.
Allowance of expenses of business carried on by personal representative as costs of administration. 40 L.R.A.(N.S.) 229.

§ 7. Attorneys' fees.

Attorney's right to fees from his own client, see ATTORNEYS, §§ 18-22.

Stipulation in contract for, see ATTORNEYS' FEES. In action to enforce mechanics' lien, see

MECHANICS' LIENS, § 25.

In action to enforce tax, see Taxes, § 71.

Validity of statutory provision for attorneys' fees. L.R.A.1915E, 943.

Claims against state for. 42 L.R.A. 51. Right to, in action on replevin bond. 30 L.R.A.(N.S.) 372.

Attorneys' fees as part of compensatory damages recoverable in action for tort. 28 L.R.A.(N.S.) 761.

Consult also L.R.A. Digests of Cases.

COSTS AND FEES, III.—cont'd

Right of executor to allowance for attorneys' fees for services rendered in attempt to establish, or resist attack upon, will. 26 L.R.A.(N.S.) 757.

Allowance of attorneys' fees out of fund for attorneys of creditors who sue in behalf of themselves and other creditors. 54 L.R.A. 817.

Recovery on injunction bond of attorneys' fees necessarily expended in dissolving the injunction. 16 L.R.A.(N.S.) 49.

§ 8. Priority.

Preference of, in distribution of assets of insolvent insurance company. 38 L.R.A. 107.

Priority of claim for, against property in hands of receiver. 2 L.R.A.(N.S.) 1051, 1067.

Priority in bankruptcy as between taxes and costs and fees. 31 L.R.A.(N.S.) 988.

Priority of costs of receivership over recorded liens. 41 L.R.A.(N.S.) 710.

### IV. Practice concerning; collection.

9. Generally.

Motion for security for costs as extending time to plead. 47 L.R.A.(N.S.) 854. Accord and satisfaction by part payment of. 20 L.R.A. 790.

As to payment in coin 29 L.R.A. 596. Acceptance of costs awarded by judgment or order as affecting right to appeal therefrom. 29 L.R.A.(N.S.) 1.

Duty of attorney to pay or secure costs in an action which he takes on a contingent fee. 11 L.R.A.(N.S.) 1153.
Setting off costs in bankruptcy cases. 55
L.R.A. 55.

§ 10. Compelling payment of.

Imprisonment for nonpayment of. L.R.A. 601; L.R.A.1915B, 648. Compelling labor in payment of. 27 L.R.A.

601. Costs as debts within constitutional provision as to imprisonment. 34 L.R.A.

Cruel punishment for failure to pay. 35 L.R.A. 567; L.R.A.1915C, 563.

#### COSURETIES.

Remedies between, see Principal and Surety, § 29.

### COTENANCY.

I. In general, \$\$ 1, 2.

II. Creation; existence, § 8.

III. Rights, remedies, and liabilities as to each other, \$\$ 4-10. IV. Transfer of interests, §§ 11, 12.

### COTENANCY-cont'd

#### I. In general.

§ 1. Generally.

As to tenancy by entireties, see HUSBAND AND WIFE, § 27.

As to partition, see Partition.

Taxation of property of cotenant, see Taxes, § 53a.

Succession tax upon death of one joint tenant. L.R.A.1916C, 682.

Right of cotenant to compensation for improvements made before condemnation by one entering with consent of other cotenant. L.R.A.1916F, 991.

May jurisdiction of suit to determine in-terests of cotenants in real property within state rest upon constructive service upon nonresident. 52 L.R.A. (N.S.) 1061.

Extent of recovery in ejectment by tenants in common against stranger. 6 L.R.A. (N.S.) 710; 51 L.R.A. (N.S.) 50.

Kind of possession necessary to satisfy statutes of frauds as applied to tenants in common. 3 L.R.A. (N.S.) 815.

Notice of title from possession by cotenants. 13 L.R.A.(N.S.) 124.

Applicability of rule in Shelley's Case to tenancy in common in remainder. 29 L.R.A. (N.S.) 1036.

2. Running of limitations against. Effect of part payment on mortgage by one cotemant to toll statute of limitations

as to others. 27 L.R.A.(N.S.) 146. Disability of some, but not all, of the joint tenants as affecting the statute of limitations. 7 L.R.A. (N.S.) 407.

### II. Creation and existence.

\$ 3. Generally.

Creation of estate by entireties. 30 L.R.A. 322.

When burial lot held in common. 67 L.R.A. 122; L.R.A. 1918A, 149.

Effect of deposit of funds belonging to the depositor in a bank account in the name of himself and another to create joint tenancy. L.R.A.1917C, 571.

Devise or bequest to one and his children as giving the children an estate in common with the parent. L.R.A.1917B, 49.

Conveyance to one and his children as giving the children an estate jointly or in common with the parent. L.R.A.1917B, 76.

### III. Rights, remedies, and liabilities as to each other.

§ 4. Generally.

Adverse possession by tenants in common, see Adverse Possession, § 8.

Contribution between cotenants, see Con-TRIBUTION, § 5.

Demand of cotenant, see DEMAND, § 3. Interest against cotenants, see Interest, § 10.

Begin with this book on every law question.

COTENANCY, III.—cont'd Limitation of actions between joint tenants, see Limitation of Actions, §§ 30, 42.

Right of cotenants to fish. 60 L.R.A. 516. Right of one cotenant who pays mortgage to be subrogated to the rights of mortgagee as against other cotenant or his privies. 8 L.R.A. (N.S.) 559.

Right of one cotenant of mortgaged prop-erty to maintain action for money had and received for surplus received by mortgagee on sale of property. 44 L.R.A. (N.S.) 1044.

Failure to account for fund to one jointly interested therein as theft, larceny, or embezzlement. 31 L.R.A.(N.S.) 822.

Right to invoke aid of court to determine rights to property accumulated in common by parties living in illicit relations. 36 L.R.A. (N.S.) 838.

Removal of chattel to foreign country by tenant in common as conversion. 7 B. R. C. 313.

§ 5. Relation between.

Trust relations between cotenants. L.R.A. 485.

Joint owners and tenants in common as partners. 18 L.R.A. (N.S.) 1084.

Relationship of owners of different floors of buildings. 3 L.R.A.(N.S.) 510.

§ 6. Acquiring of outstanding interest by one cotenant.

Right of one cotenant to purchase the property in his own right at a sale under an encumbrance created by one through whom the cotenants derive title. L.R.A.(N.S.) 591.

Right of former cotenant to acquire title in his own right through or under a purchaser at a sale under a title or interest paramount to the common title. 37 L.R.A.(N.S.) 831.

Right of cotenant to relocate mining claim for his own benefit. 50 L.R.A. 184.

Relocation by cotenant of mining claim as abandonment or forfeiture. 68 L.R.A. 842.

§ 7. - other cotenants acquiring interest in.

Tender of share of expense as condition of right to share in benefit of purchase by cotenant of outstanding interest. 10 L.R.A.(N.S.) 863.

Laches as affecting right of one cotenant to benefit of purchase of outstanding title by another. 19 L.R.A.(N.S.) 526; 42 L.R.A.(N.S.) 242.

§ 8. Liability to account for use and occupation, and rents and profits.

Lien of cotenant for rent, see LANDLORD AND TENANT, § 89.

general. 28 L.R.A. 829; 29 L.R.A. (N.S.) 224; L.R.A.1918B, 606.

The common-law doctrine. 28 L.R.A. 829. Reason of the common-law doctrine. 28 L.R.A. 830.

COTENANCY, III.—cont'd

States not adopting the English statute. 28 L.R.A. 832.

When held liable. 28 L.R.A. 832.

In case of ouster. 28 L.R.A. 832; 29 L.R.A. (N.S.) 228; L.R.A.1918B, 607.

In cases where an agreement exists. 28 L.R.A. 834; 24 L.R.A.(N.S.) 227; L.R.A.1918B, 607.

Mere occupation without ouster. 29 L.R.A. (N.S.) 224; L.R.A.1918B, 606.

When occupied by one alone. 28 L.R.A. 836.

The remedy as between cotenants. 28 L.R.A. 840; 29 L.R.A.(N.S.) 230; L.R.A.1918B, 608.

Liability to account for rents received. 28 L.R.A. 848; 29 L.R.A.(N.S.) 229; L.R.A.1918B, 607.

Lien for rents received. 28 L.R.A. 849; 29 L.R.A.(N.S.) 236; L.R.A.1918B, 609. The question, What is more than a just share. 28 L.R.A. 849.

Necessity of a demand. 28 L.R.A. 850; 29 L.R.A. (N.S.) 232.

Necessary allegations in action of account. 28 L.R.A. 850.

In what character liable. 28 L.R.A. 850. Position of cotenant holding over. 28 L.R.A. 851.

Extent of liability. 28 L.R.A. 852; 29 L.R.A. (N.S.) 232.

When liable to pay interest. 28 L.R.A. 853; 29 L.R.A. (N.S.) 233.

Deductions. 28 L.R.A. 854; 29 L.R.A. (N.S.) 234; L.R.A.1918B, 608.

When held for the rental value. 28 L.R.A.

Position of purchaser of cotenant's share. 28 L.R.A. 854; 29 L.R.A. (N.S.) 229. As to coparceners. 28 L.R.A. 854.

Mesne profits. 28 L.R.A. 857.

The application of the statute of limitations. 28 L.R.A. 859; 29 L.R.A. (N.S.) 239; L.R.A.1918B, 609.

Construction of the state statutes. 28 L.R.A. 860; 29 L.R.A.(N.S.) 226; L.R.A.1918B, 606.

# § 9. Liability for improvements and repairs.

Improvements. 29 L.R.A. 449. Repairs. 29 L.R.A. 457.

Repudiating cotenancy as affecting cotenant's right to contribution for cost of improvements and repairs. L.R.A. 1915B, 961, 972.

Right of successor to share of cotenant to latter's claim to allowance for improvements to common property. 45 L.R.A.(N.S.) 738.

### § 10. Remedies.

As to action for partition, generally, see PARTITION.

Ejectment by one against third person. 18 L.R.A. 789.

Trespass quare clausum fregit by tenant in common of realty against cotenant. 10 L.R.A.(N.S.) 212.

Consult also L.R.A. Digests of Cases.

COTENANCY, III.-cont'd

Levy on crops owned by cotenants. 23 L.R.A. 260.

### IV. Transfer of interests.

#### 🛊 11. Generally.

Provision in insurance policy against alienation or change in interest, title, or possession as applying to interest of cotenant. L.R.A.1917A. 32.

tenant. L.R.A.1917A, 32.

Estoppel of cotenant to assert title as against purchaser from other cotenant by concealing same. 48 L.R.A.(N.S.) 757.

Validity and effect of a deed by one cotenant, purporting to convey a parcel in severalty to a third person. 47 L.R.A.(N.S.) 573.

Effect of conveyance by one cotenant to third person to found adverse possession against others. 32 L.R.A.(N.S.) 702.

Dedication of land in which third persons have an interest. 31 L.R.A.(N.S.)

Assignment to cotenant as breach of covenant not to assign without license. 2

R. R. C. 816

B. R. C. 816.

Power of husband or his creditors to defeat wife's right of dower in lands held by husband as tenant in common. 18 L.R.A. 75.

### § 12. By will.

Right of wife under statutes removing disabilities of married women to devise property held by her husband and herself as joint tenants. 7 L.R.A.(N.S.)

Devise or bequest of property in which testator had but a part interest, as putting co-owner, who is a beneficiary, to his election. 30 L.R.A.(N.S.) 644.

#### CO-TRUSTEES.

Liability for acts of, see TRUSTS, § 28.

### COTTON.

Privilege of compressing in transit. L.R.A. 1918A, 178.

Sufficiency of selection of part sold out of a larger lot. 26 L.R.A.(N.S.) 32. Delegation by legislature to railroad com-

Delegation by legislature to railroad commission of power as to compressing cotton. 32 L.R.A.(N.S.) 652.

Cotton ginning as a business affected with a public interest. L.R.A.1918A, 285.

### COTTON GIN.

See COTTON.

### COUGHING BLOOD.

What constitutes within meaning of insurance policy. 23 L.R.A.(N.S.) 917.

#### COUNCIL.

Meeting of, see MUNICIPAL CORPORATIONS, § 20.

#### COUNSEL.

See ATTORNEYS.

### COUNSEL FEES.

In general, see ATTORNEYS' FEES. In divorce suit, see DIVORCE AND SEPARA-TION, §§ 39-40a.

#### COUNTERCLAIM.

See SET-OFF AND COUNTERCLAIM.

#### COUNTERFEITING.

Of union label. 39 L.R.A. (N.S.) 1191. Instigation to. 25 L.R.A. 345; 30 L.R.A. (N.S.) 953.

Necessity and sufficiency of description of offense in bail bond or recognizance. 38 L.R.A.(N.S.) 316.

Proof of corpus delicti in prosecution for passing counterfeit money. 68 L.R.A. 56, 73.

Evidence of other crimes in prosecution for. 62 L.R.A. 225, 257.

Several offenses growing out of same facts. 31 L.R.A.(N.S.) 725, 730. Cruel and illegal punishment for.

L.R.A. 571.

### COUNTIES.

1. In general, § 1.

II. Nature; organization; boundaries; alteration, §§ 2, 3.

III. County seat, § 4.

IV. Rights and powers; contracts, \$\$ 5. **6**.

V. Duties and liabilities; indebtedness, §§ 7-11. VI. Officers; county board, § 12.

VII. Actions affecting, § 13.

#### I. In general.

§ 1. Generally. Constitutionality of statutes as to, see CONSTITUTIONAL LAW, §§ 124, 125.

COUNTIES, I.—cont'd Estoppel of, see ESTOPPEL, I. Garnishment of, see GARNISHMENT, § 9. For what purpose public money may be used by, see Public Money, § 4.

Right of subcontractor, materialman, or laborer to maintain action on contractor's bond running to. 27 L.R.A. (N.S.) 581.

Right of state to authorize or direct diversion of county funds to purpose other than that for which collected. L.R.A. 1915D, 274.

#### II. Nature; organization; boundaries; alteration.

§ 2. Generally.

Extrinsic evidence to show unconstitutionality of statutes incorporating counties. 14 L.R.A. 459; L.R.A.1915D, 461.

Division of territory of, as affecting its assets and liabilities. 39 L.R.A.(N.S.) 285.

Rule for determining the indebtedness within the meaning of debt limit provisions, where boundaries of different political units are wholly or partly coincident. L.R.A.1917E, 468.

### § 3. Adjustment of debts on alteration of county.

Liability of original county for debts of county defectively organized from part of its territory. 6 L.R.A.(N.S.) 791. Liability of territory annexed to county to pay proportionate share of existing debts. 27 L.R.A. (N.S.) 1147.

#### III. County seat.

8 4. Generally.

Bribery by gift in consideration of location of. 14 L.R.A. 62.

Bribery in vote for. 15 L.R.A. 501.

Right to withdraw names from petition for removal of. 35 L.R.A.(N.S.) 1113.

On what basis majority essential to adoption of proposition for change of county seat is to be computed. 22 L.R.A. (N.S.) 478.

Reverter of land dedicated or conveyed for purpose of court-house on removal of county seat or failure to use land for such purposes. 35 L.R.A. (N.S.) 603.

Validity of court orders in case of trials held at place other than county seat. L.R.A.1917E, 362.

#### IV. Rights and powers; contracts.

§ 5. Generally.

For what purpose public money may be used, see PUBLIC MONEY, § 4.

As trustees of charities. 14 L.R.A. 70; 14 L.R.A. (N.S.) 113.

Authority of county to employ "tax ferret."
4 L.R.A.(N.S.) 339; 38 L.R.A.(N.S.) 261.

COUNTIES, IV.—cont'd Power to employ attorney. L.R.A.1917D, 241.

On contingent fee. L.R.A.1917D, 263. Right, when entitled to services of official attorney, to employ other attorney in civil matters. 1917D, 251. L.R.A.

Right of county to collect tolls for use of bridge or highway. 42 L.R.A.(N.S.)

Power of legislature to authorize counties to build, purchase, or operate railroad as affected by restrictions on power to aid private enterprises. (N.S.) 412. 28 L.R.A.

Reputed father's right to custody or control of illegitimate child as against. 65 L.R.A. 694.

Right to surrender valid claim upon partial

payment. 19 L.R.A.(N.S.) 320. Estoppel of, to tax land, by wrongfully claiming ownership. 14 L.R.A.(N.S.) 1074.

Federal courts following state decisions as to powers. 40 L.R.A.(N.S.) 442,

Applicability as against county of presumption of payment from lapse of time. L.R.A.1916B, 739.

### 6. Contracts.

Estoppel of county by contract, see Estop-PEL, § 2a.

Liability of, on implied contract. 27 L.R.A. (N.S.) 1117; 39 L.R.A.(N.S.) 72; 46 L.R.A.(N.S.) 921.

Liability of county on implied contract for publishing notices in newspaper. 27 L.R.A. (N.S.) 1130.

Power of board to make contract for term extending beyond its own term. 29 L.R.A.(N.S.) 652; L.R.A.1915E, 581.

Rights and remedies where contracts are invalid. L.R.A.1915A, 904.

Ratification of invalid contract. 1915A, 1023.

### V. Duties and liabilities; indebtedness.

8 7. Generally.

Liability on contracts, see supra, § 6. Liability to garnishment, see GARNISH-MENT, § 9.

Duty and liability in respect to poor persons, see Poor and Poor Laws.

Applicability of Workmen's Compensation Acts to counties. L.R.A.1918F, 190.

Statute requiring county to pay a claim against it as an invasion of powers of judiciary. L.R.A.1917E, 827.

Division of territory of county as affecting its liability. 30 L.R.A. (N.S.) 285. Obligation of, as operator of ferry. 68 L.R.A. 155.

Duty to contribute to maintenance of boundary bridge. L.R.A.1916F, 511.

Are counties within constitutional provision requiring "municipal and other corporations" to make just compensation for property injured by public work. 18 L.R.A. (N.S.) 884.

Consult also L.R.A. Digests of Cases.

COUNTIES, V.—cont'd
Federal courts following state decisions as
to liabilities. 40 L.R.A.(N.S.) 442.

§ 8. For torts and negligence. Liability for injury by defects in bridge, see Bridges, §§ 5, 6.

Liability for injury by defects in highways, see Highways, § 78.

Injuries to travelers and vehicles. L.R.A. 33.

Injuries to other persons. 39 L.R.A. 59. Injuries to real property from public improvements. 39 L.R.A. 63.

Other wrongful and negligent acts affect-

ing persons or property. 39 L.R.A. .

Infringement of patents. 39 L.R.A. 73. Damages by defaulting officer. 39 L.R.A. 74.

By misapplication, conversion, or taking property. 39 L.R.A. 75.

Presentation of claims before county board as a condition precedent to suit. 39 L.R.A. 77.

Liability of county for injuries caused by construction or maintenance of bridge to property thereto adjoining. L.R.A. (N.S.) 209.

Liability for damage to vessel by bridge. L.R.A.1915F, 1062.

Liability for imprisonment of person in unhealthful or unfit prison. 36 L.R.A. 293; 2 L.R.A.(N.S.) 95.

Liability for injuries to one employed about house of detention. 23 L.R.A.(N.S.) 910.

Liability for property destroyed by mob. 44 L.R.A. (N.S.) 358.

Liability of county for personal injury due to negligence of officer or agent at county institution. L.R.A.1916B, 1263.

### § 9. Warrants; indebtedness; claims: against.

Adjustment of debts on alteration of county, see supra, § 3. County bonds, see Bonds, §§ 17-27.

For what purpose public money may be used by county, see PUBLIC MONEY, § 4.

Are holders necessary parties to proceed-ings to invalidate warrants or other moneyed obligations of county, state, or municipal corporation. 3 L.R.A. (N.S.) 256.

Recovery of money loaned a county on invalid contract to pay its indebtedness. 15 L.R.A.(N.S.) 567.

Liability of public for services of physicians or surgeons rendered prisoners. 50 L.R.A. (N.S.) 1223.

What services or supplies to jurors are proper subjects of county charge. 21 L.R.A. (N.S.) 200.

When limitations begin to run against action on county warrant. 10 L.R.A. (N.S.) 478.

Right of municipal corporation, county or town authorities to reconsider action as to allowance or claim. 21 L.R.A. (N.S.) 289.

COUNTIES, V.—cont'd Presentation of claims against county by county board as condition precedent to suit. 39 L.R.A. 77.

Acceptance of partial allowance of claim as an accord and satisfaction.

L.R.A.(N.S.) 118.

Presumption as to time of alteration in county warrant, 39 L.R.A.(N.S.) 115.

10. — limitation of indebtedness.

Rule for determining the indebtedness within the meaning of debt limit provisions, where boundaries of different political units are wholly or partly coincident. L.R.A.1917E, 468.

Creation of indebtedness within meaning or debt limit provision. 37 L.R.A. (N.S.) 1058; L.R.A.1917E, 437.

11. — liability for interest.

Liability of county for interest on its obligations in absence of statute or express contract. 17 L.R.A. (N.S.)

### VI. Officers; county board.

§ 12. Generally.

Parol evidence to vary or supplement min-utes of. 50 L.R.A.(N.S.) 99.

Statutes conferring powers upon municipal-ities or counties in respect to their officers as a delegation of legislative power. L.R.A.1916D, 921.

Power of officers to act as determined by place of performance. 33 L.R.A. 86.

Delegation of power of taxation to county

authorities. 15 L.R.A.(N.S.) 62.

Delegation of legislative power to county boards of supervisors. 16 L.R.A. 161. Power of board to appoint officer or to

make contract for term extending beyond its own term. 29 L.R.A. (N.S.) 652; L.R.A.1915E, 581.

Liability of county for personal injury due to negligence of officer at county insti-tution. LR.A.1916B, 1263.

### VII. Actions affecting.

§ 13. Generally.

By whom action affecting counties must be brought. 64 L.R.A. 619.

Garnishment of. 37 L.R.A. 207; L.R.A. 1916E, 1163.

Right to go behind judgment against county or municipality in mandamus pro-ceedings to enforce the same. 9 L.R.A. (N.S.) 1002.

Applicability of statute of limitations to actions by. 3 L.R.A.(N.S.) 746; 22 L.R.A. (N.S.) 921; L.R.A. 1916E, 97.

### COUNTING.

Necessity of counting goods sold out of a larger lot. 26 L.R.A.(N.S.) 17. Begin with this book on every law question. COUNTS.

COUNTY CLERK.

See CLERKS, §§ 3-7.

COUNTY SEAT.

See Counties, § 4.

COUNTY TREASURER.

Bond of, see Bonns, §§ 12-15.

COUPLING.

Matters as to safety appliance acts, see MASTER AND SERVANT, § 96.

Walking in front of moving car to prepare. 10 L.R.A.(N.S.) 881.

Servant's disobedience of rules regulating work of coupling cars. 43 L.R.A. 364.

COUPONS.

On bonds, see Bonds, § 27. Coupon tickets, see CARRIERS, § 22.

Regulation and prohibition of use of coupons and similar trade devices. L.R.A. 1917A, 433; L.R.A.1918B, 383.

COURSES AND DISTANCES.

In description of mining claim. 7 L.R.A. (N.S.) 838.

COURT ATTENDANT.

As a public officer. 17 L.R.A. 245.

COURTHOUSE.

Power to conduct court at place other than the courthouse. L.R.A.1917E, 363.

Validity of contract as to location of. 4 L.R.A.(N.S.) 589.

Bribery by gift to obtain location of. 14 L.R.A. 62.

Right of municipality to secure erection of, by paying for instalments as erection progresses. 12 L.R.A.(N.S.) 433.

Right of taxpayer in absence of statute to enjoin erection of, by municipality. 36 L.R.A.(N.S.) 18.

COURTHOUSE—cont'd

Mechanics' lien on. 35 L.R.A. 142. Lease or license of, for private use.

L.R.A. 118.

Liability of municipality for tort in con-

nection with. 25 L.R.A.(N.S.) 91. Right of taxpayer, in absence of statute, to enjoin issuance or payment of courthouse bonds by municipality. L.R.A.(N.S.) 6.

Reverter of land dedicated or conveyed for purposes of courthouse upon removal of county seat. 35 L.R.A. (N.S.) 603.

### COURT OF CLAIMS.

See ALABAMA CLAIMS; COURTS, § 45.

### COURT ROOM.

Validity of proceedings in course of trial outside of. 41 L.R.A. 563.

Right of court to exclude public from, during criminal trial. 9 L.R.A.(N.S.) 277; 27 L.R.A.(N.S.) 487; 44 L.R.A. (N.S.) 583.

Intoxication in, as a contempt. 33 L.R.A. (N.S.) 138.

#### COURTS.

I. In general, § 1. II. Jurisdiction and powers in gen-

eral, §§ 2-13. a. In general, \$\$ 2-4.

b. As to what matters, §§ 5-9. c. Over what persons or bodies,

\$\$ 10-12. d. Legislative power as to, \$ 13.

III. Relation to other departments of government, §§ 14-18.

IV. Jurisdiction as affected by residence, citizenship, or territorial

limitations, §§ 19-26.

V. Jurisdiction as affected by amount involved, \$\$ 27-29.

VI. Original jurisdiction of court of last resort; superintending con-

trol, \$\$ 30, 31. VII. Various particular \$\$ 32-45. tribunals,

a. In general, \$ 32.

b. State courts, \$\$ 38, 34.

c. Territorial courts, \$\$ 85, 85a.

d. Federal courts, \$\$ 86-44. 1. In general, 🖇 36, 36a. 2. Jurisdiction, §§ 37-44.

e. Court of claims, § 45. VIII. Time; terms; vacation, §§ 47.

Consult also L.R.A. Digests of Cases.

COURTS-cont'd

IX. Concurring and conflicting jurisdiction; relation of state to Federal, §§ 48-54.

a. In general, \$\$ 48-51. b. State and Federal courts, \$\$ 52-54.

X. Rules of decision, \$\$ 55-59.

### I. In general.

§ 1. Generally. Abatement of action by pendency of action in other court, see ABATEMENT AND REVIVAL, §§ 5-7.

Relation of attorneys to, see ATTORNEYS, §§ 2-6.

Clerks of, see CLERKS, §§ 3-7.

Contempt of, see Contempt. Courts-Martial, see Courts-Martial.

Property in custody of, see Custody or LAW.

Evidence in, see EVIDENCE.
Judicial notice by, see EVIDENCE, II. Judicial notice as to courts and judicial

matters, see EVIDENCE, §§ 7, 8.

Courts of equity, see Equity. As to judges, see Judges.

Judgment of, see JUDGMENT.

Mandamus to, see Mandamus, § 4. Orders of, see Motions and Orders. Prohibition to, see Prohibition.

Records of, see RECORDS AND RECORDING LAWS, §§ 7, 8.

Questions for, see TRIAL, III.

Necessity of consent of court to entry of nolle prosequi in a criminal case. 45 L.R.A. (N.S.) 1120.

Coercion of disagreeing jury by. 16 L.R.A. 643.

Equal protection as to. 14 L.R.A. 585. Personal liability of highway officers for negligence as affected by order of court. 22 L.R.A. 829.

What constitutes offense of attempt to influence officers of. 21 L.R.A. (N.S.) 905.

Use of pledged instrument in, as uttering or publishing. 8 L.R.A.(N.S.) 1180. Does privilege as to communications or

boes privilege as to communications of information acquired by physician extend to physician employed by, 16 L.R.A. (N.S.) 888; L.R.A.1915F, 892. Duty of court before accepting plea of guilty in capital case. 22 L.R.A. (N.S.) 463.

Does standard or solar time govern in legal proceedings. 1 L.R.A. (N.S.) 364; 6 L.R.A.(N.S.) 1046; 35 L.R.A.(N.S.)

Validity of court business transacted on legal holiday. 10 L.R.A.(N.S.) 791.

### II. Jurisdiction and powers in general.

#### a. In general.

§ 2. Generally. As affected by territorial limitations, see infra, IV. COURTS, II. a-cont'd In probate matters, see infra, § 34. Of Federal court, see infra, VII. d, 2. Admiralty jurisdiction, see ADMIRALTY.
Appellate jurisdiction, see APPEAL AND EB-

пон, §§ 4-6. Acquiring jurisdiction by appearance, see

APPEARANCE, § 4. In bankruptcy proceedings, see BANK-

RUPTCY, § 8. Of equity, see EQUITY, I.

In patent cases, see PATENTS, § 5.

Of quo warranto proceedings, see Quo WAR-RANTO, § 2.

Of action of trover, see TROVER AND CON-VERSION, § 5.

Jurisdiction of action to construe wills, see WILLS, § 131.

Delegation of power to court or judge, see CONSTITUTIONAL LAW, § 16.

Usurpation of power by courts, see Constitutional Law, § 19.

Encroachments on judicial power, see Con-STITUTIONAL LAW, § 20.

Power to punish for contempt, see Con-**TEMPT, § 10.** 

Power to grant new trial, see NEW TRIAL, § · 2.

Power to call and examine witnesses, see WITNESSES, § 29.

Jurisdiction to appoint receiver, see RE-CEIVER, § 3.

Removal of causes to Federal courts, see REMOVAL OF CAUSES.

As affected by mode of serving process, see WRIT AND PROCESS, II.

Validity of provision in contract as to place where action may be brought. L.R.A. 1916D, 696.

Under what circumstances may a court decline jurisdiction. 6 B. R. C. 334.

Power of court to act as determined by place of performance. 33 L.R.A. 87; L.R.A.1917E, 361.

On unauthorized appearance by attorney. 21 L.R.A. 848.

Judicial control of discretion as to reinstatement of insured. 40 L.R.A.(N.S.) 148.

Conclusiveness of prior decisions on appeal as to jurisdiction. 34 L.R.A. 334. Presumption as to. 12 L.R.A. 575.

Jurisdiction as affected by question whether suit for statutory penalty is a civil or criminal prosecution. 27 L.R.A. (N.S.) 744.

Waiver of lack of, or defects in, service of process by special appearance on appeal from justice's court, 34 L.R.A. (N.S.) 664.

Taking steps to contest a cause on the merits after a special appearance, as waiver of objections to the jurisdiction over the person. 16 L.R.A. (N.S.) 177; L.R.A.1916E, 1082.

What courts have jurisdiction to grant relief from mistake of law as to effect of instrument. 28 L.R.A.(N.S.) 896.

COURTS, II. a-cont'd

Power of court to permit personal representative, testamentary trustee, or guardian to carry on business in behalf of estate. 40 L.R.A.(N.S.) 210.

§ 3. Ouster of jurisdiction.

Constitutionality of statute forbidding contracts ousting jurisdiction of court. 48 L.R.A.(N.S.) 855.

Ouster of jurisdiction of courts by arbitration agreement. 47 (N.S.) 348.

Provision for testing election of city officer before city council or other municipal body as exclusive of remedies in court. 26 L.R.A.(N.S.) 207.

Nonouster of jurisdiction of courts by contracts requiring servant to elect between acceptance of benefits out of relief fund and prosecution of his claims in an action for damages. 11

L.R.A.(N.S.) 191.

Is state court's jurisdiction of creditor's attack on preference ousted by bankruptcy proceedings commenced more than four months after preference. 28

L.R.A. (N.S.) 363.

Effect of lack of jurisdiction;
 challenging jurisdiction.

Estoppel of party who has invoked jurisdiction to deny it. 15 L.R.A. 273.

Estoppel to deny facts pleaded to defeat

jurisdiction of court. 15 L.R.A. (N.S.) 423

Devestiture of estates of persons not in being by decree beyond court's jurisdiction. 42 L.R.A. (N.S.) 441.

Injunction against judgments for want of jurisdiction. 31 L.R.A. 200.

Right of alleged fraudulent grantee to attack judgment against grantor for lack of jurisdiction. 67 L.R.A. 603.

Effect of lack of jurisdiction of court in which malicious prosecution is begun on right to maintain action therefor. 2 L.R.A.(N.S.) 1100.

As affecting liability for false imprisonment. 18 L.R.A. 356.

As affecting perjury. 54 L.R.A. 513; 40 L.R.A. (N.S.) 250.

#### b. As to what matters.

5. Generally.

Power to grant new trial, see New TRIAL. Power to grant remittitur, see NEW TRIAL, § 14.

Jurisdiction of partition suit, see PARTI-TION, §§ 2, 3.

Judicial power to review action of board as to licenses of physicians, dentists, etc. 20 L.R.A. 355.

Judicial power to set aside divorces. L.R.A. 1917B, 417.

Constitutional power to appoint officers. 16 L.R.A. 737.

Power to vacate highway. 26 L.R.A. 826. Jurisdiction over proceedings for estab-lishment of drains and sewers. 60 L.R.A. 174.

COURTS, II. b—cont'd

Power of court to require owner of premises or property to permit inspection in

negligence case. L.R.A.1917E, 838.

Power to regulate or prohibit private schools. 29 L.R.A.(N.S.) 55.

Power to compel establishment of railway stations. 17 L.R.A.(N.S.) 822.

Power of court to call and examine witnesses, 57 L.R.A. 785.

Power to require ballot boxes to be produced and opened in proceedings other than election contests. 33 L.R.A. 386.

Power of trial court to correct its records after appeal or writ of error. L.R.A.(N.S.) 207.

Power to provide necessary places and equipment for their business. L.R.A. 398.

Jurisdiction of suit to enjoin execution sales or other proceedings under final process. 30 L.R.A. 132,

Jurisdiction of courts in actions on contractor's bonds given to owners. 27 L.R.A. (N.S.) 600.

Jurisdiction of action growing out of collision of vessel with bridge. 21 L.R.A. (N.S.) 324.

Right to resort to court to recover taxes paid on erroneous or excessive assessments without previous resort to stat-

utory remedies. 16 L.R.A.(N.S.) 685. Right of creditor of taxing district to invoke aid of court to obtain satisfaction of debt, where ordinary remedies not available. 32 L.R.A.(N.S.) 1020.

Permitting chancery to set aside a verdict upon an issue directed to a law court as infringing the powers of the latter. 8 L.R.A. (N.S.) 866.

§ 6. With respect to statutes and ordinances.

Inquiry into conclusiveness of enrolled bill. 23 L.R.A. 340.

§ 7. In cases of trust.

In enforcement of charitable trust, see CHARITIES, §§ 10, 11.

Power to dissolve trust. 18 L.R.A. 745. Assistance of, in revoking or setting aside voluntary trust or settlement. 15 L.R.A. 78.

Power of court to change number of trustees designated in trust instrument. 1 L.R.A. (N.S.) 802.

Power of court to consent to conveyance by trustee under a trust requiring consent by cestui que trust. 39 L.R.A. (N.S.) 39.

Power to permit carrying on of business by personal representative, testamentary trustee, or guardian. 40 L.R.A. (N.S.)

§ 8. In annulment cases,

In divorce cases, see DIVORCE AND SEPARA-TION, §§ 7-12.

Equity jurisdiction, see Equity, § 12.

Jurisdiction to annul marriage for insanity of one of the parties. 40 L.R.A. 745. Consult also L.R.A. Digests of Cases.

COURTS, II. b—cont'd

Local domicil or residence as a condition of jurisdiction in action to annul marriage. 30 L.R.A.(N.S.) 7451

🖇 9. Criminal cases.

As affected by territorial limitations, see infra, § 25.

Power to suspend sentence, see CRIMINAL LAW, § 84.

Power in criminal matters generally, see CRIMINAL LAW, IV., VI.

Jurisdiction of state courts over criminal proceedings under Federal laws. 48 L.R.A. 38.

Jurisdiction of criminal, actions against consul. 45 L.R.A. 584.

Power of consul to send criminals to home

country for trial. 45 L.R.A. 485. Jurisdiction to punish crimes committed by or against Indians. 21 L.R.A. 169; L.R.A.1915F, 587.

Sufficiency of averment in indictment or information for perjury as to jurisdiction of court to administer oath. 32 L.R.A.(N.S.) 142.

Right of court to exclude public from court room during criminal trial., 9 J. R.A. (N.S.) 277; 27 L.R.A. (N.S.) 487; 44 L.R.A. (N.S.) 583; L.R.A.1918C, 1168,

Right of court in criminal case to direct a verdict of guilty. 22 L.R.A.(N.S.) 304.

Power to suspend sentence or stay execution thereof. 33 L.R.A.(N.S.) 112: 39 L.R.A.(N.S.) 242; L.R.A.1915C, 1169.

Power to advise but not to compel exercise of power by public prosecutor to dismiss prosecution. 35 L.R.A. 708.

Abduction or wrongful bringing of criminals into jurisdiction as a defense to prosecution. 15 L.R.A. 177.

c. Over what persons or bodies.

§ 10. Over consuls.

Jurisdiction over consuls. 45 L.R.A. 580.

§ 11. Over corporations and associations.

Jurisdiction of Federal court, see infra, §§ 40, 43.

Over foreign corporations, see infra, §§ 23,

Mandamus against corporation, see MANDA-MUS, §§ 12-15.

Service of process on corporation, see WRIT AND PROCESS, \$\$ 22-29.

What service of process upon corporation is sufficient to constitute due process of law. 59 L.R.A. 588.

Relief of member of labor union from unlawful fine or suspension. 45 L.R.A. (N.S.) 853.

When civil courts have jurisdiction of controversy between association; and its members. 49 L.R.A. 353.

Conclusiveness of decisions of tribunals of associations or corporations. 49 L.R.A. 353; 2 L.R.A. (N.S.) 672. COURTS, II. o-cont'd

Conclusiveness of decision of tribunal of mutual benefit society expelling or suspending a member. 52 L.R.A. (N.S.) 806.

Conclusiveness of decisions of tribunals of mutual benefit associations directly upon claims for benefits; and duty to exhaust remedies within association. 52 L.R.A.(N.S.) 823.

Necessity of exhausting remedies within or-der, against decision expelling or suspending a member from a mutual benefit association. 52 L.R.A. (N.S.) 817.

§ 12. - over religious societies; conclusiveness of decisions of ecclesiastical tribunals.

Civil power to review excommunication of church member. 15 L.R.A. 801.

Jurisdiction of litigation growing out of schism or division in religious society. 24 L.R.A.(N.S.) 692.

Review by civil court of dismissal or removal of priest or minister by an ecclesiastical tribunal. 35 L.R.A. (N.S.) 919.

Review by civil courts of expulsion of member of a religious society. (N.S.) 1154. 4 L.R.A.

Power of civil court to compel restoration of member expelled by religious society. 36 L.R.A.(N.S.) 945.

Power of courts to order new election for trustee of religious society because of doubt as to result of original election. 31 L.R.A.(N.S.) 686.

Conclusiveness of decisions of ecclesiastical tribunals. 49 L.R.A. 384.

Conclusiveness of decision of ecclesiastical tribunal as to its own jurisdiction or powers. 24 L.R.A.(N.S.) 701.

Conclusiveness on merits of decision removing priest or minister. 35 L.R.A.(N.S.)

### d. Legislative power as to.

13. Generally.

Delegation of power to courts by legislature, see Constitutional Law, § 16.

Encroachment by legislature on power of courts, see Constitutional Law, § 20.

Legislative authority to abridge power of court to punish for contempt. L.R.A. 254.

Power of legislature to impose on judges duty to assist in drawing jurors. 23 L.R.A. (N.S.) 1115.

Power of legislature to interfere with superintending control over inferior tribunals. 51 L.R.A. 111; 20 L.R.A. (N.S.)

Power of legislature to permit appeal to court to review amount of tax assessment. 13 L.R.A.(N.S.) 716; L.R.A. 1915B, 875.

May judges of municipal or police courts be vested or burdened with powers or duties of a nonjudicial character. 19 Judicial power over the right of eminent L.R.A.(N.S.) 615.

COURTS, II. d—cont'd

Validity of statutes establishing juvenile courts. 3 L.R.A.(N.S.) 564; 45 L.R.A. (N.S.) 908.

### III. Relation to other departments of government.

14. Generally.

Power of legislature as to courts, see supra, § 13.

Delegation of judicial power, see Constitutional Law, V.

Delegation of power to courts, see CONSTITUTIONAL LAW, § 16.

Encroachments on judicial power, see Con-STITUTIONAL LAW, § 20.

Appeal to court from tax assessment, see TAXES, § 59c.

Review of findings of workmen's compensation commission, see WORKMEN'S COM-PENSATION, § 8.

Restriction on original jurisdiction of court of last resort in mandamus case from independence of co-ordinate department of government. 58 L.R.A. 866.

May judges of municipal or police courts
be vested or burdened with powers or
duties of nonjudicial character. 19
L.R.A.(N.S.) 615.

Interference by with revocation of school teacher's license. 15 L.R.A.(N.S.) 1148.

Right to appeal to court from decision of railroad commission. 49 L.R.A. (N.S.)

Conclusiveness of decisions or findings of the Land Department. L.R.A.1918D, 597.

§ 15. Legislative department.

Conclusiveness of enrolled bill, see STAT-UTES, § 12.

Power to declare act of legislature unconstitutional. 17 L.R.A. 838.

Judicial interference with legislative power to fix tolls, rates, and prices. L.R.A. 183.

Power of judiciary to fix rates to be charged by public-service corporations. 8 L.R.A. (N.S.) 529.

Judicial regulation of rates of irrigation company. 12 L.R.A.(N.S.) 711.

Power of equity to regulate charges of public warehousemen. 24 L.R.A. (N.S.) 399.

Power of court to control legislative power to annex territory to municipalities. 27 L.R.A. 739.

16. — eminent domain.

Where the power rests to decide what is a public use. 22 L.R.A. (N.S.) 50.

Necessity of taking particular land by eminent domain, as a judicial question. 11 L.R.A. (N.S.) 940.

domain. 22 L.R.A.(N.S.) 1.

COURTS, III.—cont'd

§ 17. Executive department.

Power of courts to enforce ministerial duties of heads of departments. 52 L.R.A. (N.S.) 415.

Mandamus to members of, to restore to office one who has been illegally removed. 19 L.R.A. (N.S.) 52.

Conclusiveness on courts of recognition of Mexican government by President. L.R.A.1917A, 280.

Power of court to review action of governor in removing officer. 39 L.R.A.(N.S.)

Power of court to inquire into the motives of the governor in exercising the par-doning power. 52 L.R.A. (N.S.) 113.

Power of courts to interfere with rulings of Postoffice Department. 12 L.R.A. (N.S.)

18. Municipal matters.

Municipal declaration of forfeiture of street franchise or privilege for breach of condition as a judicial determination. 4 L.R.A. (N.S.) 321.

IV. Jurisdiction as affected by residence, citizenship or territorial limitations.

19. Generally.

Federal jurisdiction as affected by residence or citizenship, see infra, §§ 42, 43.

Abatement of action by pendency of action in court of other state, see ABATEMENT AND REVIVAL, § 6.

Right of courts of one state to enforce laws or causes of action arising in another state, see CONFLICT OF LAWS.

Jurisdiction in divorce as affected by domicil, residence, or place of marital of-fense, see CONFLICT OF LAWS, § 14.

Jurisdiction of action for death or bodily harm occurring in another state, see CONFLICT OF LAWS, § 22.

Enforcement of penal laws of another state, see Conflict of Laws, § 23.

Where debt is garnishable, see GARNISH-MENT, § 12.

Judgments of courts of sister state, see JUDGMENT, §§ 66-73.

Discriminating against citizens of other states. 14 L.R.A. 583.

Extraterritorial effect of statute limiting jurisdiction in which action may be brought. L.R.A.1916D, 688.

Liability of soldiers' home to garnishment in state courts. 46 L.R.A.(N.S.) 301. Liability of municipal corporation to suit outside of state. L.R.A.1915F, 1025.

Where suit against heir by creditor of estate which has been distributed before claim accrued should be brought. L.R.A. 1916A, 1189.

Absence from jurisdiction of person to whom writ of habeas corpus is directed as affecting court's authority to issue writ. 4 B. R. C. 810.

· Necessity of exhaustion of remedy as to property situate beyond jurisdiction as condition precedent to creditors' bill. 23 L.R.A.(N.S.) 88.

Consult also L.R.A. Digests of Cases.

COURTS, IV.—cont'd

Place of payment of debt as affecting jurisdiction to garnish same. 3 L.R.A. diction to garnish same. (N.S.) 608; 20 L.R.A.(N.S.) 264.

Jurisdiction to award custody of child temporarily within the state but domiciled elsewhere. 10 L.R.A. (N.S.) 690.

Right to sue executor or administrator on his bond in a state other than that of his appointment. 35 L.R.A. (N.S.) 334.

Effect of qualification of personal representatives within state, other than the domicil of the deceased, to give court jurisdiction as to assets in another state. L.R.A.1918E, 718.

View outside the territorial jurisdiction. L.R.A.1917F, 984.

Power to punish contempt committed out of state. L.R.A.1917E, 553.

§ 20. Over boundary waters.

Över sea, see WATERS, § 4. Over boundary rivers or lakes, see WATERS,

§§ 5, 6. Over inland rivers, see WATERS, § 7.

§ 21. Matters as to real property.

In general; jurisdiction limited to suits in personam. 69 L.R.A. 673; 23 L.R.A. (N.S.) 924; 27 L.R.A.(N.S.) 420.

Conditions of jurisdiction. 69 L.R.A. 675. Particular subjects of jurisdiction. 69 L.R.A. 678; 23 L.R.A. (N.S.) 924; 27 L.R.A. (N.S.) 420.

Form of relief; effect and enforcement of decree. 69 L.R.A. 694.

Jurisdiction to enjoin acts with respect to real property in another state. L.R.A.(N.S.) 114.

May jurisdiction of suit to quiet title or remove cloud on title of land within the territorial jurisdiction rest upon constructive service of process against a nonresident. 29 L.R.A. (N.S.) 625.

May jurisdiction of suit for specific performance of a contract for the conveyance of land within the territorial jurisdiction rest upon constructive service of process against a nonresident. L.R.A.(N.S.) 1135.

May jurisdiction of suit to determine the interests of partners or cotenants in real property within state, rest upon constructive service upon nonresident. 52 L.R.A.(N.S.) 1061.

Action for damages for breach of contract, or for tort concerning realty in 26 L.R.A. another state or country. (N.S.) 928; 44 L.R.A.(N.S.) 267.

Right to maintain action for conversion of timber, crops, buildings. etc., taken from land in another state or country. 34 L.R.A.(N.S.) 994.

§ 22. — foreclosure suit.

Foreclosure of mortgage upon land in another state. 69 L.R.A. 682; 4 L.R.A. (N.S.) 986.

Jurisdiction to order foreclosure sale of railroad in different states. 32 L.R.A. 208; 69 L.R.A. 682.

COURTS, IV.—cont'd ...

\$,23. Over foreign corporation.

Jurisdiction of Federal court, see infra, VII. d. 2.

Right to enforce stockholder's liability outside of state of incorporation, see Con-PORATIONS, § 121.

Right of nonresident to sue foreign corpora-

tion. 70 L.R.A. 513.
Power of court to compel a foreign corpora-I tion to register transfers of stock. " E.R.A. (N.S.) 551.

Enforceability in court of another state of a contract made by a foreign corpora-tion which had not complied with the conditions of doing business within the state. 26 L.R.A. (N.S.) 999.

Locus of cause or subject of action as affecting jurisdiction of action by nonresident against foreign corporation. 70 L.R.A. 543.

Fact that foreign corporation has an agent to solicit business or to receive and transmit orders as rendering it subject to suit in local courts. 6 B. R. C. 808.

§ 24. - locality of jurisdiction of state court over.

Generally. 70 L.R.A. 692.

Jurisdiction coextensive with the state. 70 L.R.A. 692.

Constructive domestic residence. 70 L.R.A.

Counties in which railroads extend. 70 L.R.A. 696.

Venue determined by doing business. 70 L.R.A. 696.

Resident agent. 70 L.R.A. 697.

Place of origin of the cause or situation of the subject of the action. 70 L.R.A. 699.

When the foreign corporation is not sole de-'' 'il' fendant. 70 L.R.A. 701.

Effect of appearance and waiver. 70 L.R.A. 701.

Federal corporations. 70 L.R.A. 702.

Counties where plaintiff resides. 70 L.R.A.

Plaintiff's choice. 70 L.R.A. 702.

Courts of limited jurisdiction. 70 L.R.A.

Constitutionality of venue statutes. L.R.A. 703.

Construction of venue statutes. 70 L.R.A. 703.

2 25. Over crimes.

Locality of crimes committed by shooting or , striking across state boundary. L.R.A. 59.

Jurisdiction of homicide where mortal wound is inflicted in one state or country and death occurs in another. L.R.A.(N.S.) 822.

Locality of crime committed through the agency of the mails or of carriers. 19 L.R.A. 775.

Jurisdiction to punish crimes committed by or against Indians. 21 L.R.A. 169; L.R.A.1915F, 587.

Begin with this book on every law question.

COURTS, IV.—cont'd

Absence of accused from territorial jurisdiction at time of offense as affecting jurisdiction. 33 L.R.A.(N.S.) 331.

Prosecution for larceny of one who receives or sells within the state property actually stolen with his connivance by another in another state. 42 L.R.A. (N.S.) 207.

Offense of desertion or failure to provide for wife or family as affected by residence of parties. 47 L.R.A. (N.S.) 220. Locality of offense of criminal libel. L.R.A.(N.S.) 941.

§ 26. Suit against foreign sovereign. Jurisdiction of suit against foreign sovereign. 16 L.R.A. (N.S.) 276.

V. Jurisdiction as affected by amount involved.

§ 27. Generally.

In injunction suit, see Injunction, § 81.

Injunction against judgment for matters as to amount. 31 L.R.A. 203.

Amount in dispute in case of injunction against enforcement of liens or claims against specific property. 61 L.R.A.

Is amount of attorney's fee expressly stipulated for to be included in computing amount involved, for purpose of ascertaining jurisdiction. 27 L.R.A.(N.S.) 157; 49 L.R.A.(N.S.) 600.

§ 28. Effect of counterclaim in amount in excess of jurisdiction.

In court of original jurisdiction. 37 L.R.A. (N.S.) 607.

In appellate court. 37 L.R.A. (N.S.) 616.

§ 29. Voluntary credits to bring debt within jurisdictional amount.

The rule permitting remission. 28 L.R.A. 222.

The rule as affected by the character of the claim. 28 L.R.A. 223.

Remission of interest. 28 L.R.A. 225. Rule denying the right to remit. 28 L.R.A. 226.

What constitutes a remission. 28 L.R.A. 228.

When made. 28 L.R.A. 229.

VI. Original jurisdiction of court of last resort; superintending control.

§ 30. Superintending control and supervisory jurisdiction over inferior courts.

Generally. 51 L.R.A. 33; 20 L.R.A. (N.S.) 942

Inherent power of supervisory or superintending control over inferior tribunals. 51 L.R.A. 34.

Constitutional and statutory grants of superintending control, general supervision, etc. 51 L.R.A. 37; 20 L.R.A. (N.S.) 943.

COURTS, VI.-cont'd

In states which have no express constitutional or statutory grants of power. 51 L.R.A. 74.

In courts of the United States. 51 L.R.A. 103; 20 L.R.A.(N.S.) 945.

Where the application to correct should be first made. 51 L.R.A. 107; 20 L.R.A.(N.S.) 946.

When the power is exercised without designating it as such. 51 L.R.A. 107.

Use in place of appeal or other remedy. 51 L.R.A. 109; 20 L.R.A.(N.S.) 949. For what purposes exercised. 51 L.R.A. 109.

For what purposes exercised. 51 L.R.A. 109. Power of legislature to interfere. 51 L.R.A. 111; 20 L.R.A.(N.S.) 946.

Exercise of the power by courts of local jurisdiction. 51 L.R.A. 111.

Over what courts or jurisdictions power may be exercised. 20 L.R.A.(N.S.) 947.

Mode in which power may be exercised. 20 LR.A.(N.S.) 947.

Policy governing its exercise. 20 L.R.A. (N.S.) 948.

Occasions for its exercise. 20 L.R.A. (N.S.) 949.

Exclusiveness of jurisdiction of court of last resort to issue remedial writs for prerogative purposes. 13 L.R.A.(N.S.) 769.

Superintending control of civil courts over courts-martial. 20 L.R.A. (N.S.) 413.

§ 31. Original jurisdiction in mandamus cases.

In general. 58 L.R.A. 833; 38 L.R.A. (N.S.) 1000.

What constitutes original jurisdiction. 58 L.R.A. 833.

Origin and nature. 58 L.R.A. 834.

Method of conferring and extent of. 5 L.R.A. 836.

Restrictions and limitations on jurisdiction. 58 L.R.A. 855; 38 L.R.A. (N.S.) 1000.

### VII. Various particular tribunals.

#### a. In general.

\$ 32. Generally.

Conclusiveness of decisions of tribunals of corporations and associations, see supra, §§ 11, 12.

As to juvenile court, see JUVENILE COURTS.

Jurisdiction and powers of consuls. 4
L.R.A. 481.

Jurisdiction of ecclesiastical tribunals. 49 L.R.A. 390.

#### b. State courts.

§ 33. Generally.

Jurisdiction generally, see supra, II.

Jurisdiction as affected by residence, citizenship, or territorial limitations, see supra, IV.

Consult also L.R.A. Digests of Cases.

COURTS, VII. b-cont'd

Locality of jurisdiction of state court over foreign corporation, see supra, § 24.

Jurisdiction as affected by amount involved, see supra, V.

Original jurisdiction, and superintending control, see supra, VI.

Concurring jurisdiction of state and Federal courts, see infra, §§ 52-54.

Power and jurisdiction of state courts as to Federal matters, see infra, § 54.

State courts following Federal decisions, see infra, § 57.

Federal courts following state decisions, see infra, § 58.

Locality of jurisdiction of state court over foreign corporation, see supra, 24.

Jurisdiction of United States Supreme Court to review judgments of, see APPEAL-AND ERBOR, § 4.

Removal of cause from, see REMOVAL OF CAUSES.

Admissibility in evidence in, of copies of Federal records. 5 L.R.A.(N.S.) 947.

Change of decision of state court as an impairment of contract. 16 L.R.A. 646.

Jurisdiction of criminal actions against consuls. 45 L.R.A. 584.

Jurisdiction of civil actions against consuls. 45 L.R.A. 582.

Jurisdiction of state court of action by carrier to recover difference between rate charged on interstate shipment and proper rate. 49 L.R.A.(N.S.) 99.

§ 34. Courts of probate jurisdiction.

Jurisdiction to admit to probate will not probated at testator's domicil. 33 L.R.A.(N.S.) 658.

Notice of distribution in probate proceedings as jurisdictional. 37 L.R.A.(N.S.)

Right of representative of decedent's estate to interplead claimants as affected by exclusiveness of surrogate's jurisdiction. 37 L.R.A.(N.S.) 986.

Power to dismiss proceedings. 2 L.R.A. 644.

Power to authorize lease of infant's lands beyond his minority or the guardianship. L.R.A.1916F, 500.

Power to elect against will on behalf of insane widow. 17 L.R.A. 297: 35 L.R.A.(N.S.) 1210; 49 L.R.A.(N.S.) 1108

#### c. Territorial courts.

§ 35. Generally.

Admissibility in evidence in, of copies of records from other tribunals. 5 L.R.A. (N.S.) 948.

Removal of criminal cases from territorial courts. 53 L.R.A. 581.

§ 35a. Jurisdiction of.

Jurisdiction to punish crimes committed by or against Indians. 21 L.R.A. 173.

COURTS, VII.—cont'd

#### d. Federal courts.

#### 1. In general.

§ 36. Generally.

Conflict of authority between state and Federal courts, see infra, IX.

State courts following Federal decisions, see infra, § 57.

Federal courts following state decisions, see infra, § 58.

Lien of judgment of, see JUDGMENT, § 59.
Removal of action to, see REMOVAL OF
CAUSES.

Adoption of common law in. 22 L.R.A. 506,

Sustaining, in Federal court, in bankruptcy case, equitable rights of wife which were not recognized by local law. 1 L.R.A.(N.S.) 321.

Superintending control over inferior tribunals. 20 L.R.A.(N.S.) 945.

Serving process of Federal courts on foreign corporations. 23 L.R.A. 501.

Admissibility in evidence in, of copies of records of other states. 5 L.R.A.(N.S.) 944.

What entry or record is necessary in, for purposes of appeal. 28 L.R.A. 627.

Review of decision of, by supreme court on certiorari. 50 L.R.A. 801.

certiorari. 50 L.R.A. 801. Lien of judgment of Federal court. 47 L.R.A. 469.

Power of Federal courts to enforce ministerial duties of state officers, 52 L.R.A. (N.S.) 434.

§ 36a. Adoption by Federal courts of remedies created by state statutes. Preservation of equity jurisdiction. 18 L.R.A. 266.

Enlargement of equitable remedies. 18 L.R.A. 266.

Limitation or enlargement of equity powers. 18 L.R.A. 267.

Extending legal remedies. 18 L.R.A. 268. Limiting equitable jurisdiction. 18 L.R.A. 269.

#### 2. Jurisdiction.

§ 37. Generally.

Concurring and conflicting jurisdiction of state and Federal courts, see infra, IX.

Jurisdiction of national banks, see BANKS, § 48.

Jurisdiction on habeas corpus, see HABEAS CORPUS, § 2.

Effect of state statutes on Federal jurisdiction of suit to remove cloud on title. 12 L.R.A.(N.S.) 76.

Jurisdiction of civil actions against consuls. 45 L.R.A. 580.

Jurisdiction of criminal actions against consuls. 45 L.R.A. 584.

Extending legal remedies of Federal courts by state statutes. 18 L.R.A. 268.

Begin with this book on every law question.

COURTS, VII. d, 2-cont'd

Authority of Congress to abridge power of Federal courts to punish for contempt. 36 L.R.A. 258.

Jurisdiction of actions under Federal employers' liability act. 47 L.R.A.(N.S.) 67; L.R.A.1915C, 75.

Jurisdiction of Federal court of action by interstate carrier to recover undercharges. 49 L.R.A.(N.S.) 99.

§ 38. Equity jurisdiction.

Adoption of remedies created by state statutes affecting, see supra, § 36a.

Jurisdiction of Federal courts to enjoin execution sales or other proceedings under final process. 30 L.R.A. 133.

Availability in Federal courts of statutory remedies limiting or enlarging equity powers. 18 L.R.A. 266.

Effect of state legislation to extend equity jurisdiction. 18 L.R.A. 268.

Effect of state legislation to limit, or restrain equity jurisdiction. 18 L.R.A. 269.

§ 39. Federal questions.

Power and jurisdiction of state court with reference to Federal matters, see infra, § 54.

In patent cases, see PATENTS, § 5.

Jurisdiction of United States Supreme Court in action against national bank to recover penalty for taking usurious interest. 56 L.R.A. 680.

Questions as to national banks as Federal questions. 62 L.R.A. 536.

§ 40. Over corporations.

As dependent on citizenship of, see infra, § 43.

Enforcement of stockholder's liability outside of state in Federal courts. 34 L.R.A. 761.

Enforceability in Federal court of a contract made by a foreign corporation which had not complied with conditions of doing business within the state. 26 L.R.A.(N.S.) 999.

Conditions against foreign coporation invoking Federal jurisdiction. 24 L.R.A. 294.

§ 41. Of action by assignee.

Suit by assignee of chose in action. I L.R.A. 817;\* 12 L.R.A. 681.\*

When assignee of chose in action may sue in United States circuit court. 2 L.R.A. 746.\*

§ 42. As dependent on citizenship.

Right of citizen of District of Columbia to maintain suit in circuit court on the ground of diverse citizenship. 1 L.R.A. 108.\*

Necessity of diversity in citizenship at time suit brought. 1 L.R.A. 108.\*

COURTS, VII. d, 2-cont'd § 43. — of corporations.

Citizenship of corporation, for purposes of Federal jurisdiction, in state other than that where created. 14 L.R.A.

§ 44. Over crimes by or against Indians. See Indians, § 2.

#### e. Court of claims.

§ 45. Generally. Act creating. 2 L.R.A. 572.\* Jurisdiction, practice, and procedure. L.R.A. 463.\*

### VIII. Time; terms; vacation.

§ 46. Generally.

Delay of prosecution caused by failure to hold court, as ground for discharge of accused. 56 L.R.A. 530.

Extension of time for court proceedings when last day falls on Sunday. 14 L.R.A. 122.

Sitting on holidays. 19 L.R.A. 317.

\$ 47. Vacation.

Personal liability of executor or administrator to distributees for interest where settlement of estate is delayed by vacation of court. 31 L.R.A.(N.S.) 359. Entry of sunc pro tune judgments in. 20 L.R.A. 147.

IX. Concurring and conflicting jurisdiction; relation of state to Federal.

### a. In general.

§ 48. Generally.

Jurisdiction and determination of suits for adjustment of rights between part owners of ship. L.R.A.1917A, 1108.

Concurrent jurisdiction over boundary rivers. 65 L.R.A. 964

Conflicting authority in drainage proceedings. 60 L.R.A. 175.

Conflict of jurisdiction as to garnishment of debt. 67 L.R.A. 220.

Exclusiveness of jurisdiction of court of last resort to issue remedial writs for prerogative purposes. 13 L.R.A.(N.S.) 769.

Superintending control of civil courts over courts-martial. 20 L.R.A.(N.S.) 413.

Concurrent jurisdiction over offense under municipal ordinance and state statute. 17 L.R.A.(N.S.) 57.

4 49. Exclusiveness of jurisdiction first acquired.

Between state and Federal courts, see infra, § 53.

\$ 50. - where receiver has been appointed.

between a receiver and an assignee in bankruptcy. 20 L.R.A. 391. Consult also L.R.A. Digests of Cases.

COURTS, IX. a—cont'd

As to property that is outside of the juris-diction of the court appointing a receiver. 20 L.R.A. 392.

As to right of possession between the receiver and a creditor levying an execution or attachment on the property. 20 L.R.A. 392.

As to receiver's right of possession as af-fected by the time of appointment, giving bond, and taking possession. L.R.A. 393.

As to questions between state and Federal courts. 20 L.R.A. 393.

As to the effect of an appeal. 20 L.R.A.

Effect of order to turn back the property after appeal from appointment of receiver upon right of other courts to exercise jurisdiction over it. 15 L.R.A. (N.S.) 963.

Effect of appeal from order appointing receiver of corporation to enable a court of concurrent jurisdiction to take jurisdiction. 22 L.R.A.(N.S.) 316.

Effect of attachment of real estate to defeat right of receiver subsequently appointed by another court, to possession. 3 L.R.A.(N.S.) 1073.

What court has jurisdiction to fix attorneys' fees for services in suit by or against receiver. L.R.A.1915F, 1219.

§ 51. Interference with other courts; injunction.

Injunction against suit in foreign jurisdiction. 21 L.R.A. 71.

Right to enjoin prosecution of collusive suit in court of co-ordinate jurisdiction. 11 L.R.A.(N.S.) 581.

Garnishment of judgment in another court of the state in which it was rendered. L.R.A.1917D, 1139.

### b. State and Federal courts.

§ 52. Generally.

Jurisdiction of Federal courts generally, see supra, VII. d, 2.

Pendency of actions in both state and Federal courts sitting in same state. 42 L.R.A. 449.

Jurisdiction of estate of inmate of Federal home or institution. 39 L.R.A.(N.S.)

May a state court protect an incheate interest in real property under an attachment in a suit pending in a Federal court, or vice versa. 6 L.R.A. (N.S.) 624.

Power of Federal court to enforce its own judgment against a decedent's estate. 12 L.R.A.(N.S.) 154.

Privilege of suitor or witness in Federal court from arrest or service of summons out of state court. 22 L.R.A. (N.S.) 992.

Jurisdiction to enjoin execution sales or other proceedings under final process. 30 L.R.A. 133.

COURTS, IX. b-cont'd

§ 53. Exclusiveness of jurisdiction first acquired.

Is state court's jurisdiction of creditor's attack on preference ousted by bank-ruptcy proceedings commenced more than four months after preference. 28 L.R.A.(N.S.) 363.

Exclusiveness of jurisdiction by appointment of receiver as between state and Federal courts. 20 L.R.A. 393.

§ 54. Power and jurisdiction of state court with respect to Federal matters.

Administration of Federal laws in state courts. 48 L.R.A. 33.

Power of state court to enforce right under Federal employer's liability act. 40 L.R.A. (N.S.) 684; 47 L.R.A. (N.S.) 72; L.R.A.1915C, 75; L.R.A.1918E, 917.

Jurisdiction to punish crimes committed by or against Indians. 21 L.R.A. 169; L.R.A.1915F, 587. \*

Jurisdiction of state court to enforce forfeiture of interest provided by national banking act. 56 L.R.A. 688.

Jurisdiction of state court over action to re-cover from national bank twice the amount of usurious interest paid to it. 56 L.R.A. 690.

State jurisdiction over lands of the United States within the state. 17 L.R.A. 720.

With respect to naturalization. 30 L.R.A. 761.

Power of state court to pass on interstate rates. 28 L.R.A.(N.S.) 108.

Power of state court to review rulings of Interstate Commerce Commission. L.R.A.1917E, 919.

#### X. Rules of decision.

55. Generally.

Effect and conclusiveness of decision on appeal, see APPEAL AND ERROR, §§ 43, 44.

Weight of decisions of common-law courts as to what contracts will support maritime lien. 70 L.R.A. 358.

Conclusiveness of prior decisions on appeal as to effect of diota. 34 L.R.A. 344.

§ 56. Following decisions of courts of other state.

Binding effect of decisions of state supreme courts on courts of other states. L.R.A. 512.

§ 57. State courts following Federal decisions.

State courts following Federal decisions in construing statute to impose penalty on national banks for taking illegal interest. 56 L.R.A. 677.

§ 58. Federal courts following state decisions.

Federal courts following state decisions as to construction and effect of statutes in relation to state courts. 40 L.R.A. (N.S.) 447.

COURTS, X.—cont'd

Questions of state law as to which the decisions of the highest state court must be followed in actions originating in, or removed to, the Federal courts. 40 L.R.A.(N.S.) 380.

State decisions as to validity of contract exempting railroad company from liability for burning of building upon its right of way. 44 L.R.A.(N.S.) 1129.

Controlling effect of decisions of state court affecting validity of bonds of public corporation where estoppel to deny validity is set up. L.R.A.1915A, 981.

§ 59. Stare decisis.

Doctrine of stare decisis in exercise of judicial power over right of eminent domain. 22 L.R.A. (N.S.) 95.

Construction of penal statute as rule of personal liberty. 12 L.R.A. (N.S.)

Effect of change of judicial decision to impair the obligation of a contract. 16 L.R.A. 646; 5 L.R.A. (N.S.) 860; 23 L.R.A.(N.S.) 500.

### COURTS-MARTIAL.

Civil responsibility of members of. L.R.A. 1915A, 1170.

Right of member of, to maintain action for libel or slander based on charges against court generally. 23 L.R.A.(N.S.) 728. Continuance of constitutional guaranties

during war or insurrection. 45 L.R.A. (N. S.) 996.

Superintending control of civil courts over courts-martial. 20 L.R.A.(N.S.) 413. Right to convict for same offense in both civil courts and courts-martial. 31 L.R.A.(N.S.) 710.

Are state militias subject to the articles of war of the United States. 40 L.R.A. (N.S.) 354.

Right of minor unlawfully enlisted in Army or Navy to discharge on habeas corpus from custody of court-martial under charge of desertion or fraudulent enlistment. 18 L.R.A. (N.S.) 956; L.R.A. 1917D, 1059.

Court-martial of one violating Selective Service Act of May 18, 1917. L.R.A.

1918E, 1025.

#### COUSINS.

Insurable interest in cousin's life. 54 L.R.A. (N.S.) 233; 14 L.R.A.(N.S.) 1172. Implied agreement to pay for services rendered to. 11 L.R.A. (N.S.) 835. Measure of damages for negligent death of.

17 L.R.A. 77.

#### COVE.

Division of rights in, between riparian owners. 21 L.R.A. 776.

#### COVENANTS.

I. In general, § 1.

II. Construction; validity; effect, \$\$ 2-15.

III. Performance; breach; enforcement; who liable, §§ 16-33. In general, §§ 16-20.

b. Restrictive covenants and conditions, §\$ 21-25.

c. Covenants of seisin and of right to convey, \$\$ 26, 27.

d. Covenants against encumbrances, §§ 28-30.

e. Covenants of warranty and for quiet enjoyment, §§ 31-33.

### I. In general.

# 1. Generally.

As to reservations and exceptions, see

DEEDS, §§ 24-27.
In lease, see LANDLORD AND TENANT, §§ 15-22.

Implied or ostensible authority of an agent to bind his principal by covenants in the sale of real property. L.R.A.1917F, 954.

 Registration of covenant under the Torrens Law. L.R.A.1916D, 79.

Covenants on division of building by sale of part thereof. 38 L.R.A. (N.S.) 706.

Effect of alteration of deed after delivery upon covenants. 32 L.R.A.(N.S.) 288; L.R.A.1918B, 490.

Jurisdiction of action of covenant in relation to land in another state or country. 26 L.R.A. (N.S.) 928; 44 L.R.A. (N.S.) 267.

### II. Construction; validity; effect.

§ 2. Generally.

Against engaging in rival business, see Con-TRACTS, §§ 107-109, 117, 118.

Estoppel by, see Estoppel, §§ 3-5.

Covenant of title on sale of chattels, see SALE, § 28.

Admissibility of parol evidence to affect scope of. L.R.A.1916E, 221.

Law governing covenant in deed or mortgage of real property. 17 L.R.A.(N.S.) 1094; L.R.A.1916A, 1027.

In grant of water power. 67 L.R.A. 401. In deed poll. 23 L.R.A. 396.

Dependent and independent covenants as affecting right to rescind or abandon contract for other party's default. 30 L.R.A. 34.

Right of mortgagee to benefit of insurance where mortgage contained a covenant to insure. 25'L.R.A. 305.

How far is tide land within protection of covenants in deed. 62 L.R.A. 763.

Covenants on division of building by sale of part thereof. 38 L.R.A.(N.S.) 706. Consult also L.R.A. Digests of Cases.

COVENANTS, II.—cont'd

Covenants in deed of land held adversely. 35 L.R.A. (N.S.) 739.

Provision directing particular purposes to which property granted for benefit of religious or charitable organization shall be devoted as creating a covenant. 7 L.R.A. (N.S.) 1122.

Do eminent domain proceedings secure title "through or under" the former owner within meaning of covenant. 9 L.R.A.

(N.S.) 1092.

Liability of covenantor in conveyance of real property for expenses of successful defense. 39 L.R.A.(N.S.) 67.

#### 3. Implied covenants.

In lease, see LANDLORD AND TENANT, § 21.

Effect of lines or other indications on recorded plat, to create an implied covenant. L.R.A.1917A, 458.

Implied building restrictions as to parcels retained by the grantor. 45 L.R.A. (N.S.) 962.

Recitals in a deed as basis of implied covenants of title. 18 L.R.A. 343.

Implied covenant of title on sale of chattels, as protection against outstanding encumbrances. 16 L.R.A.(N.S.) 410.

Right of grantee to claim implied covenant, as against the grantor, by a call in the deed for a street or alley in which the grantor owns the fee. 14 L.R.A. (N.S.) 878.

Bounding land on street or alley as covenant that the street or alley exists, where grantor does not own the fee thereof. 10 L.R.A.(N.S.) 964.

#### 4. — not to sue.

Effect of covenant not to sue one joint tort feasor as a release of other. 24 LuR.A. (N.S.) 451.

Release of one joint tort feasor as covenant not to sue others, 58 L.R.A. 299.

### § 5. Restricting use of property.

Enforcement, breach and its effect, see infra, §§ 21-25.

Validity of statute providing for removal of covenant restrictions on use of land. L.R.A.1918B, 61.

Effect of language in deed indicating use or purpose for which land is conveyed. L.R.A.1918B, 696.

Effect of lines or other indications on recorded plat to create an implied covenant. L.R.A.1917A, 458.

Oral or implied building restrictions as to parcels retained by the grantor. 45 L.R.A.(N.S.) 962.

Condition in deed that land is to be used for a specified charitable, public, or quasi-public purpose. 19 L.R.A. 262.

When provision in conveyance as to erection of building or other structure regarded as condition subsequent. 3 L.R.A.(N. S.) 741; 23 L.R.A.(N.S.) 771.

COVENANTS, II.—cont'd

Provision in conveyance directing particular mode to which property granted or devised to or for benefit of religious or charitable organization shall be devoted as creating a condition. 7 L.R.A. as creating a condition. (N.S.) 1121.

- validity.

Validity of restriction in a deed as to use of property reserved for purpose of securing monopoly to the grantor. 1 L.R.A.(N.S.) 909, L.R.A.1915A, 679.

Validity and enforceability of covenant which discriminates against persons because of race, color or religion. L.R.A. 1916B, 1208.

§ 7. — construction and effect.

Construction and effect of general restrictive covenant against the use of real property for purpose offensive or detrimental to the neighborhood. 9 L.R.A. (N.S.) 1039.

Effect of recorded agreement, not incorporated in a conveyance, restricting use of property, upon successor in title. 15 L.R.A.(N.S.) 1129.

Effect of unrecorded agreement, not incorporated in a conveyance, restricting use of property, upon successor to title. 49 L.R.A. (N.S.) 357.

Effect of restrictions on use of property on marketability of title. 38 L.R.A. (N.S.) 34.

### § 7a. Restricting disposition of proporty.

Validity and effect of provision in deed that the grantee shall not sell in the lifetime of the grantor. L.R.A.1916D, 930.

#### 🛊 8. Of seisin.

Enforcement and breach, see infra, §§ 26,

Parol evidence to affect scope of. L.R.A. 1916E, 221.

Scope and effect of covenants of seisin where the granting clause merely purports to convey the interest of the grantor in the property. 32 L.R.A.(N.S.) 588; L.R.A.1916E, 905.

### 8 9. To stand seised.

When may instrument otherwise ineffective as a conveyance of real property be upheld as a covenant to stand seised to uses. 38 L.R.A.(N.S.) 937.

#### 10. Against encumbrances.

Performance and breach, see infra, §§ 28-

In lease, see LANDLORD AND TENANT, \$ 20.

Parol evidence to affect scope of. L.R.A. 1916E, 221.

Will covenant of general warranty sustain action by remote grantee evicted under encumbrance, where deed also contains covenants against encumbrances not running with the land. 26 L.R.A. (N.S.) 1094.

COVENANTS, II.—cont'd

§ 11. - what is an encumbrance.

What deemed an encumbrance. 3 L.R.A. 789.\*

Easement as an encumbrance. 3 L.R.A. 790.1

12. For quiet enjoyment.

Enforcement and breach, see infra, §§ 31-

13. Of warranty.

Enforcement and breach, see infra, §§ 31-

Of warranty on sale of personalty, see SALE, §§ 26-38, 53-59, 68.

Parol evidence to affect scope of. L.R.A. 1916E, 221.

Recitals in deed as basis of implied covenant of title. 18 L.R.A. 343.

Effect of warranty in partition deed. 57 L.R.A. 333.

Scope and effect of covenants of title where the granting clause merely purports to convey the interest of the grantor in the property. 32 L.P.A. (N.S.) 588; L.R.A.1916E, 905.

Will covenant of general warranty sustain action by remote grantee evicted under encumbrance where deed also contains covenants against encumbrance not running with the land. 26 L.R.A. (N.S.) 1094.

Effect of warranty clause in contract on failure of consideration as defense to action on purchase money note. L.R.A.(N.S.) 946.

Effect of covenant of warranty in deed or absence thereof on right of purchaser giving purchase money mortgage to set up outstanding title or to acquire outstanding title to defeat the mortgage. L.R.A.1918B, 741, 760.

§ 14. Covenants running with land.

Necessity of use of word "assigns" in order to make covenant as to a thing not in esse run with the land. 14 L.R.A. (N.S.) 185; L.R.A.1917A, 127.

Covenant in grant of water power as. 67 L.R.A. 402.

Covenant of lessor to pay for repairs or improvements as one running with the land. 4 L.R.A.(N.S.) 466.

Parol agreement as to fences as a covenant running with the land. 27 L.R.A.(N. S.) 229.

May covenant running with the land be created by acceptance of deed poll with stipulations purporting to bind grantee. 6 L.R.A.(N.S.) 436.

Does action for damages to real property run with land. 2 L.R.A.(N.S.) 819.

Danger of litigation to enforce or restrain violation of covenants running with the land as affecting marketability of title. 38 L.R.A.(N.S.) 16.

§ 15. —as to party wall. To contribute to cost of party wall as. 66 L.R.A. 673.

#### COVENANTS—cont'd

III. Performance; breach; enforcement; who liable.

#### a. In general.

§ 16. Generally,

Measure of damages for breach, see DAM-AGES, §§ 32-34.

Injunction against breach, see INJUNCTION, § 9.

Failure of covenantee to give notice of pendency of action as affecting his right to rely upon an adverse judgment to show breach of covenant. L.R.A.1918B, 52.

Jurisdiction of action for breach of covenant concerning real property in another state or county. 44 L.R.A.(N.S.) 267.

Enforcement in equity of agreement relating to, but not running with, the land. 3 L.R.A.(N.S.) 98.

Consideration in deed as contractual in action for breach of covenant. 68 L.R.A. 931.

Parol evidence as to consideration of a deed in action for breach of covenant. 20 L.R.A. 107.

Right to set off damages for breach of, on mortgage foreclosure. 21 L.R.A. 324. Breach of covenant in grant of water power.

67 L.R.A. 403.

Vendee's right to rescind executory contract for purchase of land because of vendor's breach of covenant to make improvements. 21 L.R.A.(N.S.) 823; L.R.A.1917B, 403.

Remedy on covenants in deed as affecting right of grantee in possession to question right of granter to collect purchase money. 21 L.R.A.(N.S.) 376.

### § 17. What constitutes a breach.

Of restrictive covenant, see infra, § 22. Of covenant of seisin and right to convey,

see infra, § 27.
Of covenant against encumbrances, see infra, § 29.

Of covenant of warranty or quiet enjoyment, see infra, § 32.

Right of third person to remove fixtures as breach of a covenant in a deed of real property. 35 L.R.A. (N.S.) 976.

Deficiency in quantity of property described as a section or a fraction of a section as breach of a covenant. 36 L.R.A. (N.S.) 558.

### § 18. Who liable.

Personal liability of executor, administrator, or trustee on covenant in deed executed by him. 43 L.R.A.(N.S.) 377.

Liability of heirs on covenant or specialty debt of ancestor. 21 L.R.A. 90.

Necessity of demand or request of covenantor to defend in order to bind him by decree against grantee. 13 L.R.A. (N.S.) 732.

Consult also L.R.A. Digests of Cases.

COVENANTS, III. a-cont'd

Liability under covenants in deed of tax officers or their bond for failure of tax purchaser's title on account of irregularities in procedure. 41 L.R.A.(N.S.) 696.

### § 19. Who may enforce.

Restrictive covenants, see infra, § 23. Covenant of warranty, see infra, § 33.

Right of party to antenuptial settlement who is in default to enforce covenants to be performed by other party. 26 L.R.A.(N.S.) 858.

Who is real party in interest by whom action must be brought on covenant. 64 L.R.A. 621.

Right of remote grantee to sue for breach of covenant when covenantor had neither title nor possession. 14 L.R.A. (N.S.) 514; L.R.A.1916D, 613.

### § 20. Forfeiture for breach.

Restrictive covenants, see infra, § 24.

Forfeiture for breach of condition subsequent, see Conditions, § 7.

Equitable relief against forfeiture of estate for breach of collateral covenants. 69 L.R.A. 853.

### b. Restrictive covenants and conditions.

#### § 21. Generally.

Construction, validity, and effect, see supra, §§ 5-7.

Breach of condition in deed that land is to be used for a specified charitable, public, or quasi-public, purpose. 19 L.R.A. 267.

Mistake as to restrictive covenant as ground of relief from purchase at auction sale. 34 L.R.A.(N.S.) 930.

Mistake as to building restrictions as affecting right to specific performance.

15 L.R.A.(N.S.) 86.

Effect of purchaser's knowledge of, in action for breach of covenant against encumbrances. 4 L.R.A.(N.S.) 319.

### § 22. What constitutes a breach.

Assignment for creditors as violation of covenant against assignment or sale, see Assignment for Creditors, § 3.

Garage or stable as within restrictive covenants in conveyances of real estate. 34 L.R.A.(N.S.) 730.

Hotel or lodging house as violation of restrictive covenant. 41 L.R.A. (N.S.)

Community residence as violation of restrictive covenant. 41 L.R.A. (N.S.) 615.

Temporary railroad as violation of covenant against offensive trade or business. 9 L.R.A. (N.S.) 1039.

Billboard as violative of restrictive covenant as to use of premises, or structures permissible thereon. 2 B. R. C. 434.

COVENANTS, III. b-cont'd

Structure designed for separate accommodation of more than one family as violating building restriction against erec-tion of more than one house, or dwelling, or some similar restriction. B. R. C. 993.

Multiple residence structures as violation of restrictive covenants. 45 L.R.A.

(N.S.) 726; L.R.A.1918C, 873. What part of a structure must be beyond the line to constitute a violation of a building restriction. 52 L.R.A.(N.S.) 1044.

23. Who may enforce.

Right of persons not parties to enforce restrictive covenant or agreement as to use of property. 37 L.R.A.(N.S.) 12; L.R.A.1917A, 328.

Right of grantee to enforce restrictive covenants in prior conveyances by his grantor of other parcels. L.R.A. (N.S.) 624.

§ 24. Forfeiture for breach.

Forfeiture for breach of condition as to manufacture or sale of liquors. 5 L.R.A. 423.\*

§ 25. Right to enforcement as affected

by change in neighborhood.

Inapplicability of doctrine in law.

L.R.A.(N.S.) 707.

Change due to act or default of com-plainant or his predecessor. 28 L.R.A.(N.S.) 707.

Change due to other causes. 28 L.R.A. (N.S.) 715.

#### c. Covenants of seisin and of right to convey.

§ 26. Generally.

Construction, validity, and effect, see supra, § 8.

Right of grantee in possession to question grantor's right to collect purchase money in case of covenant of seisin. 21 L.R.A.(N.S.) 391.

Accrual of cause of action for breach of covenant of seisin so as to set in motion statute of limitations. 17 L.R.A. (N.S.)

Necessity of eviction to maintenance of action for breach of covenant of seisin. 17 L.R.A.(N.S.) 1178.

§ 27. What constitutes a breach.

Existence of water right on land at time of conveyance as breach. 36 L.R.A. (N.S.) 314; 51 L.R.A. (N.S.) 428.

Existence of public highway across land at time of conveyance as breach. 30 L.R.A. (N.S.) 834; 46 L.R.A.(N.S.) 619.

Existence of private rights of way across land at time of conveyance as breach. 30 L.R.A.(N.S.) 840; 48 L.R.A.(N.S.) 619.

Begin with this book on every law question.

COVENANTS, III. e-cont'd

Existence of railroad rights of way across land at time of conveyance as breach. 30 L.R.A. (N.S.) 843; 48 L.R.A. (N.S.)

### d. Covenants against encumbrances.

28. Generally.

Construction, validity, and effect, see supra, § 10.

Measure of damages for breach of covenant, see Damages, § 34.

Damages for breach of warranty by existence of unexpired lease. 35 L.R.A. (N.S.) 779.

§ 29. What constitutes a breach.

Existence of public highway across land at time of conveyance as. 30 L.R.A.(N.S.) 835; 48 L.R.A.(N.S.) 619.

Existence of private rights of way across land at time of conveyance as. 30 L.R.A.(N.S.) 841; 48 L.R.A.(N.S.) 619.

Existence of railroad rights of way across land at time of conveyance as. 30 L.R.A.(N.S.) 844; 48 L.R.A.(N.S.) 619.

Pending condemnation proceedings as breach. 36 L.R.A.(N.S.) 1067. Existence of water right on land at time of

conveyance as. 36 L.R.A.(N.S.) 314; 51 L.R.A.(N.S.) 428.

§ 30. Effect of knowledge of encumbrance.

The general rule. 4 L.R.A.(N.S.) 310; 32 L.R.A.(N.S.) 737.

Encumbrances affecting the title to land. 4 L.R.A.(N.S.) 312; 32 L.R.A. (N.S.) 738.

Encumbrances affecting the physical condition of land. 4 L.R.A.(N.S.) dition of land. 314; 32 L.R.A.(N.S.) 738.

### e. Covenants of warranty and for quiet enjoyment.

§ 31. Generally.

Constructions, validity, and effect, see supra, §§ 12, 13.

Measure of damages for breach of covenant, see DAMAGES, § 33.

Contingency of claim for breach of cove-nant of warranty as affecting its presentation to decedent's estate. L.R.A. 88.

Necessity of eviction to maintenance of action for breach of covenant of war-

ranty of title. 17 L.R.A.(N.S.) 1178. Accrual of cause of action for breach of covenant of warranty so as to set in motion the statute of limitations. 17 L.R.A.(N.S.) 1189.

Liability of landlord under implied covenant for quiet enjoyment for damages to tenants in consequence of acts of third persons affecting the leased premises. 42 L.R.A.(N.S.) 775.

COVENANTS, III. e-cont'd

§ 32. What constitutes a breach.

Existence of public highway across land at time of conveyance as. 30 L.R.A.(N.S.) 838; 48 L.R.A.(N.S.) 619.

Existence of railroad rights of way across land at time of conveyance as. 30 L.R.A.(N.S.) 845; 48 L.R.A.(N.S.) 619.

Existence of private rights of way across land at time of conveyance as. 30 L.R.A.(N.S.) 842; 48 L.R.A.(N.S.)

Existence of water right on land at time of conveyance as. 36 L.R.A.(N.S.) 317; 51 L.R.A. (N.S.) 428.

Breach of covenant of quiet enjoyment in lease by acts upon adjacent property subsequently acquired by lessor or his grantee. 66 B. R. C. 177.

33. Who may enforce.

Will a covenant of general warranty sustain an action by remote grantee evicted under an encumbrance, where the deed also contains covenants against encumbrances not running with the land. 26 L.R.A. (N.S.) 1094.

#### COVERTURE.

See HUSBAND AND WIFE.

### CRAFTSMEN.

As independent contractors. 65 L.R.A. 467.

### CREDIBILITY.

Of witness, see WITNESSES. § 47.

#### CREDIT.

To bring debt within jurisdiction of court, see COURTS, § 29.

Fraud in obtaining, see FRAUD AND DECEIT, § 11.

Guaranty of, see GUARANTY.

Constitution provision as to lending, see PUBLIC MONEY, § 4.

Taxation of credits generally, see Taxes,

Continuing representation of financial standing as basis of. 10 L.R.A.(N.S.) 245. Contract for giving, on mortgage foreclo-sure. 21 L.R.A. 326.

Validity as against vendor's creditors of sales on credit. 32 L.R.A. 59.

To bring debt within jurisdiction of court. 28 L.R.A. 221.

Effect of corporate dissolution on. L.R.A. 141.

Lack of maritime lien for supplies sold on personal credit in foreign port. L.R.A. 405.

Action for purchase price before expiration of. 3 L.R.A.(N.S.) 908.

Consult also L.R.A. Digests of Cases.

CREDIT—cont'd

Law governing right of action for purchase price béfore expiration of credit. L.R.A. 828.

Applicability of statute requiring that representations as to another's credit must be in writing in order to sustain an ac-13 L.R.A.(N.S.) 212.

Admissibility of parol evidence as to manner or means of paying written contract not within statute of frauds purporting to be payable in money so as to show credits. 31 L.R.A.(N.S.) 238.

Implied power of municipality to construct

improvements on. 4 L.R.A.(N.S.) 746. Effect of transfer without indorsement of worthless debit and credit entries. 10

L.R.A.(N.S.) 537.
Increasing price upon sale on credit as usury. 28 L.R.A.(N.S.) 102.

Omission of credits as affecting mechanics' lien. 29 L.R.A.(N.S.) 310.

Extension of credit on faith of apparent ownership of real property by person in whose name the title stands as estoppel of real owner to assert title as against creditors. 30 L.R.A. (N.S.) 11; 46 L.R.A.(N.S.) 1097.

Contract to secure against loss by giving credit as contract of insurance. 47 L.R.A. (N.S.) 293.

Recommendation of another as proper subject for credit as ground of liability. L.R.A.1915A, 100.

Liability of one who sells business for supplies subsequently furnished therefor on credit while it is being conducted under the same name. L.R.A.1915F, 711.

Discrimination in taxation between credits secured by lien and those not so secured. L.R.A.1915A, 185.

#### CREDITORS.

See DEBTOR AND CREDITOR.

### CREDITORS' BILL

§ 1. Generally.

As to fraudulent conveyances, generally, see Fraudulent Conveyances.

Conclusiveness of judgment on which action is based, see JUDGMENT, § 38.

May original petition or complaint which states no cause of action be aided by supplemental pleading. L.R.A.1916D, 676.

To subject choses in action to judgment after return of no property found. L.R.A. 673, 15 L.R.A.(N.S.) 976.

Plaintiff's control over suit brought for all similarly situated. 46 L.R.A. 839. Effect of bankruptcy on. 45 L.R.A. 193. Allowance of attorney's fees. 54 L.R.A. 817.

Effect of discharge in bankruptcy on lien acquired by filing creditor's bill. L.R.A.(N.S.) 295.

CREDITORS' BILL-cont'd

Effect of right to attach property fraudulently conveyed, on running of limitations as against right to file. 2 L.R.A.

(N.S.) 988.

Jurisdiction of equity over suit to set aside fraudulent conveyance of property in another state or country. 69 L.R.A. 688; 23 L.R.A.(N.S.) 924; 27 L.R.A.

(N.S.) 420. Removal of, because of separable controversy. 5 L.R.A.(N.S.) 89.

§ 2. Conditions precedent.

Conditions precedent to equitable remedies of creditors. 23 L.R.A.(N.S.) 1. Release of indorser of note by failure to exhaust security against maker. L.R.A.(N.S.) 551.

3. What property may be reached. What contingent interests may be reached by creditors' bill. 27 L.R.A.(N.S.) 454.

For unpaid subscriptions to stock of foreign corporation. 34 L.R.A. 743.

Liability of alimony for debts. 32 L.R.A. (N.S.) 270.

Right to subject endowment or tontine policies to claims of creditors. 4 L.R.A.

(N.S.) 456. To reach insurance policy or its cash sur-render value. 16 L.R.A. (N.S.) 319. Right to subject debtor's interest under a

contract for his support to the claims of creditors. 42 L.R.A. (N.S.) 1213.

May provision in will for support of person which is made a lien or charge upon property devised or bequeathed to others be reached by his creditors. 23 L.R.A. (N.S.) 526.

Exemption of officer's salary from. L.R.A. 566. 54

§ 4. Priority as to proceeds of.

Generally. 17 L.R.A. 345. Effect of judgments as liens. 17 L.R.A. 345.

Bill for all similarly situated. 17 L.R.A.

Creditors at large. 17 L.R.A. 348.

### CREMATION.

Regulation concerning cremation of human bodies. 52 L.R.A.(N.S.) 408.

### CREW.

Of ship as fellow servants. 50 L.R.A. 438. Whose servants are the crew of a chartered vessel. 37 L.R.A. 54.

Duty and obligation of vessel on inland lake or river in respect of sick or injured member of. 35 L.R.A.(N.S.) 199. CRIME AGAINST NATURE.

See SODOMY.

#### CRIMES.

In general, see CRIMINAL LAW. Jurisdiction over, see Courts, §§ 9, 25, 44. Various particular crimes, see CRIMINAL

LAW, § 4.
Charge of, as libel or slander, see LIBEL AND
SLANDER, § 11.

Effect of, on competency of witness, see WITNESSES, §§ 10, 11.

### CRIMINAL CONSPIRACY.

See CONSPIRACY.

### GRIMINAL CONTEMPT.

See CONTEMPT.

#### CRIMINAL CONVERSATION.

See HUSBAND AND WIFE, § 68.

### CRIMINAL INTENT.

As element of crime, see CRIMINAL LAW, § 6.

### CRIMINAL LAW.

I. In general, §§ 1-3.

II. Various particular crimes, § 4.

III. Criminal liability; excuses; defenses, §§ 5-30.

a. In general, §§ 5-23.

b. Parties to offenses, §§ 24-29.

c. Criminal negligence, § 30.

IV. Procedure, §§ 31-68.

a. In general, §§ 31-42.

b. Protection and rights of accused generally, §§ 43-54.

c. Arraignment; plea; motions, §§ 55-58.

d. Former jeopardy, §§ 59-64.

e. Proof of corpus delicti, \$\$ 65-68.

V. Offenses against different sovereigntics, §§ 69, 70.

VI. Sentence and imprisonment, §§ 71-89.

a. In general, §§ 71-84.

b. Parole; pardon, \$\$ 85-89. VII. Record; validity of conviction, \$ 90.

### CRIMINAL LAW-cont'd

### I. In general,

§ 1. Generally.

As to arrest, see ARREST.

As to bail, see BAIL AND RECOGNIZANCE. Conflict of laws as to crimes, see CONFLICT of Laws, § 24.

Constitutionality of criminal statutes, see CONSTITUTIONAL LAW, §§ 193, 194.

Demand in criminal matters, see DEMAND, § 6.

Extradition of fugitives, see EXTRADITION. As to forfeiture of property by conviction, see FORFEITURE.

As to habeas corpus, see HABEAS CORPUS. Injunction against crimes or criminal prosecution, see Injunction, §§ 18, 46.

Juvenile courts, see JUVENILE COURTS. Libel or slander in charging crime, see LIBEL AND SLANDER, § 11.

Privilege in respect to criminal charge, see LIBEL AND SLANDER, §§ 22-30.

Reward for arrest of criminals, see RE-WARDS.

As to search, see SEARCH AND SEIZURE.

Adoption of common law in United States in criminal matters. 22 L.R.A. 507.

Right to take or retain in rogues' gallery picture of one accused of crime before conviction. 7 L.R.A.(N.S.) 274; 23 L.R.A.(N.S.) 739; L.R.A.1916A, 743.

Crime disqualifying grand juror. L.R.A. 203.

Denial of custody of child to parent who is a criminal. 41 L.R.A.(N.S.) 592.

Validity of contract for detection of crime. 30 L.R.A.(N.S.) 278; 42 L.R.A.(N.S.) 847.

Conflict of laws as to criminal prosecution as condition of maintaining action for death. 56 L.R.A. 222.

Grantee's oral promise to grantor to hold in trust for purpose of avoiding criminal prosecution, as giving rise to constructive trust. 39 L.R.A.(N.S.) 916.

Liability of bondsmen of peace officer for acts of latter as to property taken from prisoner. 37 L.R.A.(N.S.) 873.
Right of counsel assigned to defend in-

digent person, to compensation from public. 36 L.R.A. (N.S.) 377.

Right of officer in executing criminal process to take possession of evidentiary articles. 18 L.R.A. (N.S.) 253; L.R.A. 1916C, 1017.

Liability of officer who uses criminal process to collect a debt. 24 L.R.A. (N.S.)

Liability of officer who turns over articles taken from prisoner to a third person in recognition of the latter's adverse

claim. 19 L.R.A. (N.S.) 833.

Removal of officer for failure to enforce criminal or penal law. 50 L.R.A. (N.S.) 841; L.R.A.1918F, 1049.

Right to put upon trial one undergoing imprisonment for another offense. 41 L.R.A.(N.S.) 1095.

Consult also L.R.A. Digests of Cases. 22

CRIMINAL LAW, I.—cont'd

§ 2. Effect of repeal of statute or ordi-

Effect of repeal for repugnancy of criminal statute on prior offense. 9 L.R.A. (N.S.) 165.

Effect of repeal, without saving clause, of penal statute or ordinance upon prior conviction under it. 23 L.R.A.(N.S.)

§ 3. Prohibition against criminal prosecution.

Injunction against crimes or criminal prosecutions, see Injunction, §§ 18, 46.

Prohibition to prevent numerous unfounded prosecutions for alleged violation of statute or ordinance. 37 L.R.A. (N.S.) 448.

### II. Various particular crimes.

§ 4. Generally.

Various particular crimes, see ABDUCTION; ABORTION; ADULTERY; ARSON; AS-SAULT AND BATTERY; BANKS, \$ 5; BASTARDY; BETTING; BIGAMY; BLAS-PHEMY; BREACH OF THE PEACE; BRIB-ERY; BURGLARY; CARRYING WEAPONS; COMPOUNDING FELONY; CONSPIRACY; COUNTERFEITING; DEFILEMENT; DIS-ORDERLY HOUSES; DISTURBING MEET-ING; DRUGS AND DRUGGISTS, § 5; Dueling; Elections, § 24; Embezzle-MENT; ENTICING; EXTORTION; FALSE PRETENEES; FORGERY; FORNICATION; GAMBLING; HOMICIDE; HUSBAND AND WIFE, § 71; ILLICIT COHABITATION; INCEST; INFANTS, § 13; INTOXICATING LIQUORS; KIDNAPPING; LARCENY; LIBEL AND SLANDER, § 45; LOTTERY, § 3; MAYHEM; MONOPOLY AND COMBINATIONS; NUISANCE, §§ 30, 31; OBSCENITY; OBSTRUCTING JUSTICE; PERJURY; POSTOFFICE, §§ 9-12; PROFANITY; POSTOFFICE, §§ 9-12: PROFANITY; PROSTITUTION; RAILBOADS, § 87; RAPE; RECEIVING STOLEN PROPERTY; ROB-BERY; SEDUCTION, §§ 6, 7; SMUGGLING; SODOMY; SUICIDE; SUNDAY; TRESPASS, II.; WAREHOUSEMEN; WOUNDING.

Criminal responsibility of a municipal corporation, see MUNICIPAL CORPORA-TIONS, § 101a.

Decisions under the Espionage Act of June 15, 1917. L.R.A.1918F, 410.

What constitutes violation of criminal statutes against issuing checks or drafts without funds. L.R.A.1918F, 982.

Criminal liability for injuries to dogs. 15 L.R.A. 252; 40 L.R.A. 511.

Criminal responsibility of parent for fail-ure to support child where support is furnished by others. 32 L.R.A.(N.S.) 841.

Criminal responsibility for failure to provide child with medical attendance and remedies. 1 B. R. C. 747.

Contracts providing devices to affect rates of carrier as basis for criminal prosecution. 38 L.R.A.(N.S.) 361.

CRIMINAL LAW, II.—cont'd

Criminal liability on contracts fixing rates other than those established by interstate commerce act. 38 L.R.A. (N.S.) 363.

Constitutionality of statute making the receiving of certain kinds of property a criminal offense. L.R.A.1917F, 709.

Statute or ordinance making it an offense to associate with disreputable persons. L.R.A.1917F, 904.

Constitutionality of statute making violation of transfer rules established by carrier criminal. 30 L.R.A.(N.S.) 499.

Evidence admissible in prosecution of carrier for transporting intoxicating liquors. 46 L.R.A. 420.

Criminal liability for disinterment of dead bodies. 42 L.R.A. 733.

Remedy by indictment against one damming back water of stream. 59 L.R.A.

Criminal responsibility for maintenance of dam in non-navigable stream which creates nuisance injurious to public health. 22 L.R.A.(N.S.) 1259.

Criminal liability for giving or procuring a false character of servant. 4 L.R.A. (N.S.) 1126.

Criminal liability for violation of statute limiting hours of labor. 65 L.R.A. 50; 51 L.R.A. (N.S.) 361.

Validity of statute making it criminal to have possession of property which is capable of criminal use. 20 L.R.A. 52.

Improper burial or lack of proper funeral services as a criminal offense. L.R.A.(N.S.) 211.

Failure to pay alimony or allowance for support as criminal offense. 42 L.R.A. (N.S.) 1065.

Prosecution for violation of statute for protection of union labels. 39 L.R.A. (N.S.) 1202.

Power of legislature to make failure to comply with rule of health board criminal. 6 L.R.A. (N.S.) 143.

Resisting service of civil process, fair on its face, but invalid in fact, as an offense. 21 L.R.A.(N.S.) 66.

Power to make taking of usury a criminal offense. 3 L.R.A.(N.S.) 530.

Criminal responsibility for violation of statute after a judicial ruling that it was unconstitutional and before that ruling had been changed. 33 L.R.A. (N.S.) 788.

Criminal liability for "shadowing" person. 43 L.R.A.(N.S.) 520.

Violation of municipal ordinance as a public offense. 48 L.R.A. (N.S.) 156.

Statutes prohibiting interference with telephone lines. 50 L.R.A.(N.S.) 1216.

Criminal responsibility for blocking street L.R.A. or highway railroad crossing. 1915B, 329.

Indictment of woman transported in violation of white slave traffic act for conspiracy to violate the laws of the United | Evidence of other crimes to rebut special States. L.R.A.1915D, 281.

CRIMINAL LAW-cont'd

III. Criminal liability; excuses; detenses.

### a. In general.

§ 5. Generally.

Defense in prosecution for adultery, see ADULTERY, § 3.

In prosecution for assault and battery, see ASSAULT AND BATTERY, §§ 3-6.

Defense to prosecution for bribery, see BRIBERY, § 5.

Defense to prosecution for burglary, see BURGLARY, § 4.

Defenses to contempt proceedings, see Con-**TEMPT**, § 3.

Defense to prosecutions for homicide, see HOMICIDE, §§ 19-30.

Defenses in prosecution for larceny, see LARCENY, § 8.

Defense to prosecution for libel or slander, see LIBEL AND SLANDER, §§ 37-39.

Defenses in prosecution for perjury, see Perjury, § 7.

Defense to prosecution for rape, see RAPE, § 1.

As to self defense, see Assault and Bat-TERY, § 4a; HOMICIDE, §§ 27-30.

Criminal responsibility of corporations, see

CORPORATIONS, § 39.
Criminal liability of railroad company, see RAILBOADS, § 47.

Criminal liability for obstructing railroad track, see RAILBOADS, § 87.

Fraud as element of crime, see FRAUD AND DECEIT, § 3.

Negation of defense in indictment, see In-DICTMENT, INFORMATION AND PLAINT, § 8.

Criminal liability for nuisance, see Nui-SANCES, § 30.

Criminal liability for failure to provide physician, see Physicians and Sur-GEONS, § 3.

Effect of repeal of statute on liability, see STATUTES, § 35.

Liability to indictment of one improperly issuing marriage license or performing marriage ceremony. L.R.A.1917E, 873,

What constitutes defense to admission of minors to saloons. 22 L.R.A.(N.S.) 1010.

Offer of marriage as defense to prosecution for seduction. 29 L.R.A.(N.S.) 421.

Abduction or wrongful bringing of criminals into jurisdiction as defense. 15 L.R.A. 177.

Order or decree of court requiring the doing or omission of an act as a defense to a criminal prosecution. L.R.A. 1916B, 767.

Criminal liability of soldiers and militia-men. L.R.A.1915A, 1173.

Criminal responsibility of municipality for maintaining or permitting a nuisance. 39 L.R.A.(N.S.) 411.

defenses. 62 L.R.A. 299.

CRIMINAL LAW, III. a-cont'd Criminal responsibility for violating a statute after a judicial ruling that it was unconstitutional and before that ruling has been changed. 33 L.R.A. (N.S.) 788.

§ 6. Criminal intent.

Effect of ignorance, mistake, or belief, see infra, §§ 13, 14.

Of prosecutor, see infra, § 21.

Intent as element of homicide, see HOMI-CIDE, § 5.

In violation of fish laws. 39 L.R.A. 591. Intent as ingredient of offense by warehouseman selling goods for which he has issued receipt. 27 L.R.A.(N.S.) 160.

Criminal intent as essential to larceny of property found. 37 L.R.A. 122.

Intent as element of offense in case of sales of alcoholic liquor not ostensibly intended for beverage. L.R.A.1917F, 245. Prohibiting the keeping of intoxicating li-

quor irrespective of any intention to sell it in violation of law. 26 L.R.A. (N.S.) 394; L.R.A.1915D, 172; L.R.A. 1917D, 938.

Criminal intent as affecting criminal responsibility of corporations. 2 B. R. C. 238.

Necessity of instruction as to law of circumstantial evidence as to intent of accused. 69 L.R.A. 215.

Effect of intent of parties on criminal liability on contracts fixing rates other than those established in accordance with interstate commerce act. L.R.A. (N.S.) 364.

Intent to return property as affecting charge of embezzlement or larceny. 52 L.R.A. (N.S.) 1013.

Knowledge or intent as element of the offense of using or giving false weight or measure. L.R.A.1917D, 1129.

Necessity of intent to defraud a particular person to constitute crime of false pretenses. L.R.A.1916D, 271.

Effect of intent on misbranding prohibited by pure food and drugs law. L.R.A. 1916D, 170.

Good motive as affecting criminal charge involving obscene, indecent, or pro-fane language or literature. L.R.A. 1916B, 1121.

7. Criminal liability of children. For assault and battery, see Assault and BATTERY, § 7.

Youth as defense to homicide, see Homi-CIDE, § 20.

Juvenile courts, see JUVENILE OFFENDERS. Liability for rape, see RAPE, § 2.

The period of indiscretion—innocence legal-

ly presumed. 36 L.R.A. 196.
The dubious age of discretion—innocence presumed prima facie, guilt may be proved. 36 L.R.A. 197.

The age of presumed discretion. 36 L.R.A. 207

Consult also L.R.A. Digests of Cases.

CRIMINAL LAW, III. a-cont'd

Confession of infants. 36 L.R.A. 208.

Command of parent no excuse for infant's criminal act done thereunder. 36 L.R.A. 210.

Punishment of infants. 36 L.R.A. 210.

Does statute fixing age of consent render a girl below that age incapable of sexual crime. 27 L.R.A.(N.S.) 872.

Criminal liability of infant as accessory to theft. 36 L.R.A. 212.

Criminal responsibility of minor for failure to support wife. L.R.A.1916E, 762.

8. Mental condition as affecting criminal responsibility.

Insanity after commission of criminal act, see infra, § 42.

Sentence and imprisonment of insane person, see infra, § 72.

Presumption and burden of proof as to samity, see Evidence, §§ 38-40.

Expert and nonexpert evidence as to sanity, see Evidence, §§ 189-193.

Sufficiency of evidence as to sanity, see EVIDENCE, § 316.

As defense to homicide, see Homicide, § 5.

Criminal responsibility for act committed under influence of insane delusion as to facts as affected by question whether such facts would, if actually existing, excuse the act. L.R.A.1917F, 650.

Knowledge that one's act is contrary to law as affecting defense of insanity. L.R.A. 1916D, 527.

Weakness of mind as affecting responsibility for criminal act. 10 L.R.A.(N.S.) 999.

Impairment of memory as defense to prosecution for perjury. 21 L.R.A. (N.S.)

Effect of insanity on question of heat of passion to mitigate homicide. 5 L.R.A. (N.S.) 825.

Insanity induced by intoxication as excuse for crime. 36 L.R.A. 479.

Responsibility for crime committed in fit of anger. 10 L.R.A.(N.S.) 1032. What are insane delusions. 37 L.R.A. 261.

Morphinism as affecting responsibility. 39 L.R.A. 262.

Effect of hypnotism in criminal cases. 40 L.R.A. 269.

Kleptomania, as a defense to burglary or larceny, 43 L.R.A.(N.S.) 150.

Right of prosecution to show feigned in-

sanity. 31 L.R.A.(N.S.) 113.

Measure of proof of insanity in criminal case. 39 L.R.A. 737.

Proof of other crimes to rebut defense of insanity. 62 L.R.A. 300. Necessity for instruction as to law on cir-

cumstantial evidence on plea of insanity. 69 L.R.A. 208.

Insanity of accused at the time of the offense raised for the first time on motion for new trial. L.R.A.1918B, 1146.

Habeas corpus to secure release of one convicted while insane. L.R.A.1918B, 81. CRIMINAL LAW, III. a-cont'd

As defense to homicide, see HOMICIDE, § 21.

Generally. 18 L.R.A. 224; 27 L.R.A.(N.S.) 461; L.R.A.1918D, 794. Effect of disease to create irresistible im-

pulse. 18 L.R.A. 228.

Impulse obliterating sense of right and wrong. 18 L.R.A. 229.

18 L.R.A. 229; 43 L.R.A. Kleptomania. (N.S.) 150.

§ 10. What intoxication will excuse crime.

Intoxication as defense to homicide, see HOMICIDE, § 22.

The general rule. 36 L.R.A. 465.

36 When intoxication may be shown. L.R.A. 467.

Insanity induced by intoxication. L.R.A. 479.

Intoxication under the Texas statute. L.R.A. 483.

Involuntary intoxication. 36 L.R.A. 484. Drunkenness as a defense to homicide. LR.A. (N.S.) 1024; 25 L.R.A. (N.S.) 376.

Intoxication as a defense to burglary. L.R.A.1918A, 1168.

Effect of intoxication on question of heat of passion to mitigate homicide. L.R.A. (N.S.) 825.

11. Anger as a defense.

Responsibility for crime committed in fit of anger. 10 L.R.A.(N.S.) 1032.

Heat of passion which will mitigate or reduce the degree of a homicide. L.R.A. (N.S.) 809.

Effect of intoxication on the question of heat of passion to mitigate homicide. 5 L.R.A.(N.S.) 825.

12. Good faith as defense.

Good faith as defense to criminal responsibility for failure to provide child with medical attendance and remedies. 1 B. R. C. 750.

Good faith as affecting criminal responsibility for illegal registration or voting. 37 L.R.A.(N.S.) 1177.

Good faith of offer of marriage as affecting defense to prosecution for seduction. 29 L.R.A. (N.S.) 423.

Larceny or embezzlement as affected by belief in right to property taken. L.R.A. (N.S.) 549.

§ 13. Effect of ignorance, mistake, or

Homicide by accident or misadventure, see HOMICIDE, § 14.

In sale of liquor, see Intoxicating Liquors, §§ 29, 31, 33.

Mistake as to beverage as defense to charge of illegal liquor sale. 6 L.R.A.(N.S.) 477; 21 L.R.A.(N.S.) 525; L.R.A. L.R.A.(N.S.) 525; L.R.A. 1916D. 266.

Begin with this book on every law question.

CRIMINAL LAW, III. a-cont'd

§ 9. Irresistible impulse as excuse for crime.

Anger as defense, see infra, § 11.

Ignorance of contents of package as defense to carrier in prosecution for transporting intoxicating liquor intoprohibition territory. 18 L.R.A. (N.S.) 1182.

Ignorance that article furnished as butter is oleomargarin as a defense. L.R.A. (N.S.) 746.

Larceny or embezzlement as affected by be-lief in right to property taken. 41 L.R.A.(N.S.) 549.

Religious belief as excuse for failure to-furnish medical aid to child. 36-L.R.A. (N.S.) 633.

Belief in termination of former marriage as a defense to prosecution for bigamy. 27 L.R.A.(N.S.) 1097; 34 L.R.A.(N.S.) 613.

Ignorance of defendant in prosecution for

adultery that other party was married as a defense, 18 L.R.A.(N.S.) 527.

As to identity of victim as affecting assault or homicide. 33 L.R.A.(N.S.) 1070.

Assault with intent to murder or kill by unlawful act under mistaken identity of person assaulted. 37 L.R.A.(N.S.) 172.

Proof of other crimes to rebut defense of mistake in criminal prosecution. 62 L.R.A. 300.

Effect of ignorance of mental condition in prosecution for rape of female of unsound mind. L.R.A.1916F, 746.

14. - as to age.

Seller's ignorance of minority of purchaseras defense to prosecution for sale of liquor to minor. 25 L.R.A.(N.S.) 669.

Effect of defendant's mistake as to age of girl under statute denouncing sexual offenses against females below specified. age. 25 L.R.A.(N.S.) 661.

Ignorance that parties to marriage are under age, as defense to prosecution for officiating at the marriage. 23 L.R.A. (N.S.) 504.

§ 15. Accident as defense.

Homicide by accident or misadventure, see-HOMICIDE, § 14.

Proof of other crimes to rebut defense of, in criminal prosecution. 62 L.R.A. 300.

16. Attempt.

To commit arson, see Arson, § 4.

To commit robbery, see ROBBERY, § 3.

Attempt to commit suicide as a crime. 7 L.R.A.(N.S.) 286.

Attempt to commit suicide while intoxicated. 36 L.R.A. 479.

Attempt to procure violation of Elkins act as conspiracy. 17 L.R.A.(N.S.) 720.

Charge of attempt to commit offense based on attempt to do an act under mis-taken belief in the existence of a fact without which the act, if consummated, would not have constituted the offense. 9 L.R.A.(N.S.) 263.

CRIMINAL LAW, III. a-cont'd

Unsuccessful attempt to utter or publish forged instrument. 8 L.R.A.(N.S.) 1177.

Former jeopardy in retrial for substantive offense after setting aside verdict for attempt. 44 L.R.A.(N.S.) 1047.

#### § 17. - what constitutes.

Solicitation as attempt to commit crime. 25 L.R.A. 434.

Solicitation to commit adultery as an attempt to commit crime. L.R.A.1918A,

What constitutes attempt to discharge firearms. 3 B. R. C. 243.

What constitutes an attempt to commit arson. 4 L.R.A.(N.S.) 417; 41 L.R.A. (N.S.) 439.

What constitutes offense of attempt to influence officers of court. 21 L.R.A. (N.S.) 905.

What constitutes an attempt to commit homicide as distinguished from assault with intent to kill. 21 L.R.A. (N.S.)

Procuring or providing instrumentalities adapted to commission of a crime with intent to commit the same, as an attempt to commit the crime. 6 L.R.A. (N.S.) 804.

#### \$ 18. Solicitation.

Criminality of solicitation to crime which is not consummated. 25 L.R.A. 434.

Solicitation to commit adultery as a criminal offense. L.R.A.1918A, 98.

§ 19. Instigation to crime; facilitating crime.

Instigation to commit robbery, see Ros-BERY, § 2.

Instigations to crime for purpose of detecting criminal as defense to prosecution. 25 L.R.A. 341; 30 L.R.A. (N.S.) 946; 51 L.R.A. (N.S.) 825.

Inciting suicide. 66 L.R.A. 304.

Effect on criminal responsibility for larceny of owner's conduct in intentionally facilitating the taking. 7 L.R.A. (N.S.) 756.

§ 20. Consent to crime. As to crime of dueling, see DUELING.

For the purpose of detecting criminal, as a defense to prosecution. 25 L.R.A. 341; 30 L.R.A. (N.S.) 946; 51 L.R.A.(N.S.) 825.

Consent as justification for assault. L.R.A. 854.

Of woman to abortion as justification or excuse for homicide in commission of. 63 L.R.A. 909; 49 L.R.A. (N.S.) 582.

Effect of deceased's consent upon degree of homicide committed by defendant. 15 L.R.A. (N.S.) 988.

Effect of consent of bailee, agent, or servant to taking of property on liability for larceny. 7 L.R.A. (N.S.) 1149. Consult also L.R.A. Digests of Cases.

CRIMINAL LAW, III. a-cont'd

§ 21. Illegal intent or transaction by prosecutor as a defense.

Illegality of transaction by which owner obtained money or other property as defense to prosecution for embezzlement. 27 L.R.A.(N.S.) 415.

Illegal intent of, as affecting guilt in obtaining property by means of false pretense or confidence game. 17 L.R.A. (N.S.) 276; 39 L.R.A. (N.S.) 423.

§ 22. Duress as an excuse for crime. Generally. 19 L.R.A. 357. Duress of wife by husband. 19 L.R.A. 358.

§ 23. Different offenses by same act. Offenses against different sovereignties, see infra,

Prosecution and punishment of distinct offenses committed by single sale of intoxicating liquor. 45 L.R.A. 858.

Forgery of different instruments at one time as constituting one or more than one crime. 61 L.R.A. 819.

Stealing property from different owners at same time as distinct offenses. L.R.A.(N.S.) 967.

Conviction and punishment of both forging and uttering in one prosecution. L.R.A. (N.S.) 561.

Right to convict for several offenses growing out of the same facts. 31 L.R.A.(N.S.) 693.

### b. Parties to offenses.

§ 24. Generally.

Admissibility of acts and declarations of coconspirators, see EVIDENCE, § 237.
In sale of intoxicating liquor, see INTOXI-

CATING LIQUORS, §§ 22, 23.

Confederates in 'uttering or publishing forged instruments. 8 L.R.A. (N.S.) 1178.

Unlawfully issuing license for disorderly house as keeping the same. 29 L.R.A. (N.S.) 721.

Criminal responsibility for homicide in carrying out unlawful conspiracy. 68 L.R.A. 193.

Effect of participating in purchase and division of quantity of liquor to render one guilty of unlawful sale. 22 L.R.A. (N.S.) 560.

Is one who obtains liquor for, and delivers it to another, using the latter's money, guilty of selling the same. 24 L.R.A. (N.S.) 268; 28 L.R.A. (N.S.) 334; L.R.A.1917D, 1020.

Procuring liquor for another on physician's prescription for self as an illegal sale. 21 L.R.A.(N.S.) 1008.

Knowledge necessary to charge owner with conduct of tenants or others in selling intoxicating liquors on premises in violation of injunction. 25 L.R.A. (N.S.) 602.

CRIMINAL LAW, III. b-cont'd Agent's criminal responsibility for sale of goods that do not comply with statutory requirements. L.R.A.1918D, 726.

25. Aiding and abetting crime, Liability for act of assistant, see infra, § 27.

Liability for assisting in unlawful arrest or subsequent detention. 14 L.R.A. (N.S.) 1123.

Abetting suicide. 66 L.R.A. 304; 22 L.R.A. (N.S.) 243.

What connection with, or participation in, forgery is sufficient to render one guilty of forgery. L.R.A.1916F, 1254.

26. Accessories.

Child as accessory to theft. 36 L.R.A. 202. Offense of accessory before the fact. 33 L.R.A. (N.S.) 334.

Abortionist as an accessory before the fact in case of death. 63 L.R.A. 909; 49 L.R.A. (N.S.) 582.

Absence of accused from territorial jurisdiction at time of offense of accessory before the fact as affecting jurisdiction of offense. 33 L.R.A.(N.S.) 334.

§ 27. Liability for acts of associates or

Principal's liability for homicide by assistant. 67 L.R.A. 312.

Liability of one assisting in burglary during which his companion commits murder. 6 L.R.A.(N.S.) 1154.

Absence from the scene of homicide as affecting the responsibility of a party to a common design to commit another offense. L.R.A.1918B, 75.

Is one assisting relative in peril bound by the latter's act in bringing on the difficulty. 15 L.R.A. (N.S.) 1013.

Criminal responsibility of one who aids another in assaulting in which the latter, without his knowledge or consent, uses a deadly weapon. 23 L.R.A.(N.S.) 273.

28. Who are accomplices.

Within rule requiring corroboration of testimony, see EVIDENCE, § 321.

Spectators at prize fight as accomplices. 15 L.R.A. 516.

One accepting aid to escape from jail as an accomplice of person giving the aid. 24 L.R.A.(N.S.) 625.

§ 29. Criminal and penal liability for act of copartner servant, or agent. See also Intoxicating Liquors, § 23.

General rules. 41 L.R.A. 650; 43 L.R.A. (N.S.) 2.

Application to particular subjects. 41 L.R.A. 652; 43 L.R.A.(N.S.) 2.

Violation of liquor laws. 41 L.R.A. 661; 16 L.R.A. (N.S.) 786; 20 L.R.A. (N.S.) 321; 43 L.R.A. (N.S.) 2.

CRIMINAL LAW, III. b-cont'd

Homicide by acting through innocent or irresponsible agent. 2 L.R.A. (N.S.) 897

Criminal liability of newspaper proprietor for libel published without his consent 26 L.R.A. 779.

### c. Criminal negligence.

§ 30. Generally.
Negligent homicide, see Homicide, § 15. Criminal liability of highway officers for negligence. 22 L.R.A. 835.

#### IV. Procedure.

#### a. In general.

8 31. Generally.

Nature of proceeding as civil or criminal, see Action or Suit, § 6.

Right or appeal in criminal case, see AP-PEAL AND ERROR, §§ 2, 7a.
Review, on appeal, of decisions in criminal

cases, see APPEAL AND ERROR, VIII.

Review of facts on appeal in criminal cases, see APPEAL AND ERBOR, § 33.

Instructions in criminal prosecution, see APPEAL AND ERBOR, § 36; TRIAL, §§ 60-

Arguments and conduct of counsel, see APPEAL AND ERROR, § 37; TRIAL, §§ 15-· 17. 🐺

Remarks or conduct of judge, see APPEAL AND ERBOR, § 38.

Error as to jury or conduct of trial, see Appeal and Error, § 39.

Ex post facto laws, see Constitutional LAW, § 7.

Continuance in criminal cases, see CONTINU-

Liability for costs in criminal prosecution, see Costs and Fees, II.

Jurisdiction in criminal cases, see Courts, §§ 9, 25, 44.

Dismissal of criminal prosecution, see Dis-MISSAL AND DISCONTINUANCE, § 4.

As to prosecuting attorney, see DISTRICT AND PROSECUTING ATTORNEY.

Judicial notice as to criminal matters, see EVIDENCE, II.

Presumptions and burden of proof as to criminal matters, generally, see Evi-DENCE, III.

Best and secondary evidence in criminal prosecution, see EVIDENCE, IV.

Documentary evidence in criminal case, see EVIDENCE, V.

Demonstrative evidence in criminal prosecution, see EVIDENCE, VI. Expert and nonexpert evidence as to san-

ity, see Evidence, §§ 189-193. Admissibility of opinion evidence in crimi-

nal prosecution, see EVIDENCE, VIII.

Admissibility of confessions, see EVIDENCE, IX:

As to evidence with respect to handwriting, generally, see EVIDENCE, §§ 198-205. Comparison of typewriting and finger prints, see EVIDENCE, VIII. h.

CRIMINAL LAW, IV. a-cont'd

As to confessions, see EVIDENCE, §§ 207-214.

Admissibility of evidence wrongfully obtained, see EVIDENCE, § 213.

Admissions of accused, see EVIDENCE, § 215.

Admissibility of declarations of third persons in criminal prosecution, see EVIDENCE, XI.

Evidence of threats, see EVIDENCE, § 239. Admissibility of dying declarations, see EVI-DENCE, § 242.

Admissibility of declarations of accused, see EVIDENCE, § 227. Admissibility of acts and declarations of

Admissibility of acts and declarations of coconspirators and codefendants, see EVIDENCE, § 237.

Evidence as to character of accused or other persons, see EVIDENCE, §§ 249-253.

Evidence as to character or reputation, see EVIDENCE, §§ 251, 252.

Evidence of other crimes, see EVIDENCE, § 275.

Relevancy of evidence in criminal cases, generally, see EVIDENCE, §§ 277, 284-287.

Weight of evidence in criminal cases, generally, see EVIDENCE, §§ 315-328.

Necessity of corroboration of accomplice, see Evidence, § 321.

Matters as to grand jury, see Grand Jury, Competency of evidence before grand jury, see Grand Jury, § 7.

Limitation of time for prosecution, see LIM-ITATION OF ACTIONS, § 38b.

Termination of prosecution for purpose of action for malicious prosecution, see Malicious Prosecution, § 9.

Motion for new trial in criminal case, see NEW TRIAL.

Nolle prosequi, see Nolle Prosequi.

Removal of criminal cause to Federal court, see REMOVAL OF CAUSES, § 19.

Province of court and jury in criminal prosecution, see TRIAL, §§ 54, 55.

Instruction in criminal case, see TRIAL, V. Verdict in criminal prosecution, see TRIAL, VIII.

Venue of criminal prosecution, see VENUE, § 3.

Witnesses generally in criminal cases, see WITNESSES.

Competency of witnesses in criminal case, see WITNESSES, II.

Cross-examination of accused, see WIT-NESSES, § 37.

Impeachment of witness in criminal case, see WITNESSES, § 42.

Applicability in proceeding to punish criminal contempt of rules of evidence in criminal cases. L.R.A.1917B, 118.

Admissibility in evidence of former plea of guilty. L.R.A.1916E, 640; L.R.A. 1918E, 92.

Effect of writ or process, without seal of court. 20 L.R.A. 424.

Want of internal revenue stamp on instrument requiring stamp, as affecting criminal prosecution. 46 L.R.A. 454.

Criminal prosecutions where statutes regulating business of foreign insurance companies have not been complied with. 20 L.R.A. 409

Consult also L.R.A. Digests of Cases.

CRIMINAL LAW, IV. a-cont'd

Procedure on prosecution of habitual criminal or prior offender. 34 L.R.A. 404; 24 L.R.A. (N.S.) 435.

Validity of proceedings in course of trial outside of court room. 41 L.R.A. 563.

Right of private person to exhibit criminal information in court of record. 19 L.R.A.(N.S.) 1050.

First and last days in computing time for prosecutions. 49 L.R.A. 216, 224.

Basing an indictment upon testimony of accomplices. 28 L.R.A. 319.

Entry of judgment nunc pro tunc in criminal case. 20 L.R.A. 146.

Consolidated trial upon several indictments against same defendant. 3 L.R.A. (N.S.) 412; 47 L.R.A. (N.S.) 955.
Right of court to order disinterment of

Right of court to order disinterment of corpse for evidential purposes. 22 L.R.A.(N.S.) 513.

Construction and effect of provisions requiring prosecution for adultery to be on complaint of husband or wife. 19 L.R.A.(N.S.) 786.

Prosecution under general liquor law for sale in local-option territory. 3 L.R.A. (N.S.) 620.

Effect of escape on appeal from conviction. 26 L.R.A.(N.S.) 921.

Intimation that a recommendation to mercy will be entertained as ground for reversal. 40 L.R.A.(N.S.) 239.

§ 32. Preliminary examination.

Admissibility of testimony on, of witness not available at time of trial, see EVI-DENCE, § 245.

Complaint or information based on information and belief as basis for examination preliminary to issuance of warrant. 10 L.R.A. (N.S.) 159; 25 L.R.A. (N.S.) 60.

Admissibility in criminal trial of testimony given on preliminary examination by witnesses not available at time of trial. 25 L.R.A.(N.S.) 868.

Right of public prosecutor to have preliminary examination before magistrate dismissed. L.R.A.1918C, 209.

§ 33. Warrant; commitment.

Complaint or information based on information and belief as basis for issuance of warrant. 10 L.R.A.(N.S.) 159; 25 L.R.A.(N.S.) 60.

Necessity of commitment to render imprisonment valid. 38 L.R.A.(N.S.) 609. Informality of commitment as justification

Informality of commitment as justification for prison breach. 15 L.R.A. 191.

§ 34. Effect of agreement for immunity of accomplice who testifies for prosecution.

In general. 24 L.R.A. (N.S.) 439.

Who can promise immunity. 24 L.R.A. (N.S.) 442.

companies have not been complied with. Duty to make full disclosure. 24 L.R.A. 20 L.R.A. 409. (N.S.) 443.

CRIMINAL LAW, IV. a-cont'd

Necessity to immunity of accomplice's fulfilling agreement. 24 L.R.A. (N.S.) 444.

Effect of agreement on competency as witness. 24 L.R.A.(N.S.) 445.

Effect of voluntary testimony by accomplice. 24 L.R.A.(N.S.) 445.

§ 35. Necessity for indictment or presentment.

As to requisites and sufficiency of indictment, see INDICTMENT, INFORMATION, AND COMPLAINT.

Sufficiency of information, without indictment, in common-law felonies. 1 L.R.A. (N.S.) 1153.

Constitutional or statutory provisions for prosecution of felony upon information without indictment as an ex post facto law. 38 L.R.A.(N.S.) 600.

What is an infamous crime within constitutional provisions requiring presentment by a grand jury. 17 L.R.A. 764.

\$ 35a. Loss of indictment.

Right to substitute copy. 41 L.R.A.(N.S.) 1079.

Right of grand jury to refind or to find a new indictment. 41 L.R.A.(N.S.)

Original subsequently found. 41 L.R.A. (N.S.) 1084.

Formal requisites of substitution. 41 L.R.A.(N.S.) 1085.

§ 36. Matters as to jury.

Discharge of jury as bar to further prosecution, see infra, § 63.

Right to jury trial in criminal case, see Jury, § 5.

Denial or infringement of right to jury trial, see Jury, § 6a.

Number and agreement of jurors in criminal case, see Jury, § 15.

Competency of jurors in criminal case, see Jury, §§ 11-14.

Selection of jurors in criminal case, see JURY, III.

As to grand jury, see GRAND JUBY. In civil cases, see TRIAL, §§ 70-74.

Right of jurors to act on their own knowledge as to matters not in evidence. 31 L.R.A. 489; 37 L.R.A. (N.S.) 796.

How long shall a jury be permitted to deliberate before a mistrial may be ordered. 11 L.R.A.(N.S.) 178.

Right to waive absence of juryman in criminal case. 14 L.R.A.(N.S.) 862.

Right in criminal case to substitute another juror and proceed with the trial when a juror becomes disabled or incompetent. 25 L.R.A.(N.S.) 36.

Effect of jury in criminal case hearing speech or address out of court on subject related to issues before them. 38 L.R.A.(N.S.) 1116.

CRIMINAL LAW, IV. a-cont'd

Effect of statutory declaration that murder committed by certain means or while engaged in commission of felony shall be murder in the first degree, upon right of jury to pass upon the degree.

12 L.R.A.(N.S.) 935.

Delay of prosecution caused by failure to have a jury as ground for discharge of accused. 56 L.R.A. 529.

Effect of consent of defendant in criminal case to proceeding with less than twelve jurors. 46 L.R.A.(N.S.) 38.

Unauthorized view by juror or jury as ground for new trial or reversal. L.R.A.1915B, 705.

§ 37. — separation of jury. Separation of jury generally, see TRIAL, § 73.

Permitting separation of jury in capital case. 24 L.R.A.(N.S.) 776.

Right to permit separation of jury in criminal cases, other than capital, after finding but before rendition of verdict. 31 L.R.A.(N.S.) 1005.

§ 38. — withdrawal of juror.\*
Withdrawal of juror generally, see Trial, §
18a.

Power to withdraw juror in criminal cases. 48 L.R.A. 434.

Effect of withdrawal of juror in criminal case. 48 L.R.A. 440.

§ 39. Matters as to judges.

Remarks or conduct of judge, see APPEAL AND ERBOR, § 38.

Disqualification of judge, see Judges, § 3. Right of court to direct a verdict of guilty.

Right of court to direct a verdict of guilty.
22 L.R.A. (N.S.) 304.

When temporary absence of judge during trial is fatal. 41 L.R.A. 569.

Statute reducing number of presiding judges at criminal trial as ex post facto law. 37 L.R.A.(N.S.) 567.

Delegation of power to receive verdict in criminal case. L.R.A.1917E, 1090.

§ 40. Power of public prosecutor to dismiss prosecution.

The origin and nature of the power. 35 L.R.A. 701.

The power absolute, when and where. 35 L.R.A. 701.

The power limited by the will of the court. when and where. 35 LR.A. 705.

The court may advise, but cannot compel, the exercise of the power. 35 L.R.A. 708.

The power limited by the will of the accused, when. 35 L.R.A. 709.

The power exercised toward one of several.

35 L.R.A. 710.

The power to correct the indictment or information by dismissal as to a part. 35 L.R.A. 712.

The power absolute after new trial granted, or appeal taken. 35 L.R.A. 716.

CRIMINAL LAW, IV. a-cont'd

The power of the reviewing court. 85 L.R.A. 716.

The power to recall the dismissal of the prosecution. 35 L.R.A. 716.

Necessity of the consent of court to entry

of nolle prosequi in a criminal case.
45 L.R.A. (N.S.) 1123.
Right of public prosecutor to have preliminary examination before magistrate dismissed. L.R.A.1918C, 209.

§ 41. Effect of conviction or acquittal generally.

Former conviction as a bar, see infra, §§ 59-64.

Effect of, to revoke liquor license, see infra,

Civil death resulting from conviction, see CIVIL DEATH.

As ground for divorce, see DIVORCE AND SEPARATION, § 29.

Acquittal or discharge on criminal charge as evidence of want of probable cause in action for malicious prosecution. 64 L.R.A. 474.

Effect of conviction on marriage. L.R.A. 515.

As ground of disbarment of attorney. L.R.A. (NS.) 892.

For other crime, effect on admissibility of evidence of such crime. 62 L.R.A. 341.

§ 42. Insanity after commission of criminal act.

Criminal responsibility of insane person, see supra, §§ 8-10.

Sentence and imprisonment of insane person, see infra, § 72.

Effect; generally. 38 L.R.A. 577. Question when and how raised. 38 L.R.A. 578.

Test of insanity which will prevent trial. 38 L.R.A. 579.

Determination as to submission of issue. 38 L.R.A. 580.

Disposition of the issue. 38 L.R.A. 582. Effect of the determination. 38 L.R.A. 585. Insanity after verdict. 38 L.R.A. 587.

Insanity after judgment. 38 L.R.A. 588. Appeals. 38 L.R.A. 589. Effect of recovery. 38 L.R.A. 590.

Method of raising insanity supervening after conviction. 10 L.R.A. (N.S.) 1129.

### b. Protection and rights of accused generally.

3 43. Generally.

Right to trial by jury in criminal prosecution, see Juny, § 5.

Number and agreement of jurors necessary to verdict, see JURY, § 15.

Right of prosecutrix in bastardy proceed-33 L.R.A. ings to private counsel. (N.S.) 463.

Protection of deaf defendant in criminal prosecution. 2 L.R.A.(N.S.) 509.

Right of indicted person to inspect minutes of grand jury. 27 L.R.A.(N.S.) 558. Consult also L.R.A. Digests of Cases.

CRIMINAL LAW, IV. b-cont'd

Right to limit time of argument for counsel of accused. 25 L.R.A. (N.S.) 1027; 42 L.R.A.(N.S) 209.

Vested right in defense of limitations in criminal actions. 45 L.R.A. 614.

Right of prisoner to opportunity to con-sult with his attorney. 44 L.R.A. (N.S) 1083.

Right of accused to complain because prosecution is conducted or assisted by an unofficial member of the bar. 47 L.R.A. (N.S.) 1106.

Right to take or retain in rogues' gallery picture of one accused of crime. L.R.A. 1916A, 748.

§ 44. Public trial; misconduct of spectator.

Right to public trial. 14 L.R.A. 809.

Right of court to exclude public from court room during criminal trial. 9 LR.A. (N.S.) 277; 27 LR.A. (N.S.) 487; 44

L.R.A.(N.S.) 583; L.R.A.1918C, 1168. Effect of misconduct of spectator during criminal trial. 12 L.R.A.(N.S.) 98; L.R.A.1918E, 959.

Permitting hostile crowd in court room as denial of fair trial. 39 L.R.A. (N.S.) 667.

In case of citizen of Mexico accused of organizing in the United States military expedition against Mexico. L.R.A. 1917A, 281.

§ 45. Delay of prosecution as ground of discharge.

Where there is no cause for delay. L.R.A. 513.

In failing to indict or to file an information. 56 L.R.A. 515.

Where the statutory time has not elapsed. 56 L.R.A. 518.

Caused by appeal or error. 56 L.R.A. 518. Where there is a mistrial or new trial. L.R.A. 519.

Where the indictment is set aside or nolled and new indictment found. 56 L.R.A. 522.

Where defendant is held under several indictments. 56 L R.A. 524.

Where there are other defendants. 58 L.R.A. 525.

Caused by change of venue. 56 L.R.A. 525. Caused by continuance for evidence. 56 L.R.A. 526.

For want of time to try. 56 L.R.A. 527. In neglecting to provide a prosecuting attorney or expense money for court. 56 L.R.A. 528.

In failing to have a jury. 56 L.R.A. 529. In failing to hold court. 56 L.R.A. 530.

"Court" and "term" defined. 56 L.R.A. 531. Where the defendant is not in jail or is out on bail. 56 L.R.A. 533.

Where the defendant is in the penitentiary. 56 L.R.A. 534.

Caused by acts or condition of accused. 56 L.R.A. 535.

Presumption that delay is for good cause. 56 L.R.A. 536.

CRIMINAL LAW, IV. b-cont'd

Demand as a condition precedent to a discharge. 56 L.R.A. 538; 44 L.R.A. (N.S.)

Remedy to obtain discharge. 56 L.R.A. 539.

Effect of discharge. 56 L.R.A. 544. Right to a speedy trial of one under confinement for another offense. L.R.A. 1915E, 363.

In case of citizen of Mexico accused of organizing in the United States military expedition against Mexico. 1917A, 281.

§ 46. Presence of accused.

42 Presence of accused at view by jury. L.R.A. 378.

At time of making of dying declaration. 56 L.R.A. 453.

Necessity of presence of accused at rendition of verdict for misdemeanor. 1917B, 346.

Waiver of presence of one charged with misdemeanor at time of receiving verdict. 21 L.R.A.(N.S.) 56.

Waiver of presence of accused at time of receiving verdict upon trial for felony. 14 L.R.A.(N.S.) 603; 32 L.R.A.(N.S.) 306; L.R.A.1915D, 817.

### § 47. Right to meet witnesses.

Applicability in proceeding to punish criminal contempt of rule as to, in criminal cases. L.R.A.1917B, 119.

Admissibility of testimony given on pre-liminary examination as affected by right of accused to be confronted with witnesses against him. 25 L.R.A.(N.S.)

Statute establishing prima facie rule of evidence as denial of right to be confronted with witnesses. L.R.A.1915C, 725.

#### § 48. Compulsory process to procure witnesses.

Power to regulate or restrict constitutional right of defendant in criminal cases to compulsory process to procure attendance of witness in his behalf. 8 L.R.A. (N.S.) 509.

### § 49. Self-crimination.

Admissibility of confession, see EVIDENCE, TX.

Constitutional guaranty against self-incrimination; equivalent exemption to witness. 1 L.R.A.(N.S.) 167.

Use in criminal proceedings of books which one has been required to produce in another proceeding as violation of his right against self-crimination. 47 right against a L.R.A.(N.S.) 263.

Who is within protection of provision of Bankruptcy Act as to use in criminal proceedings of testimony given by bank-ruptcy. L.R.A.1917B, 614.

Effect of statutes prohibiting the use of testimony against the witness. 14 L.R.A. 407; 26 L.R.A. 418.

CRIMINAL LAW, IV. b-cont'd By experiment in presence of jury. 15 L.R.A. 223.

Merely demanding that accused produce incriminating document as violation of his privilege. 35 L.R.A.(N.S.) 1171;

Power to require one who has caused injury to identify himself. 40 L.R.A.(N.S.) 622.

Incriminating evidence furnished by defendant acting under compulsion. 32 L.R.A.(N.S.) 772; L.R.A.1918B, 849.

Effect of agreement for immunity of accomplice on his competency as a witness. 24 L.R.A.(N.S.) 445.

Admissibility of schedules filed in Federal bankruptcy proceedings, in prosecution of bankrupt for concealment of property. 18 L.R.A.(N.S.) 1194.

Right of officer of a corporation to refuse to turn over its books to a receiver, upon the ground that they have a tendency to incriminate him. 30 L.R.A. (N.S.) 725.

May records of sales of liquor which a druggist is required by law to keep be used as evidence against him in a criminal prosecution. 25 L.R.A.(N.S.) 818.

False testimony under immunity statute as perjury. 9 L.R.A. (N.S.) 237.

Conclusiveness of witness's statement that the answer to questions against which he pleads his privilege would tend to criminate him. 24 L.R.A.(N.S.) 165; 49 L.R.A.(N.S.) 826.

Applicability in proceeding in punish criminal contempt of rule as to, in criminal

cases. L.R.A.1917B, 118.

§ 50. — necessity for claiming protection.

Necessity of claiming constitutional protection against being compelled to give incriminating evidence. 4 L.R.A. (N.S.) 1144.

§ 51. — use in civil case of information gained.

Constitutional protection against. 29 L.R.A. 811.

May self-incriminating testimony elicited under an immunity statute be used in a civil proceeding. 25 L.R.A.(N.S.) 622.

§ 52. - admissibility against accused of documents or things taken from

In general. 59 L.R.A. 465; 8 L.R.A. (N.S.) 762; 34 L.R.A.(N.S.) 58; L.R.A.1915B, 834; L.R.A.1916E, 716.

Constitutional restrictions. 59 L.R.A. 465; L.R.A.1916E, 717.

Effect of illegal or improper seizure. 59 L.R.A. 470; 34 L.R.A.(N.S.) 59.

Rule as to articles unlawfully possessed, or in which the public has an interest. 59 L.R.A. 472.

Shoes taken to compare with tracks. L.R.A. 1915B, 837.

CRIMINAL LAW, IV. b-cont'd

To what proceedings foregoing rules apply. 59 L.R.A. 473.

Effect of illegality of taking, 34 L.R.A. (N.S.) 59; L.R.A.1915B, 834; L.R.A. 1916E, 716.

Prosecution for carrying concealed weap ons. 34 L.R.A.(N.S.) 61; L.R.A.1915B, 837.

§ 53. — right to compel accused to exhibit himself for examination. Cases denying the right. 28 L.R.A. 699. Cases asserting the right. 28 L.R.A. 700. Comparison of cases. 28 L.R.A. 703. Waiver of the constitutional exemption. 28 L.R.A. 703.

The English rule. 28 L.R.A. 704.

§ 54. Right of prisoner to appear unmanacled at trial.

In general. 39 L.R.A. 821.

When justifiable. 39 L.R.A. 822.

Upon his arraignment and sentence. 39 39 L.R.A. 824.

As a ground of reversal and review. L.R.A. 824.

Provisions of state Constitutions and statutes. 39 L.R.A. 825.

### c. Arraignment; plea; motions.

§ 55. Arraignment.

May defendant be arraigned after commencement of trial. 27 L.R.A.(N.S.) 1181.

### § 56. Pleas.

Plea of former jeopardy, see infra, IV. d.

Admissibility in evidence of former ples of guilty. L.R.A.1916E, 640; L.R.A.1918E, 92.

Statute allowing plea of guilty in capital

case. 16 L.R.A. 358.

Plea of guilty under intimidation. 34 L.R.A.(N.S.) 257.

In prosecution under statute enhancing penalty for crime by prior offenders. 34 L.R.A. 405; 24 L.R.A. (N.S.) 436; 48 L.R.A. (N.S.) 206.

Duty of court before accepting plea of guilty in capital case. 22 L.R.A. (N.S.) 463. May defendant plead after commencement of trial. 27 L.R.A.(N.S.) 1181.

Right upon plea of guilty to sentence accused without intervention of jury. 35 L.R.A. (N.S.) 1146.

Conclusiveness of plea of guilty in subsequent civil action. 28 L.R.A.(N.S.) 328; L.R.A.1915A, 203.

Plea of guilty as affecting action for illegal arrest, false imprisonment, or malicious prosecution. 20 L.R.A. (N.S.) 295.

Manner and time of raising defense of former jeopardy. L.R.A.1917A, 1233.

56a. - plea of nolo contendere. Pleadable only by leave of court. 41 L.R.A. (N.S.) 71.

Effect of plea. 41 L.R.A. (N.S.) 71.

Sentence may be entered forthwith. L.R.A. (N.S.) 72.

Consult also L.R.A. Digests of Cases.

CRIMINAL LAW, IV. c-cont'd Admissibility of evidence in mitigation and

aggravation of punishment. 41 L.R.A. (N.S.) 72.

Right to use against defendant in another proceeding. 41 L.R.A. (N.S.) 73. To impeach defendant as a witness. 41 L.R.A.(N.S.) 74

Admissibility in a proceeding against a third person. 41 L.R.A.(N.S.) 74.

Where plea of nolo contendere is permissible. 41 L.R.A. (N.S.) 75.

Duty of court before accepting plea of guilty in capital case. 22 I.R.A. (N.S.) 463.

§ 57. — effect of failure to give opportunity to plead.

Effect upon conviction of failure to give accused an opportunity to plead. 13 L.R.A.(N.S.) 811; 45 L.R.A.(N.S.) 664.

#### § 58. Motion in arrest.

Amendment of record to cure defect in indictment for which motion in arrest of judgment has been made. 67 L.R.A. 182.

Mistake as to name of juror in criminal case as ground for arrest of judgment. 47 L.R.A. (N.S.) 714.

Raising objection of duplicity in indict ment by motion in arrest of judgment. 49 L.R.A.(N.S.) 456.

### d. Former jeopardy.

§ 59. Generally.

Manner and time of raising defense of for-mer jeopardy. L.R.A.1917A, 1233.

Decision as to, as a Federal question. 62 L.R.A. 530.

Question whether suit for statutory penal-ty is a civil or criminal prosecution as affecting former jeopardy. 27 L.R.A. (N.S.) 752.

Validity, under constitutional provision forbidding second jeopardy, of statute authorizing injunction against commission of crime. 2 L.R.A.(N.S.) 1111.

Trial under erroneous theory as to crime charged as former jeopardy. 24 L.R.A. (N.S.) 481.

Acquittal of crime as a bar to a subsequent prosecution of defendant for perjury committed on the former trial. 39 L.R.A.(N.S.) 385; L.R.A.1917B, 743.

Former jeopardy in retrial for substantive offense after setting aside verdict for attempt. 44 L.R.A.(N.S.) 1047.

Defective or void sentence or judgment as basis of plea of former jeopardy. L.R.A. 1915A, 526.

Conviction under municipal ordinance as bar to prosecution under state statutes, and vice versa. 17 L.R.A.(N.S.)

Conviction or acquittal of marital offense as bar to a subsequent prosecution. 40 L.R.A.(N.S.) 615.

٠.٠.

CRIMINAL LAW, IV. d-cont'd

Conviction or acquittal of a sexual offense as a bar to a prosecution for a similar of-fense with or against the same person at a different time. L.R.A.1917D, 731. Former jeopardy in case of sexual offenses.

L.R.A.1915A, 256.

Does impaneling jury and proceeding with the trial, without arraigning defendant, place him in jeopardy. 27 L.R.A. (N.S.) 137.

Does jeopardy attach where trial is begun with unsworn jury. 40 L.R.A.(N.S.)

Trial of insane person as former jeopardy. 35 L.R.A. (N.S.) 470.

Right to have claim of former jeopardy determined in habeas corpus proceeding. 15 L.R.A.(N.S.) 227.

Collateral attack on former conviction or acquittal for fraud not affecting jurisdiction. 36 L.R.A. (N.S.) 985.

Judgment in criminal action as res judicata in civil action. 11 L.R.A.(N.S.) 653;

Judgment on voluntary or collusive appearance as bar to subsequent prosecution. L.R.A.1918A, 1181.

Increasing severity of punishment for second or subsequent offense. 34 L.R.A. 400; 48 L.R.A. (N.S.) 204.

#### § 60. Different offenses in same transaction.

When trial is stopped for purpose of prosecution of higher or different offense. 44 L.R.A.(N.S.) 617.

Conviction or acquittal of one of the substantive offenses embraced in a conspiracy as a bar to prosecution for another. L.R.A.1918A, 588.

Conviction or acquittal of offenses as a bar to prosecution for homicide in commission of the offense. 63 L.R.A. 405.

Conviction on charge of assault as bar to subsequent prosecution for homicide following death of victim. 14 L.R.A. (N.S.) 209.

Acquittal of larceny as bar to prosecution for forgery in same transaction. 4 L.R.A.(N.S.) 402.

Conviction or acquittal of sale of liquor as a bar to a prosecution for sales made prior to the first indictment. 45 L.R.A. (N.S.) 977.

Acquittal or conviction upon a charge of burglary or feloniously entering with intent to steal goods of a certain person, as a bar to a subsequent prosecution based on the same entry, but charging intent to steal the property of another person. L.R.A.1915C, 627.

Former jeopardy in cases of sexual offenses. L.R.A.1915A, 256.

### 61. Effect of pending appeal.

Effect of a pending appeal from a conviction upon its operation as a bar to another prosecution for the same offense. 23 L.R.A. (N.S.) 596.

('RIMINAL LAW, IV. d-cont'd

§ 62. Conviction of lower degree as acquittal of higher degree.

Former jeopardy in retrial on higher charge after setting aside verdict for lower charge. 5 L.R.A. (N.S.) 571; 22 L.R.A. (N.S.) 959.

Effect of conviction of lower degree in prosecution for homicide as acquittal of higher degree. 21 L.R.A.(N.S.) 20.

63. Discharge of jury.

By reason of the discharge of the jury in the prisoner's absence. 44 L.R.A. 694. Effect of discharge of jury upon the discovery of prejudice, disqualification, or misconduct of one or more of their number, to sustain a plea of former jeopardy. 14 L.R.A. (N.S.) 548; L.R.A. 1916E, 1273.

Discharge of jury because of matter affecting witness. L.R.A.1917D, 1148.

#### § 64. Discharge for want of prosecution.

Effect of second indictment or information for same offense after accused is entitled to discharge for want of prosecution under first. 11 L.R.A.(N.S.) 257.

#### e. Proof of corpus delicti.

### § 65. Generally.

In general. 68 L.R.A. 33. Order of proof immaterial. 68 L.R.A. 79. Province of court and jury. 68 L.R.A. 79.

### § 66. What constitutes.

In general. 68 L.R.A. 34. Homicide. 68 L.R.A. 35.

68 L.R.A. 40: 28 L.R.A. (N.S.) Larceny. 536; L.R.A.1916B, 846.

Arson. 68 L.R.A. 41; 16 L.R.A. (N.S.) 285; L.R.A.1916D, 1299.

Burglary. 68 L.R.A. 41.

Other crimes. 68 L.R.A. 41. When proof of marriage necessary. 68 L.R.A. 42.

§ 67. Necessity. General rule. 68 L.R.A. 45.

Arson. 16 L.R.A.(N.S.) 285; L.R.A.1916D, 1299.

Homicide. 68 L.R.A. 35, 46. Larceny. 68 L.R.A. 48; 28 L.R.A.(N.S.) 536; L.R.A.1916B, 846. Other crimes. 68 L.R.A. 49; 1916B, 748;

1916D, 1299.

To corroborate confession. 68 L.R.A. 50. False pretenses. 19 L.R.A. (N.S.) 443.

## § 68. Character and sufficiency.

General rule. 68 L.R.A. 57. Arson. L.R.A.1916D, 1299.

Homicide. 68 L.R.A. 57, 73, 75-78; 7 L.R.A.(N.S.) 181.

Embezzlement. L.R.A.1917A, 1289. Larceny. 68 L.R.A. 65: 28 L.R.A. (N.S.) 537; L.R.A.1916B, 846.

False pretenses. 19 L.R.A. (N.S.) 443. Other crimes. 68 L.R.A. 69; L.R A.1916B, 748.

CRIMINAL LAW, IV. e-cont'd Use of confession in aid of other evidence to establish. 68 L.R.A. 73.

Necessity of direct or positive evidence of. 68 L.R.A. 75.

Evidence of, tending to connect accused. 68 L.R.A. 78.

#### V. Offenses against different sovereignties.

§ 69. Federal and state or territorial. In general. 31 L.R.A.(N.S.) 695.

Offenses against state and municipality. 31 L.R.A.(N.S.) 699.

Offenses against different states. 31 L.R.A. (N.S.) 709.

Military and civil offenses. 31 L.R.A.

(N.S.) 710. Offenses against legislature and state. L.R.A. (N.S.) 711.

Offenses against courts and state. L.R.A.(N.S.) 711. 31

70. State and municipal.

Power of municipality to punish what is also an offense under state law. 17 L.R.A.(N.S.) 49.

Right of both state and municipality to convict of violation of Sunday closing

laws. 31 L.R.A.(N.S.) 708. Validity of municipal ordinance declaring that, all or certain classes of offenses denounced by law of state shall be offenses also under the ordinance. 26 L.R.A.(N.S.) 493.

### VI. Sentence and imprisonment.

### a. In general.

71. Generally.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 194.

Conviction and sentence as ground for divorce, see DIVORCE AND SEPARATION, § 29.

Fines as punishment, see FINES, § 2.

Habeas corpus to procure release of one improperly confined, see HABEAS COR-PUS.

Constitutionality of imprisonment for debt, see IMPRISONMENT FOR DEBT.

Escape from prison, see JAILS AND PRISONS,

Conclusiveness of judgment in criminal action, see JUDGMENT, § 39.

Punishment in bastardy proceedings, see BASTARDY, § 5.

Punishment for contempt, see CONTEMPT, § 13.

Punishment for keeping disorderly house, see DISORDERLY HOUSES, § 4.

Punishment for gambling, see GAMING, § 8. Punishment for homicide, see HOMICIDE, §

Punishment for offenses as to intoxicating liquor, see Intoxicating Liquors, 35.

Consult also L.R.A. Digests of Cases.

('RIMINAL LAW, VI. a-cont'd

Punishment for larceny, see LARCENY, § 12. Punishment for maintaining nuisance, see Nuisances, § 31.

Punishment for robbery, see ROBBERY, § 7.

Defective or void sentence as basis of plea of former jeopardy. L.R.A.1915A, 526. Equal protection as to punishment. L.R.A. 584.

Correction of verdict by court to assess punishment. 23 L.R.A. 726.

Power to amend commitment or sentence by increasing punishment. 40 L.R.A. (N.S.) 90.

Necessity of formal commitment to render imprisonment valid. 38 L.R.A. (N.S.) 609.

Right to admit evidence of value of goods taken or sought to be taken in prosecution for burglary in order to assess punishment. 34 L.R.A.(N.S.) 249.

Right of accused to show unchastity of prosecutrix in statutory rape in mitigation of punishment. 48 L.R.A.(N.S.) Ž78.

Voluntariness of confession induced by promise of mitigation of punishment. 18 L.R.A. (N.S.) 820; 50 L.R.A. (N.S.) 1086.

Asexualization or sterilization of criminals. L.R.A.1918D, 236.

#### 🖁 72. Of insane person.

Criminal responsibility of insane person, see supra, §§ 8-10.

Insanity commencing after commission of criminal act, see supra, § 42.

Confinement of one acquitted of crime by reason of insanity. 1 L.R.A.(N.S.) 540; 25 L.R.A.(N.S.) 946.

Imprisonment of insane person on acquittal as cruel and unusual punishment, L.R.A.1915C, 565.

Validity of statute providing for commitment of inebriates without their consent, to a public or private institution. 17 L.R.A.(N.S.) 984.

Power of court to suspend sentence temporarily on suggestion of insanity. 33 L.R.A. (N.S.) 115.

#### § 73. Of infant.

Punishment of infants. 36 L.R.A. 210. Commitment of minors to reformatory without conviction of crime. 16 L.R.A. 691.

§ 74. Effect of convictions to revoke liquor license.

Constitutionality of statute by which conviction of violation of liquor law entails revocation of license and prohibition of sale of liquor. 30 L.R.A. (N.S.) 1004.

75. Execution of death sentence. Homicide in execution of death sentence. 67 L.R.A. 293.

CRIMINAL LAW, VI. a-cont'd

Effect of execution of insured for crime on right to recover life or accident insurance. 14 L.R.A. (N.S.) 356; L.R.A. 1918A, 898.

Right of executive officer to fix date of execution in a capital case. 14 L.R.A. (N.S.) 268.

§ 76. Recommitment or resentence. Power to commit after expiration of term of sentence. 19 L.R.A.(N.S.) 1041.

Recommitment without further hearing of person discharged from insane hospital. 14 L.R.A. (N.S.) 468.

Power of appellate court to resentence for lower degree on reversal of conviction of homicide for higher degree. 21 L.R.A.(N.S.) 20.

§ 77. Right to compel prisoner to labor.

The power, generally. 27 L.R.A. 593. Constitutional restrictions. 27 L.R.A. 594. Necessity of express authority. 27 L.R.A.

Exception when labor is a part of the prison discipline. 27 L.R.A. 596.

Construction of statutes conferring the power generally. 27 L.R.A. 597.

er generally. 27 L.R.A. 597.
Imposition for nonpayment of costs. 27
L.R.A. 601.

Necessity of strict compliance. 27 L.R.A. 602.

Delegation of the power. 27 L.R.A. 603. Hiring out convicts. 27 L.R.A. 604.

Effect of delay in execution of sentence. 27 L.R.A. 611.

Discharge because of inability to pay. 27 L.R.A. 611.

Remedy for improper imposition. 27 L.R.A. 612.

As cruel punishment. 35 L.R.A. 566; L.R.A. 1915C, 562.

Ordinance against convict labor in streets. 39 L.R.A. 680.

§ 78. Cruel and unusual punishment. Constitutional and statutory provisions. 35 L.R.A. 561.

General principles governing punishments. 35 L.R.A. 561; L.R.A.1915C, 558.

Nature of punishments. 35 L.R.A. 564; L.R.A.1915C, 560.

Punishment for particular crimes. 36 L.R.A. 569; L.R.A.1915C, 565.

Extent of United States Constitution. 38 L.R.A. 578; L.R.A.1915C, 570.

Enhancing penalty for crime committed by habitual criminals or prior offenders as. 34 L.R.A. 400; 35 L.R.A. 579.

Asexualization or sterilization of criminals or defectives. 41 L.R.A.(N.S.) 419; L.R.A.1918D, 236.

§ 79. Effect of excessive sentence. General rule. 45 L.R.A. 137; 51 L.R.A. (N.S.) 373.

Effect of application for habeas corpus. 48 L.R.A. 139; 51 L.R.A. (N.S.) 374.

CRIMINAL LAW, VI. a—cont'd

Effect on appeal, or on writ of error.

LR.A. 150; 51 L.R.A. (N.S.) 381.

On certiorari. 45 L.R.A. 158; 51 L.R.A. (N.S.) 388.

English, Canadian, and Philippine decisions. 45 L.R.A. 159; 51 L.R.A. (N.S.) 389.

§ 80. Cumulative sentences.

Power to impose generally. 7 L.R.A.(N.S.) 124.

Necessity of specifying that sentences are cumulative. 7 L.R.A.(N.S.) 126.
Sufficiency and effect of specifications. 7

Sufficiency and effect of specifications.

L.R.A. (N.S.) 126.

Sufficiency of single judgment or sentence. 7 L.R.A.(N.S.) 127.

As affected by deduction of time for good behavior. 7 L.R.A. (N.S.) 128.

Effect of reversal or invalidity of first conviction. 7 L.R.A.(N.S.) 128.

Cumulative penalties for offense under both municipal ordinance and state statute. 17 L.R.A.(N.S.) 65.

§ 80a. Indeterminate sentence.

As cruel and unusual punishment. L.R.A. 1915C, 560.

§ 81. Reduction of term for good behavior.

Suspension of sentence for good behavior. 14 L.R.A. 285.

Constitutionality of statutory credits for good behavior. 1 L.R.A.(N.S.) 520.

Constitutionality of statutes providing

Constitutionality of statutes providing therefor. 34 L.R.A. 509.

Construction and effect of statutes. 34 L.R.A. 510.

Cumulative sentences as affected by deduction of time for. 7 L.R.A. (N.S.) 128.

Time allowance to prisoner whose sentence has been commuted from life to a term of years. L.R.A.1915B, 95.

§ 82. Place of imprisonment.

Designation of wrong place of imprisonment as ground for discharge upon habeas corpus. 13 L.R.A.(N.S.) 518.

Delegation of power to determine place of confinement of prisoners committed for crime. 42 L.R.A.(N.S.) 978.

§ 83. Enhancing penalty when crime committed by habitual criminals or prior offenders.

Validity of statutes and ordinances. 34 L.R.A. 398; 24 L.R.A. (N.S.) 482; 48 L.R.A. (N.S.) 204.

Construction and effect of statutes. 34 L.R.A. 400; 24 L.R.A.(N.S.) 433.

Identity of offenses. 34 L.R.A. 404; 24 L.R.A. (N.S.) 434; 48 L.R.A. (N.S.) 205. Necessity of alleging former conviction. 48

L.R.A.(N.S.) 205. Pleas. 34 L.R.A. 405; 48 L.R.A.(N.S.)

206.
Time of conviction of first offense. 48
L.R.A.(N.S.) 206.

Proof. 34 L.R.A. 406; 48 L.R.A. (N.S.) 206.

CRIMINAL LAW, VI. a-cont'd

Availability of same convictions for different

prosecutions. 48 L.R.A.(N.S.) 207. Verdict and judgment. 34 L.R.A. 407; 48 L.R.A.(N.S.) 207.

Miscellaneous. 48 L.R.A.(N.S.) 207.

lucreased punishment for second offense as cruel and unusual punishment. L.R.A. 579.

§ 84. Suspension of sentence.

Power of court to suspend sentence or stay execution of sentence. 33 L.R.A. (N.S.) 112; 39 L.R.A. (N.S.) 242; L.R.A. 1915C, 1169; L.R.A.1918C, 551.

What is "good behavior" within condition of suspended sentence. L.R.A.1918D, 697. Effect of suspension of sentence upon right to vote. 18 L.R.A.(N.S.) 684.

### b. Parole; pardon.

•§ 85. Generally.

Validity of contract to procure pardon, parole or commutation of sentence. L.R.A.1916D, 580.

Constitutionality of restrictions upon governor's pardoning power. L.R.A.1915F,

Power of court to inquire into the motives of the governor in exercising the par-doning power. 52 L.R.A.(N.S.) 113. Pardon by lieutenant governor or governor pro tem. 47 L.R.A.(N.S.) 1036.

Right to recall pardon. 22 L.R.A. (N.S.)

Power of municipal authorities to remit penalties or punishment for violation of municipal ordinances. 38 L.R.A. (N.S.) 196.

Voluntariness of confession induced by promise of. 18 L.R.A.(N.S.) 823.

86. Parole; conditional pardon.

Prisoner under parole as fugitive subject to

extradition. 51 L.R.A.(N.S.) 672.

Constitutionality of statutes establishing parole system. L.R.A.1915F, 531.

Conditional pardons and parole of prisoner. 14 L.R.A. 285.

Power to impose in pardon conditions extending beyond term of sentence. 5 L.R.A.(N.S.) 1064; 20 L.R.A.(N.S.) 337; 26 L.R.A.(N.S.) 110.

Is time prisoner is out on parole or conditional pardon to be deducted from term of sentence. 16 L.R.A. (N.S.) 304.

Release on parole as affecting right to habeas corpus. 35 L.R.A.(N.S.) 882.

Revocation for condition broken, of conditional pardon or parole, without notice or hearing. L.R.A.1915F, 541.

One on parole under conviction in the asylum state as subject to extradition. L.R.A.1918D, 680.

§ 87. Legislative power to grant. After conviction. 34 L.R.A. 251. Before conviction. 34 L.R.A. 252. 254.

Consult also L.R.A. Digests of Cases.

CRIMINAL LAW, VI. b-cont'd § 88. Effect of pardon.

Effect of pardon granted after verdict and before sentence, or pending appeal. L.R.A.1917B, 570.

Pardon or commutation of sentence as affecting competency of witness convicted of crime. 47 L.R.A. (N.S.) 206.

Pardon or commutation as affecting proof of conviction to impeach credibility of witness. 47 L.R.A. (N.S.) 215.

Pardon as affecting enhanced punishment for later offense. 34 L.R.A. 402; 24 for later offense. L.R.A. (N.S.) 435.

Effect of pardon or commutation of sentence on conjugal rights. 7 L.R.A. (N.S.) 272.

Effect of pardon on right to disbar attorney convicted of felony. 16 L.R.A. (N.S.) 272.

Effect of pardon of husband or wife upon marriage relation. 31 L.R.A. 519.

Effect of pardon on civil liability for libel or slander. 21 L.R.A. 503; 31 L.R.A. (N.S.) 147.

§ 89. — on fine, forfeiture, or costs. On fines and forfeitures. 15 L.R.A. 395. On costs. 15 L.R.A. 396; 43 L.R.A. (N.S.) 207.

VII. Record; validity of conviction.

§ 90. Generally.

Failure of record to show that grand jury was sworn. 49 L.R.A. (N.S.) 1215.

### CRIMINAL LIABILITY.

See CRIMINAL LAW, III.

### CRIMINAL NEGLIGENCE.

See CRIMINAL LAW, § 30; HOMICIDE, § 15.

# CRIMINALS.

In general, see CRIMINAL LAW. Competency of, as witness, see WITNESSES, § 10.

### CRIMINATION OF SELF.

See CRIMINAL LAW, §§ 49-53.

### CRIPPLE.

Incidental or implied pardon. 34 L.R.A. Duty of carrier to accept sick or disabled passenger, see CARRIERS, § 40.

### CRITICISM.

Libel by, see LIBEL AND SLANDER, § 15.

Of decision or opinion after case has been determined as contempt or ground for disbarment. 17 L.R.A. (N.S.) 572.

Personal criticism of or insult to court because of decision after determination of cause as ground for contempt or disbarment. 17 L.R.A.(N.S.) 585.

#### CROPPERS.

As tenants. 4 L.R.A.(N.S.) 698. Levy on cropper's share of crops. 23 L.R.A. 260.

Persons cultivating land on shares as independent contractors. 65 L.R.A. 469. Measure of damages for breach of cropping contract. L.R.A.1918B, 1056.

Measure of damages for forcing from premises. 38 L.R.A.(N.S.) 714.

Cropper's abandonment of crop as affecting rights and interests therein. L.R.A. (N.S.) 53.

Right of cropper to maintain replevin for crops. L.R.A.1917C, 1114.

Right of cropper to sell or mortgage crops. L.R.A.1917C, 33.

#### CROPS.

§ 1. Generally.

Agreement as to, within statute of frauds, see CONTRACTS, § 44.

Measure of damages for injury to, see DAM-AGES, § 74.

Relief as to, in ejectment, see EJECTMENT, § 12.

Exemption of crops grown on homestead, see HOMESTEAD, § 6.

On public land, see Public Lands, §§ 9, 10.

Specific performance of contract as to. L.R.A.1918E, 625.

Injunction to prevent interference with land during seeding or harvesting time.

L.R.A.1918B, 413.

Does guaranty of value of crops constitute insurance. 47 L.R.A. (N.S.) 296.

Time allowed tenant for removal of crop. 35 L.R.A.(N.S.) 707.

Crops grown on homestead, or proceeds thereof, as exempt. 32 L.R.A.(N.S.)

When may notice of application for appointment of receiver of growing crop be dispensed with. 11 L.R.A.(N.S.) 960.

Validity and construction of statutory regulations as to infected crops. 43 L.R.A.(N.S.) 1080; L.R.A.1915F, 894. subject of larceny. 49 L.R.A.(N.S.) As subject of larceny.

966, 969.

2. Right or title to.

Tenant's rights as to, see LANDLORD AND TENANT, § 52.

Right to, as between vendor and purchaser, see VENDOR AND PURCHASER, § 8.

CROPS—cont'd

Right of lessee of life tenant to, on death of latter. 11 L.R.A. (N.S.) 688.

In case of estate by entireties. 30 L.R.A. 308.

Right as between successful plaintiff and evicted defendant to crops unsevered at time of final judgment. 23 L.R.A. (N.S.) 531.

Right of one who buys or makes lawful entry on public land to crops placed thereon by another. 70 L.R.A. 799. Right to vegetation growing in highway.

33 L.R.A.(N.S.) 1053.

Title by accession to crops wrongfully severed. 32 L.R.A. 422

Title of mortgagee of future or growing crops. L.R.A.1917C, 11.

Rights and remedies of owner of land in respect of crops grown thereon by one not in privity with him. L.R.A.1918A,

§ 2a. Abandonment of. Tenant's or cropper's abandonment of crop as affecting rights and interests therein. 46 L.R.A.(N.S.) 53.

Levy on. Levy on, see LEVY AND SEIZURE, § 9.

4. Lien on.

Chattel mortgage on crops, see CHATTEL MORTGAGE, § 11.

Attempt to enforce lien under clause in lease giving landlord lien on crops as election to prevent its enforcement as a chattel mortgage. 20 L.R.A.(N.S.) 259.

5. Sale of.

Statute of frauds as to, see CONTRACTS, §

Sale of future crops. 23 L.R.A. 449; L.R.A. 1917C, 8.

Contract for crops to be raised, as a sale. 14 L.R.A. 233.

Sufficiency of designation of part of growing crops for purposes of sale. 26 L.R.A.(N.S.) 30.

Must contracts for sale of growing crops be 23 L.R.A.(N.S.) 1218; in writing. L.R.A.1917C, 20.

6. Replevin or trover for.

Right of tenant or cropper to maintain re-plevin for crops. L.R.A.1917C, 1114.

Right to maintain replevin for several crops by or against one in adverse possession of land. 69 L.R.A. 737. Trover for crops. 23 L.R.A. 471.

Jurisdiction of action for conversion of, from land in another state or country. 26 L.R.A.(N.S.) 940; 34 L.R.A.(N.S.) 994; 44 L.R.A.(N.S.) 268.

### CROSS.

L.R.A.1917A, 485. In marking of ballot, see Flections, § 21. Insurable interest in. Begin with this book on every law question.

### CROSS APPEALS.

Conclusiveness of prior decisions on appeal as to. 34 L.R.A. 335.

### CROSS BILLS.

See Pleading, § 39.

### CROSS ERRORS.

See APPEAL AND ERROR, § 23c.

### CROSS-EXAMINATION.

Of witnesses, see WITNESSES, §§ 31-38.

### CROSSING.

As to railroad crossing, see RAILBOADS, §§ 29-33, 58-65, 81-84.

### CROSSING OUT.

Alteration of instrument by crossing out material provision without substituting new matter. 32 L.R.A. (N.S.) 519.

### CROSSWALKS.

Duty to remove snow or ice from. 20 L.R.A.(N.S.) 656; 39 L.R.A.(N.S.) 1167.

Liability of municipality for injuries from unevenness in crosswalk. 29 L.R.A. (N.S.) 180; 20 L.R.A. (N.S.) 513; 43 L.R.A. (N.S.) 1158.

### CROWBARS.

Master's liability for injury by defect in. 13 L.R.A.(N.S.) 680.

### CROWD.

Carrier's liability for overcrowded cars, see CARBIERS, § 74.

See also CRUSH.

Liability of carrier for personal injury to passenger by crowd at station or stop-ping place. 32 L.R.A.(N.S.) 470. Duty of carrier to protect live stock from

injury by crowding. 39 L.R.A.(N.S.)

Consult also L.R.A. Digests of Cases. 23

Liability of owner of vacant property permitting it to be used in such a way as to attract crowds to injury of neighborhood. 11 L.R.A. (N.S.) 463.

Assault with intent to murder or kill by shooting into crowd. 37 L.R.A. (N.S.)

Permitting hostile crowd in court room as denial of fair trial. 39 L.R.A.(N.S.)

Proximate cause of injury where one person is pushed against another. L.R.A. 1917E, 275.

### CROWN.

Crown grants in America of right to fish. 60 L.R.A. 489.

#### CRUDE OIL.

Effect on rights of innocent mortgagee of seizure of oil under internal revenue laws. L.R.A.1916E, 352.
Keeping of, on insured premises. L.R.A.

1917C, 278.

CRUEL AND UNUSUAL PUNISH-MENT.

See CRIMINAL LAW, § 78.

### CRUELTY.

To animals, see Animals, § 23.

As ground for divorce, see DIVORCE, § 25.

Evidence of fellow servant's cruelty, in action by injured servant. 14 L.R.A. (N.S.) 772.

Of husband or wife, insanity as affecting. 34 L.R.A. 164.

Effect of, on parent's right to custody of child. 41 L.R.A.(N.S.) 590, 604.

### CRUSH.

See also CROWD.

Injury by crush in entering car at elevated or subway station. 7 L.R.A. (N.S.) 729; 51 L.R.A. (N.S.) 1152.

### CULM.

Burning culm, as a nuisance. 48 L.R.A. (N.S.) 244.

### CULTIVATION.

As condition of patent under Federal homestead entry. 42 L.R.A.(N.S.) 752.

### CULVERTS.

Municipal liability for overflow through insufficiency of. 59 L.R.A. 855.

As defect in highway for which township is liable. 13 L.R.A.(N.S.) 1246.

Necessity of notice to purchasing railroad company to construct, where road was originally constructed without them. 12 L.R.A.(N.S.) 571.

Duty of railroad to fence as requiring barrier across culvert or under bridge.

5 B. R. C. 182.

Duty of railroad company to maintain safeguards to prevent employees from falling off or through culverts. 50 L.R.A. (N.S.) 549.

# CUMBERLAND CHURCH.

See RELIGIOUS SOCIETIES.

### CUMULATIVE DIVIDENDS.

On preferred stock, see Corporations, § 100.

### CUMULATIVE EVIDENCE.

As ground for new trial, see New TRIAL, § 11.

### CUMULATIVE FINES.

In loan association. 35 L.R.A. 219.

### CUMULATIVE PENALTIES.

For failure of carrier to provide separate accommodations for white and colored persons. L.R.A.1917B, 548.

# CUMULATIVE REMEDIES.

Certiorari and appeal. 50 L.R.A. 793.

# CUMULATIVE SENTENCE.

See CRIMINAL LAW, § 80.

Begin with this book on every law question.

### CURATIVE ACT.

In general, see Constitutional Law, §§ 9, 10.

Statutes legalizing invalid municipal contracts, see MUNICIPAL CORPORATIONS, § 56.

Power to cure unconstitutional act by amendment, see STATUTES, § 30.

Effect of curative statute on effect of insertion of unauthorized provisions in statutory bond. L.R.A.1917B, 997.

### CURATIVE DEED.

Curing statutory defects in map or plat by conveyance with reference to it. 42 L.R.A.(N.S.) 587.

### CURATOR AD HOC.

Admissions and waivers by. 32 L.R.A. 686, 688.

#### CURRENCY.

Meaning of term. 31 L.R.A.(N.S.) 240. Special contracts and obligations to make payments in gold or silver. 29 L.R.A. 512.

Validity of contract for token currency in violation of statute. 12 L.R.A. (N.S.) 610.

Character of condition of currency tendered in payment of fare. 35 L.R.A.(N.S.) 1030.

# CURRENT EXPENSES.

As an indebtedness within municipal limitation of indebtedness. 23 L.R.A. 406.

### CURSING.

As disturbance of public peace. 32 L.R.A. (N.S.) 505.

# CURTESY.

8 1. Generally.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 65.

Succession tax upon. L.R.A.1916C, 675. Bar of curtesy by adverse possession. 52 L.R.A.(N.S.) 535.

Adverse possession against tenant by the curtesy and remainderman. 19 L.R.A. 841.

Right of alien to take estate by, under alien statutes. 7 L.R.A.(N.S.) 659.

CURTESY—cont'd

Effect upon curtesy of death of issue before seisin by wife. 20 L.R.A.(N.S.) 825. Power of legislature to destroy. 19 L.R.A. 256.

# 2. In what.

To what estate tenancy by the curtesy attaches. 11 L.R.A. 826.

Right of curtesy in determinable fee. 20 L.R.A.(N.S.) 858.

Curtesy in equity of redemption. 20 L.R.A. (N.S.) 454.

Right of tenant by the curtesy in partner-ship real estate. 27 L.R.A. 340.

Husband's right of curtesy in property conveyed by him to his wife. 69 L.R.A. 375; 23 L.R.A. (N.S.) 776.

# 3. Rights of tenant by.

Rights of husband as tenant by the curtesy initiate. L.R.A.1915D, 996.

Right of tenant by curtesy to contest wife's will. L.R.A.1918A, 466.

Mineral rights of tenant by. 36 L.R.A. (N.S.) 1099.

Rights of tenant by, as to oil and gas. 36 L.R.A.(N.S.) 1108.

Curtesy rights as affecting marketability of title. 38 L.R.A.(N.S.) 33.

Husband's insurable interest in wife's property as tenant by the curtesy. L.R.A. 659; 45 L.R.A. (N.S.) 1131.

§ 4. Levy on property held by. Levy on estate by. 23 L.R.A. 648. As subject of attachment or levy on execution. 30 L.R.A.(N.S.) 118.

§ 5. Tax on land held by. Effect of tax sale of land held by tenant

by curtesy. 32 L.R.A. 808. Duty of tenant by, to pay taxes. 32 L.R.A. 748.

Succession tax on curtesy. 29 L.R.A. (N.S.)

### CURTILAGE.

Constitutional or statutory exemption of dwelling house from condemnation proceedings as including the curtilage. L.R.A.1916A, 1102.

### CURVES.

Discharging street car passenger on. L.R.A. 1915C, 609.

Presumption of negligence from injury to passenger while passing over curve.
13 L.R.A. (N.S.) 615; 29 L.R.A. (N.S.) 815; L.R.A.1916C, 376.
Consult also L.R.A. Digests of Cases.

### CUSTODIAN.

Tender of railroad fare by. 31 L.R.A. (N.S.) 995; L.R.A.1915E, 313.

Ejection of, for nonpayment of child's fare.

38 L.R.A. 140.
Liability of, for assault by punishment of child. 21 L.R.A.(N.S.) 216.

### CUSTODY.

Of children of divorced persons, see D1-VORCE AND SEPARATION, §§ 55, 56.

Of infant generally, see INFANTS, §§ 6-10.

Of convicts compelled to labor. 27 L.R.A.

Of holographic will. 37 L.R.A. (N.S.) 842. Uncontradicted statement in presence of accused while in custody as confession or admission. 25 L.R.A.(N.S.) 558; 42 L.R.A. (N.S.) 892.

### CUSTODY OF LAW.

§ 1. Generally.

Money in court, see Money in Court. Replevin of property in, see REPLEVIN, §§ 9, 10.

Maritime lien on vessel in custody of law. 70 L.R.A. 391.

Effect of property being in custodia legis on right to enforce payment of delinquent taxes. 17 L.R.A.(N.S.) 465.

Mandamus to compel officer to dispose of property as directed by court. 31 L.R.A.(N.S.) 664.

Failure or refusal to deliver to trustee money or property belonging to bank-rupt in custody of law as contempt of court. 23 L.R.A.(N.S.) 261.

§ 2. Seizure or sale of property in. Right to sell property while in custody of law. 1 L.R.A. (N.S.) 1055.

Claiming, or taking possession of, property from officer who has seized it under a writ. 47 L.R.A.(N.S.) 1146.

3. - judicial seizure or sale. Liability of property in, to levy, see LEVY AND SEIZURE, §§ 6, 7.

Right to garnish or attach proceeds of execution sale in the hands of the sheriff. 43 L.R.A.(N.S.) 571.

Equitable remedy to subject property in, to judgment after return of no property found. 63 L.R.A. 673.

Injunction against execution sale of property in. 30 L.R.A. 103.

# CUSTOM AND USAGE.

§ 1. Generally.

Judicial notice of, see EVIDENCE, § 6. Parol evidence as to, see EVIDENCE, § 161. CUSTOM AND USAGE-cont'd.

Admissibility of evidence as to, see Evi-DENCE, § 247.

Admissibility of evidence of custom to create an exception to written contract. 3 L.R.A.(N.S.) 248.

To notify consignor of consignee's refusal to accept goods or pay freight. L.R.A.

That grantee or successor in interest shall contribute to cost of party wall. 66 L.R.A. 702.

To permit fall of land by removal of lateral or subjacent support. 68 L.R.A. 693.

Effect of street car using tracks contrary to custom on liability for collision. 42 L.R.A.(N.S.) 1194.

Effect of, on question of right of way as between street car and vehicle at point where streets bisect or intersect. 49 L.R.A.(N.S.) 512.

Effect of, to empower agent to employ subagent. L.R.A.1918F, 727.

Effect of custom or usage on liability of one accused of larceny who claims to have taken the property in good faith. 41 L.R.A.(N.S.) 554.

Divorce according to Indian custom. L.R.A. (N.S.) 795; L.R.A.1917D, 574.

Proof of agency by evidence of similar acts by alleged agent. 17 L.R.A.(N.S.) 219. Right of witness to express opinion as to habits or conduct. L.R.A.1918A, 678.

# § 2. As to negligence. Of servant, see infra, § 4.

Admissibility of evidence of, on question of negligence or contributory negligence. 10 L.R.A. 366; \* 41 L.R.A.(N.S.) 683.

Admissibility of evidence as to habits or custom of one injured or killed on the question of his own negligence or freedom from negligence. L.R.A.1916B, 827.

Of person injured, as affecting recovery from one negligently causing the injury. 48 L.R.A.(N.S.) 119.

Right of one on railroad track to rely on custom to move trains on certain track only in one direction. L.R.A.1916D, 706.

Effect of custom or habit on contributory negligence in attempting to cross train standing on a crossing. 13 L.R.A. (N.S.) 1068.

Effect of custom or habit on duty towards person attempting to cross train obstructing crossing. . 13 L.R.A. (N.S.) 1076.

Evidence of habits of person injured or killed as affecting damages. 1 L.R.A. (N.S.) 198.

Effect of custom giving fire apparatus right of way over street cars. 19 L.R.A. (N.S.) 626; L.R.A.1917E, 419.

# 3. Of master or servant.

Duty to give clearance card when uniform custom to do so is shown. 62 L.R.A.

CUSTOM AND USAGE-cont'd.

§ 4. — as to negligence. Habitual practice of employee as substitute for rule. 43 L.R.A. 316.
As affecting duty of master to promulgate

rules. 43 L.R.A. 311.

As measure of master's duty to guard machinery. 16 L.R.A.(N.S.) 140.

Inference of employee's authority to expel trespassers from practice of doing so. 34 L.R.A.(N.S.) 693.

Evidence of specific instances of habit of servant for carelessness, disobedience and intemperance. 14 L.R.A.(N.S.) 768.

Failure of master to prevent practice by employees not in performance of any duty owed to him as ground of liability. 32 L.R.A. (N.S.) 1038.

Contributory negligence as affected by illegal or negligent custom of servants. 47 L.R.A.(N.S.) 909.

§ 5. As to cutting timber.

Custom of estate as to life tenant's cutting timber for sale. 37 L.R.A. (N.S.) 768.

§ 6. —on public land. As to right to cut timber on public land. 70 L.R.A. 878.

7. Of banks.

Banking customs. 21 L.R.A. 440.

Validity of custom to send paper to drawee for collection. 2 L.R.A. (N.S.) 194; 52 L.R.A. (N.S.) 649.

Payment of former bills drawn by agent without authority as ground of implied authority to draw others. 34 L.R.A. (N.S.) 440.

Effect of banking customs and usages on liability of collecting bank for default of correspondent. 52 L.R.A. (N.S.) 637.

Effect of clearing-house rules and customs. 25 L.R.A. 830.

Rule or custom of clearing-house relating to time for presentation of checks as affecting liability of collecting bank. 50 L.R.A. (N.S.) 542.

8 8. Of carriers.

As to allowing stop over. 28 L.R.A. 776. As affecting liability of baggage transfer company. 34 L.R.A. 140; L.R.A.1916D, 1205.

§ 9. As to waters and water rights. As to prior appropriation of water. 30 L.R.A. 669.

As to right of way on shore. 4 L.T.A. (N.S.) 880.

Effect of custom, on right to erect wharves. 40 L.R.A. 638.

Long usage as determining navigability of waters. 42 L.R.A. 321.

§ 10. — as to fishing.

Prescriptive right to fish by custom. 60 L.R.A. 498.

CUSTOM AND USAGE-cont'd.

§ 11. Of real estate brokers.

As affecting performance of real estate broker's contract. 44 L.R.A. 600.

As to receipt of double commissions by real estate broker. 45 L.R.A. 48; 34 L.R.A.(N.S.) 1047.

§ 12. Insurance cases.

Representations as to habits of insured, see INSURANCE, §§ 97, 98.

As affecting waiver by officer of subordi-nate lodge of forfeiture for nonpayment of assessments. 38 L.R.A. (N.S.)

573; L.R.A. 1915E, 154.

To pay certain class of losses as affecting liability of insurer for such a loss not covered by the policy. 19 L.R.A. (N.S.)

Effect of custom to give insured notice of maturity of premium where insured is not otherwise entitled to notice. 20 L.R.A.(N.S.) 1037.

Effect of custom to keep certain articles in such stocks of goods as those insured on prohibition in insurance policy against keeping of such articles. L.R.A.1917C, 278.

§ 13. How proved.

Admissibility of books of account to prove. 52 L.R.A. 708.

# CUSTOMERS.

Conspiracy to divert, see Conspiracy, II. Duty of storekeeper towards, see Store-KEEPER, § 1.

Liability for injury to clothing worn by. 43 L.R.A.(N.S.) 328.

Loss of, as element of damages from obstruction of highway. 13 L.R.A. (N.S.)

Applicability of rule res ipsa loquitur as between storekeeper and customer. 16 L.R.A.(N.S.) 931.

CUSTOMERS --cont'd.

Right of vendor of business and good will to solicit customers from patrons of business sold. 19 L.R.A. (N.S.) 767.

Right of municipality owning electric lightplant to supply private customers. 15 L.R.A. 713.

Liability of individual in absence of any element of conspiracy for driving away another's customers. 22 L.R.A.(N.S.) 1224; L.R.A.1915B, 1180.

### CUSTOM OF LONDON.

As to actionability in charging woman with unchastity. 24 L.R.A. (N.S.) 597; 48 L.R.A. (N.S.) 615.

CUSTOMS DUTIES.

See DUTIES.

### CUTTING TIMBER.

Right as to, see TIMBER, §§ 6, 7.

CYC.

See ENCYCLOPEDIA.

### CYCLONE.

Causes of loss covered by cyclone insurance. L.R.A.1915B, 1094.

### CYLINDERS.

Wax cylinders as infringement of copyright of sheet music. 2 B. R. C. 91.

CY PRÈS.

Doctrine of, see CHARITIES, § 11.

D

Municipal power over, as nuisances. 38 L.R.A. 657.

DAIRIES.

### DAMAGES.

I. In general; nominal damages; mitigation or aggravation,

§§ 1-12. a. In general, §§ 1, 2. Consult also L.R.A. Digests of Cases. DAMAGES, I.—cont'd

b. Mitigation; reduction; keeping down damages, \$\$ 3-11.

c. Aggravation of damages, § 12.

II. Punitive or exemplary, \$\$ 18-19. III. Measure of compensation, \$\$ 20-119.

a. In general, § 20.

b. On contracts, \$\$ 21-40. 1. In general, \$\$ 21-26.

2. Bonds, §§ 27-29.

# DAMAGES, III. b-cont'd.

- \$\$ 30-34.
- 4. Sales of personalty; warranty, §§ 35-37.
- 5. Penalty: liquidated damages, §§ 38-40.
- c. Telegraph cases, § 41. d. Against carrier, \$\$ 42-47.
- e. Torts generally, § 48.
- f. Fraud, § 49.
- g. Sexual offenses; breach of promise; seduction; criminal conversation; alienation of affections, §\$ 50-
- h. Against corporate directors or promoters, § 51.
- i. Assault; false imprisonment; prosecution; malicious abuse of process, §§ 52-55.
- 1. Libel or slander, \$. 56.
- k. Personal injuries, §§ 57-64. l. Death, \$\$ 65-67.
- m. Injury to or detention of personal property; conversion, §§ 68-70.
- n. Injury to, or detention of, real property, §§ 71-
  - 1. In general, §§ 71-73.
  - 2. Injury to, or destruction of buildings, crops or trees, §§ 78a-75.
  - 3. Injury to water rights; overflow; pollution, §§ 76-79.
- o. Nuisance, § 80.
- p. Injury to business, \$ 81.
- q. Condemnation or depreciation in value by eminent domain, §§ 82-93.
  - In general, §§ 82-86.
     Consequential injuries,
  - \$\$ 87, 88.
  - 3. As to abutting owners, \$\$ 89, 90.
  - 4. In highway cases, §§ 91, 92.
- 5. Setting off benefits, § 93. r. Injunction cases, § 94.
- s. In trademark, patent, and
- copyright cases, § 95. **t.** Mental anguish, §§ 96-106.
  - 1. In general, §§ 96-101. 2. As to telegrams, §§ 102,
  - 103.
  - 3. Carriers' cases, §\$ 104-106.
- w. Loss of profits \$\$ 107-118. 1. In general, §§ 107-113.
  - 2. For breach of contract, \$\$ 114-118.
- 'v. Prospective, § 119.
- IV. Double and treble damages, \$ 120. V. Assessment of damages, § 121.

Begin with this book on every law question.

### DAMAGES-cont'd.

8. As to real property, I. In general; nominal damages; mitigation or aggravation.

### a. In general.

1. Generally.

Effect of character on damages recoverable. see CHARACTER, § 5.

Burden of proof as to, see EVIDENCE, § 107a. Opinion evidence as to, see EVIDENCE, § 194. Relevancy and materiality of evidence as to, see EVIDENCE, §§ 263-265.

For suing out injunction, see Injunction. § 84.

Interest as damages and on amount recovered as damages, see INTEREST, § 6. Excessiveness of damages as ground for new trial, see New TRIAL, § 5.

Inadequacy of damages as ground for new trial, see New Trial, § 6.

Remittitur of excessive damages, see New TRIAL, § 14.

Proximate cause of, see PROXIMATE CAUSE. In lieu of specific performance, see Specific PERFORMANCE, § 29.

Power to limit the issues to question of damages in granting new trial. L.R.A. 1915E, 250, 260.

Necessity of admitting quantum of damages in order to change burden of proof and right to open and close. 61 L.R.A. 555.

Priority of claim for, against property in hands of receiver of railroad over recorded liens. 41 L.R.A.(N.S.) 700, 702. Injunction against judgment for excessiveness of allowance. 30 L.R.A. 704.

Power of appellate court to interfere with verdict excessive damages. 26 for L.R.A. 384.

Conclusiveness of expert opinion as to damages. 42 L.R.A. 767.

2. Nominal damages.

L.R.A. (N.S.) 192.

Right to recover nominal damages in statutory action for death where pecuniary loss is not shown. L.R.A.1916E, 139, 177, 192.

For laying out street across railroad property. 24 L.R.A.(N.S.) 1228.

For carrying passenger beyond destination. 17 L.R.A.(N.S.) 1230.

For wrongful cutting or destruction of standing timber. 18 L.R.A.(N.S.) 250. Nominal damages for telegraph or telephone line on railroad right of way. 26

b. Mitigation; reduction; keeping down damages.

§ 3. Generally.

Evidence in mitigation, see EVIDENCE, § 265.

Effect of insurance on amount of recovery for injury, see INSURANCE, § 181.

Right to set up judgment in criminal action in mitigation of damages in civil action. 11 L.R.A.(N.S.) 670.

DAMAGES, I. b—cont'd. Duty to commit wrongful acts in order to minimize damages. 3 L.R.A. (N.S.) 1092.

Failure of person injured or damaged to remove cause of injury or damage as affecting right to recover. 3 L.R.A. (N.S.) 1092.

Advice of counsel as ground for mitigation of damages for malicious prosecution. 18 L.R.A. (N.S.) 54.

Of damages for abduction of child. L.R.A.(N.S.) 874.

Reasonable and probable cause of suspicion as mitigating damages for false imprisonment. 45 L.R.A.(N.S.) 65.

May benefits from nuisance be set off against damages. 45 L.R.A.(N.S.) 773. Showing in mitigation of damages that po-

lice officer committing wrongful act is acting under orders of superior. 50 L.R.A.(N.S.) 989.

Right of defendant to prove, in mitigation of damages, facts which he is estopped to set up in bar of the action. L.R.A.(N.S.) 1192.

Mitigation of damages for wrongful attachment by showing subsequent seizure and sale of the attached property by the plaintiff in attachment or by offsetting the indebtedness or judgment in his favor. L.R.A.1918B, 801.

§ 4. Against carrier.

Passenger's duty to minimize damages from carrier's default of duty towards him. 2 L.R.A.(N.S.) 1087.

Duty of passenger to pay fare wrongfully demanded in order to lessen damages. 43 L.R.A. 706; 34 L.R.A.(N.S.) 282; L.R.A.19<sup>1</sup>8D, 1032.

5. For breach of contract.

Duty to prevent or reduce damage on breach of contract. 53 L.R.A. 108.

Duty to prevent or reduce damages on breach of contract for sale or purchase. 52 L.R.A. 259.

Duty of vendee to avoid or reduce injury for breach of contract of sale of article having no market price. 57 L.R.A. 202.

Duty of party to lease to minimize damages due to a breach of contract by other

party thereto. L.R.A.1918C, 910. Other employment in mitigation or reduction of damages for wrongful discharge of servant. 6 L.R.A.(N.S.) 94.

\$ 6. For breach of promise.

Of damages for breach of promise of marriage. 26 L.R.A. 432.

7. For personal injury.

Effect of insurance on amount of recovery for injury, see Insurance, § 181.

Effect of pre-existing disease on recovery under Workmen's Compensation Act, see Workmen's Compensation, § 15a. Consult also L.R.A. Digests of Cases.

DAMAGES, I. b—cont'd.

Effect of intervening act or neglect on recovery for personal injury. 48 L.R.A. (N.S.) 105.

Duty of injured person to follow advice or instructions of physician or surgeon. 49 L.R.A. 826; 48 L.R.A. (N.S.) 110.

Liability of one causing personal injury as affected by negligence or unskilfulness of attending physician or surgeon. 48 L.R.A.(N.S.) 116.

Pre-existing disease or condition of person injured as affecting recovery from one negligently causing the injury. L.R.A. 268; 48 L.R.A. (N.S.) 119.

Duty of person inflicting injury to prevent aggravation of the injury. 69 L.R.A.

533.

Evidence of habits or character of person injured as affecting damages. 1 L.R.A. (N.S.) 198.

Mitigation of damages for personal injury by fact that injured person has received from some source other than the wrongdoer money because of the injury. 67 L.R.A. 87.

### 8. For assault.

Admissibility of evidence of provocation to mitigate damages for assault. 1 L.R.A. (N.S.) 137; 11 L.R.A.(N.S.) 670.

# § 9. For libel or slander.

For libel or slander by wife. 30 L.R.A. 529.

Bad character or reputation of plaintiff as mitigating damages for libel or slander. 38 L.R.A.(N.S.) 1176.

For libel or slander reflecting on integrity or responsibility of merchant.

L.R.A.(N.S.) 354. Intoxication of defendant as mitigating damages for libel or slander. 51 L.R.A. (N.S.) 1198.

Sufficiency of retraction to reduce damages, as question for court or jury. 25 L.R.A. (N.S.) 796.

# § 9a. For conversion.

Return of property as mitigating damages for conversion. 49 L.R.A. (N.S.) 931.

§ 10. For injury to real property.

Duty to mitigate damages from trespass. 38 L.R.A. (N.S.) 244.

Duty of property owner to minimize damages from change of grade. 44 L.R.A. (N.S.) 301.

Mitigation of damages for property destroyed by mob. 44 L.R.A. (N.S.) 361.

### 10a. - by water.

Measure of damages against municipality for injury by surface waters. 65 L.R.A. 284.

Duty to mitigate damages from surface water. 33 L.R.A. (N.S.) 372.

DAMAGES, I. b-cont'd.

Duty of riparian proprietor whose rights are interfered with, or one whose property is flooded, because of the obstruction of a natural water course, to min- Punitive damages for wanton failure to imize the damages. 22 L.R.A.(N.S.)

The duty of owner or tenant to protect crops from backwater. 49 L.R.A. (N.S.) 760.

§ 11. In condemnation proceedings. Mitigating damages from laying out street across railway property. 24 L.R.A. (N.S.) 1236.

Mitigation of damages in condemnation cases by preserving to owner estate, rights, or easement. 26 L.R.A. 751.

### c. Aggravation of damages.

\$ 12. Generally.

Of damages for breach of promise to marry. 41 L.R.A.(N.S.) 846.

Personal wrong as aggravation of damages for trespass on realty. 19 L.R.A. (N.S.) 1034; 37 L.R.A. (N.S.) 912.

Right to prove seduction in aggravation of damages in breach of promise case. 4 L.R.A.(N.S.) 616; 36 L.R.A.(N.S.)

Admissibility of evidence of family relations of plaintiff on question of damages in an action for libel or slander. 23 L.R.A. (N.S.) 362.

### II. Punitive or exemplary,

\$ 13. Generally.

For causing death. 17 L.R.A. 72. Expense of litigation as element, or as limit, of punitive or exemplary damages. 4 L.R.A. (N.S.) 907.

Allowance of interest on exemplary damages. 18 L.R.A. 457.

Reasonable and probable cause of suspicion as mitigating punitive damages for false imprisonment. 45 L.R.A. (N.S.)

For breach of contract of partnership. 51 L.R.A.(N.S.) 81.

Exemplary damages in action to recover for mental anguish in telegraph case. L.R.A. (N.S.) 291.

Right to recover exemplary or punitive damages for breach of contract, other than contract to marry and actions on statu-tory bonds. 3 B. R. C. 115.

14. For act of servant.

Master's liability to exemplary damagea for act of servant. 27 L.R.A. 193; 48 L.R.A. (N.S.) 35.

Effect of servant's malice, wantonness, or personal motive on amount of damages recoverable from master for injury to third person due to negligence of servant having custody of dangerous agency. 10 L.R.A. (N.S.) 403. DAMAGES, II.—cont'd.

§ 15. Against carrier.

Carrier's liability to exemplary damages for act of servant. 48 L.R.A. (N.S.) 35.

transport baggage. 9 L.R.A.(N.S.) 1218.

For wrongful ejection of sick or intoxicated passenger. L.R.A.1915C, 146.

Refusal of conductor to listen to passenger's explanation as to his contract, as justification for punitive damages for passenger's expulsion. 17 L.R.A. (N.S.) 344.

Exemplary damages for carrying passenger beyond destination. 17 L.R.A. (N.S.) 1230; 41 L.R.A.(N.S.) 746.

For placing white passenger in a car for colored persons. 41 L.R.A.(N.S.) 960.

Punitive damages for assault by carrier's servant on passenger. 32 L.R.A.(N.S.) 1201; L.R.A.1915E, 671.

Right of passenger to recover punitive dam-

ages for default or delay in running railroad train. 49 L.R.A. (N.S.) 434. Liability of carrier for punitive or exemplary damages for refusal or failure to transport passengers. L.R.A.1915C,

§ 16. For torts generally.

Necessity of actual malice to justify exemplary damages for tort. 16 L.R.A. (N.S.) 440.

For delaying person by blocking railroad crossing. 44 L.R.A. (N.S.) 1071; L.R.A. 1915E, 336.

For abductment or enticement of child. 45 L.R.A.(N.S.) 874.

For unlawful seizure of mortgaged chattels by mortgagee assuming to act under mortgage. L.R.A.1915E, 199.

For acts of live stock inspectors. L.R.A. 1915B, 1015.

§ 16a. For malicious prosecution or abuse of process.

Exemplary damages in action for malicious prosecution or for abuse of process in suing out attachment for collection of debt only. 29 L.R.A.(N.S.) 272.

Want of probable cause to believe alleged ground of attachment as condition of action for wrongful attachment where exemplary damages are sought. 38 L.R.A.(N.S.) 127.

16b. For libel on slander.

Liability for, of newspaper proprietor for libel published without his knowledge or consent. 26 L.R.A. 779.

Damages against telegraph company for handling libelous message. 9 L.R.A. (N.S.) 141.

For libel or slander reflecting on integrity or responsibility of merchant. 44 L.Ř.A.(N.S.) 354.

Master's liability for exemplary damages for libel by servant. 48 L.R.A.(N.S.)

DAMAGES, II.—cont'd. 17. For nuisance.

Liability for punitive damages for maintaining nuisance. 3 L.R.A.(N.S.) 1119.

§ 18. For personal injuries or death. For personal injury by dog. 37 L.R.A. (N.S.) 867.

Exemplary damages against municipality for injury by defect or obstruction in street. 20 L.R.A.(N.S.) 764.

For death by negligence. 17 L.R.A. 72.

§ 19. For infringing trademark, tradename, or copyright.

Punitive damages for infringing trademark, tradename, or copyright, where amount of actual damages not established. 37 L.R.A. (N.S.) 533.

# III. Measure of compensation.

### a. In general,

30. Generally.

Conflict of laws as to, see CONFLICT OF LAWS, § 45.

Promulgation by counsel in argument to jury of unsound rule for measuring damages. L.R.A.1918D, 69.

Agreement that amount of, shall be determined by arbitration or appraisal. 47 L.R.A.(N.S.) 385.

Necessity of jury to compute damages on default judgment. 20 L.R.A.(N.S.) 1.

Requisite of special verdict in relation to damages. 24 L.R.A.(N.S.) 15.

Jurisdiction of a court of equity to award compensatory damages for a breach of trust. 14 L.R.A.(N.S.) 900.

Right to interest on unliquidated damages. 28 L.R.A. (N.S.) 1.

Federal courts following state decisions as to measure of. 40 L.R.A.(N.S.) 428.

For expulsion from benefit society. L.Ŕ.A. 150.

Measure of damages for removal of telephone. 39 L.R.A. (N.S.) 651. Extent of allowance or recovery against

national bank for reserving illegal interest. 56 L.R.A. 706.

Measure of compensation to mortgagee in possession for repairs or improvements. 49 L.R.A.(N.S.) 129.

### b. On contracts,

# 1. In general.

§ 21. Generally.

With telegraph company, see infra, §§ 41, 102, 103.

With carrier, see infra, §§ 42-47, 104-106. Loss of profits as element of damages for, see infra, III. u, 2.

Right to recover exemplary or punitive dam- | § 22a. Building contracts. ages for breach of contract, other than Measure of recovery on building contract contract to marry and actions on statutory bonds. 3 B. R. C. 115.

Measure of recovery on building contract where building is destroyed in process of erection. L.R.A.1917D, 1011.

Consult also L.R.A. Digests of Cases.

DAMAGES, III. b, 1-cont'd.

Conflict of laws as to measure of damages for breach of contract. 56 L.R.A. 301, 303.

Right to interest on damages for breach of contract. 28 L.R.A.(N.S.) '24, 46, 82.

Duty to prevent or reduce damages on breach of contract. 53 L.R.A. 108. Effect of provision for forfeiture of sums

paid or retained under executory contract, to prevent recovery of any other damages after breach of contract. 4 L.R.A. (N.S.) 755.

§ 22. Miscellaneous contracts.

Breach of agreement to arbitrate. L.R.A.(N.S.) 409.

Damages for breach of automobile distribution contract. L.R.A.1915B, 114.

For breach of covenant in lease as to payment of taxes and assessments. L.R.A. 1915A, 363.
For pledgee's conversion of property by in-

valid sale. 43 L.R.A. 768.

For breach of contract to loan or advance money. 37 L.R.A. 232; 29 L.R.A. 194; L.R.A.1916F, 506.

For breach of advertising contract. 22 L.R.A.(N.S.) 272.

For breach of agreement to assume debts on dissolution of partnership. 9 L.R.A. (N.S.) 113.

For broker's breach of contract with customer as to sales and purchases of stock

on the exchange. L.R.A.1917C, 747.

For broker's breach of contract to carry stock until a certain date. 7 B. R. C.

For negligence of architect in preparation of plans. L.R.A.1918D, 898.

Measure of damages for failure to perform contract to compensate for services by will. 41 L.R.A.(N.S.) 246.

Right to recover from obligor under collateral contract the damages which the obligee was compelled to pay because of his breach of a contract with a third person in consequence of the failure or delay in performance of collateral contract. 18 L.R.A.(N.S.) 575.

Mental anguish as element of damages in action for breach of contract relative to corpse. 19 L.R.A.(N.S.) 564.

Basis for computing share of attorney entitled to certain proportion of recovery where suit is compromised for certain sum and attorney's fee. 22 L.R.A. (N.S.) 776.

Measure of compensation to physician employed to examine and report on physical condition of one who contemplates bringing action for personal injuries. 25 L.R.A.(N.S.) 70.

Measure of damages in action against one who, without authority, assumed to contract as agent for a third person. 34 L.R.A.(N.S.) 540.

DAMAGES, III. b, 1-cont'd.

Measure of recovery upon substantial performance of building contract. L.R.A.(N.S.) 327.

Measure of damages for defects or omissions in the performance of a building contract. 39 L.R.A.(N.S.) 591.

Stipulation for damages in, as penalty or liquidated damages. 34 L.R.A.(N.S.)

### § 23. Insurance contracts.

Extent of recovery on insurance policy, see INSURANCE, §§ 172-181.

Damages recoverable by member for breach of contract by mutual benefit association. L.R.A.1917E, 1635.

For wrongful cancelation of policy issued on assessment plan. 7 L.R.A.(N.S.) 1163.

# 23a. Partnership contracts.

Measure of damages for breach of contract of partnership. 51 L.R.A.(N.S.) 81.

### § 24. Measure of employers' recovery for breach of contract.

Loss of profits as element of damages for breach of contract for services. L.R.A. 48.

Right of one who employs minor without parent's consent to allowance of account of expenditures for necessaries. 9 L.R.A.(N.S.) 411.

Effect upon character of sum agreed upon for breach as penalty or liquidated damages of single or multiple stipula-tions in contract. L.R.A.1915E, 386, 393.

### § 25. Measure of employee's recovery for breach of contract.

Contract of permanent employment. L.R.A. 516; 50 L.R.A. (N.S.) 456.

Where contract for services terminated by insolvency and dissolution of corporation. 69 L.R.A. 126.

In case of discharge of servant for good cause. 5 L.R.A. (N.S.) 529.

Right to recover for services rendered beyond statutory period of limitation upon breach of parol contract to make provision by will. 6 L.R.A. (N.S.) 703.

Loss of profits as element of damages for breach of contract by employer. L.R.A. 57.

Effect upon character of sum agreed upon for breach as penalty or liquidated damages of single or multiple stipulations in contract. L.R.A.1915E, 386, 393.

# 25a. — wrongful discharge.

For wrongful discharge of servant. L.R.A. (N.S.) 82.

Damages for discharge without cause after part performance of contract. L.R.A. 231.

Right of wrongfully discharged servant to recover wages for contract period subsequent to discharge. 5 L.R.A.(N.S.) 439; 28 L.R.A.(N.S.) 577.

DAMAGES, III. b, 1—cont'd.

Measure of recovery by wrongfully discharged servant for services actually rendered. 5 L.R.A.(N.S.) 582, 585.

Other employment in mitigation or reduc-' tion of damages for wrongful discharge 6 L.R.A.(N.S.) 94. of servant.

Right to recover in action for wrongful dismissal, damages for loss of commissions. 1 B. R. C. 123; L.R.A.1916B, 872.

# § 26. Negotiable paper.

Law governing extent of recovery. L.R.A. 307.

By bona fide holder when execution of note obtained by fraud. 36 L.R.A. 441. Dishonor of check. 15 L.R.A. 134.

For negligence as to collection of check; limiting to the amount actually lost in consequence of the neglect. 1 L.R.A. (N.S.) 246.

Extent of recovery by pledgee on negotiaable paper which pledgor could not collect. 44 L.R.A. 243.

Amount of recovery by accommodation party who has been obliged to pay bill or note against accommodated party. 37 L.R.A.(N.S.) 788.

Measure of damages for conversion of pledged notes by invalid sale. 43 L.R.A. 771.

### 2. Bonds.

# § 27. Generally.

Extent of recovery on injunction bond, see Injunction, §§ 86, 87.

Liability on bond for interest. 28 L.R.A. (N.S.) 11.

May each of several persons protected by a bond recover up to the full amount of the bond. L.R.A.1917D, 617.

### § 28. Elements of damages recoverable in action on replevin bond.

Value of property. 30 L.R.A.(N.S.) 367.

Value added by the transportation of
the goods by wrongdoer after conversion. 52 L.R.A.(N.S.) 396.

28 L.R.A. (N.S.) 12; 30 L.R.A. Interest. (N.S.) 370.

Damages for detention. 30 L.R.A.(N.S.) 370.

Attorney fees. 30 L.R.A.(N.S.) 372. Costs. 30 L.R.A.(N.S.) 373.

Penalty as limit of recovery on bond. 55 L.R.A. 390.

### § 29. Penalty as limit of liability on statutory bond.

The original rule. 55 L.R.A. 381.

Exception when equitable relief is sought. 55 L.R.A. 382.

Exception as to bonds for money or for direct performance by sureties. 55 L.R.A.

DAMAGES, III. b, 2—cont'd.

Allowance of interest. 55 L.R.A. 384; 19 L.R.A. (N.S.) 84.

Allowance for costs. 55 L.R.A. 387.

Application of rules to particular classes of bonds. 55 L.R.A. 387.

In replevin bond as limiting damages re-coverable. 30 L.R.A.(N.S.) 374.

### 3. As to real property.

30. Generally.

Duty of party to lease to minimize damages due to a breach of contract by other party thereto. L.R.A.1918C, 910.

Measure of damages for breach of cropping contract. L.R.A.1918B, 1056.

Measure of damages for breach of contract to furnish water for irrigation. L.R.A.(N.S.) 938; 31 L.R.A.(N.S.) 743.

Loss of rents as damages for breach of contract to install elevator or other equipment incidental to use of building. 17 L.R.A.(N.S.) 1130.

Measure of damages for failure to comply with provision as to crossing in deed to railroad of right of way. 48 L.R.A. (N.S.) 390.

### § 31. Contract to sell.

For breach of contract to convey real estate. 16 L.R.A.(N.S.) 768.

For breach of parol contract to convey real estate. 2 L.R.A.(N.S.) 713.

Measure of damages for fraudulent representations in sale or exchange of real estate. 8 L.R.A. (N.S.) 804; 16 L.R.A. (N.S.) 818.

Loss of profits as element of damages. 52 L.R.A. 240.

Provision for damages in land contract as penalty or stipulated damages. L.R.A(N.S.) 4.

Effect upon character of sum agreed upon for breach as penalty or liquidated damages of single or multiple stipulations in contract. L.R.A.1915E, 384, 390.

### \$ 32. Breach of covenant.

Covenant in grant of water power. L.R.A. 405.

For tenant's breach of covenant to repair, in action brought after expiration of the term. 16 L.R.A.(N.S.) 210.

For vendor's failure to furnish abstract of

title. 43 L.R.A. (N.S.) 50.

Parol evidence as to consideration for deed in action for damages for breach of covenant. 25 L.R.A.(N.S.) 1205.

### § 33. — covenant of warranty.

Damages for breach of warranty by existence of unexpired lease. 35 L.R.A (N.S.) 779.

against . encum-§ 34. — covenant brances.

Covenant against encumbrance. 3 L.R.A.

Consult also L.R.A. Digests of Cases.

DAMAGES, III. b, 3—cont'd.

# 4. Sales of personalty; warranty.

\$ \$5. Generally.

Loss of profits from breach, see infra, § 115.

Is a claim for damages for breach of contract to deliver goods a liquidated claim. 9 L.R.A.(N.S.) 1134.

Right to interest on damages for breach of contract of. 28 L.R.A. (N.S.) 46.

Right of buyer to maintain separate action for nondelivery of each instalment under entire contract. 3 L.R.A.(N.S.) 1042.

Damages recoverable by buyer who pur-chases on market before expiration of time for delivery, where seller gives notice that he will not deliver. L.R.A. 1917A, 1001.

Measure of damages for nondelivery of goods as affected by resale before time of delivery. 7 B. R. C. 356.

Measure of damages for delay in delivery of goods purchased as affected by price at which they were resold. 7 B. R. C. 331.

Measure of damages for purchaser's refusal to accept goods specially manufactured for him. 4 L.R.A.(N.S.) 740; 18 L.R.A. (N.S.) 613.

Measure of damages for purchaser's refusal to execute purchase-money notes. L.R.A. (N.S.) 182.

Delay by purchaser in securing substitute as affecting his damages for seller's failure to deliver. 32 L.R.A. (N.S.) 192.

Offer by seller to furnish goods at advanced price as affecting measure of damages for refusal to furnish them at contract price. 38 L.R.A.(N.S.) 837.

Duty to prevent or reduce damages on breach of contract for sale or purchase. 52 L.R.A. 259.

Rescission by purchaser for seller's fraud as affecting former's right to recover damages, other than loss of contract. 31 L.R.A.(N.S.) 910.

Profits lost in consequence of breach of contract of sale of machinery purchased for vendee's use as an element of damages. 2 B. R. C. 79.

Against vendor of seeds. 37 L.R.A. (N.S.) 85; L.R.A.1916C, 1011.

Effect upon character of sum agreed upon for breach as penalty or liquidated damages of single or multiple stipula-tions in contract. L.R.A.1915E, 381, 390.

Measure of damages for breach of contract to sell or buy corporate stock. 43 L.R.A. (N,S.) 368,

# § 35a. Resale to fix damage for refusal of purchaser to accept goods.

Introductory. 42 L.R.A.(N.S.) 670.

As affected by question whether contract is executed or executory. 42 L.R.A. (N.S.) 671.

Resale as election of remedy. 42 L.R.A. (N.S.) 672.

DAMAGES, III. d—cont'd. Conductor's refusal to listen to passenger's explanation as to his contract, as justification for punitive damages for pas-17 L.R.A. (N.S.) senger's expulsion. 344.

Passenger's duty to pay fare wrongfully demanded in order to lessen damages. L.R.A. 706; 34 L.R.A.(N.S.) 282; L.R.A.1918D, 1032.

46. In respect to baggage. Punitive damages, see supra, § 15.

Liability for mental anguish, see infra, § 106.

Measure of recovery against baggage transfer company. L.R.A.1916D, 1203.

Right to recover expenses or damages incidental to loss of, or delay in delivering, baggage. 7 L.R.A. (N.S.) 188; L.R.A. 1916A, 549.

47. In respect to freight.

Loss of profits as element of damages, see infra, § 118.

Allowance of interest on damages to property injured, delayed, or lost in transportation. 18 L.R.A. 451.

Measure of carrier's liability for preventing exhibition or show by breach of contract of carriage. 4 L.R.A. (N.S.) 569; 49 L.R.A. (N.S.) 491.

Amount of carrier's liability for loss of goods. 2 L.R.A.(N.S.) 773.

For failure to furnish cars. 8 L.R.A.(N.S.)

112; 44 L.R.A.(N.S.) 655.

Measure of damages for carrier's delay in delivery of receptacles for perishable goods. 24 L.R.A.(N.S.) 134.

Constitutionality of legislation affecting amount of liability or penalty for de-lay in delivery or for destruction of freight. 20 L.R.A.(N.S.) 126.

Extent of initial carrier's liability under contract limiting undertaking to its own line. 31 L.R.A.(N.S.) 67.

Time of notice to warrant special damages for failure of carrier to deliver property. 3 L.R.A.(N.S.) 1111.

Effect of misrepresentation as to character, quantity, or value of goods by shipper on his right to recover for loss. L.R.A.(N.S.) 745; L.R.A.1915A, 502.

### e. Torts generally.

§ 48. Generally.

Allowance of punitive or exemplary damages for, see supra, § 16.

Against passenger, see supra, §§ 43-45. Liability for mental anguish, see infra, §§ 97-99.

Loss of profits as an element of damages, see infra, § 108.

Right to interest on damages. 28 L.R.A. (N.S.) 1.

Law governing measure of damages for. 56 L.R.A. 312.

For withholding or destroying evidence to | § 50a. Breach of promise; seduction.

DAMAGES, III. e—cont'd. Counsel fees and other expenses of bringing suit as part of compensatory damages recoverable in an action for tort. 28 L.R.A.(N.S.) 761.

Basis for determining earning capacity in action under Civil Damage Act. L.R.A.

1918F, 654.

Measure of damages for enticement of servant. 5 L.R.A.(N.S.) 1100.

Measure of damages in civil action for abduction of child. 45 L.R.A.(N.S.) 873.

Damages recoverable for delaying person by blocking railroad crossing. 44 L.R.A. (N.S.) 1069; L.R.A.1915E, 336.

Measure of damages for loss caused by neg-

ligence or wrong of notary or other officer certifying to acknowledgment or affidavit. 49 L.R.A.(N.S.) 55.

Damages recoverable for wrongful search. 50 L.R.A.(N.S.) 1151.

For disinterment of dead bodies. 42 L.R.A. 729.

For interference with rights of ferryman. 59 L.R.A. 553.

For being prevented from voting at a public election. 31 L.R.A. (N.S.) 1106. Forcing cropper from premises. 38 L.R.A. (N.S.) 714.

### f. Fraud.

49. Generally.

Right to interest on damages for fraud and deceit. 28 L.R.A. (N.S.) 49, 50.

Measure of damages for misrepresenting

value of corporate stock sold. 43 L.R.A. (N.S.) 373.

Damages recoverable for fraud and deceit in selling diseased animals. 34 L.R.A. (N.S.) 697. Measure of damages for false representa-

tions in sale of real estate. 8 L.R.A. (N.S.) 804; 16 L.R.A.(N.S.) 818.

Measure of damages for fraud in the exchange of property. 38 L.R.A. (N.S.) 465.

May purchaser recover damages for Breach of warranty or fraud as to both articles where one article is substituted for another at his request and both are defective. 37 L.R.A.(N.S.) 298.

Rescission of purchaser for seller's fraud as affecting former's right to recover damages other than loss of contract. 31 L.R.A.(N.S.) 910.

g. Sexual offenses; breach of promise; seduction; criminal conversation; alienation of affections.

§ 50. In general. Mental angush as element of damages for trespass on person of a woman affecting her character or reputation for chastity. 33 L.R.A.(N.S.) 98.

which adversary is entitled. 34 L.R.A. Mitigation of damages for breach of promise of marriage, see supra, § 6.

DAMAGES, III. g-cont'd.

Measure of damages for breach of promise to marry. 41 L.R.A.(N.S.) 840.

Right to prove seduction in aggravation of damages in breach of promise case. 4 L.R.A.(N.S.) 616; 36 L.R.A.(N.S.) 388.

Necessity of averring seduction in order to recover therefor in an action for breach of promise. 33 L.R.A.(N.S.) 702.

Pregnancy or birth of child as an element of damages for breach of promise. 43 L.R.A.(N.S.) 972.

Amount of damages recoverable for seduction. 52 L.R.A. (N.S.) 85.

Mental anguish as element of damages in cases of seduction. 33 L.R.A.(N.S.) 99.

# § 50b. Criminal conversation; alienation of affections.

Excessive damages in action for alienation of affections or criminal conversation. 42 L.R.A.(N.S.) 582.

Mental suffering of husband as element of damages for criminal conversation. 16 L.R.A. (N.S.) 674.

# h. Against corporate directors or promoters.

§ 51. Generally.

For breach of duty by directors. 55 L.R.A. 774.

Measure of damages against promoters of corporations. 18 L.R.A. (N.S.) 1131.

### i. Assault; false imprisonment; malicious prosecution; abuse of process.

§ 52. Assault.

Inadequacy of damages as ground for setting aside verdict. 47 L.R.A. 44; 39 L.R.A. (N.S.) 487.

Right to recover for mental suffering caused by assault where no bodily injury is inflicted. 25 L.R.A.(N.S.) 976.

Mental anguish as element of damages for trespass on person of woman affecting her character or reputation for chastity. 33 L.R.A.(N.S.) 98.

Punitive damages for assault by carrier's servant on passenger. 32 L.R.A.(N.S.) 1201; L.R.A.1915E, 671.

Admissibility of evidence of provocation to mitigate damages. 1 L.R.A.(N.S.) 137; 11 L.R.A.(N.S.) 670.

# § 53. False imprisonment.

Condition of place of imprisonment and treatment while in custody as elements of damages. 33 L.R.A.(N.S.) 291; L.R.A.1915D, 622.

Release upon defendant's own recognizance or on bail as affecting damages recoverable. 22 L.R.A.(N.S.) 1196.

Reasonable and probable cause of suspicion as mitigating damages for false imprisonment. 45 L.R.A.(N.S.) 64.

### § 54. Malicious prosecution. Punitive damages, see supra. § 16a. Consult also L.R.A. Digests of Cases.

DAMAGES, III. h-cont'd.

Mitigation of damages because of advice of counsel. 18 L.R.A.(N.S.) 54.

Mitigation of damages for wrongful attachment by showing subsequent seizure and sale of the attached property by the plaintiff in attachment or by offsetting the indebtedness or judgment in his favor. L.R.A.1918B, 801.

Loss of profits as element of damages for wrongful attachment. 46 L.R.A. (N.S.)

470

Condition of place of imprisonment and treatment while in custody as elements of damages. 33 L.R.A.(N.S.) 291; L.R.A.1915D, 621.

Inadequacy of damages as ground for setting aside verdict. 47 L.R.A. 43.

In action for malicious prosecution for wrongful search of premises. 39 L.R.A. (N.S.) 207.

# § 55. Abuse of process.

Exemplary damages, see supra, § 16a.

Loss of profits as element of damages for conversion under color of judicial process. 52 L.R.A. 54.

Right to interest on damages from wrongful levy. 28 L.R.A.(N.S.) 36.

### j. Libel or slander,

### § 56. Generally.

Mitigation of damages for, see supra, § 9. Punitive damages for, see supra, § 16b.

Measure of damages for libel or slander reflecting on integrity or responsibility of merchant. 44 L.R.A.(N.S.) 351.

Special damages which will sustain an action for libel or slander in charging a woman with unchastity. 24 L.R.A. (N.S.) 577; 48 L.R.A. (N.S.) 615.

Damages against telegraph company for handling libelous message. 9 L.R.A. (N.S.) 141.

Admissibility of evidence of family relations of plaintiff on question of damages. 23 L.R.A. (N.S.) 362.

Mitigation of damages for libel or slander by wife. 30 L.R.A. 529.

Sufficiency of retraction to reduce damages in an action for libel as a question for the court or for the jury. 25 L.R.A. (N.S.) 796.

Bad character or reputation of plaintiff as mitigating damages. 38 L.R.A. (N.S.) 1176.

Inadequacy of damages as ground for setting aside verdict. 47 L.R.A. 42.

### k. Personal injuries,

§ 57. Generally.

Mitigation or reduction of damages, see supra, § 7.

Punitive damages for, see supra, § 18. To passenger, see supra, §§ 43, 44.

Liability for mental anguish, see infrag. § 100.

DAMAGES, III. k-cont'd.

Relevancy and materiality of evidence as to, see Evidence, § 264.

Extent of recovery under Workmen's Com-pensation Act, see Workmen's Com-PENSATION, §§ 15, 15a.

Admissibility of opinion of party or witness as to extent of monetary damages sustained in consequences of personal injury. 52 L.R.A.(N.S.) 167.

Receipt of proceeds of insurance as affecting measure of damages for injury. L.R.A.1915E, 1201.

Law governing measure of damages for. 56 L.R.A. 312.

As affected by loss of profits. 52 L.R.A.

Right to interest on damages. 28 L.R.A. (N.S.) 70.

Difference between law of forum and of place of injury affecting amount of recovery. 56 L.R.A. 205.

Against municipality for injury from defect or obstruction in street. 20 L.R.A. (N.S.) 763.

Measure of damages recoverable from landlord for injury to tenant from defect in premises. 34 L.R.A. 831.

Extent of trespasser's liability for, as a consequential injury. 53 L.R.A. 631. Measure of damages for personal injury

by dog. 37 L.R.A.(N.S.) 865. Liability of telegraph company for continued physical suffering of sender of message because of negligence in transmission and delivery. 11 L.R.A.(N.S.) 1149.

Damages recoverable in action by master for injury to servant or apprentice. 32 L.R.A.(N.S.) 38.

Wife's right to recovery for loss of consortium resulting from negligent injury to husband. 24 L.R.A. (N.S.) 1024; L.R.A. 1916E, 703.

Elements and measure of damages in action under Federal Employers' Liability Act. 47 L.R.A.(N.S.) 80; L.R.A.1915C, 87.

Extent and character of developments following personal injury for which person inflicting the injury is liable. 48 L.R.A.(N.S.) 93.

May substantive law of state be invoked in action for personal injuries, not resulting in death, on waters within the maritime jurisdiction. L.R.A.1917F, 678.

# § 58. Cost of medical attendance as

Allowance for physician's services in action for personal injuries, without evidence of the value thereof. 19 L.R.A. (N.S.) 920.

Cost of medical treatment as element of damages for injury by dog. 37 L.R.A. (N.S.) 866.

As element of recovery under Workmen's Compensation Act. L.R.A.1917D, 178.

§ 59. Extent of recovery by husband for injuries to wife.

Husband's right to recover for loss of con-Begin with this book on every law question.

DAMAGES, III. k-cont'd.

sortium through personal injury to wife. 33 L.R.A. (N.S.) 1042; L.R.A. 1915D, 524.

Right of married woman to recover for loss of time, services, wages, or impaired capacity. 20 L.R.A. (N.S.) 215.

Excessiveness of verdict in action by husband for services of injured wife. L.R.A.1915F, 489.

§ 59a. Extent of recovery generally by married woman for injuries to her. Right of married woman to recover for loss of time, services, wages, or impaired capacity to labor. 20 L.R.A. (N.S.) 215.

Effect of temporary cessation from independent employment upon right of married woman to recover for loss of earning capacity due to personal injury. 23 L.R.A.(N.S.) 408.

Excessiveness of verdict in action for personal injury to married woman. L.R.A. 1915F, 188.

Marriage of woman after personal injury as affecting damages. LR.A.1916C, 592.

§ 60. Damages for miscarriage. Excessiveness of verdict for injuries inducing. L.R.A.1915F, 426.

Recovery of damages for miscarriage. L.R.A. 142.

Miscarriage as an element of damages. 23 L.R.A. (N.S.) 345.

Off-set against damages for suffering from miscarriage, of suffering which would have resulted from natural parturition. 17 L.R.A. (N.S.) 598.

Mental anguish as element of damages for. 17 L.R.A.(N.S.) 594; L.R.A.1917E, 1049.

Right to recover for miscarriage resulting from fright caused by wrongful act. L.R.A.(N.S.) 49; 22 L.R.A.(N.S.) 1073; 24 L.R.A.(N.S.) 1159; L.R.A. 1915D, 830.

§ 61. Injury to business or time lost. Admissibility on question of damages for personal injuries of amount paid for services of substitute during incapacity. 30 L.R.A.(N.S.) 737.

Recovery for loss of time, in action for personal injury, as affected by contingent character of compensation. L.R.A. (N.S.) 1228.

§ 62. Prospective damages. Continuing effect of injury. 11 L.R.A. 45.\*

Damages probable in the future. 11 L.R.A.

§ 63. - injury to earning power.

Right of married woman to recover for impaired capacity to labor. 20 L.R.A. (N.S.) 215.

DAMAGES, III. k—cont'd.

Effect of temporary cessation from independent employment on married woman's right to recover for loss of earning canacity due to personal injury. 23 capacity due to personal injury. L.R.A.(N.S.) 408.

Right of infant to recover damages for loss of services or diminished earning capacity, during minority, from personal injuries. 6 L.R.A.(N.S.) 552.

Admissibility of evidence of earnings in higher position on question of damages for injury to person in line of pro-motion. 1 L.R.A.(N.S.) 1150.

64. Excessive or inadequate recovery. Excessiveness of verdicts in actions for per-sonal injuries other than death. L.R.A.

1915F, 30.

Review by appellate court of trial court's ruling on motion to grant a new trial in an action for bodily injuries, on the ground of inadequacy of damages awarded. 28 L.R.A. (N.S.) 130.

### l. Death.

65. Generally.

Mitigation or reduction of damages, see supra, § 7.

Punitive damages for, see supra, § 18. Liability for mental anguish, see infra, § 101.

Generally. 17 L.R.A. 71. Law governing. 15 L.R.A. 585; 56 L.R.A.

312.

Pecuniary loss only recoverable. 17 L.R.A. 71.

Presumption and burden of proof as to pecuniary loss. L.R.A.1918C, 1056.

Character and sufficiency of evidence to show pecuniary loss to estate of decedent. L.R.A.1918C, 1111.

Character and sufficiency of evidence to show pecuniary loss to beneficiary in action for death. L.R.A.1918C, 1122.

Character and sufficiency of evidence to show pecuniary loss to parents by death of child. L.R.A.1918E, 278.

Evidence of the earnings of the deceased to show pecuniary loss by his death. L.R.A.1918C, 1080.

Admissibility of opinion evidence to show pecuniary loss in action for wrongful death. L.R.A.1918C, 1096.

Admissibility and use of mortality tables in death action to show pecuniary loss. L.R.A.1918C, 1071.

Reduction to present value of pecuniary loss to the statutory beneficiaries from death. L.R.A.1917F, 373.

Pain and suffering. 17 L.R.A. 72.

State statutes construed. 17 L.R.A. 73. Contributive causes of death. 17 L.R.A. 76. Action for death of relative. 17 L.R.A. 76. Damages recoverable by collateral kindred

for negligent killing of their relative. 11 L.R.A. (N.S.) 623.

May parent's recovery for death of minor child extend beyond his minority. 48

L.R.A. (N.S.) 687. Effect of benefit from other source to mitigate damages. 67 L.R.A. 91.

Consult also L.R.A. Digests of Cases. 24

DAMAGES, III. 1—cont'd.
Receipt by beneficiary of property from estate of decedent as affecting damages recoverable for decedent's death. L.R.A. 1915E, 1205.

Receipt of proceeds of insurance as affecting measure of damages for death. L.R.A. 1915E, 1201.

Instantaneous death as test of amount of recovery. L.R.A.1916C, 973.

In action under Federal employers' liability act. 47 L.R.A.(N.S.) 80; L.R.A. 1915C, 87.

Interest on sum allowed as damages. 18 L.R.A. 449; 28 L.R.A. (N.S.) 72.

Differences as to amount of recovery as affecting action for death based on statute of another state. 56 L.R.A. 205.

Effect of previous disease of person injured resulting in death on liability for causing the injuries. 16 L.R.A. 269; 17 L.R.A. 71.

Settlement of cause of action for death by beneficiaries without assent of executor or administrator. 35 L.R.A. (N.S.) 207.

Recovery by administrator, in action for benefit of estate, of probable accumulations of deceased as damages for death. 15 L.R.A.(N.S.) 451.

Right to recover funeral or medical expenses. 2 B. R. C. 711.

Admissibility in action for wrongful death of evidence of profits or contributions from business conducted by decedent. L.R.A.1918C, 1087.

Evidence of habits or character of person killed as affecting damages. 1 L.R.A. (N.S.) 198.

§ 65a. Excessive or inadequate recovery.

Excessive or inadequate damages for personal injuries resulting in death. L.R.A.1916C, 820.

Rules guiding the courts on appeal in determining excessiveness or inadequacy of verdicts for personal injuries resulting in death. L.R.A.1916C, 810.

Excessive damages under civil damage act for death through intoxication. L.R.A.

1916D, 943.

§ 66. Of husband or wife.

Presumption and burden of proof as to pecuniary loss. L.R.A.1918C, 1060. Instances of excessive or inadequate amount.

L.R.A.1916C, 864.

Loss of consortium as element of damage for wrongful death. 19 L.R.A. (N.S.) 633; L.R.A.1916D, 187.

Measure of damages recoverable for negligent killing of husband. 17 L.R.A. 76.

Measure of damages for death of wife. 17 L.R.A. 77.

Husband's right at common law to recover for loss of time and funeral expenses necessitated by negligent killing of his wife. 9 L.R.A. (N.S.) 1193.

DAMAGES, III. 1-cont'd.

Widow's right to year's support or allowance out of fund recovered for negligent killing of husband. 42 L.R.A. (N.S.) 725.

Marriage of injured person after his injury as affecting damages recoverable for his death from such injury. L.R.A.1915E, 1199.

# § 67. Damages recoverable by minor for death of parent.

Elements of damages recoverable by child for death of mother. 19 L.R.A.(N.S.) 128.

Is minor's right to damages for negligent killing of parent limited to period of minority. 18 L.R.A.(N.S.) 1205; 39 L.R.A.(N.S.) 1156.

# m. Injury to or detention of personal property.

§ 68. Injury or destruction.

Injury to growing crops, see infra, § 74.

Injury to trees, see infra, § 75.

Injury to personalty, as element of damages from condemnation of realty, see infra, III. q.

Possibility of salvage as affecting amount of damages for destruction of property. L.R.A.1918A, 276.

Measure of damages for injury to tenant's property by water. L.R.A.1917B, 234.

Measure of damages for loss of, or injury to, household goods or wearing apparel. L.R.A.1917D, 495.

Measure of recovery for damages to goods received for cold storage. 52 L.R.A. 108; 38 L.R.A.(N.S.) 997.

In action by bailee for damages to bailed property. 3 B. R. C. 393.

Measure of damages for damage to automobile used for pleasure. L.R.A.1915C, 319.

Measure of damages in case of unlawful seizure of mortgaged chattels by mortgagee assuming to act under mortgage. L.R.A.1915E, 199.

Extent of liability of municipality for property destroyed by mob. 24 L.R.A. 595.

Constitutionality of statutes relating to fixing value of stock killed on unfenced road. 31 L.R.A.(N.S.) 867.

Right to interest on damages. 18 L.R.A. 450; 28 L.R.A. (N.S.) 12, 28, 38, 42, 66,

Measure of damages for loss or destruction of manuscript, legal papers, and the like. 8 L.R.A.(N.S.) 369.

Loss of time as element of damages for destruction or loss of use of implements or tools of laborer or professional man. 25 L.R.A.(N.S.) 625.

Loss of profits as element of damages for wrongful destruction of logs or timber. 18 L.R.A. (N.S.) 250.

# 69. Replevin.

Measure of recovery on replevin bond, see supra, § 28.

DAMAGES, III. m-cont'd.

Loss of profits as element of damages for seizure under wrongful replevin. 52 L.R.A. 56.

Right to interest on value of property taken. 28 L.R.A.(N.S.) 42.

Do damages in replevin for property converted include value added by the transportation of the goods of the wrongdoer after conversion. 52 L.R.A. (N.S.) 396.

### § 70. Conversion.

Mitigation of, see supra, § 9a.

For conversion of household goods or wearing apparel. L.R.A.1917D, 495.

In action by bailee for conversion of bailed property. 3 B. R. C. 393.

Loss of profits as element of damages for conversion. 52 L.R.A. 51.

Conversion of logs or timber. 18 L.R.A. (N.S.) 250; 52 L.R.A. (N.S.) 97.

Measure of damages for pledgee's conversion of property by invalid sale. 43 L.R.A. 768.

Damages recoverable by conditional vendor of personalty from third person who converts the same after partial payment of the purchase price. 10 L.R.A. (N.S.) 458.

Measure of damages in trover for injury to, or destruction of, trees or standing timber. 19 L.R.A. 654; 18 L.R.A. (N.S.) 247; 52 L.R.A. (N.S.) 93.

Do damages for conversion include value added by the transportation of the goods by wrongdoer after conversion. 52 L.R.A.(N.S.) 392. Value of use of property as element or

Value of use of property as element or measure of damages in action for conversion of personal property. L.R.A. 1915B, 291.

n. Injury to, or detention of, real property.

### 1. In general.

§ 71. Generally.

In condemnation proceedings, see infra, III. q.

Cost of restoration as measure of. 17 L.R.A. 426.

Right to interest on damages. 28 L.R.A. (N.S.) 38.

Measure of damages to leasehold from change of grade. L.R.A.1917C, 428.

Measure of damages against tenant for condition of premises. 64 L.R.A. 665.

Measure of damages for failure of lessee under oil and gas lease to protect leased premises from wells on adjoining land. L.R.A.1917E 983.

Extent of liability of municipality for property destroyed by mob. 24 L.R.A. 595.

Measure of damages for allowing land to

become infested with weeds. 12 L.R.A. (N.S.) 88.

DAMAGES, III. n, 1—cont'd.

Loss of customers as element of damages from obstruction of highway. 13 L.R.A.(N.S.) 253.

Measure of damages for injury to public land before homesteader receives patent. 17 L.R.A.(N.S.) 958.

Duty to commit wrongful acts to minimize damages. 3 L.R.A.(N.S.) 1092.

Duty to mitigate damages from trespass. 38 L.R.A. (N.S.) 244.

Duty of property owner to minimize damages from change of grade. 44 L.R.A. (N.S.) 301.

Mental anguish as element of damages for trespass. 53 L.R.A. 632.

Loss of profits as element of damages for trespass. 52 L.R.A. 42.

Personal wrong as aggravation of damages for trespass on realty. 19 L.R.A. (N.S.) 1034; 37 L.R.A.(N.S.) 912.

# § 72. Removal of lateral or subjacent support.

For removal of lateral or subjacent support. 68 L.R.A. 701.

Removal of lateral support as constituting damaging or injuring within meaning of constitutional provision against taking, damaging, or injuring property for public use without compensation. 5 L.R.A.(N.S.) 1086; L.R.A.1917E, 576.

Measure of damages for destruction of, or damage to, building by excavating. L.R.A.1917A, 371.

Measure and elements of damages recoverable for non-negligent interference with right of support. 5 B. R. C. 923.

# § 78. Extent of trespasser's liability for consequential injuries.

In general. 53 L.R.A. 626.

Consequential injuries to property. 53 L.R.A. 627.

Consequential injuries to the person. 53 L.R.A. 631.

# 2. Injury to, or destruction of buildings, crops, or trees.

§ 78a. Buildings.

Measure of damages for destruction of, or damage to, building. L.R.A.1917A, 367.

### § 74. Crops. By overflow, see infra, § 77.

Measure of damages for injury to or destruction of growing crops. 12 L.R.A. (N.S.) 267; 23 L.R.A.(N.S.) 310; 27 L.R.A.(N.S.) 168; 37 L.R.A.(N.S.) 976; 49 L.R.A.(N.S.) 415.

Injuries to crops, as element of damages from removal of fence. 53 L.R.A. 630.

Consult also L.R.A. Digests of Cases.

DAMAGES, III. n, 2-cont'd.

Loss of crops as element of damages for breach of warranty because of unexpired lease. 35 L.R.A.(N.S.) 781.

Measure of damages for breach of contract to furnish water for irrigation. 19 L.R.A.(N.S.) 938; 31 L.R.A.(N.S.) 743.

### § 75. Trees and timber.

Measure of damages for injury to, or destruction of, trees or shrubbery not valuable for their timber or firewood. 11 L.R.A.(N.S.) 930; 28 L.R.A.(N.S.) 757; 37 L.R.A.(N.S.) 1115.

Measure of damages for wrongful cutting

Measure of damages for wrongful cutting or destruction of standing timber. 19 L.R.A. 653; 18 L.R.A.(N.S.) 244; 52 L.R.A.(N.S.) 91.

Loss of profits as element of damages. 18 L.R.A. (N.S.) 250; 52 L.R.A. (N.S.) 97.

(N.S.) 97.

In action for trespass by entering upon land to remove timber after time limit. 29 L.R.A.(N.S.) 551.

Right to interest on value of timber de-

Right to interest on value of timber destroyed by fire. 18 L.R.A. 450; 28 L.R.A.(N.S.) 66.

# 3. Injury to water rights; overflows; pollution.

# § 76. Generally.

For cutting off access of riparian owner to navigable waters. 15 L.R.A. 618.

Measure of damages for breach of contract to furnish water for irrigation. 19 L.R.A.(N.S.) 938; 31 L.R.A.(N.S.) 743.

Measure of damages for taking of water by right of eminent domain. 58 L.R.A. 253.

Measure of damages for property taken for purposes of canal. 61 L.R.A. 841.

Right to interest on damages in cases involving water rights. 28 L.R.A.(N.S.)

Loss of profits as elements of damages for interference with water power of mill. 52 L.R.A.(N.S.) 1004.

# § 77. Flooding; obstruction; surface water.

Mitigation of damages, see supra, § 10a.

Measure of damages for the occasional flooding of land. 3 L.R.A.(N.S.) 973. For destruction of, or damage to, building by water. L.R.A.1917A, 373.

For obstructing water of stream. 59 L.R.A. 892.

Measure of damages for injury to, or destruction of, growing crop by overflow. 12 L.R.A.(N.S.) 267; 27 L.R.A.(N.S.) 168; 37 L.R.A.(N.S.) 976; 49 L.R.A.(N.S.) 415.

Loss of profits as element of damages for obstruction of water way. 52 L.R.A. 47. DAMAGES, III. n, 3-cont'd.

Measure of damages recoverable from municipal corporation for overflow from defective sewer or street. 29 L.R.A. (N.S.) 860.

§ 78. Municipal liability with respect to drains and sewers.

Measure of damages for breach of duty by municipality with respect to drainage. 61 L.R.A. 712.

Measure of damages recoverable from mu-nicipal corporation for overflow from defective sewer or street. 29 L.R.A. (N.S.) 860.

79. Pollution.

Injury to fishing right as damages from pollution. 33 L.R.A.(N.S.) 74.

Pollution of water as an element of damages for taking railroad right of way. 47 L.R.A. 782.

### o. Nuisance.

§ 80. Generally.

Punitive damages for, see supra, § 17.

Loss\_of profits as element of damages. 52 L.R.A. 49.

Right to interest on damages from nuisances. 28 L.R.A.(N.S.) 74.

May benefits from nuisance be against damages. 45 L.R.A. (N.S.) 773.

### p. Injury to business.

§ 81. Generally.

By personal injury, see supra, § 61. In condemnation proceedings, see infra,

Loss of profits as element of damages, see infra, § 111.

Loss of customers as element of damages from obstruction of highway. L.R.A. (N.S.) 253.

As element of damages in action on replevin bond. 30 L.R.A.(N.S.) 371.

### q. Condemnation or depreciation in value by eminent domain.

### 1. In general.

§ 82. Generally.

Loss of profits as element, see infra, § 113. Right to compensation generally, see EMI-ENT DOMAIN, §§ 45-53.

Valuation of property of public utility company for condemnation purposes, see also Public Service Corporations, § 5.

Constitutionality of statute empowering public service commission or other general board to determine amount of compensation in eminent domain proceedings. 52 L.R.A.(N.S.) 850.

What damage or loss is within provision for payment of damages upon discontinuance of proceedings in eminent domain. 52 L.R.A. (N.S.) 262.

Begin with this book on every law question.

DAMAGES, III. q, 1—cont'd. Prospective value of property as element of compensation in eminent domain. L.R.A.1917A, 405.

Evidence as to price paid for other property by party seeking to condemn property for public use. 43 L.R.A.(N.S.) 985.

Separation of parcels of land by stream, canal, highway or railroad as affecting the right to treat them as one tract for the purpose of assessing damages. 9 L.R.A.(N.S.) 426.

Injury to, or expense of removing, personalty, as element of damage for taking real estate. 4 L.R.A. (N.S.) 890. Taking of water. 58 L.R.A. 253.

Property taken for purposes of canal. 61 L.R.A. 841.

Measure of damages for right of way taken for drains and sewers. 60 L.R.A. 204. For removal of lateral or subjacent support. 68 L.R.A. 701.

Amount of damages recoverable by tenant and reversioner. 21 L.R.A. 217, 223.
Right to interest on award. 28 L.R.A.
(N.S.) 51, 79; L.R.A.1916C, 1109.

Allowance of interest on value of property destroyed from negligent construction of railroads, canals, etc. 18 L.R.A. 454.

Conclusiveness of testimony of experts as to value and damages in eminent do-

main proceedings. 42 L.R.A. 767. Evidence of structural value of improvements to fix damages in condemnation. 41 L.R.A.(N.S.) 411.

Right to allowance for improvements made with knowledge that property would be required for public use. 36 L.R.A. (N.S.) 273.

Right to recover cost of alteration made in anticipation of, and to prevent or reduce damages to property from, a public improvement. L.R.A.1917C, 1189.

Right to compensation for fixtures in building taken. L.R.A.1915D, 492.

Compensation to be paid a public utility company upon taking its plant. 47 L.R.A. (N.S.) 770. See also Public SERVICE CORPORATIONS, § 5.

83. Value for special use.

Special value of property for the purpose for which it is taken as an element of compensation in condemnation proceedings. 11 L.R.A.(N.S.) 996; 46 L.R.A. (N.S.) 392.

Compensation allowable in eminent domain proceedings as affected by adaptability of property for uses other than that to which it is applied by owner. L.R.A.(N.S.) 679.

Right to consider value of property as a part of a natural water power, in fixing compensation in eminent domain. 3 L.R.A.(N.S.) 912.

§ 84. Improvements made by one taking property as element of damages.

DAMAGES, III. q, 1-cont'd.

Owner's right to compensation for improvements made by taker before condemnation and without owner's consent. L.R.A.1916F, 980.

§ 85. Effect of preserving to owner an estate, rights, or easement.

Mitigation of damages in condemnation cases by preserving. 26 L.R.A. 751.

§ 86. For telephone or telegraph right of way.

When private property is taken. 26 L.R.A. (N.S.) 189; L.R.A.1916E, 583.

Lines in street or highway. 26 L.R.A (N.S.) 189; L.R.A.1916E, 583.

Lines on railway right of way. 26 L.R.A. (N.S.) 191; L.R.A.1916E, 582.

# 2. Consequential injuries.

§ 87. Generally.

Data necessary to warrant recovery for consequential damages to real property. 3 L.R.A.(N.S.) 333.

Pollution of water as an element of damages for taking railroad right of way.

47 L.R.A. 782.

Obstruction of surface water as element of damages in eminent domain proceedings for a railroad right of way. 13 L.R.A. (N.S.) 237.

Danger of injury to owner of property or members of his family, or to his live stock, as element of damages for railroad right of way. 10 L.R.A.(N.S.) 1003.

Compensation for depreciation of land not taken on condemnation of land for school purposes. 48 L.R.A. (N.S.) 488.

Right to compensation for interference with switch connections or other shipping facilities. 52 L.R.A.(N.S.) 192.

Injury to, or expense of removing, personalty, as an element of damage for taking real estate. L.R.A.1916D, 719.

Obstruction of view as element of damages.
L.R.A.1917C, 1139.

87a. By smoke.

Right to compensation for damages to part of the tract not taken from smoke incidental to operation of railroad. 17 L.R.A.(N.S.) 1054; 40 L.R.A.(N.S.) 48.

Compensation on account of damages to part of tract not taken by smoke incident to operation of railroad. L.R.A. 1916E, 445.

§ 87b. By noise.

Allowance for noise in proceedings to condemn railroad right of way on account of damages to part of tract not taken. 38 L.R.A.(N.S.) 497; L.R.A.1916E, 445.

Right to compensation for noise incident to ordinary operation of railroad where no part of property taken. 17 L.R.A. (N.S.) 1054; 40 L.R.A.(N.S.) 48.

Consult also L.R.A. Digests of Cases.

DAMAGES, III. q, 2-cont'd.

Abutting owner's right to compensation from noise from operation of railroad in street. 36 L.R.A.(N.S.) 780.

§ 88. Injury to business.

Loss of customers as element of damages from obstruction of highway. 13 L.R.A. (N.S.) 253.

Interruption of business, as element of damages for laying out street across railroad property. 24 L.R.A.(N.S.) 1231.

Loss of profits from suspension of business while moving as element of damages. 17 L.R.A.(N.S.) 124.

### 3. As to abutting owners.

§ 89. Generally.

In highway cases, see infra, §§ 91, 92.

Measure of damages for right of way for telegraph or telephone line in street or highway. 26 L.R.A.(N.S.) 189; L.R.A. 1916E, 583.

Damages on condemnation of the fee of land over which there is an existing highway. 15 L.R.A. 413; 37 L.R.A.(N.S.) 281.

Interference with access to highway from the part of parcel not taken by the taking of another part as element of damages in condemnation. 28 L.R.A.(N.S.) 385.

§ 90. By railroad or street railway in street.

To abutting owner for laying street railway near side of street. 43 L.R.A. 560.

Injury to abutter's easements by railroad in street. 14 L.R.A. 383.

Does release of damages for construction of railroad in highway include damages from elevation of grade. 10 L.R.A. (N.S.) 1202.

Nature of damages recoverable by abutting owner on account of railroad in street. 36 L.R.A.(N.S.) 760.

Damages to abutting owner for right to run interurban cars over the tracks of a street railway company. 15 L.R.A. (N.S.) 531.

### 4. In highway cases.

9 91. Generally.

Matters as to abutting owner generally, see supra, III. q. 3.

Measure of compensation to abutting owner for vacation of highway. 36 L.R.A. (N.S.) 1118.

§ 92. For laying out street across railroad property.
Nominal damages. 24 L.R.A.(N.S.) 1228.

Nominal damages. 24 L.R.A. (N.S.) 1228. Value of land taken. 24 L.R.A. (N.S.) 1229.

Decreased value for railway purposes. 24 L.R.A.(N.S.) 1229.

Value of land for future railway uses. 24 L.R.A.(N.S.) 1230.

Damage to property not taken. 24 L.R.A. (N.S.) 1231.

DAMAGES, III. q, 4-cont'd.

24 L.R.A. Increased operating expenses. (N.S.) 1231.

Interruption of business. 24 L.R.A. (N.S.)

Increased liability for accidents. 24 L.R.A. (N.S.) 1232.

Compensation for construction and maintenance of crossing and safeguards. fences. 24 L.R.A.(N.S.) 1232.

Compensation for making approaches. 24 L.R.A. (N.S.) 1233.

Compensation for planking crossing. L.R.A. (N.S.) 1233. 24

Compensation for cattle guards and wing fences. 24 L.R.A. (N.S.) 1234.

Compensation for sign boards and whistle posts. 24 L.R.A.(N.S.) 1235.

Compensation for safety gates and flagmen. 24 L.R.A.(N.S.) 1235.

pensation for necessary struchanges. 24 L.R.A.(N.S.) 1236. Compensation

Compensation for future alterations. L.R.A.(N.S.) 1236.
Offsetting benefits to railroad company. 24

L.R.A.(N.S.) 1236. Mitigating damages. 24 L.R.A. (N.S.) 1236.

# 5. Setting off benefits.

§ 93. Generally.

Right to set off benefits against damages in eminent domain proceedings. 9 L.R.A.(N.S.) 781; L.R.A.1918A,

Offsetting benefits to railway company against damages from laying out street across railway property. 24 L.R.A. (N.S.) 1236.

### r. Injunction cases.

94. Generally.

Damages in lieu of injunction. 20 L.R.A. 752.

Damages recoverable in action on injunction bond. 13 L.R.A. 312.

Penalty as limit of liability on bond. 55 L.R.A. 389.

Loss of profits as element of damages for wrongful injunction. 52 L.R.A. 58.

Measure of damages for wrongful injunction restraining erection of building. 39 L.R.A.(N.S.) 180.

### s. In trademark, patent and copyright cases.

95. Generally.

Punitive damages for infringement, see supra, § 19.

Loss of profits, see infra, § 112.

Power of equity, upon enjoining unfair com-petition or infringement of trademark, tradename, patent, or copyright, to require defendant to pay damages sustained by complainant as distinguished from profits realized by defendant. L.R.A. (N.S.) 526.

DAMAGES, III. s-cont'd.

Must penalty in aggregate for infringing copyright be multiple of what might be given for each separate offense. B. R. C. 768.

Right to interest on damages for infringement. 28 L.R.A. (N.S.) 75.

### t. Mental anguish.

### 1. In general.

§ 96. Generally. See also FRIGHT, §§ 2, 3.

Mental suffering as element of damages in action against physician or surgeon. 51 L.R.A.(N.S.) 36.

Effect of bad motive on liability for. 62 L.R.A. 719.

What evidence admissible to show mental

anguish. 19 L.R.A.(N.S.) 409.

Apprehension of injury to health as basis of recovery for mental anguish. 29 L.R.A.(N.S.) 458.

97. For miscellaneous torts.

Liability of carrier for mental suffering of passenger from mere verbal abuse unaccompanied by other breach of duty. L.R.A.1918A, 600.

Parent's mental anguish as element of damages, at common law, for personal tort to minor child. 7 L.R.A. (N.S.) 518.

As element of damages for enticement or abduction of child. 45 L.R.A. (N.S.) 874.

Right to recover for mental suffering caused by an assault where no bodily injury is inflicted. 25 L.R.A.(N.S.) 976.

Humiliation as element of damages for exclusion from place of amusement. 14 L.R.A.(N.S.) 1242; 38 L.R.A.(N.S.) 204; L.R.A.1915B, 1119.

As element of damages for trespass. 53 L.R.A. 632.

Mental anguish as basis of action for loss of photograph. 47 L.R.A.(N.S.) 1120.

§ 98. Matters as to corpse.

For mutilation of corpse. 6 L.R.A. (N.S.) 883.

Mental anguish as element of damages in action for breach of contract relative to corpse. 19 L.R.A. (N.S.) 564.

Mental anguish resulting from failure to be met at station when traveling with corpse because of negligence in transmission of telegram. 49 L.R.A.(N.S.) 234, 334.

Presumption of notice of urgency of telegram relating to corpse in action to recover for mental anguish. 49 L.R.A.

(N.S.) 319.

Right to recover for mental anguish consequent on failure of telegraph company to transmit money for disposition of corpse. 49 L.R.A. (N.S.) 335.

DAMAGES, III. t, 1—cont'd.

§ 99. Sexual offenses.

Mental suffering of husband as an element of damages in criminal conversation. 16 L.R.A.(N.S.) 674.

Mental anguish as element of damages for trespass on the person of a woman affecting her character or reputation for chastity. 33 L.R.A. (N.S.)

§ 100. From personal injuries gener-

Right to recover for mental suffering on account of another's mental or physical suffering. 19 L.R.A. (N.S.) 500.

Parent's mental anguish as element of damages at common law for personal tort to minor child. 7 L.R.A.(N.S.) 518.

Mental suffering arising from contempla-tion of disfigurement or mutilation as element of damages for personal injuries. 15 L.R.A. (N.S.) 775; L.R.A. 1916E, 898.

Mental suffering as element of damages in action against physician or surgeon. 51 L.R.A.(N.S.) 36.

Mental anguish over collateral consequences of injury as element of damages for personal injury. L.R.A.1916D, 1038.

Liability for apprehension, fright, etc., through personal injury by dog. 37 L.R.A.(N.S.) 866.

Mental anguish as an element of damages for personal injuries to pregnant woman. 17 L.R.A. (N.S.) 594; L.R.A. 1917E, 1049.

Right to recover for miscarriage resulting from fright caused by wrongful act. 3 L.R.A.(N.S.) 49; 22 L.R.A.(N.S.) 1073; 24 L.R.A.(N.S.) 1159.

§ 101. From death.

Mental suffering of parent as element of damages in action for death of child. 2 L.R.A.(N.S.) 898.

### 2. As to telegrams.

§ 102. Generally.

As to measure of damages against telegraph companies, generally, see supra, § 41.

In general. 49 L.R.A. (N.S.) 209.

Jurisdictional extent of doctrine, as to rerecovery of damages for mental an-

recovery of damages for mental anguish. 49 L.R.A.(N.S.) 211.
Conflict of laws as to right to recover for mental anguish. 63 L.R.A. 532; 5 L.R.A.(N.S.) 751; 23 L.R.A.(N.S.) 648; 28 L.R.A.(N.S.) 490; 29 L.R.A. (N.S.) 795; 41 L.R.A.(N.S.) 223.

Arguments for and against the dectrine

Arguments for and against the doctrine.
49 L.R.A.(N.S.) 213.

Statutory liability of telegraph company.
49 L.R.A. (N.S.) 228.

Character of mental suffering necessary to sustain action for mental anguish. 49 L.R.A.(N.S.) 296.

Consult also L.R.A. Digests of Cases.

DAMAGES, III. t, 2-cont'd.

Sources of mental anguish. 49 L.R.A. (N.S.) 231.

> Absence from deathbed. 49 L.R.A. (N.S.) 231.

> Absence from funeral. 49 L.R.A.(N.S.) 232.

Inability to see remains before decomposition set in. 49 L.R.A.(N.S.)

Failure to transmit money for disposition of corpse. 49 L.R.A. (N.S.) 335.

Mistaken belief that relative was dead.

49 L.R.A.(N.S.) 233.
Failure to be met at station when traveling with corpse. 14 L.R.A. (N.S.) 927; 49 L.R.A. (N.S.) 234.

Burial delayed or in unsuitable place or manner. 49 L.R.A. (N.S.) 234. Absence from sick bed. 49 L.R.A.

(N.S.) 235.

Absence of minister from sick bed. 49 L.R.A.(N.S.) 235.

Failure to secure services of physician. 49 L.R.A.(N.S.) 236.

Mental anguish because of another's mental or physical suffering. L.R.A.(N.S.) 236.

Being deprived of receiving or giving consolation or advice. 14 L.R.A. consolation or advice. 14 L.R.A. (N.S.) 499; 49 L.R.A. (N.S.) 300.

Exposure to disease. 49 L.R.A. (N.S.) 238.

Inability to attend insane brother. 49 L.R.A.(N.S.) 238.

Failure to prevent unsuitable marriage.
49 L.R.A.(N.S.) 238.
Social and business telegrams. 12
L.R.A.(N.S.) 886; 49 L.R.A.(N.S.) 238.

Mental anguish that would have been re-lieved by a telegram. 11 L.R.A. (N.S.) 497; 49 L.R.A. (N.S.) 305.

Mental anguish for delay in receiving benefit of telegram. 49 L.R.A.(N.S.) 241.

Postponement of funeral as contingency affecting recovery. 49 L.R.A. (N.S.) 242

Necessity of showing other injury. L.R.A.(N.S.) 246.

Necessity of distinguishing between mental anguish caused by the sickness or death, and that caused by the defendant's negligence. 49 L.R.A.(N.S.) 249.

Necessity and sufficiency of notice to the telegraph company that negligence in respect to the telegram might cause mental anguish. 49 L.R.A. (N.S.) 308.

Necessity of relationship and degree essential to recover for mental anguish for failure to deliver telegram announcing death or illness. 15 L.R.A.(N.S.) 277; 19 L.R.A.(N.S.) 374; 49 L.R.A.(N.S.)

Necessity of allegation and proof that telegram would have accomplished its purpose. 49 L.R.A.(N.S.) 258.

Effect of stipulations requiring notice of loss to be given within specified time. 49 L.R.A. (N.S.) 265. DAMAGES, III. t, 2-cont'd.

Legality of contract for the transmission of death messages on Sunday. L.R.A. (N.S.) 266.

Degree of care required in respect to death messages. 49 L.R.A.(N.S.) 266.

Proximate cause. 49 L.R.A.(N.S.) 266.

Contributory negligence as a defense to an action for mental anguish. 49 L.R.A. (N.S.) 270.

Parties plaintiff. 49 L.R.A. (N.S.) 275. Addressee or beneficiary. 30 L.R.A.

(N.S.) 1137; 49 L.R.A.(N.S.) 275. Right to recover of person who is not mentioned in telegram and whose interest is not communicated to the company. 8 L.R.A.(N.S.) 249; 19 L.R.A. (N.S.) 475; 49 L.R.A. (N.S.)

Parties defendant. 49 L.R.A. (N.S.) 279. Pleading. 49 L.R.A. (N.S.) 279.

Procedure and practice generally. 49 L.R.A. (N.S.) 281.

Evidence of mental anguish. 49 L.R.A. (N.S.) 283.

Special defenses. 49 L.R.A.(N.S.) 289. Amount of damages. 49 L.R.A.(N.S.) 327. Physical suffering due to mental anguish as basis of action where no recovery is allowed for mental anguish alone. 49 L.R.A.(N.S.) 343.

### 3. Carriers' cases.

§ 104. Generally.

As to measure of damages against carrier, generally, see supra, III. d. See also FRIGHT.

For carrying passenger beyond destination.

17 L.R.A.(N.S.) 1228. As proximate result of discharging passenger at improper place or one not his destination. 7 L.R.A.(N.S.) 1182.

Liability of carrier for mental suffering of passenger from mere verbal abuse, unaccompanied by other breach of duty. 13 L.R.A.(N.S.) 159; 33 L.R.A.(N.S.) 386.

§ 105. Ejection.

Mental suffering as an element of damages for wrongful expulsion from vehicle of common carrier. 12 L.R.A.(N.S.) 184. Ejection of sick or intoxicated passenger. L.R.A.1915C, 146.

🖇 106. Baggage.

Loss of baggage of intended bride causing postponement of wedding; husband's right of action for mental suffering. 3 L.R.A.(N.S.) 225.

u. Loss of profits. Begin with this book on every law question.

DAMAGES, III.—cont'd.

### 1. In general,

§ 107. Generally.

On interference with fishing rights. L.R.A. 525.

Loss of profits as element of damages for cutting off supply of heat, water, or gas from premises. 22 L.R.A.(N.S.) 588.

As element of damages for carrier's failure to furnish cars in absence of contract. 44 L.R.A.(N.S.) 655.

§ 108. For tort.

General rules. 52 L.R.A. 33.
Personal injuries. 52 L.R.A. 36.
Trespass against the person. 52 L.R.A. 42. Trespass against property. 52 L.R.A. 42. Negligence. 52 L.R.A. 46.

Wrongful attachment. 46 L.R.A. (N.S.) 470.

Wrongful injunction. 52 L.R.A. 58. Fraud and false representations. 52 L.R.A

59.

Marine torts. 52 L.R.A. 61. Infringement of patents, copyrights, and trademarks. 52 L.R.A. 66.

Effect of illegality of business giving rise to the profits. 52 L.R.A. 66.

Loss of profits as element of damages for cutting off supply of heat, water, or gas from premises. 22 L.R.A. (N.S.) 588.

For injury from damming back water of stream. 59 L.R.A. 897.

For interference with water power of mill. 52 L.R.A. (N.S.) 1004.

Loss of profits as element of damages for wrongful destruction of logs and timber. 18 L.R.A. (N.S.) 250; 52 L.R.A. (N.S.) 97.

§ 109. For conversion.

Loss of profits as element of. 52 L.R.A. 51. For conversion of logs or timber. 18 L.R.A.(N.S.) 250; 52 L.R.A.(N.S.) 97.

§ 110. Personal injury.

Damages for, as affected by loss of profits. 52 L.R.A. 36.

111. Injury to business.

Loss of profits of sale or purchase of business, as damages. 52 L.R.A. 238.

Loss of profits from suspension of business, while moving as element of damages in eminent domain. 51 L.R.A. 330; 17 L.R.A.(N.S.) 124,

§ 112. For infringement of patents, copyrights, or trademarks. Burden of proof as to, see EVIDENCE, § 107a.

The concurrent remedies in patent cases. 51 L.R.A. 801.

Actions in equity. 51 L.R.A. 8 Actions at law. 51 L.R.A. 802. 51 L.R.A. 802.

The rule in equity under statutes authorizing damages. 51 L.R.A. 817.

DAMAGES, III. u, 1—cont'd. Effect of recovery. 51 L.R.A. 821. The rule in copyright cases. 51 L.R.A. 822. The rule in trademark cases. 51 L.R.A.

§ 113. In eminent domain cases. 51 L.R.A. 320; L.R.A.1916C, Generally. 1094.

Early rule confining damages to the actual taking. 51 L.R.A. 320.

Where property is taken, in whole or in part, for railway purposes. 51 L.R.A. 321; L.R.A.1916C, 1095.

Where tangible property is taken for other

than railway purposes. 51 L.R.A. 324; L.R.A.1916C, 1096. Where property taken consists of a fran-chise or privilege. 51 L.R.A. 325; L.R.A.1916C, 1097.

Where property is injured, but not taken. 51 L.R.A. 326; L.R.A.1916C, 1097.

Loss of profits from suspension of business while moving. 51 L.R.A. 320; L.R.A.(N.S.) 124; L.R.A.1916C, 1097.

Loss of profits as elements of damages for interference with water power of mill in condemnation proceedings. L.R.A.(N.S.) 1008.

### 2. For breach of contract.

114. Generally.

General rules applicable to breach of all kinds of contracts. 53 L.R.A. 34. Contracts for services. 53 L.R.A. 48.

Breach by contractor or employee. 53 L.R.A. 48.

53 Breach by employer or owner. L.R.A. 57.

Where one is employed on commis-

sion. L.R.A.1916B, 872. Where compensation is based on share of profits. 53 L.R.A. 80; 6 L.R.A. (N.S.) 85.

Automobile distribution contract. L.R.A. 1915B, 114.

Partnership contracts. 53 L.R.A. 81; 51 L.R.A. (N.S.) 84.

Contracts with relation to railroad and station construction. 53 L.R.A. 96.

Agreements not to compete. 53 L.R.A. 97. Leases, and contracts and covenants with

reference to. 53 L.R.A. 97. The charter or rental of vessels. 53 L.R.A.

Duty to prevent or reduce damages. 53 L.R.A. 108.

Deduction for release from responsibility. 53 L.R.A. 110.

Effect of illegality in contract. 53 L.R.A. 111.

On abandonment of contract for other party's default. 30 L.R.A. 57.

Loss of use of plant as element of damages for failure to deliver material to manufacturer. 3 L.R.A. (N.S.) 709.

Measure of damages for breach of contract preventing operation of industrial business in contemplation, but not estab-19 lished or in actual operation. L.R.A. (N.S.) 155.

Consult also L.R.A. Digests of Cases.

DAMAGES, III. u, 2—cont'd.

§ 115. Of sale or purchase generally. Breach by vendor. 52 L.R.A. 209.

Breach by vendee. 52 L.R.A. 244.

The rule as to purchase of articles to be manufactured. 52 L.R.A. 253; L.R.A. (N.S.) 740; 18 L.R.A. (N.S.) 613.

Duty to try to prevent or reduce damages. 52 L.R.A. 259.

Effect of illegality. 52 L.R.A. 260.

Loss of profits on possible sales as measure of damages for breach of contract where no contingent sales have been effected. 52 L.R.A. 209; 8 L.R.A. (N.S.) 255.

Profits lost in consequence of breach of contract of sale or warranty of machinery purchased for vendee's use as an element of damages. 2 B. R. C. 79.

116. — breach of warranty.

On breach of warranty. 52 L.R.A. 233. Profits lost in consequence of breach of warranty of machinery purchased for vendee's use as element of damages. 2 B. R. C. 79.

Loss of profits from inability to use horses as element of damages for breach of warranty. 43 L.R.A.(N.S.) 153.

§ 117. As to telegram.

Loss of profits as element of damages for breach of contract to transmit telegram. 53 L.R.A. 91; 27 L.R.A. (N.S.) 639; 49 L.R.A.(N.S.) 927.

§ 118. Liability of carrier.

Loss of profits as element of damages for breach of contract for carriage. 53

Loss of profits incident to delay in the delivery of articles intended for use, and not for sale. 30 L.R.A. (N.S.) 483; L.R.A.1918F, 1053.

Loss of profits because of inability of shipper to fulfil contract for sale of goods as element of damages for carrier's breach of contract to furnish cars. 26 L.R.A.(N.S.) 1191.

Liability of carrier preventing exhibition of show by breach of contract of carriage for loss of profits. 49 L.R.A.(N.S.) 491.

# v. Prospective.

§ 119. Generally.

From personal injury, see supra, §§ 62, 63.

In action for wrongful discharge of servant. 6 L.R.A. (N.S.) 111.

Is minor's right to damages for negligent killing of parent limited to period of minority. 18 L.R.A.(N.S.) 1205; 39 L.R.A. (N.S.) 1156.

Abutter's right to future damages for railroad in street. 36 L.R.A. (N.S.) 788. Prospective damages for non-negligent interference with lateral support. 5 B.

R. C. 923.

### DAMAGES-cont'd.

### IV. Double and treble damages.

§ 120. Generally.

Power to impose double damages for failure of railroad company to fence or maintain cattle guards. 31 L.R.A. (N.S.) 863.

For violation of Federal anti-trust law. 64 L.R.A. 716.

# V. Assessment of damages.

§ 121. Generally.

Necessity of jury to compute damages on default judgment. 20 L.R.A.(N.S.) 1.

### DAMNUM ABSQUE INJURIA.

Effect of legislative authority on liability for private nuisance constituting. 1 L.R.A. (N.S.) 52.

### DAMS.

§ 1. Generally.

Indictment for maintaining, see Indicrment, Information, and Complaint. For logs, see Logs and Logging, § 9. Damming back of water generally, see Waters, §§ 46-50, 63, 75.

Ownership of dam as giving exclusive right to water impounded. 3 B. R. C. 566.

Rights conveyed by grant of dam. 6 L.R.A. 384.

Damming back waters of stream by. 59 L.R.A. 817.

Change in obstruction of water by dam. 59 L.R.A. 873.

What streams are navigable within meaning of milldam acts. 16 L.R.A.(N.S.) 420.

Mandatory injunction relating to milldams. 20 L.R.A. 163.

Destruction of dam by unprecedented flood as affecting liability of one under contract to build and maintain it. 35 L.R.A.(N.S.) 1109.

Relative rights and duties of those maintaining dam in floatable stream and those floating logs and timber therein. 22 L.R.A.(N.S.) 545; 28 L.R.A.(N.S.) 144.

Right of prior appropriator of water. 30 L.R.A. 668.

Taking of property for, as a public purpose. 22 L.R.A. (N.S.) 140.

Right of riparian owner to compensation for damages to his property by construction under legislative authority of dams or booms for floating or storing logs. 22 L.R.A. (N.S.) 641.

DAMS-cont'd.

§ 2. License or easement to maintain. Specific performance of agreement for license to maintain. 49 L.R.A. 520.

Relief from license for maintenance of. 49 L.R.A. 526.

Creation of easement to use of dam by sale

of mill. 26 L.R.A.(N.S.) 359.

Abandonment of privilege or easement incidental to milldam. 32 L.R.A.(N.S.)
47.

§ 3. Liability as to.

Liability of county for injury to real property from. 39 L.R.A. 69.

Employer's nonliability for torts of independent contractor in construction of. 65 L.R.A. 647.

Interference by, with wharf rights in navigable waters. 34 L.R.A.(N.S.) 430.

Extraordinary floods which one obstructing water course need not anticipate. 6 L.R.A.(N.S.) 252.

Character of liability of several persons whose independent wrongs of the same kind contribute to enhance the degree or extent of injury from dams. 10 L.R.A.(N.S.) 167.

Criminal responsibility for maintaining dam in non-navigable stream which creates nuisance injurious to public health. 22 L.R.A.(N.S.) 1259.

Application of statute of limitations to

Application of statute of limitations to actions for injuries by milldam. 17 L.R.A.(N.S.) 206.

### DANCE HALL.

License of, see LICENSE, § 23.

Power of municipality to construct. 26 L.R.A.(N.S.) 425.

As a place of public accommodation or amusement within Civil Rights Statutes. L.R.A.1918F, 829.

### DANCING.

License of, see LICENSE, § 23.

Use of public school building for. 31 L.R.A.(N.S.) 591.

Dancing as a nuisance. 18 L.R.A. (N.S.)

As proper subject for exercise of police power. L.R.A.1917E, 318.

Power of municipality to regulate dancing in public places. L.R.A.1917A, 1174.

Power of municipality to declare public dance a nuisance per se. 31 L.R.A. (N.S.) 548.

As violation of Sunday laws. 30 L.R.A. (N.S.) 469.

### DANGER.

of dams or booms for floating or stor- Voluntary exposure to unnecessary danger, ing logs. 22 L.R.A.(N.S.) 641.

See Insurance, § 164.

Begin with this book on every law question.

### DANGER CLAUSE.

Effect of, in chattel mortgage, see CHATTEL MORTGAGE, § 26.

### DANGEROUS AGENCIES.

Automobiles, see AUTOMOBILES. Fireworks as, see FIREWORKS. Master's liability for injury to servant by, see Master and Servant, III. a, 6. Master's liability for injury by servant to third person, by, see MASTER AND SERVANT, §§ 177, 178.

In general, see NEGLIGENCE, I. b, 2.

Liability for killing or injuring trespassers by means of. 29 L.R.A. 154. Liability to servants of other persons for

injuries by. 46 L.R.A. 116.

### DANGEROUS ANIMALS.

See ANIMALS.

### DANGEROUS ARTICLES.

Limitation of carrier's liability in case of, see CARRIERS, § 129.
In general, see NEGLIGENCE, §§ 13-15.

# DANGEROUS ATTRACTIONS.

See NEGLIGENCE, §§ 23, 28a.

### DANGEROUS PREMISES.

See NEGLIGENCE, §§ 16-23a.

# DANGEROUS SUBSTANCES.

Limitation of carrier's liability in case of, see CARRIERS, § 129. Liability for damage by, see NEGLIGENCE, §§ 13-15.

### DANGEROUS WEAPONS.

See CARRYING WEAPONS; FIREARMS: WEAPONS.

### DARK.

Contributory negligence of employee in continuing to work in the dark notwith-Bank customs as to. 21 L.R.A. 442. Consult also L.R.A. Digests of Cases,

### DATA.

Right of public to benefit of data, etc., made or prepared by officer or employee. L.R.A1917B, 1183.

#### DATE.

§ 1. Generally.

Dating will. L.R.A.1916E, 499.
Antedating lease as affecting priority of landlord's lien. L.R.A.1916F, 450.

Sufficiency of recital as to, in certificate of married woman's acknowledgment. 45 L.R.A.(N.S.) 1123.

Misstatements as to, in proofs of loss. 44 L.R.A. 851.

Retention of policy as waiver of insurer's mistake or fraud as to date of policy. 67 L.R.A. 719.

Judicial sale on date other than that appointed therefor. 38 L.R.A. (N.S.) 248

Omission of charitable gifts from will as affected by date of will. 34 L.R.A. (N.S.) 975.

Of location of mining claim. 7 L.R.A.(N.S.)

Of location or discovery in record of mining claim. 7 L.R.A. (N.S.) 868.

Charging commission of alleged crime at an impossible date. 2 L.R.A.(N.S.) 251. Forgery by falsification of. 54 L.R.A. 799. Mistake or omission in date in copy of writ

or process delivered to person served. L.R.A.1917C, 154.

§ 2. Of negotiable instruments.

Of check. 26 L.R.A. 568.

Alteration of date of note, 32 L.
(N.S.) 515; 51 L.R.A.(N.S.) 346. 32 L.R.A.

Of negotiable paper as putting a purchaser on inquiry. 29 L.R.A.(N.S.) 375; 44 L.R.A.(N.S.) 395.

Date of offering negotiable paper for sale as putting purchaser on inquiry. L.R.A. 1918F, 1155.

Implied or apparent authority to insert or complete date of commercial paper. L.R.A.1916, 1266.

### DAUGHTER-IN-LAW.

As member of family of insured. 3 L.R.A. (N.S.) 336.

See Holiday; Sunday; Time.

### DAYS OF GRACE.

standing master's promise to improve Inclusion of, in computing interest, as conditions. 29 L.R.A.(N.S.) 603. usury. 10 L.R.A.(N.S.) 839.

DAYS OF GRACE-cont'd.

For payment of premium after maturity of premium note. L.R.A.1917C, 921; 5 B. R. C. 434.

Computation of days of grace allowed for payment of insurance premium or assessment where date of payment or expiration of such period falls on Sunday or holiday. 23 L.R.A.(N.S.) 759.

### DEAD ANIMALS.

Municipal regulation as to nuisance of. 38 L.R.A. 330.

Ordinances in respect to disposal of. L.R.A. (N.S.) 1197; 48 L.R.A. (N.S.)

Carrier's duty as to disposal of carcass of animal killed during transit. 39 during L.R.A.(N.S.) 644.

Power of municipal corporation to grant exclusive right or create monopoly for removal of. 21 L.R.A.(N.S.) \$33.

### DEAD BEATS.

Constitutionality of statute providing for imprisonment for beating board bill. 21 L.R.A. (N.S.) 259.

### DEAD BODIES.

See CORPSE.

### DEADLOCK.

Deadlock because of dissensions in management of corporation as ground for appointment of receiver. L.R.A.1918D. **229**.

### DEADLY WEAPON.

In general, see CARRYING WEAPONS; FIRE-ARMS; WEAPONS. Homicide while using, see Homicide, § 16.

### DEAF AND DUMB.

Actions by 2 L.R.A. (N.S.) 961. Deaf and dumb persons as witnesses. 24

L.R.A. 126.

Care due to, in absence of contract relation. 69 L.R.A. 521.

Defective hearing of person injured as bearing upon contributory negligence. 41 L.R.A. (N.S.) 193.

Protection of, in criminal prosecution. L.R.A.(N.S.) 509.

Begin with this book on every law question.

ı

#### DEAFNESS.

Unknown deafness of juror as ground for new trial. 50 L.R.A.(N.S.) 977. Right to show deafness on issue of contributory negligence without allegation thereof. L.R.A.1917D, 558.

### DEALERS.

Monopolistic combinations of, see MONOPLY AND COMBINATIONS, II.

Liability of, for injury by article sold, see NEGLIGENCE, § 15.

Blacklisting dealer as libel. 49 L.R.A. 612; 8 L.R.A. (N.S.) 783.

Interference by competitor or others with agents of. 9 L.R.A.(N.S.) 904.
Legislation to protect against loss of receptacles in which their goods are put

up. 14 L.R.A.(N.S.) 1128.
Implied warranty of fitness of particular article, purchased from, for a particular use. 15 L.R.A.(N.S.) 868.

Mistake in beverage as defense to charge of illegal liquor sale by dealer. 6 L.R.A. (N.S.) 477; L.R.A.1916D, 266.

#### DEALING.

What constitutes. 14 L.R.A. 529.

### DEATH.

I. In general, §§ 1-2a.

II. Right of action for, \$\$ 3-10.
a. In general, \$\$ 3-6.

b. Who may maintain action, and for whom, \$\$ 7-10. III. Who liable for causing, \$ 11.

IV. Defenses, §\$ 12, 13.

V. Compromise of claim for; release. § 14.

VI. Effect of, \$\$ 15-23.

# I. In general.

§ 1. Generally.

Civil death, see CIVIL DEATH.

Revival of action abated by, see ABATEMENT AND REVIVAL, § 8.

Measure of damages for, see Damages, §\$

18, 65-67, 101.
Allowance for mental anguish from failure to deliver telegram announcing, see DAMAGES, § 103.
Delivery of deed for delivery after grantor's

death, see DEEDS, § 8.

Descent and distribution of property after, see DESCENT AND DISTRIBUTION.

Attack on decree in divorce suit after death of one or both of parties, see DIVORCE AND SEPARATION, § 19.

Presumption as to, see EVIDENCE, § 30.

DEATH, I.-cont'd.

Admissibility of acts and declarations of deceased person, see Evidence, §§ 229-231.

As to dying declarations, see EVIDENCE, \$ 242.

Transmission of homestead in case of, see HOMESTEAD, §§ 17-20.

Payment of insurance premium or assessment, after death of insured, see In-SURANCE, § 114.

Rights on death of life tenant, see LIFE TENANTS, § 7.

Recovery of parent or child for death of other, see DAMAGES, §§ 65-67, 101; PARENT AND CHILD, § 14.

Specific performance of contract as to disposition of property at, see SPECIFIC PERFORMANCE, § 19.

Time of, see TIME, § 11.

Admissibility and use of mortality tables in death action. L.R.A.1918C, 1071.

Presumption and burden of proof as to pecuniary loss in death action. L.R.A. 1918C, 1056.

Character and sufficiency of evidence to show pecuniary loss to estate of decedent. L.R.A.1918C, 1111.

Character and sufficiency of evidence to show pecuniary loss to beneficiary in action for death. L.R.A.1918C, 1122.

Character and sufficiency of evidence to show pecuniary loss to parents by death of child. L.R.A.1918E, 278.

Evidence of the earnings of the deceased to show pecuniary loss by his death. L.R.A.1918C, 1080.

Admissibility of opinion evidence to show pecuniary loss in action for wrongful death. L.R.A.1918C, 1096.

Admissibility in action for wrongful death of evidence of profits or contributions from business conducted by decedent. L.R.A.1918C, 1087.

Physician's private records or memoranda as evidence of. L.R.A.1915F, 803.

Liability of infant for legal services in action for death. 44 L.R.A.(N.S.) 412.

Do loan contracts canceled upon death constitute insurance. 47 L.R.A.(N.S.) 298.

Expectation of an affecting admissibility

Expectation of, as affecting admissibility of dying declarations. 56 L.R.A. 353. Payment of savings bank deposit to fraudu-

tent claimant after death of depositor.
69 L.R.A. 338.

Validity of agreement to marry on death of husband or wife. 1 B. R. C. 919.

Personal liability of executor or administrator to distributees for interest where settlement of estate is delayed by his death. 31 L.R.A.(N.S.) 364.

Administration based on right of action for negligent killing of a person as an asset. 1 L.R.A.(N.S.) 885.

Voluntariness of confession induced by fear of death. 18 L.R.A.(N.S.) 840; 50 L.R.A.(N.S.) 1087.

Consult also L.R.A. Digests of Cases.

DEATH, I.—cont'd.

Belief in death of former spouse as defense to prosecution for bigamy. 27 L.R.A. (N.S.) 1102.

Constitutionality of statute as to reporting and registering deaths. 39 L.R.A. (N.S.) 1015.

Alimony in arrears at time of. 2 L.R.A. (N.S.) 242.

8 2. Of insured.

Effect of death of insured, see infra, § 19. Liability for, under policy, see INSURANCE. Cause of death, see INSURANCE, §§ 159-171.

Payment of premium after death to keep life insurance in force. 14 L.R.A. 283. Validity of payment of insurance premium or assessment during period of extension agreed upon, but after insured's death. 2 B. R. C. 191.

2a. Cause of.

Certificate as to cause of, see Corrse, § 4.

Opinion evidence as to cause of, see EviDENCE, § 187b.

From inhaling gas, see Gas, § 15.
Of insured, see Insurance, §§ 159-171.
Proximate cause of, see Proximate Cause.

Admissibility of finding of coroner to show cause of death. 68 L.R.A. 285; 45 L.R.A.(N.S.) 404; L.R.A.1918E, 924.

### II. Right of action for.

### a. In general.

§ 3. Generally.

Survival of cause of action for death, see ABATEMENT AND REVIVAL, § 3.

Conflict of laws as to, see CONFLICT OF LAWS, § 22.

Right of action for, as basis of jurisdiction to appoint administrator. 24 L.R.A. 686.

Claim for death as within statute or ordinance requiring notice or presentation as a condition of municipal liability. 50 L.R.A.(N.S.) 185.

Pendency of action for personal injury as abatement of action for death. L.R.A. 1915E, 1132.

Jurisdiction of, and law governing, action for death on waters. L.R.A.1916A, 1157.

Judgment in one state in an action for death as affecting action in another state for the same death. L.R.A.1915F, 737.

Instantaneous death as test of right of action or amount of recovery. L.R.A. 1916C, 973.

Right to recover for intentional killing of person. 46 L.R.A.(N.S.) 930.

Right of action for death resulting from prenatal injury. 45 L.R.A.(N.S.) 625. Nature of right of action in favor of in-

Nature of right of action in favor of injured person, which will satisfy the condition of the death statute in the event of his death. 51 L.R.A.(N.S.) 711.

DEATH, II. a--cont'd.

Liability for killing trespasser by means of spring guns, traps, and other danger-ous instruments. 29 L.R.A. 154; 24 L.R.A. (N.S.) 369.

Liability for causing death as affected by previous disease of person killed. 16 L.R.A. 268.

Right of action in absence of civil damage act for death following unlawful sale of liquor. 34 L.R.A.(N.S.) 1036; 44 L.R.A.(N.S.) 299.

Recovery for, on circumstantial evidence. 2 L.R.A.(N.S.) 905.

Assignability of cause of action for. 45 L.R.A. (N.S.) 1098.

Effect of statute declaring a cause of action for death survivable to render it assignable. 27 L.R.A.(N.S.) 404.

Necessity of pleading limitation as bar to statutory action for. 26 L.R.A.(N.S.)

Concealment or ignorance of cause of action as suspending Statute of Limitation against action of death. L.R.A.1917B, 1259.

Applicability of tolling provision in general statute when defendant absent from state to special limitation imposed by statute creating cause of action for wrongful death. 38 L.R.A.(N.S.) 521.

Federal courts following state decisions as to statutory right of action for death. 40 L.R.A. (N.S.) 441.

§ 4. Action under foreign statute; conflict of laws.

See Conflict of Laws, § 22.

§ 5. Right of action at common law. Common-law right of action of parent for loss of services of child killed. 41 L.R.A. 807.

Distinction between statutory against railroad receiver for death and common-law actions for negligence. 15 L.R.A. 264.

Right to amend a common-law action for personal injuries resulting in death into a statutory action for death. 15 L.R.A. (N.S.) 1003.

§ 6. Distinct causes of action.

How many distinct causes of action arise from injuries resulting in death. 34 L.R.A. 788; 8 L.R.A. (N.S.) 384; L.R.A. 1915E, 1095.

Right to maintain both action for beneficiary, and for injuries suffered by one killed by another's negligence. 14 L.R.A. (N.S.) 893.

Right to recover in one action for the death of a person and for his suffering be-fore death. 32 L.R.A.(N.S.) 867. Judgment in action for personal injury as

abatement of action for death or vice versa. L.R.A.1915E, 1152.

b. Who may maintain action, and for Parent's statutory right of action for death whom.

Parent's statutory right of action for death of child. L.R.A.1916E, 120.

DEATH, II. b-cont'd. § 7. Generally.

Defense to action, see infra, IV.

Right of action for death of infant, see In-**FANTS, § 39.** 

Beneficiaries and parties plaintiff to statu-tory action for death including necessity of pecuniary loss or dependency. L.R.A.1916E, 118.

Action by or on behalf of statutory bene-ficiary as affected by desertion or nonsupport by deceased. 32 L.R.A. (N.S.) 362; L.R.A.1916C, 806.

Necessity of interest or estate in premises affected by nuisance to sustain action for death from the nuisance. 43 L.R.A. (N.S.) 871.

Right of husband to recover in action for breach of warranty, for loss of services of wife, occasioned by her injury or death in consequence of such breach. 3 B. R. C. 197.

Statutory right of adult child to recover for death of parent. L.R.A.1916E,

176.

Sufficiency of relationship by adoption to sustain an action for death. 16 L.R.A. (N.S.) 199.

Failure of beneficiary first entitled under death statute to bring action, as giving such right to beneficiary next entitled. 30 L.R.A.(N.S.) 78.

Right of action of one legally responsible for another's death against a third person whose negligence caused the death. 36 L.R.A.(N.S.) 60.

Master's right of recoupment for damages caused by servant's death or disability.

28 L.R.A. (N.S.) 326. Right of action for benefit of nonresident aliens. 54 L.R.A. 934; 3 L.R.A. (N.S.) 473; 21 L.R.A.(N.S.) 267.

Law govering distribution of fund collected or recovered for negligent killing of a person. 4 L.R.A.(N.S.) 814.

Who may maintain action under Federal employers' liability act. 47 L.R.A. (N.S.) 73; L.R.A.1915C, 76.

§ 8. For death or benefit of illegitimate.

Right to recover for negligent killing of illegitimate, or to maintain action for benefit of illegitimate for negligent kill-ing of relative. 2 L.R.A.(N.S.) 640.

Mother's statutory right of action for death of illegitimate child. L.R.A.1916E, 125.

Statutory right of action for death of illegitimate where mother is dead. L.R.A. 1916E, 132.

§ 9. Parents.

Parent's right of action for death of illegitimate child, see supra, § 8.

Parent's common law right of action for loss of services of child killed. 41 L.R.A. 807; 18 L.R.A. (N.S.) 316.

DEATH, II. b—cont'd.

Right of deserted wife to recover for death or injury to child. 31 L.R.A.(N.S.) 519.

Recovery for death of child by parent who had abandoned child. 1 L.R.A. (N.S.) 1161.

§ 10. Personal representative.

Does statutory action for wrongful death survive to personal representatives of original beneficiary. 24 L.R.A.(N.S.)

Right of foreign or domestic representative to maintain action for death of decedent under a statute of another state which provides that the action shall be brought by the personal representative. 18 L.R.A. (N.S.) 1252; L.R.A.1917A, 37.

Personal representative as proper party to maintain statutory action for death. L.R.A.1916E, 160.

Right of personal representative to revive action for personal injury. 1915E, 1129. L.R.A.

### III. Who liable for causing.

l 11. Generally.

Liability for causing generally, see NEGLI-GENCE, I.

Carrier's liability for causing, see CAR-RIERS, III.

Criminal responsibility for causing, see HOMICIDE.

Master's liability for, see Master and Servant, III. a.

Liability of railroad company generally for causing, see RAILBOADS, VII.

Civil liability for killing one person while acting in self-defense against a third

person. 50 L.R.A.(N.S.) 1069. Liability of peace officer or his bond for shooting a person while attempting to arrest him. 51 L.R.A.(N.S.) 1179.

Liability of railroad receiver for. L.R.A. 262.

Carrier's liability for assault by employee resulting in death. 14 L.R.A. 740. Liability of municipal corporation for

death caused by sewage or drainage. 22 L.R.A. (N.S.) 940.

Liability of sureties on the bond of a peace officer for death of a person due to act or default of principal or one of his deputies. 11 L.R.A.(N.S.) 758.

# IV. Defenses.

§ 12. Generally.

Justifiable killing as a defense in an action for death intentionally inflicted. 23 L.R.A.(N.S.) 996.

Presumption and burden of proof as to self-defense or justification in a civil action for intentional killing of another. L.R.A.1918A, 359.

Necessity of alleging that action for death is within the statutory period. L.R.A. Revocation of agency by, see PRINCIPAL AND 1915E, 1192.

Consult also L.R.A. Digests of Cases.

DEATH, IV.—cont'd.

Concealment or ignorance of cause of action as suspending Statute of Limitations against action for death. L.R.A. 1917B, 1259.

Right of action by administrator when action to recover for personal injuries was barred at the time of the injured person's death. L.R.A.1915E, 1178.

Abandonment of wife or child as affecting their right to recover damages for the negligent killing of the husband or father. L.R.A.1916C, 806.

§ 13. Contributory negligence of deceased or parent.

Contributory negligence as a defense generally, see Negligence, II.

Burden of proof as to contributory negligence. 33 L.R.A. (N.S.) 1230.

Contributory negligence of parent as bar to action by parent or administrator for death of child non sui juris. 18 L.R.A. (N.S.) 328; 38 L.R.A.(N.S.) 754.

Imputing negligence of custodian of child non sui juris to parent in action by latter, or by administrator, for death or injury of child. 32 L.R.A.(N.S.) 410.

# V. Compromise of claim for; release.

ß 14. Generally.

Power to compromise action for. 21 L.R.A. 158.

compromise by personal representative of suit for damages for causing death. 14 L.R.A. 417.

Settlement or compromise by personal representative of cause of action for death as affecting right of action therefor by representative appointed in another state. L.R.A.1918D 670.

Settlement of cause of action for death, by beneficiaries without assent of executor or administrator. 35 L.R.A.(N.S.) 207.

Does settlement by injured person of his claim against tort feasor preclude an action for his death resulting from the injury. 27 L.R.A. (N.S.) 176; L.R.A. injury. 1915**E**, 1163.

Furnishing medical attention as a consideration for release of liability for death. 46 L.R.A.(N.S.) 419.

Release of all claim for injury before receiving injury resulting in death, as affecting right of statutory beneficiaries. L.R.A.1915E, 1170.

### VI. Effect of.

§ 15. Generally.

Abatement of action by, see ABATEMENT AND REVIVAL, §§ 2, 3.

Effect of civil death, see CIVIL DEATH.

Effect of husband's death on wife's right to alimony, see DIVORCE AND SEPARA-TION, § 48.

Dissolution of partnership by, see PARTNER-SHIP, §§ 40-49.

AGENT, §§ 7, 10.

DEATH, VI.—cont'd.

Effect of, on competency of witness, see Effect of death of father, mother surviving, Witnesees, §§ 22-24.

Divorce as equivalent of death for purpose of terminating a trust. L.R.A.1915E, 762.

Abatement of appeal or error to Federal Supreme Court by death of party. 66 L.R.A. 856.

Disposition of appeal or motion for new trial where because of death of official stenographer the record is lost or incomplete. 25 L.R.A. (N.S.) 867; L.R.A. 1915B, 356.

Effect of declarant's death on admissibility in behalf of accused of extrajudicial confessions by stranger. 37 L.R.A. (N.S.) 349.

On account stated. 27 L.R.A. 825.

Death of debtor as excuse for not exhaust-ing remedies at law before bringing creditor's bill. 23 L.R.A.(N.S.) 92.

Right of simple contract creditor to the appointment of a receiver of the property of his debtor after the latter's death, L.R.A.1918C, 637.

Effect of death of landlord who had only a life estate to transfer the reversion. L.R.A.1915C, 207.

Death of wife as affecting alimony. L.R.A. 1916B, 854.

Remedy of judgment creditor of community after death of one of the spouses. L.R.A.1917C, 502.

Effect of death upon liability of husband and wife for the latter's libel or slander. 30 L.R.A. 529.

Effect of death of party nominee before primary as creating a vacancy in party ticket. 41 L.R.A.(N.S.) 1092.

Effect of death of person elected before taking office or of his failure to qualify. 50 L.R.A. (N.S.) 374.

Right of candidate receiving next highest number of votes where person receiving highest number died before election. 51 L.R.A.(N.S.) 226.

Abridgement of contingency on which a gift by will is conditioned by death of other parties. 25 L.R.A.(N.S.) 1168.

Effect of death of beneficiary of testamentary gift of annuity before its purchase. 2 B. R. C. 909.

Effect of death of one having right to contest will or codicil. L.R.A.1918A, 477.

Effect upon sale, assignment, or release of expectancy, of assignor's predecease of ancestor. L.R.A.1917C, 267.

Effect of death of member of joint enterprise or partnership to exclude from participation in the profits thereof. L.R.A.1918B, 679.

Effect of death to cut off right to compensation that was being paid to dependents or employees under Workmen's Compensation Acts. L.R.A.1918F, 563.

Liability for defamation of deceased person. L.R.A.1917C, 615.

Effect on liability for default of coexecutor. 11 L.R.A.(N.S.) 343.

DEATH, VI.—cont'd.

on domicil of child. 49 L.R.A.(N.S.) 866.

Domicil of infant after death of both parents. 49 L.R.A.(N.S.) 875.

Does obligation for support of child under provision in decree of divorce or separation survive the death of the obligor. 48 L.R.A.(N.S.) 429.

Of parent to whom custody of child was awarded as affecting right of surviving parent. 20 L.R.A. (N.S.) 171.

Of entryman before issuance of patent to public lands as affecting its liability for antecedent debts. 34 L.R.A.(N.S.) 410.

Effect upon curtesy of death of issue before seisin by wife. 20 L.R.A.(N.S.)

§ 16. Upon judgment or execution.

Death of one party as affecting remedy by execution, see Execution, § 14. As ground for injunction against judgment,

see Injunction, § 54. Effect of judgment entered against dead per-

son, see JUDGMENT, § 32.

Entry of judgment nunc pro tunc death of party. 20 L.R.A. 148.

Right to have judgment set aside for death of party. 54 L.R.A. 764.

Right to attack decree of divorce after death of one or both of parties. 57 L.R.A. 583; 1 L.R.A. (N.S.) 551; 44 L.R.A. (N.S.) 505; L.R.A.1917B, 486.

§ 17. On contract generally.

As excuse for nonperformance of contract, see Contracts, § 125.

Effect on contract of death of party thereto. 23 L.R.A. 707; 45 L.R.A.(N.S.) 349.

Effect of death of drawer of check as revocation thereof. 43 L.R.A.(N.S.) 109; L.R.A.1916A, 717.

Effect of death of subscriber as revoking subscription to charity. 48 L.R.A. (N.S.) 801.

Does contractual obligation for support of a child survive the death of the obligor. 48 L.R.A.(N.S.) 429.

Substitute conveyance after grantor's death. 44 L.R.A.(N.S.) 851.

Effect of death of party after the mailing, but before the receipt, of his letter accepting an offer. 12 L.R.A.(N.S.) 439.

Survival, after death of promisor, of con-tract to pay for personal services rendered to third person. 13 L.R.A. (N.S.) 643.

Effect of death of accommodation party on right to recover from accommodated party. 37 L.R.A.(N.S.) 786.

Liability of lessee for rent during part of term remaining after death of person whom he agreed to support. 33 L.R.A. (N.S.) 347.

Effect of death of subscriber to corporate stock. 33 L.R.A. 597.

DEATH, VI.—cont'd.

Of third person as condition of performance of contract of marriage. 52 L.R.A. 660.

Effect of death of principal contractor on right of subcontractor or materialman to a lien or payment by owner. L.R.A.(N.S.) 45.

Effect of deed to a deceased person. L.R.A. (N.S.) 405.

Assignment of policy of life insurance as affected by death of assignee before insured. L.R.A.1916F, 785.

Death of attorney employed on a contingent fee, before final adjudication or settlement, as affecting compensation. 52 L.R.A.(N.S.) 381.

Death of promisee before that of promisor in agreement to make provision by will. L.R.A.1917D, 812.

§ 18. Of one employing attorney. Client's death as affecting attorney's authority to proceed with suit. (N.S.) 1189. 34 L.R.A.

Effect of death of personal representative on liability of estate to attorney employed by him. 25 L.R.A.(N.S.) 74.

§ 19. Of insured.

As disability within meaning of accident or health policy. 23 L.R.A.(N.S.) 358. As total disability of insured. 38 L.R.A.

537.

Effect of delivery after death of assured of policy containing stipulation that it shall not become binding unless delivered while assured is in good health. 17 L.R.A.(N.S.) 1152.

Effect of refusal to deliver policy containing stipulation that it shall not become binding unless delivered to assured while in good health because of death of assured. 17 L.R.A.(N.S.) 1146; L.R.A.1916F, 174.

Effect of death of insured before contemplated change of beneficiary is complete. 34 L.R.A. (N.S.) 277; L.R.A.1915A,

Death of insured as interrupting period after which policy is incontestable. L.R.A. 1918D, 1198.

3 20. Of mortgagor or mortgagee. Does power of sale in mortgage or deed of trust prevent its revocation by death of mortgagor. 70 L.R.A. 135.

Effect of death of mortgagor in possession upon right of mortgagee under chattel mortgage. 21 L.R.A.(N.S.) 182.

Necessary parties to foreclosure of senior mortgage where junior mortgagee has died. 36 L.R.A.(N.S.) 433.

Chattel mortgage not filed before death of mortgagor. L.R.A.1918A, 327.

§ 21. Of guarantor or surety. Of guarantor, see GUARANTY, § 10. Of surety or co-surety as release of surety, see PRINCIPAL AND SURETY, § 17. Consult also L.R.A. Digests of Cases. 25

DEATH, VI.—cont'd.

§ 22. Of master or servant.

Effect of, to terminate contract of employment, see Master and Servant, § 37.

Right to recover for services interrupted by sickness or death. 16 L.R.A. 858.

Effect of death of servant on contract requiring servant to elect between acceptance of benefits out of relief fund and a prosecution of his claims in an action for damages. 11 L.R.A.(N.S.) 193.

§ 23. Of witness.

Of witness as ground for admission of testimony given upon preliminary examination. 25 L.R.A.(N.S.) 873.

Right to have direct testimony stricken out where cross-examination is interrupted by death of witness. 15 L.R.A. (N.S.) 493.

### DEATH DUTIES.

See TAXES, VI.

### DEATH SENTENCE.

Execution of, see CRIMINAL LAW, § 75.

### DEBATES.

Power of school authorities to require participation by pupils in debates. L.R.A.(N.S.) 202.

### DEBAUCHMENT.

See SEDUCTION.

## DEBENTURES.

Liability of government or other public body for its own obligations stolen from it. 39 L.R.A.(N.S.) 444.

Right of holders of concurrent mortgages or debentures ranking pari passu to have interest equalized before distributing proceeds of security. 7 B. R. C. 91.

# DEBIT ENTRIES.

Effect of transfer without indorsement of worthless debit and credit entries. 10 L.R.A.(N.S.) 537.

### DERRIS.

Obstruction of navigation by, liability for. 59 L.R.A. 73.

Obstruction of waters of stream by. 59 L.R.A. 871.

### DEBT.

§ 1. Generally.

Assumption of, see Assumption of Debts;

MORTGAGE, §§ 40-46.
Application of deposit to payment of depositors' debts, see BANKS, §§ 17-19. Liability of consolidated corporation for debts of predecessor, see Corporations, § 15.

Adjustment of debts on alteration of counties, see Counties, § 3.

Adjustment of debts on changing boundaries of municipality, see MUNICIPAL CORPO-

RATIONS, § 63.

Debt limit, see Counties, § 10; Municipal Corporations, §§ 65-67; Schools, § 33. Due to decedent's estate, see EXECUTORS AND ADMINISTRATORS, §§ 28, 29.

Due from decedent's estate, see EXECUTORS AND ADMINISTRATORS, §§ 33-46.

Promise to answer for debt of another, see GUARANTY.

Liability of community property for, see HUSBAND AND WIFE, § 32.

Liability of wife's separate property for her

debts, see Husband and Wife, § 36. Liability of wife's separate property for her

husband's debts, see HUSBAND AND WIFE, § 37.
Husband's liability for debts of wife, see HUSBAND AND WIFE, §§ 39-42.

Imprisonment for, see IMPRISONMENT FOR DEBT.

Liability of officer's salary for, see Officers, §§ 34, 35.

Liability of partnership, see PARTNERSHIP, IV.

Payment of, see PAYMENT.

Agent's authority to pay own debt from principal's money, see Principal and

AGENT, § 23.
Liability of public lands for, see PUBLIC LANDS, § 14.

Liability of members of religious society for, see Religious Societies, § 12.

Right to set off debts, see SET-OFF AND COUNTERCLAIM.

Due from state, see STATE, §§ 14, 15. Subrogation of person discharging, see Sub-ROGATION.

Deduction of debts of taxpayer, see Taxes, §§ 57, 103.

Trusts for payment of, see Trusts, § 10. Of county, see Counties, §§ 9-11.

Of municipality, see MUNICIPAL CORPORA-TIONS, §§ 61-67.

Of school districts, see Schools, §§ 32-34. Of town, see Towns, § 7.

Of partnership, see PARTNERSHIP, §§ 10-17, 37. See also DEBTOR AND CREDITOR.

Begin with this book on every law question.

DEBT-cont'd.

Purchase subject to, giving third person right to sue on contract. 25 L.R.A. 275. Fraudulent contraction of, as ground for

attachment. 30 L.R.A. 468.

To what extent advances by factor create a debt against the principal. 5 L.R.A.

(N.S.) 1147.

Passing of title by delivery to carrier of consignment to satisfy debt. 22 L.R.A.

Effect of corporate dissolution on. L.R.A 141.

Necessity of notice to insane person of application for sale of his property to pay debts. 29 L.R.A. (N.S.) 147.

Judgment of another state or country against executor or administrator as evidence of indebtedness. 27 L.R.A. 111.

Liability of claim or interest in public lands for debts contracted before patent issued. 34 L.R.A.(N.S.) 405.

Right of bank to engage in business to save debt. 27 L.R.A.(N.S.) 243.
Right of insurer to deduct indebtedness of

insured extrinsic to insurance contract. 37 L.R.A.(N.S.) 556. Liability of alimony for. 32 L.R.A.(N.S.)

270.

Liability of estate by entireties for husband's debts. 36 L.R.A.(N.S.) 205.

Right to apply indebtedness owed by creditor to debtor for purpose of tolling statute of limitations. 42 1155; L.R.A.1915E, 794. 42 L.R.A. (N.S.)

Upon whom does the liability of an heir or devisee for his decedent's debts devolve at his own death. 39 L.R.A. (N.S.) at his own death. 689.

Constitutionality of statute subjecting spendthrift trusts to debts. 40 L.R.A. (N.S.) 1215.

Denials on information and belief or of knowledge or information sufficient to form belief as to indebtedness presumptively within pleader's knowledge. 30 L.R.A. (N.S.) 776.

Taking property to pay or secure debt as larceny. 41 L.R.A. (N.S.) 553.

Charging one with refusal to pay, as libel or slander. L.R.A.1915E, 455.

Debts to be considered in determining existence of amount of indebtedness necessary to adjudge one an involuntary bankrupt. L.R.A.1916E, 631.

Presumption of satisfaction of debt by legacy or devise to creditor. L.R.A.1915B,

1156.

General direction in will to pay debts as charging homestead. 44 L.R.A.(N.S.) 1177.

Necessity of pleading statute of frauds in action on promise to pay debt of another. 49 L.R.A. (N.S.) 32.

§ 2. Payment of, as consideration. See CONTRACTS, §§ 10-12.

§ 3. Collection of.

Authority of agent to collect, see PRINCIPAL AND AGENT, § 19.

DEBT-cont'd.

Effort to collect, as extortion. 18 L.R.A. (N.S.) 77; L.R.A.1915B, 1140.

Liability of officer who uses criminal process to collect debt. 24 L.R.A.(N.S.) 301.

Creation of partnership by participating in profits in order to collect debts. 18 L.R.A.(N.S.) 1062.

Deduction of indebtedness owing to remote ancestor by predeceased immediate ancestors. 47 L.R.A.(N.S.) 1026.

4. Situs of.

Where debt is garnishable, see GARNISH-MENT, § 12.

For purpose of taxation, see Taxes, §§ 41, 42, 47.

§ 5. Action of.

Effect of admission to change burden of proof on right to open and close in action of debt. 61 L.R.A. 545.

### DEBT LIMIT.

See Counties, § 10; Municipal Corporations, §§ 65-67; Schools, § 33.

### DEBTOR AND CREDITOR.

**\*\*\*** 

§ 1. Generally.

Insolvent debtors, see Assignment for Creditors; Bankruptcy; Banks, §§ 39-42; Composition with Creditors; Corporations, §§ 134-137; Insolvency: Receivers.

Remedies of creditor, see ATTACHMENT; CREDITORS' BILL; EXECUTION; GABNISH-MENT; LEVY AND SEIZURE.

Right of creditors to question validity of attachment, see ATTACHMENT, § 13.

Liability of corporate officers to creditors of corporation, see CORPORATIONS, §§ 54, 58.

Corporate creditor's right as against stockholder, see CORPORATIONS, §§ 104-121.

Power of husband's creditors to defeat wife's right to dower, see Dower, § 11.

Subjecting dower estate to debts, see DOWER, § 20.

Execution against debtor's property, see EXECUTION.

Right of creditor to letters of administration, see EXECUTORS AND ADMINISTRA-TORS, § 5.

Effect of appointing debtor as administrator, see EXECUTORS AND ADMINISTRA-TORS, § 7.

As to exemptions, see Exemptions; Home-STEAD.

Rights of creditors in expectancy of debtor, see EXPECTANCY.

Transfers in fraud of creditors, see FRAUD-ULENT CONVEYANCES.

Consult also L.R.A. Digests of Cases.

DEBTOR AND CREDITOR—cont'd.

Child's right in homestead as against creditors, see Homestead, § 20.
Right of husband's creditors as affected by

Right of husband's creditors as affected by marital relations of debtor, see Husband and Wife, § 44.

Preference of creditors of insolvent, see Preferences; Priority.

Creditor's insurable interest in life of debtor, see INSURANCE, § 28.

Validity of life insurance to secure debt to insurer, see INSURANCE, § 45.

Transfer of insurance policy to creditor, see INSURANCE, § 124.

Rights of creditors of insured, see INSUR-ANCE, §§ 184, 185, 192.

Joint creditors and debtors, see JOINT CREDITORS AND DEBTORS.

Creditor's liability for wrongful levy, see LEVY AND SEIZURE, § 13.

Marshaling assets as between creditors, see
Marshaling Assets and Securities.
Creditors of partnership, see Partnership,
§§ 10-17, 24, 37.

Rights and remedies of surety as to creditors, see PRINCIPAL AND SURETY, §§ 22-26

Rights of creditors in trust estate, see TRUSTS, §§ 33, 34.

Who are debtors of United States. 29 L.R.A. 229.

Liability of member of religious society for its debts. 69 L.R.A. 255.

Rights of creditors as to rents of intestate's property. 40 L.R.A. 345.
Right of creditor to have judgment against

debtor set aside. 54 L.R.A. 768.

Parent's duty to support child as affected by rights of creditors, 57 L.R.A. 741.

Rights of creditors to complain of purchase by corporation of its own shares of stock. 61 L.R.A. 632; 44 L.R.A. (N.S.) 156; L.R.A.1916F, 286.

Reservation of title in bailments for sale

Reservation of title in bailments for sale as against creditors of bailor and bailee. 22 L.R.A. 850.

Debtor's right of action against creditor for collecting debt in another jurisdiction in evasion of the exemption laws of their domicil. 36 L.R.A. 582; 47 L.R.A. (N.S.) 689.

Liability of tunds held by mutual benefit so cieties to the claims of their cieditors.
6 L.R.A.(N.S.) 235.

Right of creditor to contest will. L.R.A. 1917A, 456.

Right of creditors to make or control election for or against a will, or between different provisions of a will or statute. 11 L.R.A. (N.S.) 379.

Right of creditors of decedent's estate or of heirs or devisees to avoid sale of property to executor or administrator. L.R.A.1918B, 30, 32.

Right of sureties on contractor's bond who

Right of sureties on contractor's bond who perform contract on abandonment by contractor, to moneys unpaid on contract, as against the assignees or creditors of contractor. 14 L.R.A.(N.S.). 457; L.R.A.1918A, 937.

DEBTOR AND CREDITOR-cont'd.

Right of creditor of taxing district to invoke aid of court to obtain satisfaction of debt, where ordinary remedies not available. 32 L.R.A.(N.S.) 1020.

Time as of which equitable conversion takes place under direction to sell property which postpones sale to definitely ascertainable time after testator's death in determining rights of legatee's creditors, 20 L.R.A.(N.S.) 69.

Effect of option of cestui que trust to require a conveyance or otherwise terminate the trust to subject the same to claims of his creditors. 25 L.R.A.

(N.S.) 236.

Estoppel of one who permits title of real property to stand in another's name to assert title as against the latter's creditors. 46 L.R.A.(N.S.) 1097.

Tenant's or cropper's abandonment of crop as affecting rights of creditors therein. 46 L.R.A.(N.S.) 56.

Right of purchaser of, or creditors levying on goods sold for cash but delivered without payment. 47 L.R.A.(N.S.) 173.

Right of creditor of vendor to benefit of vendor's lien. 47 L.R.A.(N.S.) 186. Right of creditors to avoid debtor's con-

tracts or conveyances upon the ground of the statute of fraud. L.R.A.1916B, 1213.

Right of creditors to set up usury in their debt r's contract with others. L.R.A. 1915C, 634.

Right of simple contract creditor to the appointment of a receiver of the property of his individual or firm debtor. L.R.A. 1918C, 632.

Right of one creditor to intervene in another creditor's action after the period for beginning such action has expired. L.R.A.1917D, 885.

Validity as against creditors of conditional sale purchaser of conditional sale contract permitting purchaser to resell in the ordinary course of business. L.R.A. 1917B, 660

Title to money deposited by debtor in mail or with carrier for transmission to creditor. L.R.A.1918A, 534.

Mandamus at instance of creditor to compel raising of tax assessment to the full value of the property. L.R.A.1918B,

Liability of master for assault by servant or agent in collecting debts. 51 L.R.A. (N.S.) 920.

Competency of creditor of insured to serve as appraiser to ascertain amount of loss. 52 L.R.A.(N.S.) 502.

Liability of creditor who accepts as payment from debtor check of third person which has been wrongfully procured by debtor. 13 L.R.A.(N.S.) 273.

Rights and remedies of creditor who is also a stockholder of an insolvent corporation as affected by his own statutory liability. 41 L.R.A.(N.S.) 981.

Right to dower on avoidance of conveyance as against creditors as between wife and creditors. 32 L.R.A.(N.S.) 105.

DEBTOR AND CREDITOR—cont'd.

Right of dower, as against creditors and heirs, in lands subject to purchase money mortgage or vendor's lien. 52 L.R.A.(N.S.) 547, 557.

Release of original debtor as a condition of novation by substitution of debtors. L.R.A.1918B, 113.

§ 2. Right of creditor in personal services of debtor.

Subjecting earnings not yet due. 21 L.R.A. . 623.

Contracts to pay an insolvent debtor wages in advance for his services. 21 L.R.A. 624.

Where the debtor gives his time and labor to the business of another generally. 21 L.R.A. 624.

Profits on farm caused by debtor's labor. 21 L.R.A. 629.

Improvements on wife's land. 21 L.R.A.

631. Rights of creditors in debtor's intellectual productions. 51 L.R.A. 381.

### DEBTS PROVABLE.

Against bankrupt, see BANKRUPTOY, 48 25,

### DECAY.

Destruction by decay rendering premises untenantable as within landlord's covenant to repair, or statute relieving tenant from rent, in case of destruction by act of God or elements. 21 L.R.A. (N.S.) 130.

Provision relieving carrier from liability for loss by decay as extending to loss caused by negligence. 6 B. R. C. 130.

### DECAYING TIMBER.

Life tenant's rights as to. 37 L.R.A.(N.S.) 767.

### DECEASED PARTNER.

Estate of, see Partnership, §§ 46-49.

### DECEASED PERSONS.

Estates of, see DESCENT AND DISTRIBUTION: EXECUTORS AND ADMINISTRATORS; TAX-ES, §§ 54, 54a.

Domicil of, see DOMICIL AND RESIDENCE, §

Admissibility of declaration of, see EVI-DENCE, §§ 229-231

DECEASED PERSONS-cont'd.

Defamation of. L.R.A.1917C, 615.

Admissibility between third parties of en tries against interest made by deceased persons in books of account. 2 B. R. C. 670.

Effect of omission of statement that owner is unknown in proceedings in rem to enforce tax assessed against deceased person. 36 L.R.A. (N.4.) 1062.

#### DECEASED WIFE'S SISTER.

Validity of marriage with. L.R.A.1916C, 756.

#### DECEDENT'S ESTATES.

In general, see DESCENT AND DISTRIBUTION; EXECUTORS AND ADMINISTRATORS.

Assessment of property of, see Taxes, §§ 54, 54a.

In general, see DESCENT AND DISTRIBUTION; EXECUTORS AND ADMINISTRATORS

Assessment of property of, see Taxes, § 54.

Form of allegation of ownership of property of a decedent's estate, in an indict-ment or information for larceny. L.R.A.1916E, 785.

## DECEIT.

See FRAUD AND DECEIT.

#### DECENCY.

Municipal control over nuisance affecting, see Municipal Corporations, § 40.

#### DECEPTIVE TRADEMARK.

Invalidity of, see TRADEMARK, § 3.

#### DECIPHERING.

Of obscurities in proof of handwriting. 65 L.R.A. 155.

#### DECISION.

Criticism of, as ground for disbarment, see ATTORNEYS, § 5. Impairment of contract obligations by

change of, see Constitutional Law, § 38.

Criticism or publication of, as a contempt, see CONTEMPT, §§ 6, 7.

Consult also L.R.A. Digests of Cases.

#### DECLARATIONS.

Admissibility of, see EVIDENCE, XI. Plaintiff's pleading, see PLEADING, §§ 16-

Of party as cumulative evidence. 14 L.R.A. 611.

Sufficiency of, to establish voluntary trust where legal title is retained by settlor. 12 L.R.A.(N.S.) 547.

May proof of delivery essential to gift rest upon subsequent declarations of donor alone. L.R.A.1916E, 288.

#### DECLARED TRUSTS.

See TRUSTS, §§ 4-10.

#### DECLINE.

Permitting articles to roll down hillside or decline. L.R.A.1915B, 426.

#### DECORATORS.

independent contractors. 17 L.R.A. (N.S.) 373.

#### DECOY.

For purpose of detecting crime in connection with mail matter, see Postoffice, § 12.

Use of decoy for purpose detecting criminal as a defense to prosecution. 25 L.R.A. 341; 30 L.R.A. (N.S.) 946; 51 L.R.A. (N.S.) 825.

## DECOYING.

Decoying of criminal into jurisdiction as defense to prosecution. 15 L.R.A. 177. Right to resist judgment of sister state on ground of decoying within jurisdiction. 32 L.R.A. (N.S.) 931.

## DECREE.

See JUDGMENT.

## DEDICATION.

§ 1. Generally.

Presumption and burden of proof as to, see EVIDENCE, § 93.

Right of one to testify as to his intent with respect to. 23 L.R.A.(N.S.) 398.

What is necessary to effect a dedication of land as a cemetery or burial plat. 27 L.R.A. (N.S.) 875.

DEDICATION—cont'd.

Permissive user which will constitute a dedication of a wharf or landing place. 48 L.R.A.(N.S.) 469.

Dedication of property to public for purposes of view or recreation. 4 B. R. C. 892.

Assessment or nonassessment of property as affecting. L.R.A.1916A, 1175.

Power of corporation to dedicate property for public use. 8 L.R.A.(N.S.) 966.

Right to use public funds to maintain or improve private ways, or ways dedicated to public but never accepted. 35 L.R.A. (N.S.) 524.

Validity of reservation in dedicating land for street. L.R.A.1917C, 229.

## § 2. Of land in which third persons have an interest.

Only owner may dedicate. 31 L.R.A.(N.S.) 1023. Lessees. 31 L.R.A.(N.S.) 1024.

Life tenant and remainderman. 31 L.R.A. (N.S.) 1025.

Tenants in common. 31 L.R.A.(N.S.) 1025. Husband and wife. 31 L.R.A.(N.S.) 1025. Dower. 31 L.R.A.(N.S.) 1025.

Vendor and vendee; possibility of reverter. 31 L.R.A.(N.S.) 1026.

Mortgagor. 31 L.R.A. (N.S.) 1026. Judgments. 31 L.R.A. (N.S.) 1028.

Easements. 31 L.R.A. (N.S.) 1028. Miscellaneous. 31 L.R.A.(N.S.) 1028.

#### § 3. Restrictions on use.

Power of legislature to control use to which property taken for purposes of a park or square may be used. 27 L.R.A. (N.S.) 938.

## § 4. Effect.

Loss of dower right by, see Dower, § 12.

Effect of conveyance of lots laid down on plats, to prevent a change in the use or form of the property. 14 L.R.A. (N.S.) 1067.

## § 5. Estate created by. Estate created by. 6 L.R.A. 260.\*

Easement acquired by the public. 3 L.R.A. 831.\*

§ 6. By map, plat, or call in deed. Leaving blank in plat as a dedication. 23 L.R.A.(N.S.) 809.

Implied easement by exhibiting unfiled plat to intending purchaser. 35 L.Ř.A. (N.S.) 938.

Effect of conveyance of lands laid down on plats to prevent a change in the use or form of the property. 37 L.R.A. (N.S.) 953.

Right of purchaser of property according to plat to easements in streets or ways indicated thereon other than those on which his property abuts. 28 L.R.A. (N.S.) 1024.

DEDICATION—cont'd.

Bounding land on street as covenant that the street or alley exists where the grantor does not own the fee thereof. 10 L.R.A.(N.S.) 964.

Right of grantee to claim easement, implied covenant or estoppel as against grantor by call in deed for street or alley in which grantor owns the fee. 14 L.R.A.(N.S.) 878.

Effect of conveyance of lots laid down on plats to prevent a change in the use or form of the property. 14 L.R.A. (N.S.) 1067.

Effect of plat as to which purchaser of property affected thereby has no notice. 44 L.R.A.(N.S.) 231.

Effect of bounding grant on private way to carry title thereto. 24 L.R.A.(N.S.) 539.

Curing statutory defects in a map or plat by conveying with reference to it. 42 L.R.A.(N.S.) 587.

Vacation of, or refusal by public to accept, platted street or highway as affecting private easements of abutting owners. L.R.A.1917A, 1123.

7. Acceptance.

Necessity and sufficiency of acceptance of grant of right of way over public land for public highway. L.R.A.1917A, 355.

Public user as acceptance of dedicated high-

way. 18 L.R.A. 510. Effect of limited use of way by the public as an acceptance of dedication. L.R.A. (N.S.) 1114.

Dedication and acceptance of streets so as to make municipality liable for defects or obstructions therein. 20 L.R.A. (N.S.) 558.

Effect of mere use of highway over public domain as acceptance of grant of right of way. 9 L.R.A.(N.S.) 1223.

Assessment or nonassessment of property as affecting acceptance. L.R.A.1916B, 1175.

Refusal by public to accept platted street or highway as affecting private easements of abutting owners. L.R.A.1917A, 1123.

## 8. Diversion.

What use of squares, parks, or commons amounts to diversion from the use for which they were dedicated. L.R.A.(N.S.) 980; 50 L.R.A.(N.S.) 465.

## 9. Reverter.

Effect of city's permitting use of street by railroad in such a way as practically to exclude public to cause reversion of street to dedicators. 11 L.R.A. (N.S.) 589.

Reverter of land dedicated or conveyed for purposes of courthouse upon removal of county seat, or failure to use land for courthouse purposes. 35 L.R.A. (N.S.) 603.

Reverter of land conveyed for school purposes. 44 L.R.A. (N.S.) 1220.

Begin with this book on every law question.

#### DEDUCTION.

Of debts, in assessment of taxes, see TAXES, §§ 57, 103.

Right of insurer to deduct indebtedness of insured extrinsic to insurance contract. 37 L.R.A.(N.S.) 556.

Cumulative sentences as affected by deduction of time for good behavior. 7

L.R.A.(N.S.) 128.

Is time prisoner is out on parol or conditional pardon to be deducted from time of sentence. 16 L.R.A.(N.S.) 304.

#### DEEDS.

I. In general, §§ 1, 1a. II. Form and requisites, §\$ 2-9.

a. In general, § 2.

b. Execution, §§ 3-5.

c. Delivery and acceptance, \$\$

III. Construction; effect; validity, §§ 10-36.

a. In general, §§ 10-12.

b. Consideration, §§ 13, 14.

c. Parties, §§ 15-19.

d. Description of property, \$ 20.

e. What property passes, \$\$ 21-27.

In general, §§ 21-23.

2. Reservations and excep-

tions, §§ 24-27.

1. Estates and interests created, **§§** 28-31.

g. Redelivery; destruction; reversion; revocation; relief from, §§ 32-35.

h. Reformation, § 36.

#### I. In general.

§ 1. Generally.

Adverse possession under deed, see ADVERSE Possession, §§ 15-18.

Alterations in generally, see ALTERATION OF INSTRUMENTS.

Boundary by, see Boundaries, §§ 4-9. Conditions in, see CONDITIONS, §§ 8-13. Covenants in, see COVENANTS.

Right of entry on condition broken, see CONDITIONS, § 12.

Dedication by reference to map, plat or call in, see DEDICATION, § 6.

Presumption and burden of proof as to, see EVIDENCE, §§ 100, 101.

Admissibility of record of, see EVIDENCE, § 127.

Of homestead, see HOMESTEAD, IV.

By or to married woman, see Husband and Wife, §§ 38-42, 47, 48. Deed poll, see DEEDS POLL.

Of infants, see INFANTS.

On judicial sale, see JUDICIAL SALE, § 10. Conveyance of mortgaged premises, see MORTGAGE, §§ 40-46.

In partition, see Partition, §§ 9, 10. Recording of, see RECORDS AND RECORDING LAWS. IV.

Consult also L.R.A. Digests of Cases.

DEEDS, I.—cont'd.

Quitclaim deed, see QUITCLAIM DEEDS.

Conveyance for support of grantor, see SUP-PORT, § 4.

Tax deeds, see Taxes, § 81.

Grant of water rights, see WATERS, §§ 98-

Specific performance of contract in relation to title papers. L.R.A.1918E, 627.

Degree of proof to establish fact and contents of lost deed. L.R.A.1918B, 879.

Competency to testify to possession of deed at one time in possession of the dece-dent, where witness would be incompetent to testify directly to a transaction by which it is claimed decedent parted with his possession. 45 L.R.A. (N.S.) 583.

As subject of larceny. 49 L.R.A. (N.S.) 969, 971.

Alteration of deed after delivery. 32 L.R.A. (N.S.) 284; L.R.A.1918B, 489.

Statute of uses in United States. 16 L.R.A. (N.S.) 1148.

Denial of deed on information and belief. 30 L.R.A.(N.S.) 779.

Tender of, as condition of enforcing forfeiture for vendee's failure to pay last instalment of purchase money. 28 L.R.A. (N.S.) 956.

Replevin to recover deed of real property. 20 L.R.A.(N.S.) 507.

1a. Substitute conveyances.

Requisites and effect generally. 44 L.R.A. (N.S.) 849.

Effect as against party or privy. 44 L.R.A. (N.S.) 850.

As against innocent third persons. 44 L.R.A. (N.S.) 851.

Substitute conveyances pendente lite. 44 L.R.A.(N.S.) 859.

#### II. Form and requisites.

#### a. In general.

8 2. Generally.

Conflict of laws as to, see CONFLICT OF Laws, § 28.

Substitute conveyances; requisites generally. 44 L.R.A.(N.S.) 849.

Effect of form of conveyance on title to accretions to shore lands. 58 L.R.A.

May purchaser of property be required to accept deed of third person. 37 L.R.A. (N.S.) 1123.

Defect in, as affecting marketability of title. 38 L.R.A. (N.S.) 20.

## b. Execution.

§ 3. Generally.

Acknowledgment of, see ACKNOWLEDGMENT. Of chattel mortgage, see CHATTEL MORT-GAGE, § 3.

Conflict of laws as to. L.R.A.1916A, 1020. Execution of partition deed. 57 L.R.A. 340.

Execution of, in name of deputy. 42 L.R.A. (N.S.) 880.

DEEDS, I. b-cont'd. § 3a. By attorney in fact or agent. Form of. 41 L.R.A.(N.S.) 805.

Law governing power of attorney to convey. L.R.A.1916A, 1043.

#### § 4. Attestation.

Estoppel of one attesting deed, to assert title. 3 L.R.A. (N.S.) 879.

§ 5. Signing.

Signing by proxy. 22 L.R.A. 297.

Signature by mark or cross. 12 L.R.A. 205;\* 22 L.R.A. 372.

Signature made by hand of unconscious person. L.R.A.1915B, 678.

Proof of signature by mark when attesting witnesses are dead or cannot remember transaction. 44 L.R.A. 146,

Conditions against taking effect of, until signed by others. 45 L.R.A. 341.

#### e. Delivery and acceptance.

§ 6. Generally.

Redelivery, see infra, § 33.

Of, chattel mortgage, see CHATTEL MORT-GAGE, § 3.

Presumption and burden of proof as to, see EVIDENCE, § 101.

Undelivered deed as memorandum to satisfy statute of frauds. 22 L.R.A. 273.

Validation of undelivered deed by ratification or estoppel of grantor. 9 L.R.A. (N.S.) 945.

Effect of destruction, cancelation or delivery to grantor for that purpose of delivered but unrecorded deed. 18 L.R.A. (N.S.) 1167; 34 L.R.A. (N.S.) 495; L.R.A. 1918F, 402.

7. To grantee.

Effect of delivery to grantee, subject to a future extrinsic condition. 16 L.R.A. (N.S.) 941.

§ 8. To third person, or for record, or record of.

As to delivery in escrow, see Escrow.

In general. 54 L.R.A. 865; 9 L.R.A. (N.S.) 224; 38 L.R.A.(N.S.) 941.

Delivery to person previously authorized or designated by grantee. 54 L.R.A. 865; 38 L.R.A. (N.S.) 941.

Delivery to person not previously authorized or designated by grantee; recording. 54 L.R.A. 867; 38 L.R.A. (N.S.) 941.

Acceptance; how and when deed takes effect; status of title. 54 L.R.A. 888; 38 L.R.A.(N.S.)

Delivery of deed to third person or record by grantor, as a delivery to the grantee. 9 L.R.A.(N.S.) 224.

Right of grantor to revoke deed delivered to stranger to be delivered by him to grantee after grantor's death. 4 L (N.S.) 816; 9 L.R.A.(N.S.) 317. 4 L.R.A. DEEDS, I. c—cont'd.

Permitting undelivered deed wrongfully recorded by grantee to remain on record, as estoppel of grantor or his successors to deny its delivery as against one purchasing in reliance on the record. 7 L.R.A. (N.S.) 712.

§ 9. Acceptance.

Of deed delivered to third person. 54 L.R.A. 888.

Acceptance of deed with knowledge of defect in title as waiver of purchaser's right to rescind contract. 30 L.R.A.(N.S.) 879.

Presumption of acceptance by grantee from recording of deed. 9 L.R.A. (N.S.) 224. Creation of covenant running with the land

by acceptance of deed poll with stipulations purporting to bind grantee. 6. L.R.A. (N.S.) 436.

#### III. Construction, effect, validity.

#### a. In general.

§ 10. Generally.

Deed as color of title, see ADVERSE Possession, §§ 15-18.

Effect of conveyance of land held adversely, see CHAMPERTY AND MAINTENANCE.

Conflict of laws as to, see Conflict or Laws, § 28.
Dedication by conveyance with reference to-

street or alley, see DEDICATION, § 6. Estoppel by, see ESTOPPEL, §§ 3-5.

Parol evidence as to construction of, see EVIDENCE, VII.

Effect of conveyance by husband to wife, see HUSBAND AND WIFE, § 47.

Absolute deed as a mortgage, see Monr-GAGE, § 15. Effect of tax deeds, see TAXES, § 81.

Creation of trust by, see Trusts, II.

Rights of purchasers, generally, see VENDOR AND PURCHASER, II.

Effect of substitute conveyances. 44 L.R.A. (N.S.) 849.

Effect of language in deed indicating purpose of grant or the use to which the property is to be put. L.R.A.1918B,

Marketability of title where construction of deed is involved. 38 L.R.A. (N.S.) 18.

Covenant to renew lerse as affected by conveyance of property. 41 L.R.A. (N.S.) 387.

Recitals in, as basis of implied covenants of

title. 18 L.R.A. 343.

Receipts in, as evidence of payment as against third parties. 29 L.R.A. 740.

When may instrument otherwise ineffective as a conveyance of real property be upheld as a covenant to stand seized to uses. 38 L.R.A. (N.S.) 937.

Right of holder of tax deed to take possession. 28 L.R.A. (N.S.) 398.

Right of grantee in possession to question right of grantor to collect purchase money. 21 L.R.A.(N.S.) 363.

Begin with this book on every law question.

DEEDS, III. a-cont'd.

Usury as affecting absolute conveyance of land in payment of a debt. 36 L.R.A. (N.S.) 134.

Merger of stipulations as to title in executory contract for the sale of real estate in subsequently executed conveyance.

31 L.R.A. (N.S.) 457.

Federal courts following state decisions as to construction and effect of. 40 L.R.A. (N.S.) 414.

Construction and validity of restraints on marriage. 4 B. R. C. 64.

Recital in deed as evidence of heirship. 45 L.R.A.(N.S.) 93.

What misrepresentations as to the contents of an instrument will render it void in law. 4 B. R. C. 663.

§ 11. What is a deed.

Lease as a deed, see LANDLORD AND TEN-ANT, § 6.

When to be deemed testamentary, in character. 1 L.R.A.(N.S.) 315.

When agreement or instrument conferring right to mine and remove coal is to be regarded as an absolute sale or conveyance of coal in place, as distinguished from a lease or conditional sale. 4 L.R.A.(N.S.) 207.

§ 12. Effect of deed in partition as distinguished from ordinary deed. See Partruon, § 10.

#### b. Consideration.

§ 13. Generally.

As to consideration for contracts, generally, see CONTRACTS, §§ 7-17.

Parol evidence as to, see EVIDENCE, § 176.

Effect of rule against conveyance of land held adversely on consideration for the conveyance. 35 L.R.A.(N.S.) 739.

Necessity for return of consideration on

Necessity for return of consideration on disaffirmance of deed by insane person. 19 L.R.A. 491.

Effect of inadequacy of consideration on question of undue influence in conveyance of property in consideration of support of the grantor or a third person. 52 L.R.A.(N.S.) 480.

\$ 14. Recital of money consideration as contractual.

Consideration clause as importing ownership or terms of contract. 68 L.R.A. 925.

Action to recover consideration. 68 L.R.A.

Acceptance of deed as creating obligation to pay consideration. 68 L.R.A. 928.

Parol evidence to vary consideration clause. 68 L.R.A. 928.

Consideration as contractual in action for breach of covenant. 68 L.R.A. 931.

Recital of consideration as contract in writing within statute of limitations. 68 L.R.A. 931.

Consult also L.R.A. Digests of Cases.

DEEDS, III.-cont'd.

#### c. Parties.

§ 15. Generally.

Effect of provision in deed for benefit of stranger thereto. 20 L.R.A. (N.S.) 221.

Effect of deed or mortgage on one who signs, but is not named in it. 13 L.R.A. (N.S.) 298; L.R.A.1915D, 196.

Does contingency of death without issue, children, etc., import their survival of the first taker. 37 L.R.A.(N.S.) 164.

the first taker. 37 L.R.A.(N.S.) 164. Effect of deed to a deceased person. 28 L.R.A.(N.S.) 405.

To partnership as grantee, validity of. 1 L.R.A.(N.S.) 157.

Effect of conveyance of real property by surviving partner. 28 L.R.A. 135.

§ 16. Capacity of.

By married woman, see HUSBAND AND WIFE, §§ 39-42, 48.

Validity of deed by insane person, see In-COMPETENT PERSONS, § 10.

Belief in spiritualism, witchcraft, etc., as affecting capacity to make. 16 L.R.A. 677.

Presumption and burden of proof as to sanity with reference to conveyances. 36 L.R.A. 723, 731.

Opinion evidence by nonexpert as to capacity of another to make. 37 L.R.A. (N.S.) 592.

Signature made by hand of unconscious person. L.R.A.1915B, 678.

§ 17. Unborn child as grantee. Infant en ventre sa mére as grantee in deed. 44 L.R.A. 489.

18. Description of.

Fictitious name as affecting validity of deed. 39 L.R.A. 423.

Necessity of word "heirs" in deed of trust, to pass title to trustee. 2 L.R.A. (N.S.) 172.

Are the "heirs" who take under a possibility of reverter determined as of the time of the ancestor's death, or as of the time of the termination of the fee. 18 L.R.A.(N.S.) 624.

§ 19. Filling in names of parties left blank.

Implied authority to fill in the name of a grantee in a blank left for that purpose at the time of delivery. 38 L.R.A. (N.S.) 423.

Effect of deed executed with name of grantee blank, where name of grantee is filled in and deed delivered contrary to grantor's authorization. 37 L.R.A. (N.S.) 326.

#### d. Description of property.

### § 20. Generally.

Parol evidence to correct, see EVIDENCE, § 178.

DEEDS, III. d—cont'd. What law governs. L.R.A.1916A, 1045. Relief from mistake of law as to descrip-

tion. 28 L.R.A. (N.S.) 822.

Description of land in deed by reference to street number. L.R.A.1918C, 520.

Validity and effect of deed executed in blank as to the land to be conveyed. L.R.A. 1918A, 1155.

#### e. What property passes.

#### 1. In general.

🖁 21. Generally.

Boundaries of land conveyed, see Bound-ARIES, §§ 4-9.

Fixtures as between vendor and purchaser, see FIXTURES, § 4.

What passes by deed from husband and wife, see Husband and Wife, §§ 39-42. What property passes under will, see Wills,

§§ 74, 75.

Conflict of laws as to character of quantum of estate. L.R.A.1916A, 1045.

Will real estate pass under the word "effects" in a written instrument. 12 L.R.A.(N.S.) 661.

How far title to islands is included in private grant. 58 L.R.A. 677. How far grant of mill includes water rights.

58 L.R.A. 487.

Right to use water for irrigation passing by deed. 65 L.R.A. 409.

Grants of parcel abutting on abandoned street as carrying grantor's title to fee of former street. 32 L.R.A.(N.S.) 778.

Conveyance of real property as carrying right to telephone service. 42 L.R.A. (N.S.) 1021.

Conveyance of land as including crops. L.R.A.1917C, 35.

Oil or gas as a mineral, within a grant of mineral or mineral rights. L.R.A. 1918A, 491.

#### 22. Future acquired property. Estoppel to claim, see ESTOPPEL, § 5.

On sale of expectancy by prospective heir. 33 L.R.A. 276.

Effect of covenants to carry title to future or subsequently acquired interest of the grantor, where he had a present interest which passes by the deed. 13 L.R.A. (N.S.) 1003.

#### § 23. Right to lateral and subjacent support.

Right to subjacent support upon conveyance of minerals apart from surface. L.R.A.(N.S.) 1115.

Condemnation or grant of land for railroad right of way as carrying right to lateral and subjacent support. 32 L.R.A. (N.S.) 155.

## 2. Reservations and exceptions.

§ 24. Generally. Conditions in, see Conditions, §§ 8-13. Begin with this book on every law question.

DEEDS, III. e, 2-cont'd.

Forfeiture of estate for breach of condition, see Conditions, § 11.

Covenants in, see Covenants.

Covenants restricting use of property, see COVENANTS, §§ 5-7, 21-25.

Creation of easements by, see EASEMENTS,

Validity of reservation in dedicating land for street. L.R.A.1917C, 229.

Exception and reservation of easements. 20 L.R.A. 631.

Of light and air. 22 L.R.A. 541.

Implied reservation on severance of tract of land with apparent benefit existing. 26 L.R.A.(N.S.) 321, 355; L.R.A.1915C, 346.

Distinction between implied grants and implied reservations in creating easements. 8 L.R.A.(N.S.) 337.

Enforcement in equity of agreements re-lating to, but not running with, the land. 3 L.R.A.(N.S.) 98. Reservation of timber and right to remove

within specified time; effect. 3 L.R.A. (N.S.) 649.

Necessity of claimant of land showing that it is not included within the exceptions

from the grant or conveyance on which he relies. 5 L.R.A.(N.S.) 156. Effect, upon remote grantee, of reservation or exception of mineral rights. 4 L.R.A. (N.S.) 477.

Oil or gas as a mineral within a reservation of minerals or mineral rights. L.R.A. 1918A, 491.

Relief from mistake of law as to reservation. 28 L.R.A.(N.S.) 817.

Inheritance or succession tax on property covered by power of appointment reserved by grantor. 33 L.R.A. (N.S.) 250; L.R.A.1918D, 348.

#### § 25. As to water rights.

In grant of water power. 67 L.R.A. 382. Limitation on grant of mill. 58 L.R.A.

Reservation in deed of right to dam back water of stream. 59 L.R.A. 830.

Reservation of water power without defi-nite reservation of necessary ground to utilize it. L.R.A.1916A, 508.

#### 26. Necessity for writing.

Must a reservation of growing crops by a grantor in a deed be in writing. 23 L.R.A.(N.S.) 1221.

§ 27. Parol evidence as to.

Parol evidence of reservation by the grantor. 20 L.R.A. 104.

Parol evidence of reservation of crops by grantor. I.R.A.1917C, 37, 44.

Parol evidence of agreement for reservation as additional consideration for deed. 25 L.R.A.(N.S.) 1199.

#### f. Estates and interests created.

28. Generally.

Extent of rights under grant of easement, see EASEMENTS, § 22.

DEEDS, III. f-cont'd.

Restraints on alienation, generally, see PER-PETUITIES.

Estates and interests created under will, see WILLS, §§ 77-102.

Use of words of singular import as affecting quantum of estate in deed with two or more grantees. L.R.A.1918E, 798.

Nature and creation of determinable fees. 15 L.R.A. 231.

Corporeal appurtenances to realty. L.R.A. 652.

Implied grant of easement in partition deed. 3 L.R.A. (N.S.) 1082.

Conveyance to one and his children as giving the children an estate jointly or in common with the parent, or a remainder upon a life estate in the parent. L.R.A.1917B, 76.

Character of estate created by grant, lease, or devise of property to person so long as he shall desire to live upon it, or devote it to a particular use. 21 L.R.A. (N.S.) 575.

Effect upon character of estate as one by entireties under a conveyance to both spouses, of the fact that one of them already had an estate in the land. 25 L.R.A. (N.S.) 167.

Effect of reference to extrinsic document to control or modify the character of the estate that would otherwise pass under instrument. 8 L.R.A.(N.S.) 1038.

Effect of other language in deed to cut down estate conveyed by granting clause. 12 L.R.A.(N.S.) 956; 24 L.R.A.(N.S.) 514; 42 L.R.A. (N.S.) 379.

Validity of limitation on power of aliena-tion on grant of equitable estate to married woman. 28 L.R.A. (N.S.) 426; L.R.A.1917A, 679.

Provision in restraint of marriage in deed as a condition or a limitation. L.R.A.(N.S.) 615.

Meaning and effect of term "lend" or "loan" employed in deed. L.R.A.1915D, 497.

§ 29. Life or fee.

Under will generally, see WILLS. §§ 79-82. Restraint on alienation as repugnant to fee, see WILLS, § 78.

Use of words of singular import as affecting quantum of estate in deed with two or more grantees. L.R.A.1918E, 798.

Power to create remainder after life estate with absolute power of disposal. 6 L.R.A.(N.S.) 1186.

Character of estate created by grant of property to one so long as he shall desire to live upon it, or devote it to a particular use. 21 L.R.A. (N.S.) 575. Effect of videlicet following word "heirs"

in a grant or devise of real property to

Effect of other language in deed to cut down estate conveyed by granting clause. 12 L.R.A. (N.S.) 956; 24 L.R.A. (N.S.) 514; 42 L.R.A. (N.S.) 379.

Consult also L.R.A. Digests of Cases.

DEEDS, III. f-cont'd.

Conveyance to one and his children as giving the children an estate jointly or in common with the parent or a remainder upon a life estate in the parent. L.R.A. 1917B, 76.

§ 30. Rule in Shelley's Case.

As to rule in Shelley's Case in its application to wills, see WILLS, § 82.

As affecting estate by entireties. 30 L.R.A.

Construction of word "heirs" to mean chil-

dren. 1 L.R.A. (N.S.) 319.

"Children" as a word of purchase or limitation. 12 L.R.A. (N.S.) 283.

Full treatment of rule in Shelley's Case. 29 L.R.A.(N.S.) 963.

Effect upon rule in Shelley's Case, of express prohibition against conveyance or encumbrance of property by life tenant. 7 L.R.A. (N.S.) 1109.

§ 31. Remainders; future estates; limitations over.

Contingent interests generally, see Contin-GENT INTERESTS.

Rights and duties of life tenant, see LIFE TENANTS.

Rights of remaindermen generally, see LIFE TENANTS; REMAINDERMEN.

Effect on absolute gift of fee of failure for remoteness of limitation over. L.R.A. 509.

Conveyance to one and his children as giving the children a remainder upon a life estate in the parent. L.R.A.1917B, 76.

Character of remainder created by gran, or devise to one for life with remainder to his children who may survive him. 25 L.R.A.(N.S.) 888.

Effect of union of life estate and remote remainder or reversion in the same person upon intermediate contingent remainder. 7 L.R.A.(N.S.) 433.

Infant en ventre sa mere as grantee in conveyance of remainder. 44 L.R.A. 490.

Vested remainder as subject of attachment or levy. 30 L.R.A.(N.S.) 115.

g. Redelivery; destruction; reversion; revocation; relief from.

§ 32. Generally.

Forfeiture of estate for breach of condition, see Conditions, § 11.

Relief from mistake of law as to effect of. 28 L.R.A. (N.S.) 801, 813.

Relief from deed prepared by grantee, which does not protect the grantor's rights. 13 L.R.A. (N.S.) 1089.

Misconduct of wife as affecting deed to her before, and in consideration of, marriage. 6 L.R.A. (N.S.) 785.

restrict estate given to the first taker. Decrees invalidating deeds affecting estates 33 L.R.A.(N.S.) 191. of persons not in being. 8 L.R.A.(N.S.) 65.

Necessity for return of consideration on disaffirmance of deed by insane person. 19 L.R.A. 491.

DEEDS, III. g-cont'd.

§ 33. Destruction; redelivery; cancelation; rescission.

Rescission of grant of water power. 67 L.R.A. 388.

May deed of real property executed by an incompetent not judicially declared such be avoided in an action at law. 19 L.R.A.(N.S.) 461.

Effect of destruction or cancelation, or redelivery to grantor for that purpose, of delivered but unrecorded deed. 18 L.R.A.(N.S.) 1167; 34 L.R.A.(N.S.) 495; L.R.A.1918F, 402.

May a grantor rescind a deed executed in consideration of future support, where performance by grantee is, without fault on his part, prevented by the grantor. 25 L.R.A.(N.S.) 932.

Cancelation of deed for inadequacy of consideration. L.R.A.1916D, 382.

#### § 38a. — for fraud.

False statements as to use to which property is to be put as ground for rescission of deed. 32 L.R.A.(N.S.) 127.

Right, as against subsequent bona fide purchaser, to avoid deed because of false impression, induced by fraud, as to contents or character of paper signed. 36 L.R.A.(N.S.) 537.

Undue influence as ground for setting aside conveyance or transfer of property in consideration of support of the grantor or a third person. 52 L.R.A.(N.S.) 476.

## § 34. Revocation.

Grantor's right to revoke deed delivered to third person. 54 L.R.A. 903.

Right of grantor to revoke deed delivered to stranger, to be delivered by him to grantee after grantor's death. 4 L.R.A. (N.S.) 816.

## § 35. Reversion.

Reverter of dedicated property, see Dedica-TION, § 9.

Reversion of street or highway, see High-WAYS, § 112.

Reversion generally, see REVERSION.

Express condition or stipulations for, in deed conveying land for specified charitable or quasi public purpose. 19 L.R.A. 262.

Right of reversion on abandonment of road deeded to railway company. 1 L.R.A. (N.S.) 806.

Reverter of land dedicated or conveyed for purpose of courthouse on removal of county seat or failure to use land for such purposes. 35 L.R.A. (N.S.) 603.

Reverter of land conveyed for school pur-

poses. 44 L.R.A.(N.S.) 1220. Effect of attempted conveyance to extinguish a possibility of reverter upon breach of condition subsequent. L.R.A. Liability of surety under fidelity bend for 1916F, 311.

Possibility of reverter on dedication of land in which third persons have an interest. 31 L.R.A.(N.S.) 1026.

Begin with this book on every law question.

DEEDS, III. g-cont'd.

Character and effect of provision in deed to railroad for construction of road within a specified time where deed expressly provides for reverting. 32 L.R.A. (N.S.) 117.

#### h. Reformation.

36. Generally.

Jurisdiction of suit to reform deed of land in another state or country. 69 L.R.A. 685.

Reformation of deeds as against persons not in being. 8 L.R.A. (N.S.) 66.

Relief from deed prepared by grantee which does not protect the grantor's rights.
13 L.R.A.(N.S.) 1089.

Effect of statute of frauds upon the power of equity to reform. L.R.A.1917A, 573.

## DEEDS OF TRUST.

See MORTGAGE.

#### DEEDS POLL.

Liability of grantee on a condition in. 23 L.R.A. 396.

May covenant running with the land be cre-ated by acceptance of deed poll with stipulations purporting to bind grantee. 6 L.R.A. (N.S.) 436.

#### DEER.

Liability for injury by. 11 L.R.A. (N.S.) 748.

## DE FACTO.

Corporations, see Corporations, § 8. Directors, see Corporations, § 41. Officers, see Officers, IV.

## DEFALCATION.

Of co-executor or co-administrator, see Ex-ECUTORS AND ADMINISTRATORS, § 25. Of cotrustee, see TRUSTS, § 28.

Embezzlement, see Embezzlement.

Duty of obligee in fidelity bond to disclose prior defalcation to sureties in absence of inquiry in regard thereto. 12 L.R.A.

defalcation subsequent to reappointment of officer or employee before expiration of original term or during an indefinite term. 11 L.R.A.(N.S.) 493.

#### DEFAMATION.

See LIBEL AND SLANDER.

#### DEFAULT.

Oral promise to answer for default of another, see Contracts, § 37.

Promise to answer for default of another generally, see GUARANTY.

Of other party as ground for rescission of contract generally, see CONTRACTS, § 152.

As ground for rescission of contract of sale, see SALE, § 66.

Liability for default of coexecutor, see Ex-ECUTORS AND ADMINISTRATORS, § 25.

Default in payment of interest, see INTEREST, § 3.

Judgment by, see Judgment, §§ 4, 28, 90, 91, 97.

Right of jury to assess damage on, see JURY, § 4.

In payment of mortgage, see MORTGAGE,

Rights of conditional seller on default of payment, see Sale, § 49. Of cotrustee, see TRUSTS, § 28.

Effect of tender by vendee of purchase price before due to put other party in default. 20 L.R.A.(N.S.) 338.

Injunction against collection of purchase money where title to land is defective and purchaser is in default. 7 L.R.A. (N.S.) 459.

Right of purchaser to compel return of advance payment on resale by vendor after purchaser's default. 35 L.R.A. (N.S.) 532.

Of principal as affecting commissions of real estate broker. 43 L.R.A. 593; L.R.A.1915E, 714.

Effect of purchaser's default on real estate broker's right to commissions. 44 L.R.A. 623.

#### DEFEASANCE.

Effect of, against creditors of grantee of failure to record defeasance. 5 L.R.A. (N.S.) 387.

#### DEFECTIVE INSTRUMENTS.

Defective order or request for goods as subject of forgery. 32 L.R.A.(N.S.) 334.

## DEFECTIVE MONEY.

Tender of, see TENDER, § 4. Consult also L.B.A. Digests of Cases.

#### DEFECTIVES.

In general, see Incompetent Persons.

Asexualization or sterilization of. 41 L.R.A. (N.S.) 419; L.R.A.1918D, 236.

#### DEFECTIVE SIGHT.

See also BLIND.

Duty toward persons with defective eyesight as to condition of streets. L.R.A. 1917C, 126.

Care required from one of defective sight in using street. 14 L.R.A.(N.S.) 648; 39 L.R.A.(N.S.) 1055.

Right to show nearsightedness on issue of contributory negligence without allegation thereof. L.R.A.1917D, 558.

Unknown bad eyesight of juror as ground for new trial. 50 L.R.A.(N.S.) 977.

#### DEFECTS.

Inspection to discover, see DISCOVERY AND Inspection, §§ 6-9.

Liability for injury by defect in highway, see Highways, VI.

Landlord's liability for injury caused by, see Landlord and Tenant, IV, d.

Liability of master for injury by, see MASTER AND SERVANT, II.

Liability of seller or manufacturer for injury by defects in article sold, see NEGLIGENCE, § 15.

In personal property sold, see NEGLIGENCE, § 15; SALE, §§ 53-59. Latent defects, see LATENT DEFECTS.

Grammatical defects in certificate of acknowledgment. 11 L.R.A. (N.S.) 643.

What defects are covered by provision in paving contract requiring contractor to keep pavement in repair. 9 L.R.A. (N.S.) 154; 49 L.R.A. (N.S.) 922.

Does warranty extend to obvious defects in animal or slave. 12 L.R.A.(N.S.) 82. Effect of provision in contract of sale that claim for defects must be made within certain time where defects are latent. 11 L.R.A.(N.S.) 245.

Effect of setting up defects in article purchased as counterclaim in action on one of a series of notes given for, or for an instalment of, the purchase price, on right to set up a like counterclaim in subsequent actions. 10 L.R.A.(N.S.) 734.

## DEFENDANTS.

Parties defendants, see Parties, III.

## DEFENSES.

In civil action, see Action on Suit,1 §§ 12-16.

DEFENSES—cont'd.

In criminal prosecution, see CRIMINAL LAW, §§ 5-25; Homicide, §§ 19-30.

Presumption and burden of proof as to, see EVIDENCE, § 20a.

Violation of Sunday law as, see SUNDAY.

Interposition of unfounded defense in a civil action as basis of action for damages. 34 L.R.A.(N.S.) 1026.

criminal or penal responsibility for blocking street or highway railroad L.R.A.1915B, 335. crossing.

Statutory limitation of time for relief against tax deed as affecting right to set up invalidity of tax title as defense. 46 L.R.A.(N.S.) 1065.

#### DEFERRED PAYMENTS.

Usury in interest on deferred payments of purchase money, see Usury, § 7.

#### DEFICIENCY.

1. Generally.

On foreclosure of mortgage, see MORTGAGE, § 84.

Abatement of purchase price of land for, see VENDOR AND PURCHASER, § 21.

Effect of provision that deficiency in assess-

ment may be paid from reserve or emergency fund. 10 L.R.A.(N.S.) 264.
General liability of municipality for deficiency in assessments for local improvements. 32 L.R.A.(N.S.) 177.

Deficiency in quantity of property described as a section or fraction thereof as breach of covenant. 36 L.R.A. (N.S.) 558.

May vendor be required to make good deficiency in tract sold out of other lands. 39 L.R.A.(N.S.) 785.

Liability of property redeemed by judgment debtor or his grantee to safety deficiency on indebtedness for which it was originally sold. 47 L.R.A.(N.S.) 1048.

§ 2. Judgment for.

On foreclosure of mortgage, see MORTGAGE, § 84.

In proceedings to enforce mortgage for part of debt. 37 L.R.A. 748.

Deficiency decree in action to foreclose

vendor's lien. 13 L.R.A.(N.S.) 874.

#### DEFILEMENT.

See also ABDUCTION; SEDUCTION.

Evidence of other crime in prosecution for defiling young woman. 62 L.R.A. 281. Evidence of specific instances of unchastity of alleged victim in prosecution for defiling female child. L.R.A.1916B, 967. Begin with this book on every law question.

#### DEFINITENESS.

Of charitable gift, see CHARITIES, §§ 6-9.

Of contract, see CONTRACTS, §§ 19-23.
As condition of specific performance, see SPECIFIC PERFORMANCE, § 23.

Of special verdict. 24 L.R.A.(N.S.) 46. Of acts regulating speed of automobiles. L.R.A.1918D, 135.

Sufficiency of general allegations of negligence as against motion to make more definite. 59 L.R.A. 219.

#### DEFINITIONS.

43 L.R.A.(N.S.) 261; 44 Abandonment. L.R.A. (N.S.) 1226.

Abstract of title. 43 L.R.A.(N.S.) 44. Accident. 30 L.R.A. 206; L.R.A.1916A, 29,

227, 482; L.R.A.1917D, 103. Accidental. 9 L.R.A. 685; L.R.A. 1916A, 482; L.R.A. 1917D, 103. Accidental means. 5 L.R.A. (N.S.) 657;

L.R.A.1915E, 127; L.R.A.1916B, 1021.
Accomplice. 39 L.R.A.(N.S.) 704.
Accord executory. 12 L.R.A.(N.S.) 1134.
Account stated. 27 L.R.A. 811.

Additions. 33 L.R.A.(N.S.) 156.

Adopted children. L.R.A.1916B, 907. Adultery. 18 L.R.A. (N.S.) 580; L.R.A. 1915D, 438.

Adverse possession. 15 L.R.A.(N.S.) 1184; 35 L.R.A.(N.S.) 755.

After. 49 L.R.A. 200. Aggrieved person. 25 L.R.A.(N.S.) 155.

Agricultural laborer. 19 L.R.A.(N.S.) 1039; L.R.A.1917D, 382.

Alimony. 2 L.R.A. (N.S.) 232. Ancestor. 29 L.R.A. 542.

Assets. 5 L.R.A.(N.S.) 358.

Assignor. 13 L.R.A.(N.S.) 1260.

Assistant. 43 L.R.A.(N.S.) 179. At least. 49 L.R.A. 203. Attendance. 18 L.R.A. (N.S.) 362.

Author. 1 B. R. C. 324.

Average earnings. L.R.A.1916A, 149, 373; L.R.A.1917D, 175. Beer. 25 L.R.A.(N.S.) 446; 48 L.R.A.

(N.S.) 308.

Before. 49 L.R.A. 201.

Between. 49 L.R.A. 202.

Beyond seas. 25 L.R.A.(N.S.) 25. Bill of exchange. 35 L.R.A. 647. Blasphemy. 22 L.R.A. 353.

Blood. 29 L.R.A. 544.

Bona fide purchasers. 31 L.R.A. 612. Bottle washing works. L.R.A.1916A, 202. Boundary. 25 L.R.A.(N.S.) 649.

Brothers and sisters. 29 L.R.A. 544. Buildings. L.R.A.1916A, 196, 1099.

Burden of proof. 33 L.R.A. (N.S.) 1089. Business. 14 L.R.A. 530.

Business establishment. 44 L.R.A.(N.S.) 1185.

Carrying weapon. 23 L.R.A.(N.S.) 173. Cars. 20 L.R.A. (N.S.) 482.

Casual employee. L.R.A.1916A, 120, 247, 365; L.R.A.1917D, 147.

Charitable trusts. 14 L.R.A.(N.S.) 52:

```
DEFINITIONS-cont'd.
Charities. 14 L.R.A. (N.S.) 52.
Check. 26 L.R.A. 568.
Child. 27 L.R.A. (N.S.) 1158; 30 L.R.A.
(N.S.) 914; L.R.A.1918B, 123; L.R.A.
1918F, 1082.
Church.
             22 L.R.A. (N.S.) 195; 43 L.R.A.
      (N.S.) 1142.
Citizens. 43 L.R.A.(N.S.) 294.
Claims. 2 L.R.A.(N.S.) 1013.
Clerk. 52 L.R.A. 571.
Colored person. 31 L.R.A.(N.S.) 180.
Color of title. 15 L.R.A.(N.S.) 1215; 27
      L.R.A. (N.S.) 340.
Commerce. 60 L.R.A. 642.
Competing railroads. 45 L.R.A. 274.
Compulsory pilotage. 39 L.R.A. 177.
Concealment. 23 L.R.A. (N.S.) 175.
Consolidation. 52 L.R.A. 369.
Construction. L.R.A.1916A, 197.
Consultation. 18 L.R.A.(N.S.) 362.
Contingent claims. 58 L.R.A. 83.
Contributory negligence. 13 L.R.A.(N.S.)
      1260.
Convert to his own use. 42 L.R.A. (N.S.)
      601.
Conveyance. 67 L.R.A. 461.
Corpus delicti. 28 L.R.A. (N.S.) 536; L.R.A.
       1916B, 846.
Coughing blood. 23 L.R.A.(N.S.) 917.
Court. 56 L.R.A. 531.
             29 L.R.A.(N.S.) 60; 38 L.R.A.
Credits.
(N.S.) 137.
Crossings. L.R.A.1918D, 143.
Cruelty. 43 L.R.A.(N.S.) 260.
Currency. 31 L.R.A.(N.S.) 240.
Current funds. 31 L.R.A.(N.S.) 240.
Cyclone. 8 L.R.A. (N.S.) 308.
Cyclone insurance. 8 L.R.A.(N.S.) 308.

Cy pres. 14 L.R.A.(N.S.) 59.

Damage. 7 L.R.A.(N.S.) 108; L.R.A.1915A,
      382.
Dangerous agency. 10 L.R.A.(N.S.) 372. Deadly weapon. 21 L.R.A.(N.S.) 497. Dealing. 14 L.R.A. 529.
          34 L.R.A. 636; L.R.A.1915B, 646;
Debt.
      L.R.A.1917E, 437.
Defects. 13 L.R.A.(N.S.) 1246.
Del credere agency. L.R.A.1916E, 1211.
Demonstrative legacies. 11 L.R.A. (N.S.)
       61.
Dependent. 2 L.R.A. (N.S.) 653; 37 L.R.A.
      (N.S.) 1191; 51 L.R.A.(N.S.) 726;
L.R.A.1916A, 121, 128, 248; L.R.A.
1916B, 906; L.R.A.1917D, 157; L.R.A.
       1918F, 483.
Depot grounds. 7 L.R.A.(N.S.) 203
Depreciation. 52 L.R.A.(N.S.) 18.
                       7 L.R.A.(N.S.) 203.
Desertion. 29 L.R.A.(N.S.) 614; 43 L.R.A.
       (N.S.) 261.
Deviation. 2 B. R. C. 588.
                 23 L.R.A.(N.S.) 352; L.R.A.
Disability.
       1917B, 108.
 Disposing of. 45 L.R.A.(N.S.) 960.
Disturbance of public peace. 32 L.R.A.
       (N.S.) 505.
Doing business. 24 L.R.A. 295; 57 L.R.A. 88; 10 L.R.A. (N.S.) 693.
Dollars. 31 L.R.A. (N.S.) 241.
Drugs. 26 L.R.A. (N.S.) 1013.
Dues. 15 L.R.A. 513.
 Consult also L.R.A. Digests of Cases.
```

DEFINITIONS—cont'd.

Dwelling house. 21 L.R.A. (N.S.) 349; 45
L.R.A. (N.S.) 729; L.R.A.1916A, 1100;
L.R.A.1918C, 873.

Dwellings. 11 L.R.A. (N.S.) 613.

Effects. 12 L.R.A. (N.S.) 661. Elections. 18 L.R.A.(N.S.) 412. Elector. 43 L.R.A. (N.S.) 294. Elements. 53 L.R.A. 673. Emergency. 52 L.R.A. (N.S.) 676. Employed. 28 L.R.A. (N.S.) 371. Employee. L.R.A.1916A, 246; L.R.A.1917D, 145. Employers. L.R.A.1916A, 113, 245; L.R.A. 1917D, 143. Engineering work. L.R.A.1916A, 208. Enticement. 5 L.R.A.(N.S.) 1094. Exceptions. 7 L.R.A.(N.S.) 792. Executory accord. 12 L.R.A.(N.S.) 1134. Expenses. 2 L.R.A.(N.S.) 1013. Extra hazardous employments. L.R.A. 1917D, 152. Factory. L.R.A.1916A, 200. False representations. 18 L.R.A. (N.S.) 1109. Family. 6 L.R.A. 813; 3 L.R.A. (N.S.).. 334; 4 L.R.A.(N.S.) 366; L.R.A.1917C, 361. Family expenses. 21 L.R.A.1917F, 861. 21 L.R.A. (N.S.) 277; Farm laborer. 19 L.R.A.(N.S.) 1039; m 1800rer. 19 L.R.A.1917D, 382. Female relatives. 4 L.R.A.(N.S.) 167. Ferry. 59 L.R.A. 513; L.R.A.1916D, 832. Fixtures. 34 L.R.A.(N.S.) 218. Fixtures and erections. L.R.A.1916A, 1099. Food. L.R.A.1916B, 788. Franchises. 57 L.R.A. 35. Free. 3 L.R.A. (N.S.) 461 From. 49 L.R.A. 200. Furnishing. 45 L.R.A.(N.S.) 959. General legacy. 11 L.R.A.(N.S.) 51. Geographical name. 26 L.R.A.(N.S.) 73. Gift. 6 L.R.A. 403; \* 39 L.R.A.(N.S.) 198. Giving. 45 L.R.A.(N.S.) 958. Going value. 48 L.R.A.(N.S.) 1093. Good behavior. L.R.A.1918D, 697. Goods. 2 L.R.A. (N.S.) 338 19 L.R.A. (N.S.) 874; 51 L.R.A. (N.S.) 398. Good will. 48 L.R.A. (N.S.) 1146. Grade. L.R.A.1916A, 150. Habitual drunkard. 6 L.R.A.(N.S.) 914; 40 L.R.A. (N.S.) 655. 17 L.R.A. (N.S.) 431; L.R.A. Harborer. 1917E, 520. Hawker, see PEDDLERS. Hazard. 18 L.R.A.(N.S.) 478; 22 L.R.A. (N.S.) 969; 47 L.R.A.(N.S.) 113. Hazardous occupation. L.R.A.1917D. 152. Head of family. 51 L.R.A. (N.S.) 1121.

Heirs. 5 L.R.A. 122; \* 8 L.R.A. 732, \* 747; \*

12 L.R.A. 721; \* 13 L.R.A. 46; \* 30

L.R.A. 593; 3 L.R.A. (N.S.) 904; 27

L.R.A. (N.S.) 1158; 29 L.R.A. (N.S.) 970; 30 L.R.A. (N.S.) 593; L.R.A. (N.S.) 1918B, 123.

Highways. L.R.A. 1918D, 144 Highways. L.R.A.1918D, 144. Hotel. 20 L.R.A.(N.S.) 107. Husband. 33 L.R.A.(N.S.) 816. Hypnotism. 40 L.R.A. 269. Ill. L.R.A.1918B, 643. Immediately. 38 L.R.A. 538.

DEFINITIONS-cont'd. Impressions. 35 L.R.A. (N.S.) 991. Improvement. 20 L.R.A. (N.S.) 378. In. 37 L.R.A.(N.S.) 620. Indebtedness. L.R.A.1917E, 437. Independent contractors. 65 L.R.A. 447; L.R.A.1917D, 149. Indignity. 43 L.R.A.(N.S.) 260. Infamous crime. 17 L.R.A. 764. Injury. 15 L.R.A. (N.S.) 55.
 Injury by accident. L.R.A.1916A, 29, 227;
 L.R.A.1917D, 103. Insane. 17 L.R.A.(N.S.) 260. Insane delusions. 37 L.R.A. 261; 27 L.R.A. (N.S.) 62. Intangible value. 48 L.R.A.(N.S.) 1039. Intoxicating liquors. 6 L.R.A. (N.S.) '186; 7 L.R.A. (N.S.) 195. Iron mill. L.R.A.1916A, 201. Issue. 4 L.R.A. 117; \* 11 L.R.A. 305; \* 27 L.R.A.(N.S.) 1158; 30 L.R.A.(N.S.) 914; L.R.A.1918B, 123; L.R.A.1918F, Junk dealer. 24 L.R.A.(N.S.) 1170. Junk shop. 24 L.R.A.(N.S.) 1170. Jury. 43 L.R.A. 48. Jury trial. 43 L.R.A. 48. Keeper. 17 L.R.A. (N.S.) 431; L.R.A. 1917E, 520. Kidnapping. 32 L.R.A.(N.S.) 845; L.R.A. 1915B, 189. Labor. 43 L.R.A.(N.S.) 162; L.R.A.1915F, 951. Laborers. 18 L.R.A. 305; 30 L.R.A. (N.S.) 85. Last sickness. 13 L.R.A.(N.S.) 1092. Legal heirs. 3 L.R.A.(N.S.) 904. Legal representatives. 30 L.R.A. 609; 32 L.R.A. (N.S.) 247. Legal voters. 43 L.R.A.(N.S.) 294. Lend. L.R.A.1915D, 496. Liability. L.R.A.1917E, 437. Limitation. 29 L.R.A. (N.S.) 970. Line of tunnel. 53 L.R.A. 796. Loan. L.R.A.1915D, 496. Location. 7 L.R.A.(N.S.) 765. Lode. 7 L.R.A.(N.S.) 821. Lottery. 13 L.R.A. (N.S.) 1096. Machinery. 57 L.R.A. 821. Machinery of every description. 30 L.R.A. (N.S.) 36.
"Mailing." 49 L.R.A.(N.S.) 462.
Male heirs. 29 L.R.A.(N.S.) 970.
Malice. 2 L.R.A. 130; 11 L.R.A. 546; 19 L.R.A.(N.S.) 273. Malice aforethought. 38 L.R.A. (N.S.) 1054. Managing agent. 4 L.R.A. (N.S.) 460. Manufacture. 64 L.R.A. 34. Manufacturers. 14 L.R.A. 107. Manufacturing establishment. 44 L.R.A. (N.S.) 1186. Marketable title. 4 L.R.A.(N.S.) 1170; 38 L.R.A. (N.S.) 4. 65 L.R.A. 193; 45 L.R.A. Martial law. (N.S.) 999. Materials. 43 L.R.A. (N.S.) 162. May. 6 L.R.A. 162; 5 L.R.A. (N.S.) 340. Mechanics. 30 L.R.A. (N.S.) 85; 44 L.R.A. (N.S.) 151. Medicine. 26 L.R.A.(N.S.) 1013. Member of family. L.R.A.1916B, 905. Begin with this book on every law question.

DEFINITIONS—cont'd. Mercantile institution. 44 L.R.A.(N.S.) 1185. chandise. 2 L.R.A.(N.S.) 338; 45-L.R.A.(N.S.) 495. Merchandise. Mine, L.R.A.1916A, 209. Mineral. 7 L.R.A. (N.S.) 805. Mining claim. 7 L.R.A. (N.S.) 765. Misfeasance. 12 L.R.A. (N.S.) 926. Mistake of law. 28 L.R.A.(N.S.) 792. Mob. 10 L.R.A.(N.S.) 925. Moneyed capital. 45 L.R.A. 745. Money in hand. 26 L.R.A.(N.S.) 414. Mulatto. 31 L.R.A.(N.S.) 180; L.R.A. 1915A, 828. 45 L.R.A. (N.S.) Natural heirs. 1163. Nearest of kin. 28 L.R.A.(N.S.) 482. Nearest relations. 28 L.R.A.(N.S.) 482. Near relations. 28 L.R.A.(N.S.) 482. Necessaries. L.R.A.1917F, 861.
Necessity. 5 L.R.A.(N.S.) 320; 22 L.R.A.
(N.S.) 58; L.R.A.1917B, 99.
Neglect of duty. 43 L.R.A.(N.S.) 260. Negro. 31 L.R.A.(N.S.) 180; L.R.A.1915A, Nephews. 47 L.R.A.(N.S.) 533. Net earnings. 52 L.R.A. (N.S.) 16. Next of kin. 28 L.R.A. (N.S.) 479; L.R.A. 1916B, 907. Nieces. 47 L.R.A.(N.S.) 533. Nonfcasance. 12 L.R.A.(N.S.) 929. Novation. 10 L.R.A. 369; 36 L.R.A.(N.S.) 464. Occupied. 2 L.R.A. (N.S.) 517. Office. 17 L.R.A. 243. Officer. 13 L.R.A. 177; 17 L.R.A. 243. On. 37 L.R.A.(N.S.) 620. On or in or about. L.R.A.1916A, 193. Opinions. 35 L.R.A.(N.S.) 991. Option. 21 L.R.A. 128. Orchard. L.R.A.1916A, 1104. Orphans. L.R.A.1916B, 907. Original package. 60 L.R.A. 664; 39 L.R.A. (N.S.) 1051. Out of the state. 25 L.R.A.(N.S.) 25. Party to be charged. 28 L.R.A. (N.S.) 689; 43 L.R.A. (N.S.) 410. Passenger being transported. 4 L.R.A. (N.S.) 254. Passengers. 26 L.R.A. 132. Paved street. L.R.A.1918D, 143.
Paving. L.R.A.1918D, 143.
Peddlers. 8 L.R.A. 273; L.R.A.1916B, 1293. Pending. 68 L.R.A. 261. Person aggrieved. 25 L.R.A. (N.S.) 155. Personal injury. L.R.A.1917D, 103. Persons. 19 L.R.A. 222; 2 B. R. C. 243. Persons of color. 31 L.R.A.(N.S.) 180; L.R.A.1915A, 828. Per week. 38 L.R.A. 539. Place of abode. 21 L.R.A. (N.S.) 344. Plant. 57 L.R.A. 821. Poisons. 26 L.R.A.(N.S.) 1013; 30 L.R.A. (N.S.) 520. Poll taxes. 29 L.R.A. 404. Privity of estate. 66 L.R.A. 681. Procuring. 45 L.R.A. (N.S.) 959. Profanity. 22 L.R.A. 353. Profession. L.R.A.1915F, 916. Property. 29 L.R.A. (N.S.) 60. Provisions. L.R.A.1916B, 788.

DEFINITIONS-cont'd. Public accommodation. 9 L.R.A. (N.S.) 601. Publication. 13 L.R.A. 419;\* 51 L.R.A. 375; 43 L.R.A.(N.S.) 641. Public conveyance. 37 L.R.A. (N.S.) 619; L.R.A.1915C, 456.

Public highway. L.R.A.1918D, 144.

Public purpose. 49 L.R.A. 783. Public road or highway. L.R.A.1918D, 144. Public use. 22 L.R.A.(N.S.) 35. Public utilities. 31 L.R.A.(N.S.) 556. Pupils. 43 L.R.A. (N.S.) 172. Purchase. 29 L.R.A. (N.S.) 970. Railroad hazard. 18 L.R.A.(N.S.) 22 L.R.A.(N.S.) 969; 45 L.R.A.(N.S.) 840. Railroads. 15 L.R.A.(N.S.) 479; 17 L.R.A. (N.S.) 117; L.R.A.1916A, 200. Ratification. 10 L.R.A.(N.S.) 937; L.R.A. 1915A, 1024. Residence. L.R.A.1918C, 873.

Reasonable cause. 52 L.R.A.(N.S.) 749.

Reasonable diligence. 20 L.R.A.(N.S.) 581.

Reasonable doubt. 17 L.R.A. 705; 39 L.R.A. 745. Relative. 14 L.R.A. 342; 4 L.R.A. (N.S.) 167; L.R.A.1916B, 907. Remuneration. L.R.A.1916A, 121. Repair. L.R.A.1916A, 197.
Representations. 18 L.R.A.(N.S.) 1110.
Reservations. 7 L.R.A.(N.S.) 792. Residence. 19 L.R.A. (N.S.) 759; 21 L.R.A. (N.S.) 344. Resident. 43 L.R.A.(N.S.) 272. Residue. 44 L.R.A.(N.S.) 805. Restaurant. 17 L.R.A.(N.S.) 566. Retail. 32 L.R.A.(N.S.) 622; L.R.A.1915B, 389. Return. 23 L.R.A. (N.S.) 547; 25 L.R.A. (N.S.) 24. Riot. 10 L.R.A.(N.S.) 925. Riparian land. 11 L.R.A. (N.S.) 1062. Rural lands. 27 L.R.A. (N.S.) 697. Sale. 26 L.R.A. (N.S.) 5. Sale of intoxicating liquor. 8 L.R.A. (N.S.) 937; 25 L.R.A. (N.S.) 943; 52 L.R.A. (N.S.) 722; L.R.A.1915C, 648. Same. 17 L.R.A.(N.S.) 260. Satisfactory title. 18 L.R.A.(N.S.) 741. Scaffolding. L.R.A.1916A, 198. Scaffolds. 30 L.R.A.(N.S.) 30. Scaffolds. 30 L.R.A. (N.S.) ov. School. 22 L.R.A. (N.S.) 194; 43 L.R.A. School children. 43 L.R.A.(N.S.) 172. Sellers. 30 L.R.A.(N.S.) 521. "Sending." 49 L.R.A. (N.S.) 463. Separable controversy. 5 L.R.A. (N.S.) 58. Serious or wilful misconduct. L.R.A.1916A, 75, 243, 355; L.R.A.1917D, 133. Ship building yards, L.R.A.1916A, 202. Shop. 44 L.R.A.(N.S.) 1186. Shore. 45 L.R.A. 242. Sick. L.R.A.1918B, 643. Sickness. L.R.A.1918B, 643. Sisters. 29 L.R.A. 544. Special verdict. 24 L.R.A.(N.S.) 2. Specific legacy. 11 L.R.A.(N.S.) 55. Spitting blood. 23 L.R.A.(N.S.) 917. Structures. 30 L.R.A. (N.S.) 33. Suicide. 17 L.R.A.(N.S.) 260. Surface. 68 L.R.A. 679. Consult also L.R.A. Digests of Cases.

DEFINITIONS—cont'd. Switching service. L.R.A.1916D, 455. Taking. 18 L.R.A. 166; 68 L.R.A. 699; 15 L.R.A.(N.S.) 49. Tavern. 20 L.R.A. (N.S.) 107.
Telegraph. 42 L.R.A. (N.S.) 237.
Tenancy by the entireties. 30 L.R.A. 306.
Term. 56 L.R.A. 531. Testamentary capacity. 27 L.R.A. (N.S.) 1; L.R.A.1918A, 444.
Things. L.R.A.1918A, 222.
Through contract. 31 L.R.A.(N.S.) 37. Tornado. 8 L.R.A. (N.S.) 308. Tornado insurance. 8 L.R.A. (N.S.) 308. Total disability. 38 L.R.A. 529; L.R.A. 1917B, 108. Total loss. L.R.A.1917D, 167. Trade. L.R.A.1915F, 916. Traveler. 13 L.R.A. (N.S.) 1242. Traveling by public conveyance. 37 L.R.A. (N.S.) 619.
Treating. 19 L.R.A. (N.S.) 733; 49 L.R.A. (N.S.) 889. Unbroken package. 39 L.R.A.(N.S.) 1051. Undertakers. L.R.A.1916A, 209. Unmarried. 15 L.R.A. 292. Unoccupied. 2 L.R.A.(N.S.) 517. Until. 49 L.R.A. 202. Urban lands. 27 L.R.A.(N.S.) 697. Usual place of abode. 21 L.R.A.(N.S.) 344. Vacant. 2 L.R.A.(N.S.) 517. Vein. 7 L.R.A.(N.S.) 821. Volenti non fit injuria. 47 L.R.A. 162. nuteers. 43 L.R.A.(N.S.) 179, 187; L.R.A.1915F, 1125. rehouse. L.R.A.1916A, 206; L.R.A. Volunteers. Warehouse. 1917D, 156. Wares. 2 L.R.A.(N.S.) 338. 25 L.R.A. 527; 1 L.R.A. Water course. (N.S.) 756. Waterproof. L.R.A.1918B, 826. Ways. 57 L.R.A. 820; L.R.A.1915F, 1036. Weapons. 34 L.R.A.(N.S.) 1174. Wharf. L.R.A.1916A, 203. Widow. 33 L.R.A.(N.S.) 816. Wife. 33 L.R.A.(N.S.) 816. Wilful act. L.R.A.1916A, 224; L.R.A.1917D. 133. Withdrawal. 35 L.R.A. 289; 49 L.R.A. (N.S.) 1130. Within. 49 L.R.A. 202. Without having been married. 15 L.R.A. 292. Workmen. 30 L.R.A. (N.S.) 85; L.R.A. 1916A, 112, 115, 246. Work of necessity. 5 L.R.A.(N.S.) 320; L.R.A.1917B, 99. Works. 57 L.R.A. 820; L.R.A.1915F, 1036. Workshop. 44 L.R.A. (N.S.) 1186; L.R.A. 1917D, 156.

#### DEFLECTION.

Of water, see WATERS, § 53.

#### DEGENERACY.

As ground for divorce. 51 L.R.A. (N.S.) 282.

## DEGREES OF HOMICIDE.

See Homicide, §§ 31-34.

## DEGREES OF INSANITY.

Of insanity of insured. 35 L.R.A. 259. Degree of insanity induced by intoxication which will excuse crime. 36 L.R.A.

### DEGREES OF KINSHIP.

See NEXT OF KIN.

#### DE JURE OFFICE.

See Officers, §§ 37, 43, 44.

#### DELAY.

In presenting commercial paper for payment, see BILLS AND NOTES, §§ 52, 53; CHECKS, § 11.

Of carrier in transportation of goods, see CARRIERS, § 121.

In unloading cars, see CARRIERS, § 141.
As ground for discharge of accused, see CRIMINAL LAW, § 45.

Estoppel by, see ESTOPPEL, §§ 18-26.

In serving notice and proofs of loss, see INSURANCE, § 146.

Bar of action by, see Limitation of Actions, §§ 6-12.

Penalty for delay in payment, see PAY-MENT, § 3.

In recording instrument, see RECORDS AND RECORDING LAWS, § 23.

In probating will, effect, see WILLS, § 51.

In giving notice required by policy insuring against liability for personal injuries to third person. L.R.A.1918E,

Delay in giving notice of claim under employer's indemnity policy. 38 L.R.A. (N.S.) 62; 47 L.R.A. (N.S.) 1214; L.R.A. 1918D, 445.

Delay by purchaser in securing substitute as affecting his damages for vendor's failure to deliver. 32 L.R.A.(N.S.)

Effect of delay on privilege of suitor or witness from service of process. L.R.A. 1917B, 252.

In procuring order for publication of summons after making of affidavit. L.R.A. (N.S.) 499.

Who is entitled to penalties for delay in paying improvement assessments. 47 L.R.A.(N.S.) 704.

Damages recoverable for delaying person by blocking railroad crossing. 44 L.R.A.(N.S.) 1069; L.R.A.1915E, 336. 44

DELAY—cont'd.

Right of public service corporation to impose penalty or added amount for failure to pay service bills promptly. 31 L.R.A. (N.S.) 329; 43 L.R.A. (N.S.) 63. Liability to passenger for delay in running railroad train. 49 L.R.A. (N.S.) 429.

Effect of failure to apply for paid-up in surance within time stipulated. 51 L.R.A.(N.S.) 1044.

Effect of delay in passing on application for insurance. 36 L.R.A.(N.S.) 1211; 51 L.R.A.(N.S.) 873.

Liability of insurance company for negligent delay in passing upon or issuing policy until after loss. 40 L.R.A.(N.S.) 164.

Delay in paying instalments as excusing building contractor's delay in completing contract. 35 L.R.A.(N.S.) 1223.

As ground for admitting to bail in capital case. 39 L.R.A.(N.S.) 768.

Delay in attempting to regain property obtained under agreement to pay therefor on delivery as waiver of that condition. L.R.A.1915D, 355.

What constitutes unreasonable delay of lessee to develop premises under mining lease reserving a royalty on product but containing no provision for payment of minimum royalties or forfeiture

for delay. L.R.A.1915B, 565. Liability of the lessee in oil or gas lesse for damages for failure to develop the leased premises during the term for which he has paid delay rental. L.R.A. 1917A, 178.

Measure of damages for delay in delivery of goods purchased as affected by price at which they were resold. 7 B. R. C. 331.

### DEL CREDERE AGENCY.

Distinction between del credere agency and contract of sale or return. L.R.A.1916E, 1209; L.R.A.1917B, 651.

Liability of del credere agent for nonperformance of contract by buyer. 6 B R. C. 943.

#### DELEGATION.

Of power, see DELEGATION OF POWER. Of master's duty, see MASTER AND SERVANT, §§ 163-169a.

Right of debtor to delegate to another the right to select exempt property. L.R.A.(N.S.) 982.

Of municipal duty as to defects or obstruc-tions in street. 20 L.R.A.(N.S.) 538.

### DELEGATION OF AUTHORITY.

Power of real estate broker to delegate authority. 43 L.R.A. (N.S.) 796. Begin with this book on every law question.

#### DELEGATION OF POWER.

In general, see Constitutional Law, §§ 11-17; MUNICIPAL CORPORATIONS, § 18; TAXES, § 5.

By municipality, see MUNICIPAL CORPORA-TIONS, § 18.

As to taxation, see Taxes, § 5.

Delegation of power to exercise power of appointment. 64 L.R.A. 910.

#### DELIBERATION.

As element of homicide, see HOMICIDE, § 6.

## DELINQUENT CHILDREN.

Validity of statute establishing juvenile courts, see JUVENILE COURTS.

#### DELIRIUM.

As affecting testamentary capacity. L.R.A.(N.S.) 90; L.R.A.1915A, 458. Liability under accident policy for death during delirium. 46 L.R.A. (N.S.) 543.

## DELIVERY.

Of commercial paper, see BILLS AND NOTES, § 17.

Of goods to carrier, see CARRIERS, § 112. Of goods by carrier, see CARRIERS, §§ 113-121.

Of chattel mortgage, see CHATTEL MORTGAGE, § 3.

Of deed, see DEEDS, §§ 6-8.

Of gift, see GIFT, §§ 13, 14.

Of articles sold in instalments, see INSTAL-MENTS, § 2.

Of insurance policy, see INSURANCE, § 38. Of pledged property, see PLEDGE AND COL-LATERAL SECURITY, § 5.

Record as, see RECORDS AND RECORDING LAWS, § 25.

Of goods sold, see SALE, §§ 10-12, 14.

Necessity of, to entitle third party to sue on contract for his benefit. 25 L.R.A.

What constitutes delivery by baggage transfer company. L.R.A.1916D, 1203.

#### DELUSIONS.

See CRIMINAL LAW, §§ 8, 9; INCOMPETENT On cotenant for rents and profits. 28 L.R.A. Persons, § 3; Wills, § 10 850. Consult also L.R.A. Digests of Cases.

#### DEMAND.

§ 1. Generally.

As condition precedent to actions, see Ac-TION OR SUIT, § 9.

As a condition of trover, see TROVER, § 7. For possession of leased premises, see Land-LORD AND TENANT, § 94.

Necessity of, to set statute of limitations running, see LIMITATION OF ACTIONS, §§ 21, 26, 32.

Making time of essence of contract by. 15 L.R.A. 737.

Banking customs as to. 21 L.R.A. 441.

As a condition of mandamus to compel surrender of office. 31 L.R.A. 348.

Before sale of property by pledgee. L.R.A. 750.

Necessity of demand on covenantor to defend, to bind him by decree against grantee. 13 L.R.A.(N.S.) 732.

As a condition of right to reformation because of mistake of law as to effect of instrument. 28 L.R.A.(N.S.) 913.

Denial of, on information and belief. 30 L.R.A. (N.S.) 778,

As condition precedent to equitable remedies of creditors. 23 L.R.A. (N.S.) 66.

For return of deposit at auction as a condition of recovering interest. 35 L.R.A. (N.S.) 481.

When does statute of limitations begin to run against an action on a contract payable on demand. 32 L.R.A.(N.S.) 486.

Necessity of demand by vendee for abstract of title. 43 L.R.A. (N.S.) 48.

Demand for support as necessary to relief of grantor in conveyance in consideration of agreement to support, which is broken by grantee. 43 L.R.A.(N.S.)

Failure to comply with surety's demand to proceed in the enforcement of the obligation. L.R.A.1918C, 10.

§ 2. For payment.

As condition of holding drawer or indorser of negotiable paper, see BILLS AND NOTES, §§ 43-53.

Subsequent promise to pay by indorser as admission of. 29 L.R.A. 307.

Of payment of alimony as condition of contempt proceedings. 24 L.R.A. 437.

Necessity of demand by lessor upon lessee for payment of taxes before taking advantage of covenant in lease to pay taxes and assessments. L.R.A. 1915A,

As condition of right to interest during receivership on claims accruing prior to appointment of receiver. L.R.A.1917D, 1168.

Sufficiency of a demand as winner to support an action for the demander's stake against stakeholder of funds to be held in connection with an illegal transaction. L.R.A.1918F, 975.

§ 3. Of cotenant.

For repairs as a condition of liability of co-tenants. 29 L.R.A. 459.

DEMAND-cont'd.

§ 4. Insurance matters.
For paid-up policy. 15 L.R.A. 449.
For assessment on members of mutual fire

insurance company. 32 L.R.A. 502. Sufficiency of demand that insured submit to examination. 52 L.R.A. 425.

§ 5. Corporate matters.

By stockholder for inspection of corporate books. 20 L.R.A.(N.S.) 199.

When demand on stockholder for unpaid balance of stock subscription should be made. 1 L.R.A.(N.S.) 915.

§ 6. Criminal matters. Necessity of, before entering dwelling to make arrest. 16 L.R.A. 502.

Mere demand that accused produce incriminating document as violation of his privilege. 35 L.R.A.(N.S.) 1171.

Failure to demand trial as waiver of right to speedy trial in criminal case. L.R.A. 538; 44 L.R.A.(N.S.) 871.

## DEMAND NOTES.

Maturity of, see BILLS AND NOTES, § 55.

### DEMENTIA.

As affecting testamentary capacity. L.R.A. 1915A, 458.

## DE MINIMUS.

Power of courts to decline jurisdiction of suit because of insignficance of amount involved. 6 B. R. C. 342.

## DEMONSTRATIVE EVIDENCE.

See EVIDENCE, VI.

## DEMONSTRATIVE LEGACIES.

See WILLS, §§ 122, 127, 128.

## DEMURRAGE.

In general, see Carriers, § 141. Provision as to, in charter party see SHIP-PING, § 18.

#### DEMURRER.

In general, see PLEADING, § 41. Begin with this book on every law question.

#### DENIALS.

In pleading, see PLEADING, §§ 3, 38.

Effect of denial under oath to purge one of criminal contempt. 9 L.R.A.(N.S.) 1119; L.R.A.1917E, 654.

### DENTAL EXAMINERS.

Character and extent of relief by mandamus against board of. 7 L.R.A. (N.S.) 528.

#### DENTISTS.

Judicial review of action in respect to licenses. 20 L.R.A. 355.

Validity of restrictive agreement, ancillary to sale of practice as affected by terri-torial scope. 24 L.R.A.(N.S.) 927; L.R.A.1916C, 630.

Validity of contract restraining practice of profession after expiration of term of service with another. 26 L.R.A. (N.S.)

Instigating illegal practice as a defense to prosecution. 30 L.R.A. (N.S.) 954.

Determining character or standing of dental

college for purpose of license statutes.

22 L.R.A.(N.S.) 735.

Right of unlicensed dentist to recover for services rendered by licensed one. 2 L.R.A.(N.S.) 392.

Practice without license as a continuing of-fense. 42 L.R.A.(N.S.) 768. Validity of statute or regulations affecting.

right to practise dentistry of one who has practised in another state. L.R.A. 1915D, 538.

## DENUNCIATION.

Of adverse litigant by counsel in argument to jury as ground for reversal. L.R.A.1918D, 87.

Of defendant by prosecuting attorney in argument as ground for reversal. 46 L.R.A. 652.

#### DEPARTMENTAL CONTROL.

Relation of employees in charge of departments to their subordinates. 51 L.R.A. 572.

#### DEPARTMENT MANAGER.

Authority of, to contract for services of other persons. L.R.A.1918F, 50.

## DEPARTMENTS.

Relations between departments of government, see Constitutional Law, §§ 11-20; COURTS, §§ 14-18.

DEPARTMENTS—cont'd.

Power of courts to enforce ministerial duties of heads of departments. 52 L.R.A. (N.S.) 415.

#### DEPARTMENT STORES.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, 67.

Legal restrictions on. 48 L.R.A. 261. Persons conducting departments as inde-pendent contractors. 65 L.R.A. 470. Duty of storekeeper toward customer as to

condition of premises. 21 L.R.A. (N.S.) 456; L.R.A.1915F, 572.

## DEPARTURE.

In pleading, see Pleading, § 40.

#### DEPENDENTS.

Who are within provisions of benefit certificates, see Insurance, § 33.

Who are, within meaning of workman's compensation act. L.R.A.1916A, 121, 248; L.R.A.1917D, 157; L.R.A.1918F,

#### DEPENDENT AGREEMENT.

As defense to promissory note. 43 L.R.A.

## DEPORTATION.

See ALIENS, § 3.

## DEPOSIT.

In bank, see Banks, §§ 9-30.

By bidder for public contract. 26 L.R.A. 709.

Deposit by insurance company as subject of taxation. 36 L.R.A.(N.S.) 226.

#### DEPOSITARY.

Power of public officers to make contract as to, for a term of years, or so as to bind their successors. 16 L.R.A. 257. Hew far pledge is effectual when pledgeor's agent is made depositary. 25 L.R.A. 577.

Liability of public officers for loss of funds by failure of bank designated as de- Duty of carrier to passenger in relation to, pository. 36 L.R.A.(N.S.) 289. see CARRIERS, §§ 45, 46, 48, 70, 71, 94. Consult also L.R.A. Digests of Cases.

DEPOSITARY—cont'd.

Liability of sureties on bond of bank as depository of public funds as affected by acquiescence or connivance of public officials in misuse of the funds. L.R.A.(N.S.) 865.

## DEPOSITION.

1. Generally.

Power of consul to take depositions. 45 L.R.A. 499.

Of subscribing witness. 35 L.R.A. 340. Privilege as to statements in. 22 L.R.A. 837.

Power of magistrate to punish for refusal to give testimony under commission to take. 1 L.R.A. (N.S.) 1142.

Waiver by cross-examination of objection to competency of witness whose testimony is taken by deposition. 33 L.R.A.(N.S.)

Necessity of procuring depositions of attesting witnesses to will who are beyond the jurisdiction of the court. 47 L.R.A.(N.S.) 722.

Use of depositions not put in evidence in argument of counsel to jury. L.R.A. 1918D, 71.

§ 2. Jurisdiction of equity to entertain bill to perpetuate testimony. General nature of the remedy. 25 L.R.A.

(N.S.) 673. Impossibility of immediate judicial investigation. 25 L.R.A. (N.S.) 675.

Necessity for the preservation of the testimony. 25 L.R.A.(N.S.) 677.

Necessity and extent of parties' interest in the subject-matter. 25 L.R.A. (N.S.)

Character of the subject-matter of the testimony. 25 L.R.A.(N.S.) 678. re, pleadings. 25 L.R.A.(N.S.) 679. Procedure,

§ 3. Use of as evidence. See EVIDENCE, § 134.

#### DEPOSITORY.

See DEPOSITARY.

## DEPOSIT TICKET.

By bank. 17 L.R.A. 580. As contracts within the rule against parol evidence to vary or contradict written contracts. L.R.A.1918B, 298.

#### DEPOT.

DEPOT-cont'd.

Governmental regulations concerning, see CARRIERS, §§ 161, 162.

Contracts in relation to, see RAILROADS, §

Right to use railroad right of way for, as against owner of fee. 36 L.R.A. (N.S.) 516.

Supervising employees in, as vice principals. 51 L.R.A. 552, 581.

Work in, as railroad hazard within statute changing fellow servant rule. 18 L.R.A. (N.S.) 482.

#### DEPOT COMPANY.

Exercise of power of eminent domain by. 10 L.R.A.(N.S.) 909.

Liability of railway company for injury to its servants by negligence of union depot employees. 13 L.R.A.(N.S.) 1196.

#### DEPOT GROUNDS.

What are, within meaning of fence laws. 7 L.R.A.(N.S.) 203.

#### DEPRECIATION.

Implied warranty against depreciation of property bought. 22 L.R.A. 193.

Treatment of depreciation in valuation of public service property. 38 L.R.A. (N.S.) 1209; 52 L.R.A. (N.S.) 18; L.R.A.1916F, 761.

Right to damages for, in action on replevin bond. 30 L.R.A.(N.S.) 371.

#### DEPUTY.

§ 1. Generally.

Of municipal officer, see MUNICIPAL CORPO-BATIONS, § 114.

Certification of copies of records by, for use in other state. 5 L.R.A.(N.S.) 957.

Condition against taking effect of bond of, until signed by others. 45 L.R.A. 336.

Effect against surety on bond of deputy, of judgment against him. 52 L.R.A.

Implied power of municipality to create office of deputy or assistant to incumbent of an office expressly authorized. 26 L.R.A. (N.S.) 660.

Provision for compensation of additional deputy or assistant as violation of constitutional inhibition of increase of officer's salary during term. L.R.A.1918C,

Change of salary of deputy as violation of constitutional provision against change of salary of public officer during term | Proof of corpus delicti in prosecution for. of office. 37 L.R.A.(N.S.) 388. | 68 L.R.A. 72.

Begin with this book on every law question.

DEPUTY—cont'd.

Master's liability to servant for injury due to negligence of deputy superintend-

ents. 58 L.R.A. 40.

Improper influence or interference with grand jury by. 28 L.R.A. 370.

Liability for act of deputy in improperly

issuing marriage license or performing marriage ceremony. L.R.A.1917E, 872.

§ 2. Deputy sheriffs, marshals, constables, etc.

Provision for compensation of additional deputy or assistant as violation of constitutional inhibition of increase of officer's salary during term. L.R.A.1918C,

Right of sheriff or constable to appoint nonresident deputy. L.R.A.1916B, 900. Deputy marshals and sheriffs as public of-

ficers. 17 L.R.A. 245.

In whose name acts by deputy sheriff should be performed. 19 L.R.A. 177; 42 L.R.A. (N.S.) 877.

Right of deputy sheriffs to make bids on sales conducted by them. 20 L.R.A.

Execution of bond of deputy sheriff on condition that others shall sign. 45 L.R.A. 336.

Principal's liability for homicide by deputy. 67 L.R.A. 312.

Liability of sureties on bond of peace officer for death of person due to act or default of one of his deputies. 11 L.R.A. (N.S.) 758.

Liability of sheriff, marshal, or constable for his deputy's tort in making arrest. 12 L.R.A.(N.S.) 1019; L.R.A.1915E, 172.

8 3. Deputy collector.

Power of deputy collector to affix omitted stamp on instrument. 48 L.R.A. 316.

§ 4. Woman as.

Right of woman to be. 38 L.R.A. 210. Competency as deputy clerks. 13 L. 721; 27 L.R.A. (N.S.) 532. 13 L.R.A.

§ 5. In whose name acts by deputy officers to be performed. See Officers, § 30.

#### DERAILMENT.

Injury to passenger by, see CARRIERS. § 50.

Liability for injury to person other than passenger or employee by derailment of street car. L.R.A.1917D, 815.

Applicability of res ipsa loquitur in case of injury to servent by derailment of rolling stock. L.R.A.1917E, 212.

Homicide by. 63 L.R.A. 378.

Leaving switch unlocked as proximate cause of derailment of train resulting from throwing of switch by stranger. L.R.A.(N.S.) 738.

#### DERELICT.

Ownership of. 18 L.R.A. 695.

## DERMATOLOGY.

Application of statute regulating practice of medicine to persons giving special kinds of treatment. 3 L.R.A. (N.S.) 762; 24 L.R.A.(N.S.) 103; 25 L.R.A.(N.S.) 1297.

#### DERRICKS.

Injury to trainman by derrick over track. 47 L.R.A.(N.S.) 498.

#### DESCENT AND DISTRIBUTION.

I. In general, § 1.

II. Right to inherit, §§ 2-8.

III. Property subject to, § 9.

IV. Nature and incidents of interest of heir or distributee, \$\$ 10-13.

#### I. In general,

§ 1. Generally.

Advancement to children, see ADVANCEMENT. Conflict of laws as to, see CONFLICT OF Laws, § 34.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 69.

Conversion of realty into personalty and vice versa, see Equitable Conversion; WILLS, §§ 116-118.

As to distribution of decedent's estate generally, see Executors and Administrators, §§ 47-49.

As to inheritance taxes, see TAXES, VI. As to devise or bequest of property, see Wills, V.

Disinheriting heir, see WILLS, § 68.

Disqualification of witness by interest in controversy over estate, see WITNESSES, § 23.

Effect of conveyance and reconveyance of estate acquired by inheritance upon its course of descent. 39 L.R.A.(N.S.)

Right to probate will after distribution of property as intestate. 36 L.R.A.(N.S.) 89.

Federal courts following state decisions as to construction of local statute of descent and distribution. 40 L.R.A. (N.S.)

Transfer of reversion of leased premises by devolution upon landlord's death. L.R.A.1915C, 206.

Consult also L.R.A. Digests of Cases.

DESCENT AND DISTRIBUTION-cont'd.

#### II. Right to inherit.

2. Generally.

Rights as to homestead, see HOMESTEAD, §§ 17-20.

Rights of child in parents' homestead, see HOMESTEAD, §§ 19, 20.

Devolution of interests of respective parties

to option. L.R.A.1917D, 719.

Descent of ancestral estates. L.R.A.1916C, 902.

Who are next of kin. 15 L.R.A. 300. Within meaning of insurance policy. 30 L.R.A. 593.

Father as sole next of kin of unmarried child, to exclusion of mother. 1 B. R. C. 566.

Right to rents on lease of intestate's prop-

erty. 40 L.R.A. 321. Rights of heirs in partnership real estate. 27 L.R.A. 348.

Admissibility of declarations of relative of claimant upon issue of his relationship or heirship to decedent. 36 L.R.A. (N.S.) 530; L.R.A.1915D, 215.

Is the right to take property by inheritance a natural or statutory right. 9 L.R.A. (N.S.) 121.

Are the "heirs" who take under a possibili-ty of reverter determined as of the time of the ancestor's death, or as of the time of the termination of the fee. 18 L.R.A. (N.S.) 624.

Right of persons claiming through deceased relative to participate with those standing in equal degree of relationship with such relative, in provision for "next of kin" etc. 28 L.R.A.(N.S.) 479.

§ 3. Among kindred of half blood. In general. 29 L.R.A. 541; 26 L.R.A. (N.S.)

Relatives of half blood as next of kin. 15

L.R.A. 301. The common-law doctrine. 29 L.R.A. 541.

In the United States. 29 L.R.A. 542. Meaning of the words. 29 L.B.A. 542.

No distinction between the whole and half blood. 29 L.R.A. 546. In the case of ancestral estates. 29 L.R.A.

552. When the statute not express. 29 L.R.A.

561. Cases wherein the whole blood is preferred.

29 L.R.A. 561. When half blood preferred to remoter rela-

tive of the whole blood. 29 L.R.A. 564. When half blood take half portions. 29 L.R.A. 565.

Shifting descents. 29 L.R.A. 566.

Equitable conversion. 29 L.R.A. 567. Descent of ancestral estate to heirs of the half blood. L.R.A.1916C, 923, 929.

§ 4. By, through, or from, alien. Alien's right to inherit. 31 L.R.A. 177. Effect of state Constitutions and statutes upon inheritance by or from an alien. 31 L.R.A. 85.

DESCENT AND DISTRIBUTION, II.—, DESCENT AND DISTRIBUTION, II. cont'd.

Effect of treaties upon an alien's right to inherit. 32 L.R.A. 177; L.R.A.1915E,

Effect of state statutes and Constitutions upon inheritance through an alien. 31 L.R.A. 146.

Tracing descent through alien. 37 L.R.A. (N.S.) 108.

§ 5. By, through, or from, illegitimate. On the part of the mother. 23 L.R.A. 753. Marriages null. 23 L.R.A. 753.

Legalizing illegitimate by statute and recognition. 23 L.R.A. 754.

Inheritance by illegitimate from his mother. 23 L.R.A. 754.

Inheritance by illegitimate under will. 23 L.R.A. 754.

Inheritance by illegitimates from brothers and sisters. 23 L.R.A. 755.

Inheritance by illegitimates through mother or father. 23 L.R.A. 756. Inheritance by brothers and sisters of moth-

er or father of illegitimate. 23 L.R.A.

Inheritance by mother from an illegitimate child. 23 L.R.A. 757.

Inheritance through illegitimate. 23 L.R.A.

Inheritance by widow or husband of illegitimate. 23 L.R.A. 757

Inheritance by legitimate children from illegitimate children of the same mother. 23 L.R.A. 758.

Illegitimates as next of kin. 15 L.R.A. 301. Conflict of laws as to legitimacy of distributee. 65 L.R.A. 178.

Rights of lineal descendents of illegitimate to inherit through him. 27 L.R.A. (N.S.) 220.

Right to disinherit illegitimate or legitimated child. L.R.A.1918A, 45.

6. Effect of adoption.

Descent and distribution of property of adopted child. 43 L.R.A.(N.S.) 1056.

Right of adopting parent to disinherit adopted child. L.R.A.1916D, 424.

Inheritance by or from adopted child. 17
L.R.A. 435.

Right of adopted child to inherit property from a relative of its adoptive parent. 17 L.R.A. 435; 8 L.R.A.(N.S.) 117; 33 L.R.A.(N.S.) 139.

Right of child adopted in other state to take under local statute of descent or distribution. 21 L.R.A.(N.S.) 679; 25 L.R.A.(N.S.) 1285; L.R.A.1916A, 666.

Power to give child under existing adoption right to inherit from parent or parent's relatives. 35 L.R.A.(N.S.) 216.
Do terms "child," "children," "issue," etc.,

in statutes governing distribution of decedent's estate include adopted children. 30 L.R.A. (N.S.) 914; L.R.A.1918F, 1082.

§ 7. Rights of husband and wife. Statutory allowance of widow, see Execu-TORS AND ADMINISTRATORS, §§ 55, 55a. Rights in homestead, see Homestead, § 18.

cont'd.

Effect upon right to inherit, of marriage with an alien and residing abroad. 31 L.R.A. 182.

Wife as next of kin of husband. 15 L.R.A.

Husband as next of kin of wife. 15 L.R.A. 303.

Inheritance by widow or husband of illegitimate. 23 L.R.A. 757.

Alimony as wife's distributive share. L.R.A.(N.S.) 239.

Gift to one spouse by parent of the other as an advancement. 26 L.R.A. (N.S.) 1050.

Widow's right to proceeds of insurance on deceased husband's life, payable to himself or his executors or administrators. 35 L.R.A.(N.S.) 964.

Widow as heir. 30 L.R.A. 595; L.R.A.1918A, 1108.

Effect of statute making wife an heir of husband upon rule that marriage alone. without birth of issue, does not revoke a man's will. 25 L.R.A.(N.S.) 182.

Effect of statute making husband an heir of wife on rule that marriage alone without birth of issue will not revoke a woman's will. 34 L.R.A.(N.S.) 1021.

Garnishment of husband's interest in wife's legacy or distributive share. 47 L.R.A.

Effect of terms "child," "children," "issue," etc., in statutes governing distribution of decedent's estate on right of surviving widow. 30 L.R.A.1918F, 1082. 30 L.R.A. (N.S.) 915;

Time as of which valuation of decedent's estate is to be taken for assignment of share of surviving spouse. 3 B. R. C.

Applicability of disqualification statute to testimony of alleged spouse to establish marriage in order to succeed to share of the decedent's property. 51 L.R.A. (N.S.) 183.

Applicability of rule excluding testimony of interested person in controversy with decedent's estate to widow of decedent in controversy over succession. L.R.A. (N.S.) 221

§ 8. Descent to murderer.

Homicide as affecting devolution of prop-erty. 3 L.R.A.(N.S.) 726; 39 L.R.A.(N.S.) 1088; L.R.A.1915C,

Right of one convicted of homicide to take under will of victim. 7 B. R. C. 991. Exception in case of transfer under positive statutory provisions. 33 L.R.A. (N.S.) 729.

Effect on right to probate will of fact that legatee is murderer of testator. 34 L.R.A.(N.S.) 967.

## III. Property subject to.

§ 9. Generally.

Descent of rights in homestead, see HOME-STEAD, §§ 17-20.

Heating apparatus as part of realty where rights of heir are involved. 1 B. R. C. Begin with this book on every law question.

DESCENT AND DISTRIBUTION, III.- DESCENT AND DISTRIBUTION, IV.cont'd.

Descent of unpatented mining claim. L.R.A.(N.S.) 919.

Is surplus realized on foreclosure sale of real estate after mortgagor's death to be deemed real or personal property. 19 L.R.A. (N.S.) 723

Does the grantor's right to rescind for breach of condition as to support descend to his heirs or representatives. 23 L.R.A.(N.S.) 232.

Devolution of vendee's interest under con-

tract for the purchase of real property. 42 L.R.A.(N.S.) 446.

## IV. Nature and incidents of interest of heir or distributee.

10. Generally.

Sale of expectancy by prospective heir, see EXPECTANCY.

Remedy of distributee as to accounting of which he had no notice and on which he did not appear. 63 L.R.A. 95.

Right to have judgment against decedent set aside. 54 L.R.A. 761.

Right of next of kin to maintain action in interest of estate. 22 L.R.A. (N.S.)

Conveyance by heirs of land held adversely. 35 L.R.A.(N.S.) 748.

Right of one claiming through heir of devisee to protection against unrecorded conveyance by ancestor or his personal representative. 34 L.R.A. (N.S.) 328.

Right of devisee or heir to completion of improvements at the expense of the estate. 36 L.R.A. (N.S.) 303.

Indebtedness of heir to estate as set-off against distributive share of proceeds

of real estate. 4 L.R.A.(N.S.) 189. Right of devisee of encumbered property to exoneration at expense of legatee. 3 L.R.A. (N.S.) 898.

Deduction of indebtedness owing to remote ancestor by predeceased immediate ancestors. 47 L.R.A.(N.S.) 1026,

§ 11. Impressing share of heir with trust.

Impressing share of heir, devisee or legatee with constructive trust because of his fraud in frustrating decedent's intention to give the property to a third person. 8 L.R.A. (N.S.) 698; 31 L.R.A. (N.S.) 176.

May a constructive trust be based upon an undertaking to hold, for the benefit of another, property received through devise or inheritance, where no actual testamentary intention has been frustrated. 33 L.R.A.(N.S.) 996; L.R.A.1918F, 1045.

§ 12. Liability of heirs for obligations of ancestor.

Generally. 21 L.R.A. 89.

Liability on covenant or specialty debt. 21 L.Ř.A. 90.

Remedy in equity. 21 L.R.A. 91.
Remedy against heirs where estate has been distributed before claim accrued. L.R.A.1916A, 1185.

Consult also L.R.A. Digests of Cases.

cont'd.

Conditions of suits against heirs. 21 L.R.A.

Pleading and proof. 21 L.R.A. 92. Parties. 21 L.R.A. 93.

Parties. 21 L.R.A. 93. Judgment. 21 L.R.A. 94.

In Louisiana. 21 L.R.A. 94.

Levy on interest of heir in ancestor's land. 23 L.R.A. 643.

Liability of heirs of devisee for legacy charged on devise. 30 L.R.A.(N.S.)

Upon whom does the liability of an heir or devisee for his decedent's debts devolve at his own death. 39 L.R.A. (N.S.) 689.

§ 13. - garnishment of interest.

Garnishment of husband's interest in wife's legacy or distributive share. 47 L.R.A. 360.

Garnishment of distributive shares before settlement. 59 L.R.A. 387.

#### DESCRIPTION.

1. Generally.

Of offense in bail bond, see BAIL AND RECOG-NIZANCE, § 5.

In indictment, see Indictment, etc., § 6.

Of beneficiaries in will, see WILLS, V. f. Of parties in process, see WRIT AND PROCESS. §§ 5, 6.

Necessity and sufficiency of description of offense in bail bond or recognizance. 38 L.R.A.(N.S.) 309.

Particularity required in description of documents in subpona duces tecum. 31 L.R.A.(N.S.) 835.

Right of witness to express opinion in describing persons and objects. L.R.A. 1918A, 668.

§ 2. Of parties.

In deed, see DEEDS, § 18.

Mistake in name in writ or process, see WRIT AND PROCESS, §§ 5, 6.

Of parties in writ of error or appeal to Federal Supreme Court. 66 L.R.A. 839, 843.

§ 3. Of property.

Of mortgaged chattels, see CHATTEL MORT-GAGE, § 7.

In deed, see DEEDS, § 20.

In mortgage on land, see MORTGAGE, § 19.

Of property devised or bequeathed, see Wills, §§ 66, 67.

Correction of mistake as to, in will, see

WILLS, § 67. Parol evidence to correct description of

land, see EVIDENCE, § 178. Implied warranty of quality in sales by, see SALES, § 35.

Warranty on sale of goods by sample and description. 70 L.R.A. 663.

Effect of sale with description of particular kind or quality. 35 L.R.A. (N.S.) 258.

#### DESCRIPTION—cont'd.

§ 4. - of land.

Sufficiency of, to satisfy statute of frauds, see CONTRACTS, § 51.

Erroneous description of property in conveyance as affecting marketability of title. 38 L.R.A.(N.S.) 22.

Lapse of time as curing defective or erroneous description of property conveyed. 38 L.R.A. (N.S.) 33.

Mistake in description of property as affecting record of instrument relating to real property. L.R.A.1916A, 530.

Effect of misdescription of land registered under the Torrens Law. L.R.A.1916D,

Tax deed as color of title where description of land is indefinite. 11 L.R.A. (N.S.)

Of mining claim. 7 L.R.A.(N.S.) 836. Sufficiency of, to pass title to thread of stream. 42 L.R.A. 505.

#### DESCRIPTIVE WORD.

As trademark, see Trademark, §§ 2, 2a. As tradename, see TRADENAME, § 2.

#### DESECRATION.

Statutes against desecration of flag. L.R.A.(N.S.) 1079.

#### DESERTION.

Of husband or wife, see DIVORCE AND SEP-ARATION, § 24; HUSBAND AND WIFE, §§ 70, 71.

See also Abandonment.

Right of minor unlawfully enlisted in Army or Navy to discharge on habeas corpus from custody of court-martial under charge of. 18 L.R.A. (N.S.) 956; L.R.A. 1917D, 1059.

Jurisdiction of consul over deserting seamen. 45 L.R.A. 486.

Prosecutions under the Espionage Act of June 15, 1917, for encouraging. L.R.A. 1918F, 410.

#### DESIGN.

Right to protection against use by rival of similar design not protected by patent. 19 L.R.A.(N.S.) 269; 37 L.R.A.(N.S.) 259.

#### DESK.

What passes under bequest of contents of. L.R.A.1915C, 657, 660.

## DE SON TORT.

Allowance to executor de son tort for disbursements. L.R.A.1915D, 948.

#### DESTINATION.

Altering destination during shipment as affecting interstate character. L.R.A. 1916E, 533.

#### DESTRUCTION.

1. Generally.

Of deeds, see DEEDS, § 33. Presumption against one destroying evidence, see EVIDENCE, § 56.

Of political party by primary election laws. 22 L.R.A. (N.S.) 1137; L.R.A.1917A,

Effect of destruction of registry lists. 28 L.R.A.(N.S.) 989.

Of record of deed or mortgage as affecting constructive notice imparted thereby. 23 L.R.A.(N.S.) 1180.

Right to destroy wharf rights in navigable waters for public purpose without compensation. 34 L.R.A.(N.S.) 423.

§ 2. Of property.

Measure of damages for destruction of prop-

erty, see DAMAGES, §§ 68, 74, 75.

Of property in possession of bailee, see BAILMENT, §§ 5-10.

Of buildings, see Buildings, §§ 6, 8. Effect of, on building or construction con-

tract, see CONTRACTS, § 135.

Measure of damages for destruction of prop-

erty, see DAMAGES, §§ 74, 75.
Of intoxicating liquor, see Intoxicating Liquors, § 34.

By mob, see Moss and Rious.

Municipal liability for destruction of property, see MUNICIPAL COBPORATIONS, §§ 74, 75.

Right to . compensation for property destroyed in abating nuisance, see Nui-**SANCES, § 23.** 

Of party wall, see PARTY WALL, § 3. Of patent, see PATENTS, § 2.

Of cargo of vessel, see Shipping, § 3.

Liability for rents after destruction of premises, see Landlord and Tenant, § 84.

Of property sold before ascertainment of price, see SALES, § 12a.

Liability of water company for destruction of property by fire, see WATERS, § 119. Loss of property generally, see Loss.

Destruction of building as terminating easement therein other than that of support. L.R.A.1918D, 413.

Destruction of milk below legal standard. L.R.A.1917C, 247.

Innkeeper's liability for destruction of commercial traveler's samples. 35 L.R.A. (NS.) 350.

Begin with this book on every law question.

DESTRUCTION—cont'd.

Effect of strikes on carrier's liability for destruction of property. 35 L.R.A. 623. Of structure as a nuisance. 38 L.R.A. 166. Right to waive tort and sue on implied contract where property is negligently destroyed. 37 L.R.A. (N.S.) 230.

Civil liability of insane person for. 42 L.R.A. (N.S.) 84.

3. — leased property.

Rights and liabilities of tenant on destruction of leased building. 22 L.R.A. 613. Liability of tenant for negligent destruction of premises as affected by exception in covenant for return of premises in good

condition. L.R.A.1918A, 369.

Destruction of premises as affecting rent paid or payable in advance. 33 L.R.A.

(N.S.) 540.

Determination of proportional part of rent to be abated upon destruction of premises. L.R.A.1916F, 277.
Effect of, on tenant's liability under cove-

nants in lease as to payment of taxes and assessments. L.R.A.1915A, 348. After execution of assignment of leasehold

but before possession of premises given thereunder. 25 L.R.A.(N.S.) 609.

Revocation of will by, see WILLS, §§ 39, 40. Evidence to establish destroyed wills. 38 L.R.A. 433.

## DETECTING CRIME.

Validity of contract for. 42 L.R.A.(N.S.)

## DETECTIVE.

Liability for acts of servant employed as, see MASTER AND SERVANT, § 22.

As public officer. 36 L.R.A.(N.S.) 881. Power of municipality to employ private detectives. 32 L.R.A. (N.S.) 391.

Admissibility in evidence of communications to, 67 L.R.A. 923.

Voluntariness of confessions to. 18 L.R.A. (N.S.) 853.

Liability of detective agency for acts of its employees. L.R.A.1918D, 575.

## DETENTION.

Measure of damages for detention of personalty, see DAMAGES, III. m.

Measure of damages for detention of real property, see DAMAGES, III. n.

Liability of officer for detention of person improperly arrested. 42 L.R.A. (N.S.) 73; L.R.A.1915B, 506.

Consult also L.R.A. Digests of Cases.

#### DETERMINABLE FEE.

Nature and creation. 15 L.R.A. 231. Right of curtesy in. 20 L.R.A. (N.S.) 858. Right to compensation in eminent domain of grantor in conveyance of determinable fee. 22 L.R.A.(N.S.) 1063.

#### · DETINUE.

See REPLEVIN.

#### DEVASTAVIT.

Action for, against administrator de bonis non. 40 L.R.A. 72, 73.

#### DEVELOPMENT WORK.

Duty of lessee under oil and gas lease as to development of property, see MINES, III. c, 2.

On mining claim, see MINES, §§ 16, 25.

## DEVESTITURE OF ESTATES.

Of persons not in being, see AFTERBORN CHILDREN, § 3. Constitutionality of, see CONSTITUTIONAL LAW, § 71.

## DEVIATION.

By carrier, see Carriers, § 103.

By hirer of team. 26 L.R.A. 367.

Effect of, on privilege of nonresident witness

from suit. 25 L.R.A. 737.

Right of person deviating from used part of street to recover for injury by defect or obstruction therein. 20 L.R.A.(N.S.)

Abandonment or loss of private way by deviation therefrom. 22 L.R.A. (N.S.) 883.

Conditions occasioned by war as justifying deviation of insured vessel. 5 B. R. C.

#### DEVICES.

Right of public to benefit of devices made by officer or employee. L.R.A.1917B, 1183.

#### DEVISE.

See WILLS, V.

#### DEVISEES.

In general, see WILLS, V.

As real party in interest by whom action must be brought. 64 L.R.A. 611.

Assessment on decedent's estate against. 56 L.R.A. 645.

Payment of interest by devisee of property covered by mortgage, as keeping debt alive against whole estate. 2 B. R. C.

On whom does liability of devisee for decedent's debts devolve at his own death. 39 L.R.A. (N.S.) 689.

Liability of homestead in hands of devisee for the debts of the devisor. L.R.A. 1918D, 1002.

Right to avoid sale of decedent's property to executor or administrator. L.R.A. 1918B, 30.

Ornamental articles as fixtures as between legatees, devisees, heirs, personal representatives and life tenants. 6 B. R. C.

## DEVOLUTION OF PROPERTY.

See DESCENT AND DISTRIBUTION.

#### DIAGNOSIS.

Liability of physician or surgeon for failure to diagnose fracture or dislocation. 28 L.R.A.(N.S.) 136.

### DIAGRAMS.

Use of, by counsel in arguing to jury. L.R.A.1918D, 80.

Admissibility in evidence of diagram made by expert witness testifying as to hand-writing and typewriting. L.R.A.1918D, 645.

#### DIARY.

Admissibility in evidence of entries in. 51 L.R.A. (N.S.) 813.

#### DICE.

Shakng dice for drinks, cigars, or other trivial stakes as gambling or gaming. L.R.A.1918A, 1068.

## DICTA.

Conclusiveness of prior decisions on appeal as to effect of. 34 L.R.A. 344.

Power Begin with this book on every law question.

Application of statute regulating practice of medicine to persons giving special kinds of treatment. 3 L.R.A.(N.S.) kinds of treatment. 3 L.R.A.(N.S.) 762; 24 L.R.A.(N.S.) 103; 25 L.R.A. (N.S.) 1297.

DIET.

## DILIGENCE.

As to laches, see Estoppel, §§ 18-26; Lamitation of Actions, §§ 6-12. As to negligence, see Negligence.

Presumption of, in presentation and notice of dishonor of commercial paper. 29 L.R.A. 305.

What diligence required of one to whom false statement is made. 37 L.R.A. 601.

In discovery of evidence for which bill of review is sought. 30 L.R.A.(N.S.)

In attempting to procure testimony as con-dition of right to continuance to procure witness who is beyond the jurisdiction. L.R.A.1918E, 528.

In discovering disqualification of juror asserted as ground for new trial. 50 LR.A.(N.S.) 949.

#### DIMENSIONS.

Right of witness to express opinion as to. L.R.A.1918A, 692.

#### DINING CARS.

Duty of carrier to provide separate dining cars for colored passengers. L.R.A. 1918D, 709.

#### DIP.

Right to follow beyond surface lines of mine. 53 L.R.A. 491.

## DIPLOMA.

To physician or surgeon, see Physician and SURGEON, § 11.

Mandamus to compel issuance of. 3 L.R.A. (N.S.) 1115; L.R.A.1916B, 616.

DIPLOMATIC AND CONSULAR OFFICERS.

See CONSUL.

#### DIPLOMATIC FUNCTIONS.

Power of consul to exercise. 45 L.R.A. 497.

#### DIRECT COMMAND.

Obedience of, by servant, see MASTER AND SERVANT, §§ 4, 70, 117, 126, 127.

## DIRECT CONVEYANCE.

By wife to husband, validity. 31 L.R.A. (N.S.) 844.

#### DIRECTION.

Right of witness to express opinion as to. L.R.A.1918A, 693.

#### DIRECTION OF VERDICT.

See TRIAL, §§ 56-59.

#### DIRECTNESS.

Of special verdict. 24 L.R.A.(N.S.) 54.

## DIRECTORS.

Of bank, see Banks, §§ 6-8a. Of corporation generally, see Corporations, VI.

## DIRECTORY.

Telegraph company's duty as to discovering unknown sendee whose name is in directory. 22 L.R.A.(N.S.) 764.

## DIRECTORY STATUTES.

See STATUTES, § 24.

### DISABILITY.

§ 1. In general.

Persons under, see Aliens; Guardian and Ward; Husband and Wife; Incompre-TENT PERSONS; INFANTS.

Effect of, on running of limitations, see LIM-ITATIONS OF ACTIONS, § 47.

Effect of delay in probating will where devisees are under disability. 57 L.R.A. 257.

Effect of partition deed by person under disability. 57 L.R.A. 340.

Effect of disability of one of makers of replevin bond which has served its pur- From army or navy, see ARMY AND NAVY, pose. 29 L.R.A.(N.S.) 752.

Consult also L.R.A. Digests of Cases.

DISABILITY-cont'd.

§ 2. Physical disability.
Duty of carrier in case of, see CARRIERS, §§ 39, 40.

Of insured, see INSUBANCE, § 178.

Servant's right to compensation on failure to complete performance because of, see MASTER AND SERVANT, § 26.

Care due to disabled person when no con-tract relation exists. 69 L.R.A. 513.

As excuse for failure to give notice of injury required as a condition of municipal liability. 32 L.R.A.(N.S.) 350.

Employer's agreement to pay employee during disability, or his contribution to insurance, as affecting or affected by recovery against him for personal injuries. L.R.A.1917B, 1160.

#### DISABLED PERSONS.

Carrier's duty as to, see CARRIERS, §§ 39, 49.

#### DISAFFIRMANCE.

Of antenuptial contract, see HUSBAND AND Wife, § 58.

Of contract by infant, see INFANTS, §§ 21-

Of policy on infant's life. 57 L.R.A. 504.

#### DISAGREEING JURY.

Coercion of, see TRIAL, § 72.

## DISAPPEARANCE.

Validity and effect of by-law of mutual benevolent society suspending member who disappears. L.R.A.1917A, 182.

## DISBARMENT.

Of attorney, see ATTORNEYS, §§ 4, 5.

#### DISBURSEMENT.

Maritime lien for. 70 L.R.A. 367, 383,

Amount paid substitute for services during incapacity of injured person as a 30 L.R.A.(N.S.) 738. disbursement.

#### DISCHARGE.

§ 2.

DISCHARGE—cont'd.

In bankruptcy, see BANKBUPTCY, §§ 32-36.

In insolvency, see Insolvency, § 16.

Of indorser, see BILLS AND NOTES, § 34. Of chattel mortgage, see CHATTEL MORT-GAGE, §§ 30, 31.

Of jury, see CRIMINAL LAW, § 63; TRIAL, § 74.

Of guarantor, see GUARANTY, § 9. Of judgment, see JUDGMENT, §§ 74-77.

Of lien, see LIENS, §§ 18-20.

Of employee, see MASTER AND SERVANT, §\$ 40–46.

Of mechanics' lien, see MECHANICS' LIENS, § 30.

Of mortgage, see Mortgage, §§ 52-60.

Of surety, see PRINCIPAL AND SURETY, §§ 10-18.

Of school teacher, see Schools, § 16. Grounds for discharge on habeas corpus, see Habeas Corpus, § 6.

As evidence of want of probable cause for prosecution, see Malicious Prosecu-

TION, § 7.
Liability for procuring discharge of employee, see MASTER AND SERVANT, § 47.

As affecting justification in libel or slander. 21 L.R.A. 503.

Termination of criminal prosecution by, so as to support suit for malicious prosecution. 2 L.R.A.(N.S.) 933.

Right to and proceedings for discharge after restoration to sanity of one confined after acquittal of crime because 1 L.R.A(N.S.) 547. of insanity.

From covenant in lease as to payment of taxes and assessments. L.R.A.1915A, 361.

## DISCIPLINE.

Teacher's right to enforce, see Schools, §§ 20-22.

Conclusiveness of decisions of tribunals of associations or corporations on questions of. 49 L.R.A. 354.

Master's liability for assault by superior on inferior servant in way of discipline. 8 L.R.A.(N.S.) 798.

## \*\*\* DISCLOSURE.

Promotor's duty to make disclosure to corporation. 18 L.R.A.(N.S.) 1107. Validity of agreement for disclosure of information. 30 L.R.A.(N.S.) 279.

#### DISCONTINUANCE.

Of action or suit, see DISMISSAL AND DIS-CONTINUANCE.

Of highway, see HIGHWAYS, §§ 109-113. Injunction against discontinuance of service by corporation, see Injunction, § 35

Begin with this book on every law question.

DISCONTINUANCE—cont'd.

Enforcing payment for water by discontinuing service, see WATERS, § 117.

Right of street railway company to discontinue line in absence of statutory or contractual provision to contrary. 19 L.R.A.(N.S.) 866.

Right of public service corporation to discontinue service after tender of amount due. L.R.A.1917C, 376.

#### DISCOUNT.

By bank, see BANKS, § 37a. Liability of stockholders on stock issued at a discount, see Corporations, § 105.

Purchase of paper at discount as usury, see USURY, § 8a.

For prompt payment of tax against national bank. 45 L.R.A. 756.

Right of one paying invalid tax for purpose of obtaining discount to recover amount paid. 28 L.R.A. (N.S.) 1045.

Effect of discounting note taken in payment of debt. 35 L.R.A.(N.S.) 41.

Effect of provision for, if payment is made at certain time. 46 L.R.A.(N.S.) 900. Effect on negotiability of note of provision for discount in event of payment before maturity. 40 L.R.A. (N.S.) 177; L.R.A. 1915E, 5**64.** 

#### DISCOVERED DANGER.

As to doctrine of last clear chance generally, see NEGLIGENCE, §§ 50-52.

Duty of railroad company after discovering child in danger on track. 32 L.R.A. (N.S.) 569.

Frightened horse on highway parallel with railroad or a street railway. 33 L.R.A. (N.S.) 129.

#### DISCOVERTURE.

Effect of new promise after, see HUSBAND AND WIFE, § 19.

## DISCOVERY AND INSPECTION.

\$ 1. Generally.

Discovery of mining claim, see MINES, § 14.

Right of public to benefit of discoveries made by officer or employee. L.R.A. 1917B, 1183.

Discovery of mining claim. 7 L.R.A. (N.S.) 819.

Duty of property owner to discover trespassing child. 32 L.R.A.(N.S.) 565.

Reports to corporation by agents as privileged communications. 6 L.R.A. (N.S.) **325**.

DISCOVERY AND INSPECTION—cont'd. § 2. Bill of discovery generally.

Injunction on bill of discovery, to aid defense. 32 L.R.A. 325.

Order to enter premises for examination. 31 L.R.A. 169.

As affected by constitutional provision against self-crimination. 29 L.R.A. 811.

Right to discovery by bill where the statutes provide for the examination of the party before trial. 24 L.R.A. 183.

Right to compel production of sealed packet, or articles not of a documentary character, upon subpœna duces tecum. 3 B. R. C. 219.

Right to, where demand for autopsy stipulated for in accident insurance policy is refused. L.R.A.1915D, 1203.

Right to compel publisher of libel to disclose source of information. 12 L.R.A. (N.S.) 636.

Right under statute to an order for the examination of an adverse party to enable one to frame his pleadings. L.R.A. 1918C, 590.

Power of court to require owner of premises or property to permit inspection in negligence cases. L.R.A.1917E, 838.

Conditions precedent to bill by creditors for discovery of assets. 23 L.R.A. (N.S.) 120.

Personal liability of arbitrator to costs on. 42 L.R.A. (N.S.) 280.

## § 3. Production or inspection of docu-

Right of party producing documents upon notice, to use and control their use as evidence. 15 L.R.A. 138.

Right to require production of books and papers for inspection before trial, under U. S. Rev. Stat. § 724 (U. S. Comp. Stat. 1901, p. 583). 10 L.R.A. (N.S.) 99.

Effect of calling for and inspecting document to make it admissible in evidence.

33 L.R.A. (N.S.) 552.

Power to compel the production of corporate books to aid in assessing holder of stock of his estate. 8 L.R.A.(N.S.) 788.

Refusal to produce books or papers in response to subpœna upon ground that they contain private matter. 29 L.R.A. (N.S.) 716.

Right to review order granting or denying motion for inspection of books or papers apart from appeal from final judgment. 28 L.R.A.(N.S.) 516.

Denial of relation of attorney as affecting right to summary order on attorney to produce papers. 38 L.R.A.(N.S.) 207.

Loss or destruction of books, inventory, etc., as excusing their production as required by policy. 28 L.R.A.(N.S.) 337.

Requiring attorney to produce documents belonging to client as violation of privilege. 48 L.R.A.(N.S.) 334.

Consult also L.R.A. Digests of Cases.

DISCOVERY AND INSPECTION—cont'd. § 4. Inspection of books, papers, and records generally.

Right to inspect books generally, see Books,

Right to inspect corporate books, see Corporations, § 99.

Right of taxpayer to inspect books of municipality, see MUNICIPAL CORPORATIONS, § 2.

Right to inspect public records, see Records and Recording Laws, § 2.

Right to inspect records of title, see Rec-ORDS AND RECORDING LAWS, § 13.

Right of policy holder to inspect books of insurance company. 11 L.R.A.(N.S.) 1089.

Power of commission to compel production of papers and records for inspection. L.R.A.1917F, 1202.

May right of partner to inspect books of firm be delegated to an agent. 2 B. R. C. 976.

Inspection as rendering admissible paper or document called for in favor of producer. 33 L.R.A. (N.S.) 553.

Right, for purposes of cross-examination, to inspect paper used by witness to refresh recollection. 22 L.R.A.(N.S.) 706.

Duty to produce books or papers, pursuant to subpœna duces tecum or order of court as affected by their location or control, or by considerations of convenience or inconvenience. L.R.A.1915B, 980.

Right of bank officer or employee to refuse to disclose state of depositor's account. L.R.A.1915D, 1061.

Right of corporation, corporate officer, or other person having custody of its books and papers, to refuse to produce them on the ground that they may tend to incriminate. 47 L.R.A.(N.S.) 1175.

Requiring attorney to produce papers belonging to client as violation of privilege. 48 L.R.A.(N.S.) 334.

# § 5. Physical examination. Inspection in court, see EVIDENCE, VI.

Duty of injured employee seeking compensation under Workmen's Compensation Act to submit to examination. L.R.A.1917D, 174.

Power to compel plaintiff to submit to a physical examination. 14 L.R.A. 466; 23 L.R.A. (N.S.) 463; L.R.A.1915E, 936.

Waiver of right to object to physical examination or exhibition of person. 2 L.R.A.(N.S.) 386.

Right to compel public employee to submit to physical examination to determine fitness. 33 L.R.A.(N.S.) 359.

When does a refusal of an order for physical examination amount to an abuse of discretion. 15 L.R.A.(N.S.) 663.

Does authority for physical examination of

Does authority for physical examination of a plaintiff in an action for personal injuries include X-ray examination. 41 L.R.A.(N.S.) 1071. DISCOVERY AND INSPECTION—cont'd. Measure of compensation to physician employed to examine and report on physical condition of one who contemplates bringing action for personal injuries. 25 L.R.A.(N.S.) 70.

Cross-examination of plaintiff in action for personal injuries as to his willingness to submit to physical examination. 43 L.R.A.(N.S.) 622.

Admissibility against one spouse of evidence of facts revealed by physical examination of other spouse who would be an incompetent witness. 49 L.R.A.(N.S.)

§ 6. Inspection to discover defects. Carrier's duty as to inspecting cars, see CARRIERS, § 137. Master's duty of inspection, see MASTER

AND SERVANT, §§ 98-102.

Inspection of chattels sold, see SALE, § 38.

Of passenger elevator. 2 L.R.A. (N.S.) 749; L.R.A.1915E, 726.

Duty of gas company as to inspection of existing equipment to prevent escape or explosion of gas. 32 L.R.A. (N.S.) 810; L.R.A.1915E, 1023.

Street railway company's duty to inspect track and street for defects. 52 L.R.A.

Duty of municipality to inspect streets to discover defects and obstructions. 20 L.R.A.(N.S.) 725.

Permitting of unauthorized inspection by carrier as a conversion. 3 L.R.A. (N.S.) 1136.

Is fraudulent representation by vendor of extent or proportion of land of particular kind included within tract sold, actionable where purchaser inspects the land. 30 L.R.A. (N.S.) 55.

Validity of state inspection laws as applied to commodities in interstate commerce. L.R.A.1916D, 196.

#### 7. — of electric wires.

Duty of municipality to inspect electric wires. 2 L.R.A.(N.S.) 475.

Duty to inspect electric wires over highway. 22 L.R.A.(N.S.) 1172.

Duty to inspect wires strung along highway. 1 B. R. C. 799.

## § 8. — shipper's duty to inspect car. Shipper's duty to inspect car. 17 L.R.A. (N.S.) 1034.

Validity of provision in carrier's contract imposing responsibility of inspecting cars on shipper. 36 L.R.A. (N.S.) 412.

## § 9. — of grain or meat.

Delegation by legislature to railroad commission of power as to inspection of grain. 32 L.R.A. (N.S.) 652.

Validity of state statute regulating inspection of meat which is subject of interstate commerce. 27 L.R.A.(N.S.)

#### DISCOVERY WORK.

In mine, see MINES, §§ 16, 25.

#### DISCREDITING.

Of witness, see Witnesses, §§ 42, 43.

## DISCRETION. '

 In general, §§ 1-6. II. Of court or judge, §§ 7-11.

#### I. In general.

1. Generally.

As to number of liquor licenses, see INTOX-ICATING LIQUORS, § 13.

Discretion to refuse license for bank upon general considerations of public policy.

L.R.A. 1917D, 316.
As to amount of license fees. 30 L.R.A. 439.

Validity of ordinance granting discretion to officials. 1 L.R.A.(N.S.) 940.

In choosing between bidders for public con-

tract. 38 L.R.A. (N.S.) 653.

Personal liability of highway officers in matters of discretion. 22 L.R.A. 827; 52 L.R.A.(N.S.) 145.

Character and extent of relief by mandamus against officer of, who has rendered a decision on grounds not within his discretion. 7 L.R.A.(N.S.) 525.

Right of court to control discretion vested by will in one person to determine whether or when another is fit to receive a legacy or devise. 25 L.R.A. (N.S.) 421.

presidential electors in voting. L.R.A. (N.S.) 283.

Of school authorities as to excluding, pending, or expelling pupils. 50 L.R.A. (N.S.) 267.

### § 2. Of trustee.

Equitable control of discretion vested in trustee. 8 L.R.A.(N.S.) 398.

Application of child's property to his support where trustees have discretion. 57 L.R.A. 734.

Of trustee in deed of trust to bring foreclosure suit. 16 L.R.A.(N.S.) 1006.

## § 3. Of public prosecutor.

Scope of discretion of public prosecutor with respect to institution of proceedings in nature of quo warranto. 15 L.R.A.(N.S.) 603.

## § 4. Of military.

Of military when called to aid civil power. 65 L.R.A. 198.

## § 5. Of legislature.

Of legislature to prescribe rules of apportionment of assessment for public improvements. 28 L.R.A. (N.S.) 1158.

Begin with this book on every law question.

DISCRETION, L.-cont'd.

§ 6. In eminent domain.

To take less than might be taken in condemnation proceedings. 26 L.R.A. 751.

As to necessity for acquisition of water supply by right of eminent domain. 58 L.R.A. 249.

Review of exercise of discretion as to amount of land taken by eminent domain. 11 L.R.A.(N.S.) 943.

#### II. Of court or judge.

§ 7. Generally.

Abuse of, see APPEAL AND ERROR, § 29.

Superintending control over discretion of lower court. 20 L.R.A.(N.S.) 949.

Mandamus to control discretion of judge as to change of venue. L.R.A.1917F, 915.

Discretion of court as to penalty to be imposed upon a corporation for violation of law. L.R.A.1915A, 892.

requiring bond from guardian. L.R.A. 763.

As to extent of punishment. 563; L.R.A.1915C, 560.

Discretion as to penalty as ground for admitting to bail in case of crime punishable by death. 39 L.R.A. (N.S.) 771.

As to submission of issue of insanity in criminal case. 38 L.R.A. 581.

As to specific performance of contract for sale of realty or personalty within statute of frauds. 28 L.R.A.(N.S.)

Limitation of time for argument of counsel for accused as abuse of discretion. 25 L.R.A.(N.S.) 1027.

As to granting leave to file bill of review for newly discovered evidence. L.R.A.(N.S.) 1031.

When refusal of order for physical examination amounts to abuse of discretion. 15 L.R.A. (N.S.) 663.

As to person adjudged to pay cost of re-ceivership where final judgment is against party procuring receivership. 25 L.R.A. (N.S.) 418.

§ 8. As to taking jurisdiction.

As to exercising equity jurisdiction over suits affecting real property in another state or country. 69 L.R.A. 678.

To decline jurisdiction over foreign corporation. 70 L.R.A. 538.

§ 9. As to granting or refusing injunction.

To suspend injunction pending appeal. 38 L.R.A. (N.S.) 442.

As to granting of injunction against nui-sance. 31 L.R.A.(N.S.) 884; L.R.A. 1916C, 1269.

§ 10. As to evidence or view. 35 As to use of photograph as evidence. L.R.A. 805; 51 L.R.A. (N.S.) 848. As to view by jury. 42 L.R.A. 372. Consult also L.R.A. Digests of Cases. 27

DISCRETION, II.—cont'd.

§ 11. As to separation of jury. In capital case. 24 L.R.A. (N.S.) 778.

In criminal cases other than capital after finding but before rendition of verdict. 31 L.R.A. (N.S.) 1005.

#### DISCRIMINATION.

1. Generally

Unconstitutionality of, generally, see Con-STITUTIONAL LAW, IX. b. As to granting liquor license, see Intoxi-

CATING LIQUORS, § 14.

In license fee, see LICENSE, §§ 46, 46a.

In annexation to, or extension of, city boundaries, see MUNICIPAL CORPORA-TIONS, § 12.

Power of municipality as to, see MUNICIPAL Corporations, § 17.

In municipal contract, see MUNICIPAL COR-POBATIONS, § 54.

Against colored children, see Schools, § 7. In taxation, see Taxes, §§ 8-12, 39, 93, 94. As to privileges to wharf, see WHARVES, §

In abatement of nuisance by municipality. 36 L.R.A. 608.

In requiring payment of compulsory pilotage fees. 39 L.R.A. 181.

In primary election laws. 41 L.R.A. (N.S.) 138; L.R.A.1917A, 268.

By landlord as to persons who shall use premises, as an eviction. 27 L.R.A. (N.S.) 637.

In interest rates. 2 L.R.A.(N.S.) 813.

In regulation of draymen. 45 L.R.A. (N.S.)

Effect of discrimination among insurants upon the contract of insurance and its 35 L.R.A.(N.S.) 485; 49 incidents. L.R.A. (N.S.) 147.

Law determining validity of discrimination between residents and nonresidents in assignment for creditors or insolvency or bankruptcy proceedings. 65 L.R.A. 354, 368.

Agreement made at inception of insurance policy with respect to payment of premiums as discrimination or rebate.

L.R.A.1918D, 194.
Libel or slander by charge of favoritism
against public officer or candidate. L.R.A.1918E, 35.

2. By public service corporation. Unconstitutionality of, generally, see Constitutional Law, IX. b.

By carrier, see CARRIERS, §§ 150-153, 159. Between express companies, see Express COMPANIES, § 2.

In telephone rates, see TELEPHONES, § 6. In water rates, see WATERS, § 122.

By public service corporation by requiring payment of rental in advance. 31 L.R.A.(N.S.) 315.

Right of water or light company to discriminate between consumers as to rate. 61 L.R.A. 113; 27 L.R.A.(N.S.) 674; L.R.A.1915D, 1086.

#### DISEASE.

Of animals, see Animals, § 17.

Contagious diseases, CONTAGIOUS see DISEASES.

Opinion evidence as to cause of, see Evi-DENCE, § 187b.

Protection against, see HEALTH, §§ 6-10. Representations and warranties by insured

as to, see INSURANCE, §§ 93, 94, 96. Municipal liability for spread of, see Mu-NICIPAL CORPORATIONS, § 76.

Distinguished from accident. 30 L.R.A. 209.

As defense for breach of promise to marry. 15 L.R.A. 531. Condonation of loathsome disease as de-

fense to action for divorce. 5 L.R.A. (N.S.) 729.

affecting testamentary capacity. L.R.A.(N.S.) 30; L.R.A.1915A, 450.

Effect of, to create irresistible impulse. 18 L.R.A. 228.

Effect of previous disease of person injured

on liability for causing injuries. 16 L.R.A. 268; 48 L.R.A. (N.S.) 119. Allowance for aggravation of existing disease in fixing damages for death. 17 L.R.A. 71.

Effect on criminal responsibility for death of disease intervening or concurring to cause death. 51 L.R.A.(N.S.) 877.

Recovery for, under workmen's compensa-tion act. L.R.A.1916A, 106, 289; L.R.A. 1917D, 113.

Effect on recovery under Workmen's Com-pensation Act of fact that pre-existing disease contributed to or prolonged the incapacity of the injured workman. L.R.A.1917D, 110.

Mental anguish because of exposure to, as element of recovery in telegraph cases. 49 L.R.A.(N.S.) 238.

Previous diseased condition as affecting liability under insurance policy for death or injury from accident. 52 L.R.A. (N.S.) 1203.

Liability under accident policy excepting or limiting liability for loss resulting from disease where diseased condition results from accident. 6 B. R. C. 530.

## DISFIGUREMENT.

Mental suffering arising from contempla-tion of, as element of damage for per-sonal injuries. 15 L.R.A.(N.S.) 775; L.R.A.1916E, 898.

## DISFRANCHISEMENT.

Of voters, see ELECTIONS, § 7.

## DISHERISON.

See WILLS, § 68. Begin with this book on every law question.

#### DISHONOR.

Of check, see BANKS, § 26.

Of note transferred after maturity, effect of, as to interest, instalments, or part of series. 46 L.R.A. 799.

## DISINHERITANCE.

See WILLS, § 68.

#### DISINTERMENT.

See CORPSE, § 5.

## DISJUNCTIVE ALLEGATIONS.

Use of disjunctive "or" in indictment charging kind or quality of liquor sold. 51 L.R.A.(N.S.) 133.

#### DISLOCATION.

Liability of physician for failure to diagnose. 28 L.R.A.(N.S.) 136.

## DISLOYALTY.

Libel or slander by imputing sedition or disloyalty. L.R.A.1917D, 861.

Prosecutions under the Espionage Act of June 15, 1917, for encouraging. L.R.A. 1918F, 410.

#### DISMISSAL AND DISCONTINU-ANCE.

1. Generally.

Of appeal, see APPEAL AND ERROR, § 25. Discontinuance of eminent domain proceedings, see Eminent Domain, § 30.

As to nonsuit or direction of verdict, see TRIAL, §§ 56-59.

Liability on replevin bond where suit is dismissed or discontinued without a judgment for the return of the property. L.R.A.1917A, 1191.

Pendency of dismissed suit as bar to action in other court. 42 L.R.A. 459.

Ot pending litigation as affording consideration for a compromise. 25 L.R.A. (N.S.) 299.

Discontinuance of proceedings by manda-mus to restore to office one who has been illegally removed. 19 L.R.A. (N.S.) 83.

Of suit to defeat attorney's lien or claims to compensation. 5 L.R.A.(N.S.) 390.

Duty of court, in absence of objection by defendant, to dismiss suit for divorce not brought within time allowed by statuteafter cause given. 26 L.R.A.(N.S.) 490.

DISMISSAL AND DISCONTINUANCEcont'd.

Effect on suit of discharge from arrest of one arrested while attending court. 19 L.R.A. 560.

Jurisdiction of court to enter final judgment upon dismissal or nonsuit. 26 L.R.A.(N.S.) 914.

2. Voluntary.

Right of appellant to dismiss appeal or writ of error. L.R.A.1917A, 113.

Effect of appeal or right of appeal upon plaintiff's right to dismiss action. L.R.A1917C, 133.

By plaintiff, bringing suit for all similarly situated. 46 L.R.A. 839.

Injunction against judgment obtained by fraudulent agreement to dismiss. L.R.A. 788.

Power of court to protect attorney who has taken case on contingent fee, against voluntary dismissal by claimant without his consent. 14 L.R.A. (N.S.) 1095.

Right to dismiss or withdraw proceedings to probate or contest a will or issues thereunder. 19 L.R.A.(N.S.) 121.

Right of condemning party to dismiss con-demnation proceedings after award or verdict and before confirmation or judgment. 28 L.R.A.(N.S.) 91.

Right to dismiss proceeding in nature of writ inquirendo de lunatico. 51 L.R.A. (N.S.) 1191.

§ 3. Of party.

As to one joint tort feasor, effect on liability of others. 58 L.R.A. 303.

4. Of criminal prosecution.

Power of public prosecutor to dismiss prosccution. 35 L.R.A. 701.
Power to recall dismissal of prosecution.

35 L.R.A. 716.

Necessity of consent of court to entry of nolle prosequi in a criminal case. L.R.A. (N.S.) 1123.

5. Power of attorney as to. Power of attorney to discontinue suit. L.R.A.(N.S.) 244.

Right of attorney to enter retraxit. L.R.A. (N.S.) 1313.

§ 6. Judgment of dismissal.

Conclusiveness of judgment of dismissal see JUDGMENT, § 31a.

Collateral attack for fraud not affecting jurisdiction on judgment L.R.A. (N.S.) 984. of.

Possibility of appeal from dismissal of garnishment or attachment as affecting right to withhold property from debtor. L.R.A.1917B, 591.

## DISOBEDIENCE.

§ 1. Generally. As a contempt, see Contempt, §§ 8, 9. Of orders, see Motions and Orders, § 4. Consult also L.R.A. Digests of Cases. DISOBEDIENCE—cont'd.

Of physician's orders as affecting remedy of injured person against the person injuring him. 49 L.R.A. 827.

Power to punish disobedience to orders in case by striking out pleadings. 4 L.R.A.(N.S.) 1185; 27 L.R.A.(N.S.) 1062.

§ 2. By servant.

Disobedience of rules as contributory negligence, see Master and Servant, \$ 125.

Master's liability to third person for acts of servant while disobeying orders, see MASTER AND SERVANT, § 184.

Discharge of employee for disobedience of regulations. 37 L.R.A.(N.S.) 950. Disobedience of orders as incompetency

within rule as to master's duty to furnish competent fellow servants. L.R.A. (N.S.) 109.

#### DISORDERLY CONDUCT.

Eavesdropping, see Eavesdropping.

Sufficiency of tender of fare accompanied by disorderly conduct to prevent ejection. 31 L.R.A.(N.S.) 994.

What constitutes within meaning of liquor dealer's bond. L.R.A.1916E, 273.

## DISORDERLY HOUSES.

§ 1. In general.

Injunction against, see Injunction, § 28a. License of, see LICENSE, § 24.

Several offenses growing out of same facts. 31 L.R.A. (N.S.) 707.

Municipal regulation of nuisance of. L.R.A. 521.

Sale of goods to keeper or inmate of house of ill fame. L.R.A.1917B, 1168.

Insurance on bawdyhouse or furniture therein. 18 L.R.A. (N.S.) 214; L.R.A. 1917B, 257.

Husband or wife as witnesses against the other in prosecution for keeping. L.R.A. 1917E, 1133.

Evidence of character of defendant and inmates in prosecution for keeping. 20 L.R.A. 610.

Slander in charging one with keeping. L.R.A. (N.S.) 603; 48 L.R.A. (N.S.) 616.

Defamation of occupants of house by imputing to it a disorderly character. 48 L.R.A.(N.S.) 256.

Criminal responsibility of lessor of dis-orderly house. 44 L.R.A.(N.S.) 859.

Necessity of corroborating evidence as to reputation of house to support a conviction for keeping disorderly house. 46 L.R.A.(N.S.) 593.

Validity of statute making repute of house prima facie proof of character. L.R.A. 1915C, 734.

DISORDERLY HOUSES—cont'd. Forfeiture of property found in bawdyhouse.

52 L.R.A.(N.S.) 932.

§ 2. What are.

Usurious loan office as. 24 L.R.A. (N.S.) 507,

§ 3. Suppression of.

Validity of statutes or ordinances against bawdyhouses. L.R.A.1917B, 1078.

Abatement of or injunction against bawdy-house. L.R.A.1918D, 819.

By owner or occupant of neighboring property. 11 L.R.A.(N.S.) 1060; 42 L.R.A.(N.S.) 1041; L.R.A. 1918D, 819.

§ 4. Punishment for keeping.

Cruel and unusual punishment for keeping. 35 L.R.A. 571; L.R.A.1916C, 566.

#### DISORDERLY LANGUAGE.

As disturbance of public peace. 32 L.R.A. (N.S.) 505; L.R.A.1918F, 941.

#### DISORDERLY PERSONS.

Power of municipality as well as state to punish. 17 L.R.A. (N.S.) 52.

Fortune tellers as. 43 L.R.A.(N.S.) 203. Bringing wife in contact with prostitutes as ground for divorce. 43 L.R.A. (N.S.) 964.

Right of innkeeper to refuse to accept as guests. 52 L.R.A.(N.S.) 744.

Arrest without warrant of women soliciting or accosting men. L.R.A.1917D, 697.

Statute or ordinance making it an offense to associate with direputable persons. L.R.A.1917F, 904.

#### DISPENSARIES.

Validity of quasi prohibitory laws known as "dispensary acts." 15 L.R.A.(N.S.) 946.

Right of municipal corporation to operate liquor dispensary. 31 L.R.A.(N.S.) 117.

#### DISPOSITION.

Misrepresentation as to, as ground for annulment of marriage. 30 L.R.A.(N.S.) 301.

#### DISPUTE.

Submission of, to arbitration, see ARBITRA-

Begin with this book on every law question.

DISPUTE—cont'd. Validity of regulations requiring passenger to pay fare in case of. 2 L.R.A. to pay fare in case of. (N.S.) 695.

## DISPUTED CLAIMS.

Accord and satisfaction by part payment of. 20 L.R.A. 795.

Discontinuing service to compel payment of disputed water bills. 31 L.R.A. (N.S.) 302.

#### DISQUALIFICATION.

Of judge, see Judges, §§ 3, 4. Of juror, see JURY, III. b.

Of one employed as attorney in other proceedings to serve as commissioner or juror in eminent domain proceedings. 47 L.R.A.(N.S.) 169.

Effect on public election of wrongful dis-qualification of sufficient number of voters to have changed the result. 38 L.R.A.(N.S.) 1007.

#### DISSATISFACTION.

See SATISFACTION.

#### DISSEISIN.

See Adverse Possession; Ejectment, \$ 6.

## DISSENSION.

Dissension in management of corporation as ground for appointment of receiver. L.R.A.1918D, 229

#### DISSOLUTION.

Of attachment, see ATTACHMENT, § 18.

Of benefit association, see BENEVOLENT So-CIETIES, § 5.

Of club, see Clubs, § 3.
Of corporation, see Corporations, IX.

Of insurance company, see Insurance, §§ 9, 10.

Of partnership, see Partnership, §§ 29-

Of injunction, see Injunction, § 88.

#### DISTANCE.

Proximate cause of damage from fire as affected by. 42 L.R.A.(N.S.) 759.

DISTANCE—cont'd.
Right of witness to express opinion as to.
L.R.A.1918A, 695.

#### DISTILLED LIQUORS.

Sufficiency of delivery of distilled liquors sold out of larger lot. 26 L.R.A.(N.S.) 36.

### DISTILLERS.

Effect of insertion of unauthorized provisions in bond of. L.R.A.1917B, 990.

#### DISTINGUISHING MARK.

On ballot, see Elections, § 21.

#### DISTRAINT.

For rent, see Landlord and Tenant, \$\$ 91-93.

#### DISTRESS.

For rent, see LANDLORD AND TENANT, §§ 9:-93.

Use of distress warrant to enforce payment of compensation for use of property other than land. 11 L.R.A.(N.S.) 836.

#### DISTRIBUTION.

In general, see Descent and Distribution; EXECUTORS AND ADMINISTRATORS.

Of assets of insolvent insurance company. 38 L.R.A. 97.

## DISTRICT AND PROSECUTING ATTORNEY.

§ 1. Generally.

Argument or comment as ground for reversal, see APPEAL AND EBBOR, § 37.

Argument of, generally, see TRIAL, §§ 15,

Reference to witnesses by, see WITNESSES, § 8.

Liability for false arrest or imprisonment, see False Imprisonment, § 7a.

Right of prosecutrix in bastardy proceedings to private counsel. 33 L.R.A. (N.S.) 463.

Delay of prosecution due to neglect to provide prosecuting attorney as ground for discharge of accused. 36 L.R.A. 528. Consult also L.R.A. Digests of Cases.

DISTRICT AND PROSECUTING ATTORNEY—cont'd.

Does privilege as to communication or information acquired by physican extend to physician employed by. 16 L.R.A. (N.S.) 886; L.R.A.1915F, 892.

Advice of, as defense to action for malicious prosecution. 18 L.R.A. (N.S.) 71.

Improper influence or interference with grand jury by. 28 L.R.A. 368.

Right of prosecuting attorney to compensation from individual. 39 L.R.A. (N.S.)

Right to represent individuals having an interest adverse to or dissociated from the public interest. L.R.A.1918F, 832. Liability to action for malicious prosecu-

tion. L.R.A.1917F, 699.

§ 2. Who may act as, or assist.

Eligibility of women to office of prosecuting attorney. 27 L.R.A. (N.S.) 532.

Extent of restriction on right of unlicensed person to act as, or assist, prosecuting attorney. 24 L.R.A.(N.S.) 753.

Extent of restriction on right of disbarred or suspended attorney to act as prosecuting attorney. 24 L.R.A.(N.S.) 756. Right of accused to complain because prosecution is conducted or assisted by un-

cution is conducted or assisted by unofficial member of bar. 24 L.R.A. (N.S.) 564; 47 L.R.A.(N.S.) 1106.

§ 3. Powers of.

Power to dismiss criminal prosecution, see CRIMINAL LAW, § 40.

Power to grant immunity to witness. L.R.A. 1918A, 376.

Scope of discretion of, with respect to institution of proceedings in nature of quo warranto. 15 L.R.A.(N.S.) 603. Quo warranto by as matter of right. 1

L.R.A. (N.S.) 826.

§ 4. As witness. See Witnesses, § 16.

§ 5. Confession to, or induced by. Voluntariness of confession elicited by questions from. 18 L.R.A.(N.S.) 801. Voluntariness of confessions to. 18 L.R.A. (N.S.) 849.

## DISTRICT COURTS.

Jurisdiction of civil actions against consul. 45 L.R.A. 581.

#### DISTRICT MESSENGER.

Duty and liability for conduct of. 2 L.R.A. (N.S.) 1091.
Liability for personal injury caused by. L.R.A.1918D, 360.

## DISTRICT OF COLUMBIA.

Citizenship in, as affecting jurisdiction of Federal court on ground of diverse citizenship. 1 L.R.A. 108.

#### DISTRICTS.

School districts, see Schools, §§ 27, 28.

#### DISTURBING MEETING. .

Character of meeting essential to the of-fense of disturbing a meeting. 30 L.R.A.(N.S.) 829; 45 L.R.A.(N.S.) 108. Cruel and unusual punishment for. L.R.A. 1915C, 570.

Injunction to prevent disturbance of religious worship. L.R.A.1917D, 996.

#### DISTURBING PUBLIC PEACE.

Disorderly language as disturbance of public peace. 32 L.R.A. (N.S.) 505.

#### DITCH.

For drainage purposes, see DRAINS AND SEWERS.

For irrigation, see WATERS, § 92.

When does statute of limitations commence to run against action for damages caused by seepage from ditch. L.R.A.(N.S.) 795.

Duty as to establishment and maintenance of bridges over ditches for use of adjoining owners. L.R.A.1915E, 687.

\*\*\*

## DIVERSE CITIZENSHIP.

As ground for Federal jurisdiction, see COURTS, §§ 42, 43.

Removal of cause to Federal court because of, see REMOVAL OF CAUSES, §§ 7-9.

## DIVERSION.

Of accommodation paper, see BILLS AND NOTES, § 74.

From purpose for which property was dedicated, see DEDICATION, § 8.

Of water, see WATERS, §§ 51, 52, 64, 70, 76.

Of property donated for public library to other uses. 45 L.R.A.(N.S.) 368.

Right of labor union to divert trade from one with whom it is in controversy. 1 B. R. C. 245.

Right of taxpayer in absence of statute to enjoin diversion of funds by municipality. 36 L.R.A.(N.S.) 8.

Right of shipper to demand a redelivery or to divert the property at an intermediate point. L.R.A.1918B, 79.

Begin with this book on every law question.

#### DIVESTITURE OF ESTATES.

See DEVESTITUBE OF ESTATES.

#### DIVIDED COURT.

Conclusiveness on subsequent appeals of prior decisions by. 34 L.R.A. 346.

#### DIVIDENDS.

Apportionment of, see Apportionment, § 2. Of stock, see CORPORATIONS, §§ 100-102. On insurance policy, see INSURANCE, § 40.

Interest on dividend declared by receiver. L.R.A.1917D, 1167.

Representations or estimate of insurance company as to. L.R.A.1918F, 343.

#### DIVISIBILITY.

Of contract, see Contracts, § 62. Of insurance, see INSURANCE, §§ 61, 62.

#### DIVISION.

Of municipality, see MUNICIPAL CORPORA-TIONS, § 13.

Of religious society, see RELIGIOUS SOCIETY,

Of water rights, see WATERS, § 35.

## DIVISION FENCE.

See Fences, §§ 2, 3.

#### DIVORCE AND SEPARATION.

I. In general, §§ 1-3.

II. Suit for divorce, and jurisdiction thereof, \$\$ 4-19.

a. In general, §§ 4-6.b. Jurisdiction, §§ 7-12.

c. Decree of divorce, §§ 13-19.

 In general, § 13.
 Validity, effect, and conclusiveness, §§ 14, 15. 3. Attack upon, §§ 16-19.

III. Grounds, \$\$ 20-29.

IV. Defenses; collusion; condonation; recrimination, \$\$ 30-33.
V. Alimony; counsel fees, \$\$ 34-49.
a. In general, \$\$ 34-40a.

b. Independent suit for, \$\$ 41, 42.

c. Remedies; enforcement, §§ 42a-45.

d. Modification; termination of right, \$\$ 45a-48. e. Lien for, \$ 49.

DIVORCE AND SEPARATION—cont'd. VI. Effect on property rights, §\$ 50-

VII. Custody and support of children, \$\$ 55-57.

**▼III.** Agreements relating to divorce or separation, \$ 58.

#### I. In general,

1. Generally.

Conflict of laws as to, see CONFLICT OF Laws, § 14. ·

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 68.

Presumption and burden of proof as to, see EVIDENCE, § 29.

Liability for causing separation, see Hus-BAND AND WIFE, §§ 66, 67.
As to remarriage after divorce, see MAR-

RIAGE, §§ 12, 15.

As to annulment of marriage, see MAR-RIAGE, §§ 16-20.

Liability of husband for necessaries fur-nished wife while living apart from him, pending suit for divorce. L.R.A. 1917A, 966.

Divorce or separation as affecting action for alienation of affections or criminal conversation. 46 L.R.A. (N.S.) 1084.

Effect of divorce or separation on domicil of children. 49 L.R.A. (N.S.) 864.

Status of child begotten after divorce between parents. 51 L.R.A. (N.S.) 308.

Devises or bequests conditioned upon divorce or separation, or limited upon its continuance. 49 L.R.A. (N.S.) 637.

Maxim raising implied exception in statutes as to divorce. 25 L.R.A. 565.

Validity of agreement to marry on divorce of present husband or wife. 52 L.R.A.

660; 1 B. R. C. 919.
Validity of divorce according to Indian custom. 35 L.R.A. (N.S.) 795; L.R.A. 1917D, 574.

Divorced wife as a "dependent" within re-strictions as to beneficiaries of mutual benefit associations. 2 L.R.A.(N.S.)

Belief that divorce from former spouse has been obtained as defense to prosecution for bigamy. 27 L.R.A. (N.S.) 1102.

Seduction of divorced woman. 21 L.R.A. (N.S.) 265; L.R.A.1916D, 458.

🖁 2. Presumption as to. See EVIDENCE, § 29.

 3. Legislative divorce. Validity of. 18 L.R.A. 95.

II. Suit for divorce, and jurisdiction thereof.

## a. In general.

§ 4. Gen**era**lly.

Sufficiency of allegations, see PLEADING, § 32.

Consult also L.R.A. Digests of Cases.

DIVORCE AND SEPARATION, II. acont'd.

May original petition or complaint which states no cause of action be aided by supplemental pleading. L.R.A.19161),

Actions on behalf of insane persons. 34 L.R.A. 166.

Right to join prayer for return of plaintiff's property with prayer for divorce. 29 L.R.A. (N.S.) 819.

Necessity of corroboration of admission or testimony of party to divorce in relation to his or her mental suffering, intent, or other state of mind. 25 L.R.A. (N.S.) 45.

Duty of court, in absence of objection by defendant, to dismiss suit for divorce because not brought within the time allowed by statute after cause given. 26 L.R.A.(N.S.) 490.

Pendency of suit for divorce or separation as bar to another suit in same state.

40 L.R.A.(N.S.) 83.

§ 5. Actions in different jurisdictions. Suits for same cause in different jurisdictions. 59 L.R.A. 187.

Injunction against divorce suit in other state. 21 L.R.A. 75.

§ 6. Compromise of suit.

Validity of contract between husband and wife to compromise pending or contemplated divorce suit. 60 L.R.A. 406.

#### b. Jurisdiction.

§ 7. Generally.

Jurisdiction in equity, see Equity, § 12. To annul marriage, see MARRIAGE, § 17.

Jurisdiction of chancery to decree nullity or dissolution of marriage. 25 L.R.A. 800.

Jurisdiction to award temporary alimony, suit money, and counsel fees, pending appeal in divorce suit. 27 L.R.A. (N.S.) 712.

Jurisdiction to award custody of child temporarily within state, but domiciled elsewhere. 10 L.R.A. (N.S.) 690.

8. Domicil or residence as affecting. Domicil as basis of jurisdiction of divorce. 59 L.R.A. 142.

Questioned domicil of spouse granted divorce as basis of attack on decree. L.R.A. 1917B, 439.

Character of residence essential to give jurisdiction in divorce proceeding. 12 L.R.A.(N.S.) 1100: 28 L.R.A.(N.S.) 992; L.R.A. 1915D, 852.

Local domicil or residence as a condition of jurisdiction of action for annulment of marriage. 30 L.R.A. (N.S.) 745.

Jurisdiction of court of state of matrimonial domicil to grant a divorce upon. cont'd.

constructive service of process against defendant who is out of jurisdiction. 7 L.R.A.(N.S.) 1127.

Award of alimony against nonresident in divorce suit involving international elements. 59 L.R.A. 178.

Effect of appearance by nonresident to give jurisdiction in divorce case. 23 L.R.A. 287; 59 L.R.A. 169; L.R.A.1917B, 1041.

Impeaching decree of divorce rendered in another state on ground of nonresidence or domicil of person in whose favor it was granted. 23 L.R.A.(N.S.)

Constitutionality of discrimination as to jurisdictional requisite of residence in divorce suit. L.R.A.1916A, 710.

Effect of immediate departure from state after procuring divorce. 44 L.R.A. (N.S.) 689.

Necessity of alleging jurisdictional residence in divorce proceeding. 12 L.R.A. (N.S.) 1197.

Amendment of complaint in suit for divorce or separation so as to show residence or domicil. 48 L.R.A. (N.S.) 779.

## 9. — of wife.

Domicil of wife for purposes of divorce. 16 L.R.A. 497; 59 L.R.A. 146.

Right of wife to acquire a separate domicil for the purposes of a divorce suit by her. 38 L.R.A.(N.S.) 297.

§ 10. Of person or res; constructive service.

Award of alimony on constructive service, see infra, 🖇 38.

Decree rendered upon constructive service (including effect in another state or country). 19 L.R.A. 814; 59 L.R.A. 162; 7 L.R.A. (N.S.) 1127; 18 L.R.A. (N.S.) 647; L.R.A.1917B, 1032.

11. Jurisdiction of subject-matter. Domicil as basis of jurisdiction. 59 L.R.A. 142.

Place of marriage and of original matri-monial domicil. 59 L.R.A. 151.

Place of marital offense. 59 L.R.A. 154. Time of marital offense relatively to acquisition of domicil at forum. 59 L.R.A.

§ 12. Effect of appearance by nonresident.

Appearance, generally. 23 L.R.A. 287; 59 L.R.A. 169; L.R.A.1917A, 1041.

## c. Decree of divorce.

#### 1. In general,

§ 13. Generally.

Temporary alimony or counsel fees pending appeal or attempt to set aside, see infra, § 40.

Suit for alimony after decree of divorce, see infra, § 42.

Begin with this book on every law question.

DIVORCE AND SEPARATION, II. b-1 DIVORCE AND SEPARATION, II. c, 1cont'd.

Right to enter decree of divorce against the objection of the spouse aggrieved. 22 L.R.A.(N.S.) 999.

2. Validity, effect, and conclusiveness.

#### § 14. Generally.

Effect of divorce on property rights, see infra, VI.

Decree against plaintiff in suit for divorce as bar to subsequent divorce action. 26 L.R.A.(N.S.) 577.

Conclusiveness, as to third persons, of decree in suit for divorce as to the facts adjudicated, as distinguished. from the status established. L.R.A.(N.S.) 559; L.R.A.1915C, 870.

Judgment in civil action as evidence, in a. criminal prosecution, to prove divorce obtained before alleged bigamous marriage. 26 L.R.A.(N.S.) 465. Validity of agreement to marry as affected.

by disabilities imposed by decree of di-

vorce. 1 B. R. C. 922.

§ 15. Decree of other state or country. Attack on, see infra, § 17.

Validity of divorce decree granted by court of a foreign country. 19 L.R.A. 515.

Extraterritorial effect of decree of divorcerendered upon constructive service. 18 L.R.A.(N.S.) 647; L.R.A.1917B, 1032.

Marrying out of state contrary to decree as contempt of court. 40 L.R.A. (N.S.) 785

Invalidity in other state of personal judgment for alimony against nonresident not personally served and not appearing. 9 L.R.A.(N.S.) 593; L.R.A.1917F, ing. 1161.

Valid decree of divorce granted in one state as affecting independent suit for alimony in another. 34 L.R.A. (N.S.) 1106; L.R.A.1915E, 421.

Effect, in third state, of decree upholding a foreign divorce. 2 L.R.A.(N.S.) 325. Extraterritorial effect of judgment award-

ing custody of children upon divorce of parents. 39 L.R.A. (N.S.) 988; L.R.A. 1915B, 154.

Effect of foreign divorce upon dower. L.R.A. 181; 41 L.R.A. (N.S.) 219.

#### 3. Attack upon decree.

§ 16. Generally.

Award of temporary alimony or counsel fees pending attempt to set aside decree of divorce or separation, see infra. § 40.

Contract made to prevent attack upon divorce decree as contrary to public policy. L.R.A.1917F, 621.

Collateral attack in same state on decree of divorce rendered on publication. 19

L.R.A. 819.

DIVORCE AND SEPARATION, II. c, 3- DIVORCE AND SEPARATION, III.-

Right of third person to have decree of divorce set aside. 54 L.R.A. 758.

Collateral attack for fraud not affecting jurisdiction on judgment in divorce suit. 36 L.R.A.(N.S.) 985.

Right to accept favorable part of decree and appeal from remainder. 29 L.R.A. (N.S.) 15.

Effect of immediate departure from state after procuring divorce. 44 L.R.A. (N.S.) 689.

Attacks on decrees of divorce for other causes than lack of jurisdiction. L.R.A. 1917B, 409.

§ 17. Impeaching decree granted in other state.

Validity, effect, and conclusiveness of, see supra, § 15.

On jurisdictional facts. 59 L.R.A. 183; 23 L.R.A. (N.S.) 1254.

On the merits; fraud. 59 L.R.A. 186.

Impeaching decree of divorce rendered in other state on the ground of nonresidence or domicil of person in whose favor it was granted. 23 L.R.A.(N.S.) 1254.

## § 18. By party obtaining or consent-

Direct attack by party obtaining it. L.R.A. 294; 51 L.R.A. (N.S.) 534.

Application by both parties to set aside decree. 60 L.R.A. 296.

Direct attack by party who has consented to, or colluded in, its procurement. 60 L.R.A. 296; 51 L.R.A.(N.S.) 534.

Collateral attack. 60 L.R.A. 301; 51 L.R.A. (N.S.) 535.

## \$ 19. After death of one or both of parties.

Attack by surviving party. 57 L.R.A. 583; 1 L.R.A. (N.S.) .551; 44 L.R.A. (N.S.) 505; L.R.A.1917B, 486.

Attack by stranger to the decree. 57 L.R.A. 599; 1 L.R.A.(N.S.) 551; 44 L.R.A. (N.S.) 509.

Death of one party pending appeal. L.R.A. 603; 44 L.R.A. (N.S.) 509.

#### III. Grounds.

#### § 20. Generally.

For annulment of marriage, see MARRIAGE,

Retrospective effect of statute prescribing grounds of divorce. L.R.A.1917C, Ĭ60.

Constitutionality. 52 L.R.A.1917C, 160. L.R.A. 937;

Effect of fact that habit relied upon as ground of divorce was contracted before the marriage. L.R.A.1918C, 867.

What law determines the right to a divorce. 59 L.R.A. 141.

Misrepresentation as to disposition or general character as ground for annulling marriage. 30 L.R.A.(N.S.) 301.

Consult also L.R.A. Digests of Cases.

cont'd.

Misrepresentations or concealment as to one's physical or mental condition as ground for annulling of marriage. 13 L.R.A.(N.S.) 996.

Bringing wife in contact with prostitutes as ground for divorce. 43 L.R.A.(N.S.) 964.

Failure to furnish support as ground of divorce or separation. 43 L.R.A.

(N.S.) 255.
Separation as ground of divorce.
L.R.A.(N.S.) 1034.

Degeneracy as ground for divorce. 51 L.R.A (N.S.) 282.

Failure to entertain wife or unsociability as ground for divorce. 51 L.R.A.(N.S.) **4**60.

#### § 21. Duress.

What constitutes duress for which marriage may be annulled. 27 L.R.A.(N.S.) 803. Right to avoid marriage entered into to escape prosecution for seduction on ground of duress. 16 L.R.A.(N.S.) 938.

§ 22. Sexual relations; adultery. Charge of adultery, see infra, § 23.

Condonation of loathsome disease as defense. 5 L.R.A.(N.S.) 729.

Relations or association of spouse with persons of opposite sex as cruelty or abusive treatment. L.R.A.1918D, 427.

Bringing another woman into home as cruel 2 L.R.A. and inhuman treatment. (N.S.) 669.

Refusal of marital intercourse as. L.R.A. 685; L.R.A.1915B, 770.

Antenuptial pregnancy or unchastity 18 L.R.A. 375; L.R.A.1915E, 650.

Effect of complainant's knowledge of spouse's antenuptial unchastity as bar to divorce for subsequent adultery. 23 L.R.A.(N.S.) 240.

Husband's adultery as preventing him from relying on wife's adultery as defense to action for support. 19 L.R.A. (N.S.)

Insanity as affecting adultery. 34 L.R.A. 162.

Adultery while insane as affecting claim for alimony. 34 L.R.A. 164. Effect of wife's subsequent adultery on al-

lowance of alimony. 19 L.R.A. 811.
Forcing wife to leave marital home by adultery as desertion. 29 L.R.A. (N.S.) 617.

Desertion or cruelty as recriminatory defense to subsequent adultery. 39 L.R.A. (N.S.) 1135.

## § 23. Charge of adultery.

In general. 18 L.R.A.(N.S.) 300; 34 L.R.A. (N.S.) 360.

Cruelty. 18 L.R.A.(N.S.) 303; 34 L.R.A. (N.S.) 360.

Cruel and inhuman treatment. 18 L.R.A. (N.S.) 304; 34 L.R.A. (N.S.) 360.

Extreme cruelty. 18 L.R.A.(N.S.) 305; 34 L.R.A.(N.S.) 360.

Intolerable cruelty. 18 L.R.A.(N.S.) 307; 34 L.R.A.(N.S.) 360.

DIVORCE AND SEPARATION, III.— DIVORCE AND SEPARATION, III.—

Extreme and repeated cruelty. 18 L.R.A. (N.S.) 307.

Indignities rendering condition intolerable or life burdensome. 18 L.R.A. (N.S.)

Excesses, cruel treatment, and outrages rendering living together insupportable.
18 L.R.A. (N.S.) 309.

Public defamation. 18 L.R.A. (N.S.) 310. Unsafety of cohabitation. 18 L.R.A. (N.S.) 310.

Abandonment. 18 L.R.A. (N.S.) 310. Charges in pleadings. 18 L.R.A.(N.S.) 311.

Charges by wife. 18 L.R.A. (N.S.) 312.

#### § 24. Abandonment; desertion.

Confinement in asylum or prison as affecting right to divorce upon the ground of living apart, desertion, or abandon-ment. L.R.A.1918A, 1186.

Failure to support as abandonment or desertion. 29 L.R.A.(N.S.) 618; 43 L.R.A. (N.S.) 262.

Inability of husband to support himself or wife, as an excuse for leaving her. 52 L.R.A.(N.S.) 675.

Inability of husband to support wife as excuse for her refusal to live with him. L.R.A.1915A, 222.

Refusal of marital intercourse as desertion. L.R.A.1915B, 771.

Drunkenness as affecting desertion. L.R.A. 457.

Insanity as affecting abandonment. L.R.A. 164.

Computation of period of abandonment as affected by insanity of defendant. 16 L.R.A.(N.S.) 1071.

Conviction as desertion. 31 L.R.A. 520. Charges of adultery as abandonment. 18 L.R.A.(N.S.) 310.

Refusal of wife to follow husband, on change of domicil, as desertion. L.R.A. (N.S.) 145.

Relations between one spouse and relatives of the other as affecting the question of desertion. 13 L.R.A. (N.S.) 222; 34 L.R.A. (N.S.) 759; L.R.A. 1915E, 161.

Desertion by forcing spouse to leave marital home. 29 L.R.A. (N.S.) 614.

Desertion as recriminatory defense to subsequent adultery. 39 L.R.A.(N.S.) 1135.
Subsequent adultery as recriminatory defense to desertion. L.R.A.1915E, 972. Condonation of desertion. 39 L.R.A. (N.S.) 1131.

§ 24a. - effort to induce spouse to return home as a condition of desertion.

In general. 39 L.R.A. (N.S.) 1119. Duty of husband. 39 L.R.A.(N.S.) 1120. Duty of wife. 39 L.R.A. (N.S.) 1125.

## § 25. Cruelty.

Drunkenness as affecting cruel and inhuman treatment. 34 L.R.A. 454.

Charge of adultery as cruelty. 18 L (N.S.) 303; 34 L.R.A.(N.S.) 360. Begin with this book on every law question.

Conviction as cruelty entitling to divorce. 31 L.R.A. 521.

Bringing another woman into home as cruel 2 L.R.A. and inhuman treatment. (N.S.) 669.

Relations or association of spouse with persons of opposite sex as cruelty or abusive treatment within statute defining grounds of divorce. 1918D, 427. L.R.A.

Relations between one spouse and relatives of the other as affecting the question of cruelty. 13 L.R.A.(N.S.) 222; 34 L.R.A.(N.S.) 759; L.R.A.1915E. 161.

Profanity and obscenity as ground for divorce, as cruel and inhuman treatment. 12 L.R.A.(N.S.) 820.

Cruelty and abuse forcing spouse to leave marital home as desertion. 29 L.R.A. (N.S.) 615.

Failure to support as cruelty. 43 L.R.A. (N.S.) 260.

Refusal of marital intercourse as cruelty. L.R.A.1915B, 772.

Subsequent adultery as recriminatory defense to cruelty. L.R.A.1915E, 972.

Cruelty as recriminatory defense to subsequent adultery. 39 L.R.A. (N.S.) 1135.

#### 🖇 26. Drunkenness.

Drunkenness as a ground for divorce. L.R.A. 449.

Drunkenness as affecting cruel and inhuman treatment. 34 L.R.A. 454. Drunkenness as affecting desertion. 34 L.R.A. 457.

Drunkenness as affecting validity of mar-riage. 34 L.R.A. 87.

Who is an habitual drunkard within the meaning of divorce laws. 6 L.R.A. (N.S.) 914; 40 L.R.A. (N.S.) 655.

Pleadings and proof in action on ground of drunkenness. 34 L.R.A. 452.

Reformation as affecting right to divorce on ground of drunkenness. L.R.A.1917D, 364.

## § 27. Use of drugs.

Morphinism as. 39 L.R.A. 264.

Reformation as affecting right to divorce on ground of use of drugs. L.R.A.1917D, **364.** 

#### § 28. Insanity.

Mental incapacity at time of marriage as ground. 40 L.R.A. 741.

Insanity as a ground for divorce. 34 L.R.A. 161; 39 L.R.A. 264.

Insanity as affecting adultery. 34 L.R.A. 162.

Insanity as affecting abandonment and failure to support. 34 L.R.A. 164.

Insanity as affecting cruelty. 34 L.R.A. 164.

The defense. 34 L.R.A. 166.
Actions on behalf of insane persons. L.R.A. 166.

Computation of period of abandonment as affected by insanity of defendant. 16 L.R.A.(N.S.) 1071.

DIVORCE AND SEPARATION, III.- I DIVORCE AND SEPARATION, IV.-

29. Conviction and sentence.

In general. 31 L.R.A. 515.

Necessity of a conviction. 31 L.R.A. 518. Effect of an appeal from conviction. 31 L.R.A. 518.

Effect of commutation of the sentence or of a pardon. 31 L.R.A. 519; 7 L.R.A. (N.S.) 272.

Conviction in another state. 31 L.R.A. 519.

Retroactive effect of statute. 31 L.R.A. 520.

Allegation of infamous crime. 31 L.R.A. 520.

Where crime is prior to marriage. L.R.A. 520.

Conviction as desertion. 31 L.R.A. 520. Confinement in prison as affecting right to divorce upon the ground of living apart, desertion, or abandonment. 1918A, 1186.

Classed with cruelty. 31 L.R.A. 521. Conviction as a bar to divorce by the party convicted. 31 L.R.A. 521.

## IV. Defenses; collusion; condonation; recrimination.

# 80. Generally.

Insanity as defense. 34 L.R.A. 166.

Computation of period of abandonment as affected by insanity of defendant. 16 L.R.A.(N.S.) 1071.

In action for divorce on ground of drunkenness. 34 L.R.A. 453.

Conviction as bar to divorce by party con-31 L.R.A. 521. victed.

Inability of husband to support himself or wife as an excuse for leaving her. 52 L.R.A.(N.S.) 675.

Reformation as affecting right of divorce on ground of drunkenness or use of drugs. L.R.A.1917D, 364.

31. Collusion; connivance.

Attack on collusive divorce decrees. 60 L.R.A. 297, 305; 51 L.R.A. (N.S.) 535; L.R.A.1917B, 460.

In appearance by nonresident in divorce case. 23 L.R.A. 288.

32. Condonation.

Condonation of matrimonial offenses. 6 B. R. C. 589. Desertion. 6 B. R. C. 635; 39 L.R.A.

(N.S.) 1121, 1126. Loathsome disease. 5 L.R.A. (N.S.) 729. Antenuptial unchastity. 23 L.R.A. (N.S.) 240.

Attack on divorce decrees based on condonation pending the divorce suit. L.R.A. 1917B, 462.

## 83. Recrimination.

Husband's adultery as preventing him from relying on wife's adultery as defense to an action for support. 19 L.R.A.(N.S.)

Effect of pardon or commutation of sentence of criminal on conjugal rights. L.R.A. 519: 7 L.R.A.(N.S.) 272. Consult also L.R.A. Digests of Cases.

Desertion or cruelty as a recriminatory defense to subsequent adultery. 39 L.R.A. (N.S.) 1135.

Subsequent adultery as recriminatory defense to desertion or cruelty. L.R.A. 1915E, 972.

#### V. Alimony; counsel fees.

#### a. In general.

§ 84. Generally.

Contitutionality of statutes as to, see Con-STITUTIONAL LAW, § 68.

Equity jurisdiction to allow, see Equity, § 12.

Wife's liability for legal services, see Hus-BAND AND WIFE, § 23.

Lien for, see Liens, § 13. In proceedings for annulment of marriage, see MARRIAGE, § 20.

Attack on provisions as to alimony in decrees of divorce. L.R.A.1917B, 493.

Estoppel of divorced spouse to attack decree by accepting alimony. L.R.A. 1917B, 501.

Power to amend decree of divorce by adding provision for alimony. L.R.A.1917D, 325.

Construction of decree for alimony in real property as regards the nature of the estate provided for. L.R.A.1918B, 868.

Appointment of trustee to protect alimony. 38 L.R.A.(N.S.) 270.

Necessity and sufficiency of service of notice of application for alimony or support, or for change of allowance in that regard, after decree of divorce or separation. L.R.A.1915B, 674.

Right to alimony as affected by circumstance that wife is in prison or other institu-tion. 3 B. R. C. 551.

Appeal as affecting decree for permanent alimony. L.R.A.1915B, 1071.

Amount of permanent alimony on absolute divorce. 44 L.R.A.(N.S.) 998.

Husband's prospects as basis for alimony. 4 L.R.A. (N.S.) 909.

Right of wife against whom an absolute divorce is granted to permanent alimony. 20 L.R.A.(N.S.) 421; 30 L.R.A.(N.S.)

Liability of guardian for alimony in di-vorce proceedings instituted by or against the ward. 15 L.R.A. (N.S.) 1034.

Assignability of decree for alimony. L.R.A. (N.S.) 179.

Liability of alimony for debts. 32 L.R.A. (N.S.) 270.

Judgment for, as a fixed liability for purposes of bankruptcy act. 54 L.R.A. 369.

85. Agreements as to.

Validity of agreement made after divorce as a substitute for an award of alimony. 35 L.R.A. (N.S.) 1167.

DIVORCE AND SEPARATION, V. a- DIVORCE AND SEPARATION, V. a-

Validity of anticipatory contract making provision for wife in the event of her obtaining a divorce for subsequent fault of husband. 23 L.R.A.(N.S.) 880; L.R.A. 1918A, 384.

Validity of agreement to pay attorney a percentage of amount obtained as alimony. 33 L.R.A.(N.S.) 1074.

Agreement releasing husband from obligations or providing for wife's support, not made during the pendency of di-vorce proceedings, as affecting right to alimony. L.R.A.1916B, 921.

§ 36. In suit involving international elements.

Award of alimony on constructive service. 59 L.R.A. 178.

37. Allowance to Insband. Permanent allowance. 34 L.R.A. 110; 25 L.R.A. (N.S.) 234.

Alimony pendente lite. 34 L.R.A. 115; 25 L.R.A. (N.S.) 234.

English cases. 34 L.R.A. 115.

§ 38. Award of, on constructive service.

Power to grant alimony without personal service of process in state (including effect of the award in other state or country). 16 L.R.A. 234; 59 L.R.A. 178; 9 L.R.A.(N.S.) 593; L.R.A.1917F, 1161.

§ 39. Temporary alimony; suit money. Right to temporary alimony on annulment of marriage. 26 L.R.A. (N.S.) 500.

Alimony pendente lite or counsel fees in suit for divorce when marriage is denied. 25 L.R.A.(N.S.) 387.

Husband's liability for services rendered to wife in divorce suit. 24 L.R.A. 629.

Liability of husband on wife's contract for attorneys' fees in divorce proceedings. 13 L.R.A.(N.S.) 244; L.R.A.1915C, 467.

Power of court to allow attorneys' fees in divorce suit after reconciliation of parties. 36 L.R.A.(N.S.) 1001.

Validity of agreement to pay attorney a percentage of amount obtained as alimony. 33 L.R.A.(N.S.) 1074.

Liability of guardian for suit money in divorce proceedings against ward. L.R.A.(N.S.) 1034.

Refusal to proceed with trial of divorce suit because of noncompliance with order to pay temporary alimony, suit money or counsel fees. L.R.A.1915E,

Modification of decree for, because of subsequent misconduct of wife. 45 L.R.A. (N.S.) 875.

Condonation of matrimonial offense as precluding allowance of counsel fees in pending suit. 6 B. R. C. 639.

Husband's right to. 34 L.R.A. 115; 25 L.R.A. (N.S.) 234.

cont'd.

40. - pending attempt to reverse or set aside decree.

Jurisdiction to award temporary alimony, suit money, and counsel fee pending an appeal in divorce suit. 27 L.R.A.(N.S.) 712; L.R.A.1916F 1259.

Power to award temporary alimony or counsel fees pending attempt to set aside decree of divorce or separation. 24 L.R.A.(N.S.) 1015.

Remedy pending appeal from decree in di-vorce suit for failure to comply with order for payment of temporary alimony, suit money or counsel fees. 51 L.R.A.(N.S.) 1119.

8 40a. — wife's liability.
 In general. 24 L.R.A. 634; 34 L.R.A. (N.S.) 1080; L.R.A.1917F, 362.

Wife's promise to pay. 24 L.R.A. 635. English decisions. 24 L.R.A. 636.

## b. Independent suit for.

41. Generally.

Power, in absence of statute, to decree alimony or maintenance independently of proceedings for divorce. 38

L.R.A.(N.S.) 950. Right of wife in fault for separation to separate maintenance. 49 L.R.A. (N.S.) 86.

§ 42. — after decree of divorce.

Generally. 21 L.R.A. 677. Limitations and exceptions. 21 L.R.A. 678.

English cases. 21 L.R.A. 679. After legislative divorce. 21 L.R.A. 679.

Valid divorce granted in one state as affecting independent suit for alimony in another. 34 L.R.A. (N.S.) 1106; L.R.A. 1915E, 421.

## c. Remedies; enforcement.

§ 42a. Generally.

Failure to pay alimony or allowance for support as a criminal offense. 42 L.R.A. (N.S.) 1055.

Enforcement of claim for alimony against exemptions. 50 L.R.A.(N.S.) 697.

Constitutionality of statute for the enforcement of decree for alimony or for punishment for disobedience thereof. L.R.A.1918F, 424.

§ 43. By contempt proceedings to compel payment.

Doctrine of contempt. 24 L.R.A. 433. Constitutionality of contempt. 24 L.R.A.

When contempt proceedings may be resorted to. 24 L.R.A. 435.

Evidence in support of. 24 L.R.A. 436. Necessity of service of order. 24 L.R.A. 436.

Necessity of demand of payment. 24 L.R.A. 437.

Necessity of notice of application. L.R.A. 437.

DIVORCE AND SEPARATION, V. c-cont'd.

Right of defendant to be heard. 24 L.R.A. 437.

Excuses for nonpayment. 24 L.R.A. 437. Inability to pay. 24 L.R.A. 437; 30 L.R.A. (N.S.) 1001; L.R.A.1917C, 97

Commitment refused. 24 L.R.A. 438. Application for relief. 24 L.R.A. 438. Power of court to inquire into. 24 L.R.A.

State statutes and decisions thereunder. 24 L.R.A. 439.

English decisions. 24 L.R.A. 442.

§. 44. By imprisonment.

Enforcing payment of alimony as imprisonment for debt. 34 L.R.A. 665; 17 L.R.A. (N.S.) 1140; L.R.A.1915B, 651.

Remedy for the enforcement against decedent's estate of alimony which had accrued prior to his death. 18 L.R.A. (N.S.) 257.

§ 45. Outside of state.

Enforcing award of, in another state. 59 L.R.A. 178.

Equitable jurisdiction to enforce a foreign decree for alimony. 9 L.R.A. (N.S.)

Action to recover instalments of alimony accruing under a decree rendered in another state. 9 L.R.A.(N.S.) 1168; 28 L.R.A.(N.S.) 1068.

## d. Modification; termination of right.

# 45a. Generally.

Necessity and sufficiency of service of notice of application for change of alimony after decree of divorce or separation. L.R.A.1915B, 674.

Modification because of changed conditions.

44 L.R.A.(N.S.) 1026.

Power to modify alimony awarded by a decree of absolute divorce in the absence of reservation by decree or statute. L.R.A.1917F, 729.

§ 46. Effect of wife's misconduct.

Modification of decree for alimony because of subsequent misconduct of former wife. 19 L.R.A. 811; 45 L.R.A. (N.S.) 875.

Adultery while insane as affecting claim for alimony. 34 L.R.A. 164.

§ 47. Effect of second marriage. Generally. 62 L.R.A. 974; L.R.A.1915F,

Remarriage of husband. 62 L.R.A. 975; L.R.A.1915F, 820.

Remarriage of wife. 62 L.R.A. 975; L.R.A. 1915F, 821.

Effect of intermarriage of parties to a divorce upon right to alimony or provision in lieu of alimony. 3 L.R.A. (N.S.) 923.

§ 48. Effect of husband's death.

Does alimony terminate on the death of the husband. 2 L.R.A.(N.S.) 232.

Consult also L.R.A. Digests of Cases.

DIVORCE AND SEPARATION, V. d-

§ 48a. Liffect of wife's death.

Death of wife as affecting alimony. L.R.A. 1916B, 854.

#### e. Lien for.

§ 49. Generally.

Validity of provision in decree for alimony declaring a lien on husband's personalty. 30 L.R.A. (N.S.) 1062.

Money decree for permanent alimony or separate maintenance as lien on real property. 25 L.R.A. (N.S.) 132; L.R.A. 1916B, 652.

## VI. Effect on property rights.

§ 50. Generally.

Effect of decree of divorce generally, see supra, §§ 14, 15.

Effect of annulment of marriage, see Mar-RIAGE, § 19.

Right of divorced husband or wife to contest will of former spouse. L.R.A.1918A, 466.

Attack on provisions in divorce decrees in respect of division of property. L.R.A. 1917B, 494.

Effect of divorce in another state upon property rights, generally. 59 L.R.A. 178.

Effect of divorce upon conveyance by husband to wife. 69 L.R.A. 379.

Effect of divorce on property held by the entireties. 30 L.R.A. 333: 10 L.R.A. (N.S.) 463; L.R.A.1915C, 396.

On community property, in absence of adjudication. 11 L.R.A.(N.S.) 103.

Applicability of statutory provision for restoration of property in case of divorce, to voluntary gifts or conveyances. 39 L.R.A.(N.S.) 193.

Divorce as equivalent of death for purpose of terminating a trust. L.R.A.1915E, 762.

§ 51. On homestead rights.

Effect of divorce on homestead. 23 L.R.A. 239; 16 L.R.A.(N.S.) 114.

On partition of homestead. 4 L.R.A.(N.S.) 786.

On "family" under homestead and exemption laws. 4 L.R.A. (N.S.) 396; L.R.A. 1917C, 371.

Divorced wife as head of family within homestead or exemption laws. 51 L.R.A. (N.S.) 1121.

Effect of dissolution of marriage after initiation but before consummation of right under homestead entry. 7 L.R.A. (N.S.) 967.

Money decree for permanent alimony or separate maintenance as lien on homestead. 25 L.R.A.(N.S.) 137; L.R.A. 1916B, 652.

§ 52. On dower rights.

Effect on dower of divorce in another state.

15 L.R.A. 542; 59 L.R.A. 181; 41 L.R.A.

(N.S.) 219.

DIVORCE AND SEPARATION, VII.- DIVORCE AND SEPARATION, VII.cont'd.

§ 53. On rights under policy.

See Insurance, § 191.

§ 54. On rights under will. See WILLS, § 126.

## VII. Custody and support of children.

§ 55. Custody.

As to custody and support of children, generally, see INFANTS, II.

Validity of contract as to, see CONTRACTS, § 87a.

Attack on provisions as to, in divorce decrees. L.R.A.1917B, 495.

Father's liability for support of children as affected by decree awarding custody to mother. 2 L.R.A.(N.S.) 851.

Necessity of consent or notice, to parents who are divorced or living apart, on adoption of child. 30 L.R.A.(N.S.)

Jurisdiction of court to award custody of children after prayer for divorce has been withdrawn or dismissed. 35 L.R.A. (N.S.) . 1159; L.R.A. 1917D, 976.

Effect of death of parent to whom custody of child was awarded upon rights of surviving parent. 20 L.R.A.(N.S.) 171.

Effect of provision in decree of divorce or separation on right of parent to custody of child. 41 L.R.A. (N.S.) 597.

Remedy for refusal to permit access to or visitation of children as provided by decree of divorce. L.R.A.1917B, 290.

§ 56. — outside of jurisdiction.

Custody of children when interstate or international elements involved (including recognition and effect of decree in other state). 59 L.R.A. 177; 7 L.R.A. (N.S.) 306; 10 L.R.A.(N.S.) 690; 39 L.R.A.(N.S.) 988; L.R.A.1915B, 154.

§ 57. Support.

Validity of contract as to, see CONTRACTS, § 87a.

Attack on provisions as to, in divorce deerees. L.R.A.1917B, 495.

Power, on annulling marriage, to require man to provide for support of child. 5 L.R.A. (N.S.) 767.

Recovery by mother against father for money expended in support of children after divorce: 38 L.R.A.(N.S.) 509.

Liability of father for support of children as affected by decree awarding custody to mother. 2 L.R.A.(N.S.) 851.

Does contractual obligation or provision in decree of divorce or separation for the support of a child survive the death of the obligor. 48 L.R.A. (N.S.) 429.

Power to amend decree of divorce by adding provision for support of children. L.R.A.1917D, 329. cont'd.

insurance | Right to modify allowance for maintenance of child awarded by decree of absolute divorce, in absence of reservation by decree or statute. L.R.A.1917F, 731.

#### VIII. Agreements relating to divorce or separation.

§ 58. Generally.

How far articles of separation a bar to divorce. 6 L.R.A. 487.

Wife's right to sue husband on separation agreement. 5 L.R.A.(N.S.) 613.

Validity of agreement between husband and wife renouncing marital rights. L.R.A.(N.S.) 848.

Settlement of property rights between husband and wife on account of divorce as implied revocation of will. 20 L.R.A. (N.S.) 1073.

Validity of contract between husband and wife to compromise pending or contemplated divorce suit. 60 L.R.A. 406.

Validity of agreement made after divorce as substitute for award of alimony. 35 L.R.A.(N.S.) 1167.

Validity of anticipatory contract making provision for wife in event of her obtaining a divorce for subsequent fault of husband. 23 L.R.A.(N.S.) 880; L.R.A.1918A, 384.

Validity of contract upon condition, or in consideration, of procuring divorce. 44 L.R.A.(N.S.) 379.

Effect of reconciliation on separation agreement. 43 L.R.A.(N.S.) 1219.

Validity of contract by third person to pay one spouse to return to the other. 31 L.R.A.(N.S.) 441.

## DOCKAGE.

Action on contractor's bond for expense of dockage. 43 L.R.A.(N.S.) 170.

## DOCKET.

Docketing of judgment, see JUDGMENT, § 14.

Injunction against judgment for irregularities in. 30 L.R.A. 709.

Time for docketing cause on error or appeal to Federal Supreme Court. 66 L.R.A. 850.

#### DOCKS.

See WHARVES.

#### DOCK WARRANT.

Effect of putting dock warrant indorsed in blank into another's possession to estop owner as against purchaser in good faith. 29 L.R.A.(N.S.) 255.

#### DOCUMENTARY EVIDENCE.

In general, see EVIDENCE, V. Weight of, see EVIDENCE, §§ 305-308.

#### DOCUMENTS.

Production and inspection of, see Discov-ERY AND INSPECTION, §§ 3, 4. evidence, see Evidence,

Particularity required in description of documents in subpoena duces tecum. 31 L.R.A. (N.S.) 835.

Incorporation of extrinsic document into will. 68 L.R.A. 353.

Use of photograph of, as evidence. L.R.A. 811; 51 L.R.A. (N.S.) 857.

Concealment or failure to produce as ground for disbarment or suspension of attorney. L.R.A.1917B, 384.

#### DOG COLLAR.

Loss of collar as defense to prosecution for keeping dog without collar. 42 L.R.A. (N.S.) 437.

#### DOGS.

In general, see ANIMALS. Liability of railroad company for injury to, see RAILBOADS, § 76. Injury to, on street car tracks, see STREET RAILWAYS, § 15.

## DOING BUSINESS.

By foreign corporation, see Corporations, §§ 145-148.

## DOLLARS.

Omission of dollar sign or word dollars from verdict or a judgment. 35 L.R.A. (N.S.) 653.

## DOMESTIC ANIMALS.

See ANIMALS.

## DOMESTIC COMMERCE.

State control of, see COMMERCE, § 3. Consult also L.R.A. Digests of Cases.

#### DOMESTIC RELATIONS.

In general, see DIVORCE AND SEPARATION: GUARDIAN AND WARD; HUSBAND AND WIFE; INFANTS; MARRIAGE; MASTER AND SERVANT; PARENT AND CHILD.

Conflict of laws as to, see Conflict or Laws, §§ 13-17.

Constitutionality of statute as to, see Constitutional Law, §§ 68, 82-87, 153.

## DOMESTIC REMEDY.

Administration of, for pay, as practising medicine. 12 L.R.A. (N.S.) 1094.

#### DOMESTIC SERVICE.

As a family expense or necessary within statute rendering wife or her property liable therefor. L.R.A.1917F, 863.

#### DOMESTIC USE.

Public supply of water for, see WATERS, III. Correlative use of upper and lower proprietors as to use of water for, 41 L.R.A. 739.

#### DOMICIL AND RESIDENCE.

§ 1. Generally.

Of corporation, see CORPORATIONS, § 11. Jurisdiction as affected by residence, see COURTS, §§ 19-26.

In divorce suit, see DIVORCE AND SEPARA-TION, §§ 8, 9. Of voter, see Elections, § 4.

As to nonresidents, see Nonresidents. Residence of poor persons, see Poor AND Poor Laws, § 2.

Extraterritorial effect of judgment fixing domicil. L.R.A.1917C, 185.

Domicil or residence when boundary line runs through dwelling.
(N.S.) 874. 10 L.R.A.

Domicil as affecting governing law of chattel mortgage. 64 L.R.A. 363, 366.

Domicil as affecting governing law of assignment for creditors. 65 L.R.A. 365.

Domicil as affecting governing law of matrimonial capacity. 57 L.R.A. 161; 43 L.R.A. (N.S.) 355.

Domicil as affecting governing law of matri-monial property. 57 L.R.A. 353.

Residence as affecting governing law in action for death or bodily injury, 56 L.R.A. 218.

Commercial domicil as affecting national character. 7 B. R. C. 835.

Residence as a qualification of grand juror. 28 L.R.A. 196.

DOMICIL AND RESIDENCE-cont'd.

Unknown disqualification of juror because of, as ground for new trial, 50 L.R.A. (N.S.) 975.

Right to testify as to intent with respect to. 23 L.R.A.(N.S.) 397.

Presumption of citizenship from residence. 8 L.R.A.(N.S.) 1245.

Where process may be served under statutes providing for constructive service by leaving it at one's usual place of abode, residence, or the like. 21 L.R.A. (N.S.) 344.

Service on resident in action at law by leaving copy at residence. 35 L.R.A. (N.S.) 293; L.R.A.1917C, 1143.

Requiring one's residence to be stated in notice of accident or injury as condition of municipal liability. 20 L.R.A. (N.S.) 938.

Residence as condition of patent under Federal homestead entry. 42 L.R.A.(N.S.) **752.** 

#### 2. Of infant.

Residence of pupils, see Schools, § 6.

Generally. 49 L.R.A. (N.S.) 860. Adopted children. 49 L.R.A.(N.S.) 863. Illegitimate child. 49 L.R.A.(N.S.) 863. Separation of parents. 49 L.R.A.(N.S.) 864.

Divorce of parents. 49 L.R.A.(N.S.) 864.
Death of father, mother surviving. 49
L.R.A.(N.S.) 866.
Change by guardian. 49 L.R.A.(N.S.) 869.
Domicil of infant after death of both par-

ents. 49 L.R.A.(N.S.) 875. Agreement by parent as to domicil of child. 27 L.R.A. 61.

Child's right in parents' homestead as affected by domicil of child. 56 L.R.A.

## § 3. Of married woman.

In divorce suit, see DIVORCE AND SEPARA-TION, § 9.

Domicil as affecting capacity of married woman to contract. 57 L.R.A. 513; L.R.A.1916A, 1054.

#### § 4. Of officer.

Residence as requisite to eligibility of officer, see Officers, § 8.

Domicil of consul. 45 L.R.A. 587.

Constitutionality of statute making residence within the district a qualification of a public officer. 32 L.R.A. (N.S.) 835.

#### § 5. Of decedent.

Domicil of decedent as affecting governing law with respect to legitimacy or adoption. 65 L.R.A. 177; 21 L.R.A. (N.S.) 679; 25 L.R.A. (N.S.) 1285; L.R.A. 1916A, 666.

Residence of deceased as affecting validity of acts by executor or administrator under letters testamentary or of administration afterwards revoked or held invalid. 21 L.R.A. 150.

Begin with this book on every law question.

DOMICIL AND RESIDENCE-cont'd.

§ 6. Change of.

Effect of change of domicil after execution of will, on its validity as to personal property. 2 L.R.A.(N.S.) 419.

Requiring one's residence to be stated in notice of accident or injury as condition of municipal liability. 20 L.R.A. (N.S.) 938; 35 L.R.A.(N.S.) 840.

Change of residence as affecting right to act as executor or administrator. 1 L.R.A. (N.S.) 341.

Change of domicil of infant by guardian. 49 L.R.A. (N.S.) 869.

#### 7. - how effected.

Hiring room in hotel or lodging house as affecting domicil or residence. L.R.A. 1917D, 788.

Change of domicil as affected by removal for benefit of health. 9 L.R.A. (N.S.) 1159.

Domicil or residence for taxation as affected by purpose to obtain school facilities. L.R.A.1917A, 290.

Going to another state, county, or district to teach school or preach, as effecting a change of domicil or residence. 22 L.R.A.(N.S.) 996; L.R.A.1917A, 294.

When does nonresidence of person intending to leave permanently begin for purpose of attachment or exemption. 1 L.R.A. (N.S.) 7.78.

Is a domicil lost by abandonment without intention of returning, before acquiring a new one. 40 L.R.A. (N.S.) 986.

Gaining new domicil or residence before abandoning occupation of old residence, by purchasing or hiring property in new locality with intention of establishing permanent residence there. 33 L.R.A.(N.S.) 766.

## DONATION.

In general, see GIFT. Of public money, see PUBLIC MONEY.

Forfeiture of. 13 L.R.A. 698.

To corporation of shares of its own stock. ` 18 L.R.A. 255.

On condition of particular location of public building. 4 L.R.A.(N.S.) 589.

Diversion of property donated for public library to (N.S.) 368. ťο other uses. 45 L.R.A.

#### DOOM.

Validity of statute subjecting to doom of assessor a taxpayer who fails to furnish a list of his property. 24 L.R.A. (N.S.) 388.

#### DOORS.

Screen doors, see Screens, § 2.

Carrier's liability for injury to pasenger from door of vehicle. L.R.A.1918D, 529.

#### DOORWAY.

Duty of carrier to guard passenger against walking through station doorway leading to place of danger. 24 L.R.A.(N.S.)

Contributory negligence in walking through doorway leading to place of danger. 24 L.R.A.(N.S.) 246; L.R.A.1917D, 892.

#### DORMANCY.

Of judgment, effect of, see JUDGMENT, § 85.

#### DORMANT PARTNER.

Under agreement to share profits. 18 L.R.A. (N.S.) 1082.

Proof against one, of declarations of another to show dormant partnership. 20 L.R.A. 597.

In real estate. 28 L.R.A. 105.

Admissibility of partnership books of account against. 52 L.R.A. 841.

## DOUBLE AGENCY.

Right of either principal to affirmative relief from transaction in which agent acted for both parties. 17 L.R.A.(N.S.) 622.

## DOUBLE BLOOD.

Descent of ancestral estates to heirs of double blood. L.R.A.1916C, 924.

#### DOUBLE COMMISSIONS.

Of real estate broker. 45 L.R.A. 44. Custom among real estate brokers to take rebates or commissions from other party as affecting right to compensation from employer. 34 L.R.A.(N.S.) 1047. Right of principal to commissions which

broker or other agent has received from other party to the contract. 28 L.R.A. (N.S.) 952.

## DOUBLE DAMAGES.

See DAMAGES, § 120. Consult also L.R.A. Digests of Cases, 28

#### DOUBLE HOUSE.

As violation of restrictive covenants. L.R.A. (N.S.) 726; L.R.A.1918C, 873.

#### DOUBLE INSURANCE.

See Insurance, §§ 80, 99-101.

#### DOUBLE REINSURANCE.

Liability of reinsurer in case of. 8 L.R.A. (N.S.) 855.

#### DOUBLE TAXATION.

In general, see TAXES, §§ 9-12, 94.

By imposition of license tax upon automobiles. 52 L.R.A.(N.S.) 953.

#### DOUBLE TRACKS.

Power of municipality to prevent laying of additional tracks under franchise originally granting right to lay double tracks. 36 L.R.A.(N.S.) 850.

## DOUBT.

Effect of, on validity of compromise of void, invalid, or unfounded claim. 25 L.R.A. (N.S.) 276.

## DOUBTFUL CLAIM.

As assets giving jurisdiction to bind administrator. 24 L.R.A. 689.

## \*\*\* DOUBTFUL TITLE.

Effect of, on right to specific performance of contract, see SPECIFIC PERFORMANCE, § 17.

## DOWER.

I. Right to, §§ 1-14.

a. In general, § 1.

b. In what property, §§ 2-4.

c. Nature and extent; priorities, \$\$ 5, 6.
d. How lost or destroyed, \$\$

7-14.

II. Rights, duties, and remedies, §\$ 15-22.

DOWER-cont'd.

#### I. Bight to.

#### a. In general.

§ 1. Generally.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 74.

Dower right as affecting marketability of title. 38 L.R.A.(N.S.) 33.
Right of dower with respect to improve

ments placed on land. 3 B. R. C. 957.

#### b. In what property.

§ 2. Generally.

In partnership real estate, see PARTNERянір, § 21.

In mines. 16 L.R.A. 247.

In homestead; relative rights of wife and children. 56 L.R.A. 67.

22 L.R.A. (N.S.) In conditional estates. 691; 39 L.R.A.(N.S.) 307.

In land purchased by railroad company. 29

L.R.A.(N.S.) 726. Rights of widow in accretions added to shore lands. 58 L.R.A. 210.

Right to dower on avoidance as against creditors of conveyance of land, legal title to which is never in husband during coverture. 32 L.R.A.(N.S.) 103.

#### § 3. In land mortgaged or conveyed by husband.

In land dedicated by husband. 31 L.R.A. (N.S.) 1025.

Right of widow to recover from estate the value of her dower interest in land conveyed by her husband during lifetime. 8 L.R.A.(N.S.) 1101.

Mortgage to secure money advanced to purchase property as a purchase money mortgage not subject to dower. 40 L.R.A. (N.S.) 275.

Dower rights in property conveyed before marriage. 48 L.R.A.(N.S.) 512.

§ 4. — where conveyance is avoided as to creditors.

Right to dower upon avoidance of conveyance as against creditors. 32 L.R.A. (N.S.) 103.

§ 4a. In land subject to purchasemoney mortgage or vendor's lien.

Dower in land subject to purchase money mortgage or vendor's lien. 52 L.R.A. (N.S.) 540.

## c. Nature and extent; priorities.

§ 5. Generally. Effect of depreciation in value of land on a widow's right of dower therein. L.R.A. 425.

Right to consider accrued taxes in assigning dower or fixing its cash value. 40 L.R.A.(N.S.) 609.

6. Priorities. husband, see supra, §§ 3, 4. DOWER, I.—cont'd.

## d. How lost or destroyed.

§ 7. Generally.

Election between dower and provisions of will, see WILLS, §§ 110-115.

Power of legislature to destroy. 19 L.R.A. 256.

Estoppel to assert dower by deceiving one acquiring title. 48 L.R.A.(N.S.) 762, 764.

Release of inchoate right by attorney under power given by married woman. 16 L.R.A. 209.

Effect of husband's insanity upon wife's power to convey or bar dower. 34 L.R.A. 224.

Effect of forfeiture of husband's estate for treason on wife's right of dower. L.R.A.1916E, 346.

Is a widow's dower right in property allotted to her as a homestead extinguished, or merely in abeyance. 10 L.R.A.(N.S.) 1206.

Effect of judgment declaring husband's title to an estate to be that of mortgagee, upon dower right of wife who was not a party to the action. 13 L.R.A.(N.S.)

§ 8. By conveyance.

Right to dower in land mortgaged or conveyed by husband, see supra, §§ 3, 4.

Voluntary conveyance in which dower is not released in satisfaction of a mort-gage releasing dower. 31 L.R.A.(N.S.) 323.

Estoppel of wife living apart from husband to claim dower as against purchaser ignorant of relationship. 26 L.R.A. (N.S.) 575; 34 L.R.A. (N.S.) 762.

9. By antenuptial contract.

Power to bar dower by antenuptial agreement sufficient in equity, but not conforming to any of the statutory methods of barring dower. 17 L.R.A. (N.S.) 866.

§ 10. Effect of misconduct. Effect of divorce, see DIVORCE AND SEPARA-TION, § 52.

Conduct during husband's lifetime as estoppel to claim of. 3 L.R.A.(N.S.) 971. Effect of fraud to estop widow from claiming. 25 L.R.A. 573.

§ 11. Power of husband or his creditors to defeat,

Generally. 18 L.R.A. 75.

As to lands held in common by husband. 18 L.R.A. 75.

As to lands sold under mortgage. 18 L.R.A. 76.

Bankruptcy. 18 L.R.A. 77.

Effect of bankruptcy on dower rights of bankrupt's wife. 26 L.R.A. (N.S.) 1180. In case of land mortgaged or conveyed by | Sale on execution to satisfy mechanics' lien. 18 L.R.A. 77.

DOWER, I. d-eont'd.

Sale under execution against husband. 18 L.R.A. 78.

\$ 12. By dedication or condemnation. Dower in land dedicated by husband. 31 L.R.A.(N.S.) 1025.

Effect of dedication or condemnation of husband's lands to public use upon wife's right of dower. 8 L.R.A. 443; \* 18 L.R.A. 79.

13. By tax sale.

Effect of tax sale upon inchoate right of dower. 24 L.R.A.(N.S.) 1294.

Effect of tax sale on land held by tenant in dower. 32 L.R.A. 807.

§ 14. By adverse possession or partition sale.

Effect of adverse possession of husband's lands on wife's right of dower. 18 L.R.A. 78.

Effect of partition sale upon dower rights of one not a party. 16 L.R.A. 776.

II. Rights, duties, and remedies.

15. Generally.

Effect of inchoate right of dower to entitle wife to contest will of husband's father. L.R.A.1918A, 466.

Ejectment by widow. 18 L.R.A. 790. . Adverse possession by tenant in dower. 19

L.R.A. 839.

Right of widow prior to assignment of dower to maintain trespass quare clau-

sum. 13 L.R.A.(N.S.) 209.

Power of legislature to increase dower rights. 17 L.R.A.(N.S.) 319.

Right of doweress to mesne profits or damages for detention of dower. 21 L.R.A. 180.

Right of husband's grantee to exoneration of land conveyed, by allotment of dower from other lands. 34 L.R.A.(N.S.) 917.

Removal of proceeding for assignment of, because of separable controversy. 5
L.R.A.(N.S.) 77.

Time for ascertaining value of land for purposes of assigning dower; and right of dower with respect to improvements placed thereon. 3 B. R. C. 950.

§ 16. Doweress as party to foreclosure

Doweress as a necessary party to foreclo-sure suit. 5 L.R.A. 521.\*

\$ 17. Right to redeem from mortgage. See MORTGAGE, § 88.

§ 18. Mineral or timber rights.

Rights of tenant in dower as to oil and gas. 36 L.R.A.(N.S.) 1108.
Mineral rights of tenant in dower.

L.P A. (N.S.) 1099.

Timber rights of tenant in dower. 37 L.R.A. (N.S.) 763.

Consult also L.R.A. Digests of Cases.

DOWER, II.—cont'd.

§ 19. Contribution.

Contribution between heir and widow in case of payment of mortgage. 5 L.R.A. 520.\*

§ 20. Subjecting dower estate to debts. Loss of right to dower by execution or foreclosure sale, see supra, § 11.

Levy on estate of. 23 L.R.A. 647.

As subject of attachment or levy on execution. 30 L.R.A.(N.S.) 117.

Equitable remedy to subject unassigned dower to judgment after return of no property found. 63 L.R.A. 697.

§ 21. Duty as to taxes.

Loss of right to dower by tax sale, see supra, § 13.

Duty of tenant in, to pay taxes. 32 L.R.A. 748.

§ 22. Succession tax on dower.

Succession tax on dower. 29 L.R.A.(N.S.) 428; L.R.A.1916C, 675.

Succession tax upon provision in lieu of dower. 33 L.R.A. (N.S.) 230; 45 L.R.A. (N.S.) 228; L.R.A.1916C, 675.

#### DRAFT.

Of men for army, see COMPULSORY MILITARY SERVICE.

general, see BANKS, V.; BILLS AND NOTES; CHECKS.

Collection of, by banks, see Banks, §§ 31-

Carrier's liability for injury to passenger by draft from open doors or windows. 11 L.R.A.(N.S.) 926.

Effect of, to create a maritime lien. L.R.A. 418.

Obtaining draft by false pretenses. L.R.A. 1916E, 1106.

#### DRAFTSMAN.

Undue influence by, on testator, see WILLS, § 17.

Competency of, to testify to his own or testator's intention. 38 L.R.A.(N.S.) 91. Evidentiary force of circumstance that one benefited by will was the draftsman thereof. 28 L.R.A. (N.S.) 270.

## DRAINAGE DISTRICTS.

1. Generally.

Liability of, for expenses of drainage. 58 L.R.A. 372.

Proceedings for incorporation of, as a civil suit within statute allowing change of venue. 12 L.R.A. (N.S. ) 900.

DRAINAGE DISTRICTS-cont'd.

Liability of, for flooding land. 19 L.R.A. Right to drain surface water into water (N.S.) 991.

Immunity of, from liability for damages. L.R.A.1918B, 1010.

Duty as to highway crossed by ditch constructed by drainage district. L.R.A.(N.S.) 695.

Duty as to establishment and maintenance of bridges over ditches for use of adjoining owners. L.R.A.1915E, 687.

#### 2. Creation of.

Institution of drainage proceedings by organization of. 60 L.R.A. 169.

Taking railroad lands for. 2 L.R.A. (N.S.) 227.

Right to withdraw name from petition for. 11 L.R.A. (N.S.) 372; 35 L.R.A. (N.S.) 1113.

Proceeding for incorporation of drainage district, or for other public improvement, as a civil suit, within statute allowing change of venue. (N.S.) 900. 12 L.R.A.

Constitutionality stitutionality of statute prescribing property qualification on right to vote on establishment of drainage district. 44 L.R.A.(N.S.) 539.

#### DRAIN INSPECTORS.

Duty and liability to drain inspectors entering premises in performance of their duty. 31 L.R.A.(N.S.) 380.

## DRAINS AND SEWERS.

I. In general; establishment, \$\$ 1-7. II. Duty and liability as to, §§ 8-10.

III, Procedure, § 11.

IV. Assessments, §§ 12-14.

#### I. In general; establishment.

#### § 1. Generally.

Drainage districts, see Drainage Districts. Injunction as to, see INJUNCTION, § 31. Parties plaintiff in actions affecting, see PARTIES, § 5.

Drainage of water generally, see WATERS, § 62.

Public improvements, generally, see Public IMPROVEMENTS.

Incorporation of territory into municipality as affecting prior right to maintain sewer in street. 47 L.R.A.(N.S.) 610.

Creation of easement of drainage by severance of tract of land with apparent benefit existing. L.R.A.1915C, 353.

Injunction against municipality as to. L.R.A. 301.

Mechanic's lien for sewer connections in street. 42 L.R.A.(N.S.) 356.

Right of taxpayer, in absence of statute, to enjoin unlawful expenditures by municipality. 36 L.R.A.(N.S.) 23.

Draining ponds. 21 L.R.A. 605.

Begin with this book on every law question.

, DRAINS AND SEWERS, I.—cont'd.

Appropriator's right to enter upon land of upper proprietor to clean out ditch. 43 L.R.A. 130.

Interference by, with wharf rights in navigable waters. 34 L.R.A. (N.S.) 430.

Duty as to establishment and maintenance of bridges over ditches for use of adjoining owners. L.R.A.1915E, 687.

Duty of railroad to construct bridges at its own expense over public drainage ditches. 31 L.R.A. (N.S.) 1118; L.R.A. 1915B, 486.

Servant's assumption of risk from changing condition of excavations in, during progress of work. 19 L.R.A.(N.S.) 358.

## § 2. Nuisance as to.

Drains and sewers as ruisances, see Nuis-ANCES, § 2.

Injunction by municipality against nuisance from sewers. 41 L.R.A. 325.

Municipal regulation of sewers as nuisances. 38 L.R.A. 319.

Presumption as to statutory authority to commit nuisance by sewerage system. 70 L.R.A. 580.

#### § 2a. Necessity for.

Necessity for establishment of. 60 L.R.A. 191.

Existence of necessity for drainage of private lands. 49 L.R.A. 782.

#### § 3. Taking of property for. See EMINENT DOMAIN, § 17.

#### § 4. Use of highway for.

Power of municipality to anthorize use of highway for private drain. 16 L.R.A. 715.

Construction in streets as additional burden on easement. 17 L.R.A. 479.

Right of fee owner to use highway for ditch. 34 L.R.A.(N.S.) 506.

## § 5. Connection with,

Right and duty to connect property with drain or sewer. 70 L.R.A. 238.

Power to compel connection of property with public sewer. L.R.A.1918C, 258.

Permitting abutting owner to make sewer connection in street. 19 L.R.A. (N.S.) 512.

#### 6. Maintenance of drainage ditches. Landowner's right to compel repair. 69 L.R.A. 806.

Action by officials. 69 L.R.A. 806.

What is repair? 69 L.R.A. 807. Who to bear cost of repair. 69 L.R.A. 809.

The assessment. 69 L.R.A. 810.

Rights of landowner. 69 Estoppel. 69 L.R.A. 811. 69 L.R.A. 811.

Irregularities. 69 L.R.A. 811.

How far court may review and control pre-ceedings. 69 L.R.A. 811.

Liability for nonrepair. 69 L.R.A. 813.

DRAINS AND SEWERS, I.—cont'd. Certification of cost. 69 L.R.A. 813. Repeal of law. 69 L.R.A. 813.

7. Commissioners of drains and sewers.

Right of woman to be commissioner of sewers. 38 L.R.A. 211.

### II. Duty and liability as to.

§ 8. Generally.

Liability of landlord to third persons as to condition of. 26 L.R.A. 202.

Liability of one connecting with drain or sewer for injuries. 70 L.R.A. 242.

Liability for injury to higher property by hastening drainage from lower land. 6 L.R.A.(N.S.) 146.

Liability for reopening or cleaning out drain or natural water way after body of surface water has accumulated. 40 L.R.A.(N.S.) 160.

Interference with drainage by damming back water of stream. 59 L.R.A. 819.

Liability for turning steam or other dangerous vapors or gases into stream. 15 L.R.A.(N.S.) 957.

Employer's liability for negligence of independent contractor in construction of sewer. 65 L.R.A. 846.

When limitations begin to run against actions for damages for flooding of land by digging of drain. 20 L.R.A.(N.S.) 894; 25 L.R.A.(N.S.) 645.

9. Of municipality.

Liability of municipality for injuries due to, see MUNICIPAL CORPORATIONS, §§

Lights, duties and liability of municipal corporation with respect to surface water, see MUNICIPAL CORPORATIONS, §§ 29, 91, 92.

Extent of municipal liability with respect to, see Damages, § 78.

Effect of municipal indebtedness on acquisition of sewer system. 59 L.R.A. 604. Abandonment of surface water drain by city. 65 L.R.A. 286.

Right and duty to provide. 61 L.R.A. 673. Location. 61 L.R.A. 677.

Construction. 61 L.R.A. 683. Outlet. 61 L.R.A. 690.

Maintenance. 61 L.R.A. 696. Parties. 61 L.R.A. 711. Limitation. 61 L.R.A. 711. Damages. 61 L.R.A. 712.

Effect of limitation of municipal indebtedness upon acquisition of sewer system. 59 L.R.A. 604,

Duty of municipality to guard drainage ditch along sidewalk. 27 L.R.A.(N.S.)

§ 10. Interference with streams by. As to pollution of water course, generally, see Waters, §§ 55-58, 66, 77, 80, 103,

Liability for intercepting subterranean waters by. 19 L.R.A. 94. Consult also L.R.A. Digests of Cases.

DRAINS AND SEWERS-cont'd.

#### III. Procedure.

§ 11. Generally.

General observations as to right to establish. 60 L.R.A. 161.

Institution of proceedings. 60 L.R.A. 166. Jurisdiction over proceedings. 60 L.R.A. 172.

Plans and specifications. 60 L.R.A. 176. Necessity must be shown. 60 L.R.A. 191. Acquisition of right of way. 60 L.R.A. 195. Completion of improvement. 60 L.R.A. 206. Letting contract. 60 L.R.A. 217.

Supervision by court. 60 L.R.A. 224. Acquisition of funds. 60 L.R.A. 226. Contesting assessment. 60 L.R.A. 241.

Defects in work as a defense to assessment 56 L.R.A. 919.

Abandonment of drain. 60 L.R.A. 249. How far court may review and control proceedings. 69 L.R.A. 811.

#### IV. Assessments.

§ 12. Generally.

Assessments for local improvements generally, see Public Improvements, IV.

For drainage ditches. 69 L.R.A. 810. Acquiring funds to establish drains and sewers by. 60 L.R.A. 227. Contesting of. 60 L.R.A. 241. Defects in work as defense to. 56 L.R.A. 919.

§ 13. Persons and property liable for. For local improvements generally, see Pub-LIC IMPROVEMENTS, §§ 16-23.

Basis for liability. 58 L.R.A. 353. Consideration of principles involved.

L.R.A. 354. The rule that assessment depends on benefit. 58 L.R.A. 358.

Drainage districts. 58 L.R.A. 372. Area assessments. 58 L.R.A. 374.

Public liability. 58 L.R.A. 378.

Assessment runs with the land. 58 L.R.A. 379.

Exemptions. 58 L.R.A. 380.

Renewal and maintenance. 58 L.R.A. 383. Property liable for assessment for construction of drains or sewers. 26 L.R.A. (N.S.) 973.

Liability of railroad property to assessment for drains or sewers. L.R.A.1915A. 129.

§ 14. Enforcement; lien.

Enforcement of assessments for local improvements generally, see Public Im-PROVEMENTS, §§ 27-31.

Bill to quiet title on invalid sale of property for sewer assessment. 60 L.R.A.

Lien on abutting property for cost of sewer. 60 L.R.A. 237.

١

#### DRAMATIC PRODUCTIONS.

Rights of employers to dramatic pieces composed by employees. 5 L.R.A.(N.S.)

What constitutes infringement of dramatic copyright. 2 B. R. C. 107.

#### DRAMATIZATION.

Sale or assignment of story as carrying the exclusive right to dramatize it. 41 L.R.A. (N.S.) 1002.

#### DRAWBRIDGE.

Duty of one approaching to stop, look, and listen. 14 L.R.A.(N.S.) 452.

Contributory negligence of child injured on. L.R.A.1917F, 99.

Municipal liability for negligence of bridge tender. 19 L.R.A. (N.S.) 1178; 45 LR.A.(N.S.) 98; L.R.A.1915F, 1062.

#### DRAWING.

Of grand jury, see GRAND JURY, § 2.

## DRAYMEN.

See Cartman and Teamsters.

#### DREDGING.

Duty of dredging wharves or docks. L.R.A. 947.

Right to remove lateral support by dredging water bed. 64 L.R.A. 275.

#### DRIFT.

Obstruction of waters of stream by. L.R.A. 871.

#### DRILLS.

Doctrine of "attractive nuisance" as applied to injury from. 19 L.R.A. (N.S.) 1130.

Master's liability for injury by defect in.
13 L.R.A. (N.S.) 678; 51 L.R.A. (N.S.) 338.

#### DRIVERS.

Imputing Negligence of, to passengers, see NEGLIGENCE, §§ 42, 44.

DRIVERS-cont'd.

Who is responsible for acts of driver of hired vehicle. 13 L.R.A. (N.S.) 1122; 25 L.R.A. (N.S.) 33; 38 L.R.A. (N.S.) 973; L.R.A.1918E, 121.

Care required of driver of automobile at railroad crossings. 21 L.R.A.(N.S.) railroad crossings. 21 L.R.A. (N.S.) 794; 29 L.R.A. (N.S.) 924; 46 L.R.A. (N.S.) 702.

As fellow servant of servants of employer of team and driver. 17 L.R.A. (N.S.) 338.

Liability of master for injury to person riding with servant by latter's invitation or permission. L.R.A.1917F, 425. Liability of owner of vehicle for injury to child invited to ride by driver. 46

L.R.A.(N.S.) 199.

Making prima facie case of responsibility for negligence of driver of automobile by proof of defendant's ownership of car or employment of driver. 46 L.R.A. (N.S.) 1091.

#### DRIVEWAY.

Right of abutting owner to join his land to street by driveway or walk. 30 L.R.A. (N.S.) 1074.

## DRIVING.

Injury while driving, see HIGHWAYS, VI.; NEGLIGENCE, I. a, 4.

## DRIVING LOGS.

Right to use stream for, see Logs and Log-GING, §§ 4-10.

#### DROVERS.

§ 1. Generally. As independent contractors. 65 L.R.A. 468.

§ 2. Accompanying stock during transportation.

Carrier's liability for injury to, see CAR-RIERS, § 57.

Right of conductor to waive condition in pass of. 27 L.R.A.(N.S.) 646.

Rights of person riding on drover's pass. 22 L.R.A. 794; 31 L.R.A. (N.S.) 632.

Right of drover or stockman who uses car after destination is reached. 30 L.R.A. (N.S.) 571.

Riding on top of car as contributory negligence. 30 L.R.A.(N.S.) 425.

#### DROWNING.

As accident. 30 L.R.A. 211. Begin with this book on every law question.

DROWNING—cont'd.

Liability on insurance policy for death by. 42 L.R.A.(N.S.) 631.

Contributory negligence of child drowned. L.R.A.1917F, 109.

## DRUGS AND DRUGGISTS.

§ 1. Generally. Validity of classification in Sunday law, as to keeping drug store open. 14 L.R.A. (N.S.) 1259.

Order for physical examination requiring use of, as abuse of discretion.

L.R.A. (N.S.) 665.

Giving liquor or drugs to female with view to having sexual intercourse with her as constructive rape or assault with intent to commit rape. 46 L.R.A. (N.S.) 422.

§ 2. Effect of use of drugs.

Uce of drugs as ground for divorce, see Di-VORCE AND SEPARATION, § 27.

Use of drugs as affecting responsibility and capacity. 39 L.R.A. 262.

Use of drugs as affecting testamentary capacity. 27 L.R.A. (N.S.) 31; L.R.A. pacity. 27 1915A, 450.

3. Regulation; license.

Private action for violation of statutes regulating sales of. 9 L.R.A.(N.S.) 382; L.R.A.1915E, 560.

Construction and effect of statute prohibiting or regulating sale of poisons. 30 L.R.A.(N.S.) 519.

What are medicines, drugs, or poisons within the meaning of statutes regulating pharmacists. 26 L.R.A.(N.S.) 1013.

Liability of druggist for injury to stranger from drug or poison sold by him. 13 L.R.A. (N.S.) 646.

Right of unlicensed druggists to recover for services rendered by licensed one. L.R.A.(N.S.) 392.

Does fact that a drug clerk is a licensed pharmacist relieve his employer from liability for his negligence or lack of skill. 39 L.R.A. (N.S.) 275.

Right of physician to sell drugs without a prescription. 46 L.R.A.(N.S.) 1.

What constitutes misbranding within pure drugs law. L.R.A.1916D, 169.

What constitutes adulteration within the food and drugs act. L.R.A.1915B, 774.

§ 4. Sale of liquor by druggists.

Must indictment or information for sale of liquor by druggists on prescription state name of purchaser. 23 L.R.A. (N.S.) 583.

May records of sales of liquor, which a druggist is required by law to keep, be used as evidence against him in a criminal prosecution. 25 L.R.A. (N.S.)

Consult also L.R.A. Digests of Cases.

DRUGS AND DRUGGISTS—contd.

§ 5. Liability.

Furnishing or prescribing by physician of habit-forming drugs. L.R.A.1918E, 669. Liability of vendor of drugs for negligence. 21 L.R.A. 139.

Liability of druggist for injury to stranger from drug or poison sold by him. 1 L.R.A.(N.S.) 1178; 13 L.R.A.(N.S.) 646.

Wife's right of action at common law against one selling drugs to husband. 40 L.R.A.(N.S.) 360.

Duty of druggist or apothecary in the sale or compounding of drugs or medicines. 29 L.R.A.(N.S.) 900; 47 L.R.A.(N.S.)

Master's liability for injury done by servant to third person in use of deleterious drug placed in his custody. 10 L.R.A. (N.S.) 374.

Does fact that a drug clerk is a licensed pharmacist relieve his employer from liability for his negligence or lack of skill. 39 L.R.A.(N.S.) 275.

Instigation or consent to crime for purpose

of detecting criminal as defense to prosecution for illegal sale. 51 L.R.A. (N.S.) 830.

§ 6. Validity of agreements between druggists.

Restraint of trade in medicine. 22 L.R.A.

Validity of agreement in restraint of trade ancillary to sale of drug business as affected by territorial scope. 24 L.R.A. (N.S.) 928.

Legality under modern anti-trust acts of combinations between druggists. L.R.A.(N.S.) 136.

#### DRUMMERS.

See COMMERCIAL TRAVELERS.

#### DRUNKARDS.

Habitual drunkards, see Habitual Drunk-ARDS.

## DRUNKENNESS.

1. Generally.

Drunken passengers, see CARRIERS, §§ 39, 40.

Effect on criminal responsibility, see CRIM-INAL LAW, § 10.

As ground for divorce, see DIVORCE AND SEPARATION, § 26.

Opinion evidence as to, see EVIDENCE, § 188. As to habitual drunkards, see Habitual DRUNKARDS.

As to intemperance, see Intemperance.

DRUNKENNESS—cont'd.
Civil liability of seller of liquor for injuries resulting from intoxication, see INTOXICATING LIQUORS, § 41.

Effect of, on testamentary capacity, see Wills, § 11.

Libel or slander by charge of, against pub-lic officer or candidate. L.R.A.1918E,

Presumption as to continuance of. L.R.A. 122.

Municipal regulation of, as a nuisance. 39 L.R.A. 524.

Effect of intoxication on validity of marriage. 34 L.R.A. 87.

Effect of fact that habit of drunkenness relied upon as ground for divorce was contracted before marriage. 1918C, 867.

Effect of, on right of parent to custody of child. 41 L.R.A.(N.S.) 592, 605.

affecting testamentary capacity. L.R.A. 220.

As justification for discharge of servant or agent. 38 L.R.A. (N.S.) 339.

As ground for discharge of one employed in executive or supervisory capacity. L.R.A.1918C, 1038.

As disturbance of public peace. 32 L.R.A. (N.S.) 505.

In court room as contempt. 33 L.R.A. (N. S.) 138.

As ground for removal of officer. 50 L.R.A. (N.S.) 912.

Effect of, on voluntariness of confession. 50 L.R.A.(N.S.) 1083.

Intoxication of defendant as affecting liability for libel or slander. 51 L.R.A. (N.S.) 1198.

Right of innkeeper to refuse to accept as guest, drunken or disorderly person. 52 L.R.A.(N.S.) 744.

Recovery under workmen's compensation act where workman was intoxicated at time of injury. L.R.A.1916A, 351;

L.R.A.1917D, 134.

Recovery under Workmen's Compensation Statutes for injury caused solely by intoxication of employee. L.R.A.1918F,

Injuries by intoxicated person as within provision of accident insurance policy exempting insurer or limiting liability in case of an injury intentionally inflicted by another. 48 L.R.A.(N.S.)

Continuance because of intoxication of partv. 42 L.R.A.(N.S.) 667.

\$ 2. Provision in insurance policy against.

See INSURANCE, § 98.

3. Contracts with drunken persons. Right to affirmative relief in equity from contract on ground that it was procured from complainant while intoxicated. 17 L.R.A.(N.S.) 1066.

. — validity of. Validity of contract made with intoxicated person. 54 L.R.A. 440; 25 L.R.A. (N. S.) 596; L.R.A.1915B, 1121.

DRUNKENNESS-cont'd. Intoxication as defense to bill or note in hands of bons fide holder. 46 L.R.A. (N.S.) 212.

§ 5. As affecting negligence or contributory negligence.

Intoxication no excuse. 40 L.R.A. 131: 47 L.R.A. (N.S.) 731; L.R.A.1916F, 101. Effect when there is negligence on both

sides. . 40 L.R.A. 139.

Question for the jury. 40 L.R.A. 141; 47 L.R.A. (N.S.) 740.

Presumption and burden of proof. L.R.A. 142; 47 L.R.A. (N.S.) 740.

Intoxication amounting to contributory negligence. 40 L.R.A. 132; 47 L.R.A. (N.S.) 733; L.R.A.1916F, 101.

Intoxication as evidence of negligence. 40 L.R.A. 143; 47 L.R.A. (N.S.) 740; 50 L.R.A. (N.S.) 568.

Intoxication of driver on defective highway as contributory negligence. L.R.A. (N.S.) 1267.

Employment of persons having habits of intoxication. 47 L.R.A.(N.S.) 742.

on railroad track.

Intoxication of person on railroad track as affecting applicability of doctrine of last clear chance, see NEGLIGENCE, § 52.

Intoxication of person injured at crossing. 40 L.R.A. 133; 47 L.R.A. (N.S.) 735. Intoxication of person injured by railroad

trains operated longitudinally along public street. 49 L.R.A.(N.S.) 887.

7. — in highway.

Liability for injury to drunken person by defect in street. 2 L.R.A.(N.S.) 481.

When drunkenness amounts to contributory negligence in case of injury in highways, street, etc. 40 L.R.A. 138; 47 L.R.A.(N.S.) 737; L.R.A.1916F, 102.

Degree of care required of intoxicated persons in defective street. 21 L.R.A.(N. S.) 626; 48 L.R.A.(N.S.) 628.

Intoxication of driver on defective highway as contributory negligence. 13 L.R.A. (N.S.) 1267.

Intoxication of person operating automobile. L.R.A.1917A, 313.

As affecting homicide by negligent operation. L.R.A.1918B, 957.

Intoxication of person injured by railroad trains operated longitudinally along public street. 49 L.R.A.(N.S.) 687.

Of driver of horse encountering automobile on highway. 50 L.R.A. (N.S.) 568.

§ 8. — of passenger.

Carrier's duty to look after drunken passenger after he has left car. 8 L.R.A. (N.S.) 298.

Ejection of intoxicated passenger. 19 L.R.A. 327; L.R.A.1915C, 134.
Liability of carrier for act of obviously drunken passenger. 4 B. R. C. 330.

Carrier's liability for forcing sick or in-toxicated passenger out of car and onto platform. 16 L.R.A. (N.S.) 197.

Carrier's duty to accept intoxicated person as a passenger. 26 L.R.A.(N.S.) 173; L.R.A.1915E, 788.

DRUNKENNESS-cont'd. Intoxication as affecting negligence of passenger. 40 L.R.A. 134; 47 L.R.A. (N.S.) 736; L.R.A.1916F, 102.

#### 9. — of fellow servant.

Employment of persons having habits of intoxication. 40 L.R.A. 146; 47 L.R.A.

(N.S.) 742. Master's liability for injuries caused by fellow servant rendered incompetent by use of liquor. 25 L.R.A. 714.

Evidence of fellow servant's intemperance in action by injured servant. 14 L.R.A. (N.S.) 770.

#### DRY DOCK.

Right of municipal corporation to maintain dry dock. 31 L.R.A.(N.S.) 121.

#### DUCES TECUM.

Subpoena duces tecum, see WITNESSES, § 5.

#### DUCKING STOOL.

As cruel and unusual punishment. 85 L.R.A. 569.

#### DUEBILL.

Personal liability of corporate officers on. 19 L.R.A. 677. Clearing house duebill. 25 L.R.A. 826.

#### DUELING.

Solicitation to. 25 L.R.A. 437. Cruel or unusual punishment for. L.R.A. 571.

Homicide in the commission of. 63 L.R.A. 377.

Degree of homicide in case of killing in duel. 5 L.R.A.(N.S.) 821.

## DUE PROCESS OF LAW.

See Constitutional Law, IX. c.

#### DUES.

Meaning of. 15 L.R.A. 513. Enforceability of dues of members of social Of municipal contract, see MUNICIPAL COR-clubs. 34 L.R.A.(N.S.) 647. PORATIONS, § 55. Consult also L.R.A. Digests of Cases.

#### DUMB PERSONS.

See DEAF AND DUMB.

#### DUMB WAITER.

Liability of landlord for personal injuries to wife of lessee. L.R.A.1916F, 1152. Liability of landlord for personal injury by defects in, to member of lessee's family other than wife. L.R.A.1916F, 1162.

Landlord's liability for injury to servant of tenant by defect in dumb waiter. L.R.A.1916F, 1148.

## **DUMMY DIRECTORS.**

Validity of agreement to elect. 27 L.R.A. (N.S.) 658.

#### DUMMY STOCKHOLDERS.

Liability of dummy-holder of stock for pledgee's benefit. 36 L.R.A. 140.
Liability of pledgee of stock listed in name
of dummy holder. 19 L.R.A.(N.S.) 252.

## DUMPING GROUND.

Municipal liability as to, see MUNICIPAL CORPORATIONS, § 78.

## DUPLICATE.

Presumption as to alteration of typewritten instrument made in duplicate. 18 L.R.A. (N.S.) 680.

To whom delivery may be made under duplicate bills of lading. 38 L.R.A. 362.

## DUPLICITY.

In indictment, see Indictment, etc., § 31. In pleading in civil action, see Pleading, § 15.

In statutes, see STATUTES, §§ 13, 14.

In description of offense in bail bond or recognizance. 38 L.R.A.(N.S.) 328.

## DURATION.

Of easement, see EASEMENTS, § 17. Of employment, see MASTER AND SERVANT, § 5.

DURATION—cont'd.

Of private corporation. 33 L.R.A. 576. Of period of compulsory labor of prisoner. 27 L.R.A. 600.

Right of witness to express opinion as to duration of time. L.R.A.1918A, 708.

#### DURESS.

§ 1. Generally.

Contract procured by threats of prosecution of a relative, see Contracts, § 91. Equity jurisdiction in case of, see EQUITY, § 8.

To avoid marriage. 43 L.R.A. 814. Cohabitation as ratification of forced marriage. 27 L.R.A.(N.S.) 805. Of employee in respect to inventions. L.R.A.(N.S.) 1179.

Incriminating evidence furnished by defendant acting under compulsion. 3. L.R.A.(N.S.) 772; L.R.A.1918B, 849.

§ 2. What constitutes.

By lien on real property. 16 L.R.A. 376. By demanding receipt as a condition of payment. 1 L.R.A.(N.S.) 867.

Payment of illegal bonus for discharge of mortgage pending L.R.A.(N.S.) 574. foreclosure.

What constitutes duress for which marriage may be annulled. 27 L.R.A.(N. S.) 803.

When payment of license fee is made under duress. 22 L.R.A.(N.S.) 873.

Voluntariness of payment of license fee unlawfully exacted under color of authority. 22 L.R.A. (N.S.) 872; 49 L.R.A. (N.S.) 387.

Merely demanding that accused produce incriminating document as violation of his privilege against self-crimination. 35 L.R.A. (N.S.) 1171.

Threats of imprisonment by public officer. L.R.A.1916B, 670.

Duress of real property. L.R.A.1915B, 498.

§ 3. Effect of.

Right to recover back money paid under, see Assumpsit, § 4; Taxes, §§ 86, 87. As excuse for crime, see CRIMINAL LAW, § 22.

As ground for divorce, see DIVORCE AND SEPARATION, § 21.

As ground for injunction against judgment, see Injunction, § 56.

Effect of, to avoid marriage, see MARRIAGE, § 6.

As ground of attack on divorce decree. L.R.A.1917B, 457.

As affecting compromise. 25 L.R.A. (N.S.)

Impeachment of certificate of acknowledgment because of. 41 L.R.A. (N.S.) 1169.

DURESS-cont'd.

As ground of injunction against judgment. 30 L.R.A. 802.

Right to avoid marriage entered into to escape prosecution for seduction, upon ground of duress. 16 L.R.A.(N.S.) 938.

Voluntariness of confession made under. 18 L.R.A. (N.S.) 795; 50 L.R.A. (N.S.) 1077.

Effect of shipping contract limiting carrier's common law liability signed under . compulsion. 28 L.R.A. (N.S.) 637.

As an excuse for crime. 19 L.R.A. 357. Effect of duress of real property. L.R.A. 1915B, 498.

Enforcement of contract entered into under circumstances not constituting duress by its proper law, but so regarded by the law of the forum. 4 B. R. C. 423.

#### DUST.

Servant's assumption of risk from. L.R.A. (N.S.) 364.

Right to recover for, in condemnation proceedings. 40 L.R.A. (N.S.) 48.

Right to compensation in condemnation proceedings for damages to part of tract not taken by dust incidental to operation of railroad. 17 L.R.A.(N.S.) 1054; L.R.A.1916E, 445.

#### DUTIES.

When is offense of smuggling, denounced by U. S. Rev. Stat. § 2865 (U. S. Comp. Stat. 1901, p. 1905), complete. 31 L.R.A.(N.S.) 264.

Question relating to, as Federal question. 62 L.R.A. 538.

Permit for unlading. 56 L.R.A. 134.

Entry or statement of baggage. 56 L.R.A. 133.

Forfeiture for violation of revenue laws. 2 L.R.A.(N.S.) 185.

Forfeiture of dutiable articles in passenger's baggage. 56 L.R.A. 130.

Necessity and sufficiency of statement of grounds in notice of protest required as condition of recovering back unlawful duties paid. 36 L.R.A. (N.S.) 482.
Right to recover price of goods sold to smugglers. 15 L.R.A. 834.

Liability of carrier for extra duties resulting from deviation. L.R.A.1918A, 1066.

#### DWELLINGS.

§ 1. Generally. As to buildings, see Buildings. Covenants as to, see Covenants, § 22.

Right of peace officer to enter dwelling to make arrest. 16 L.R.A. 500.

Homicide to prevent attack in, or trespass or assault on. 67 L.R.A. 541; 45 L.R.A. (N.S.) 71.

"Retreat to the wall" in homicide in defense of. 2 L.R.A.(N.S.) 71.

Right of owner or lessee of mineral in place to use the surface of the land for erection of. 48 L.R.A.(N.S.) 888.

Effect of constitutional or statutory pro-vision exempting dwelling houses from proceedings. L.R.A. condemnation 1916A, 1100.

Right to break and enter dwelling to serve civil writ of process. L.R.A.1916D,

§ 2. What are.

What constitutes. 67 L.R.A. 545.

What are dwellings within meaning of a water company's obligation to supply water at prescribed rates for dwellings. 11 L.R.A.(N.S.) 613.

#### DYING DECLARATIONS.

Admissibility of evidence, see EVIDENCE, X1. Weight of, see Evidence, § 318a.

#### DYNAMITE.

As to explosives generally, see Explosions AND EXPLOSIVES.

Negligence in the manufacture and storage of. 29 L.R.A. 718.

Master's liability for injuries due to explosion of, by lightning. 28 L.R.A.(N. S.) 1260.

As dangerous agency for injury by which, when used by servant, master is liable. 10 L.R.A.(N.S.) 372, 376, 397.

Liability for injury to children from dynamite left accessible to them. 14 L.R.A. (N.S.) 586; L.R.A.1917A, 1295.

Violation of statute or ordinance relating to, as ground of private action. 1..R.A. (N.S.) 880.

Keeping of, on insured premises. L.R.A. 1917C, 278.

## E

## EARNINGS.

Future earnings, see Future Earnings.

Right of creditors in personal services of debtor. 21 L.R.A. 623.

Capitalization of, in valuation of public service property. 48 1109; L.R.A.1916F, 655. 48 L.R.A. (N.S.)

As element to be considered in determining compensation to be paid public utility

company upon taking its plant. 47 L.R.A.(N.S.) 784, 785, 799.

Consideration of, in determining value of property for taxation. L.R.A.1916C, 529.

Taxation of, as part of capital stock of corporation. 58 L.R.A. 569.

Loss of, as element of damages for breach of contract of partnership. 51 L.R.A. (N.S.) 90.

Evidence of the earnings of the deceased to show pecuniary loss by his death. L.R.A.1918C, 1080, 1112; L.R.A.1918E,

Basis for determining earning capacity in action under Civil Damage Act. L.R.A. 1918F, 654.

#### EARTH OILS.

Keeping of, on insured premises. 1917C, 278. Consult also L.R.A. Digests of Cases.

#### EARTHQUAKE.

Liability of insurer for fire caused by. 21 L.R.A.(N.S.) 103.

Fall of building clause in fire insurance policy. 32 L.R.A.(N.S.) 604.

#### EASEMENTS.

I. In general, § 1.

II. What constitutes, \$ 2.

III. Nature; kind, \$\$ 3-5.

IV. Creation; how acquired, \$\$ 6-15

a. In general, § 6. b. By express terms, § § 7, 8.

c. By prescription, § 9. d. By implication; as appurte-

nant; of necessity, \$\$ 10-15.

V. Transfer of; duration, \$\$ 16, 17. VI. Interference with; change of, \$\$ 18-21.

VII. Extent of right; maintenance of easement; remedies, §§ 22-24. VIII. Loss; abandonment; extinguish-

ment, §§ 25-28.

## I. In general.

§ 1. Generally. L.R.A. Public easement, see HIGHWAYS; PARKS In highway, see Highways, IV.

EASEMENTS, I.—cont'd. In party wall, see PARTY WALL, § 2. In stairway, see STAIRWAY, § 1. In waters, see WATERS, II.

Tenant's easement of light and air, see LANDLORD AND TENANT, § 43.

Of lateral support, see LATERAL SUPPORT. As to license, see LICENSE, I.

As to subjacent support, see MINES, § 29. As to railroad right of way, see RAIL-ROADS, §§ 15-18.

Registration of easements under the Torrens Law. L.R.A.1916D, 77.

Existence of public highway, private way, or railroad right of way across land at time of conveyance as breach of covenants. 48 L.R.A.(N.S.) 619.

Existence of water right on land at time of conveyance as breach of covenant. 51 L.R.A. (N.S.) 428.

Effect of lapse of time to cure defect in title consisting of easement. 38 L.R.A. (N.S.) 39.

What constitutes a "taking" of. 18 L.R.A. 166.

Possession of easement as notice of title. 13 L.R.A.(N.S.) 132.

Injunction against interference with fences under claim of. 7 L.R.A.(N.S.) 58. Of right of way on shore. 4 L.R.A.(N.S.)

872. Dedication of land as affecting easement. 31 L.R.A.(N.S.) 1028.

Enforcement of provision for right of way, although valid reservation not created. 3 L.R.A. (N.S.) 98.

Duty to member of public on private way used by public generally. 21 L.R.A. (N.S.) 977.

## II. What constitutes.

Senerally.

Interest of owner in burial lot as. L.R.A. 119; L.R.A.1918A, 147. Restrictive covenants as to use of property as. 37 L.R.A. (N.S.) 36.

#### III. Nature; kind.

§ 3. Generally.

Nature of right to lateral and subjacent support. 68 L.R.A. 683.

Effect upon easement of unity of seisin of dominant and servient estates. B. R. C. 477.

Easement for use of water as appurtenant or in gross. L.R.A.1918F, 447.

§ 4. Effect of, on title to land.

As affecting marketability of title. L.R.A. (N.S.) 33. 38

Existence of public highway, private way, or railroad right of way across land at time of conveyance as breach of covenants. 30 L.R.A.(N.S.) 833.

5. — knowledge of existence of.

Effect of purchaser's knowledge of, in ac-tion for breach of covenant against encumbrance. 4 L.R.A.(N.S.) 314.

Physical conditions which will charge purcharer of servient estate with notice of easement. 8 L.R.A. (N.S.) 418.

Begin with this book on every law question.

EASEMENTS—cont'd.

## IV. Creation; how acquired.

#### a. In general.

§ 6. Generally.

Easement of builder of party wall in non-builder's land. 66 L.R.A. 704.

#### b. By express terms.

§ 7. Generally.

Grant of right of way on shore. 4 L.R.A.

(N.S.) 881. Validity of contract by public-service corporation for exclusive right of way across private property. (N.S.) 456. 36 L.R.A.

Power of husband to create easements in homestead without wife's consent. 27 L.R.A.(N.S.) 963.

Effect of language in deed indicating purpose of grant or use to which the property is to be put as creating easement. L.R.A.1918B, 701, 706.

§ 8. By exception and reservation. General distinctions between exception and reservation, 20 L.R.A. 631.

Creation of easement by reservation. L.R.A. 631.

Words of inheritance necessary in the reservation of easements. 20 L.R.A. 632. Exception of easements. 20 L.R.A. 632. Words of inheritance not necessary to ex-

cept an easement in fee. 20 L.R.A. 633. Necessity of technical words. 20 L.R.A. 633.

Reservation out of grantee's other property. 20 L.R.A. 633.

Reservation in favor of stranger. 20 L.R.A.

Construction of reservation. 20 L.R.A. 634. Duration of easements appurtenant. L.R.A. 635.

Illustration of the use of reservations. 20 L.R.A. 637.

Reserved in condemnation case to reduce damages. 26 L.R.A. 751.

§ 8. By exception and reservation. Effect of provision as to crossing in deed to railroad right of L.R.A. (N.S.) 378.

## c. By prescription.

§ 9. Generally.

Prescriptive rights as to easements in water, see WATERS, §§ 101-105.

Acquisition of easement by prescription where original use was under li-cense. 44 L.R.A.(N.S.) 89.

Use of way by necessity as affecting creation of easement by prescription. 44 L.R.A.(N.S.) 101.

Acquisition by prescription of right to visit object of interest on private property, or to resort thereto for purposes of pleasure. 4 B. R. C. 889.

EASEMENTS, IV. c—cont'd.
May a tenant of one close acquire an easement in an adjoining close of his landlord against the latter or another of his tenants. 4 B. R. C. 998.

Prescriptive easement to discharge water, snow, or ice from roof upon premises of adjoining owner. L.R.A.1916A, 695. Prescriptive right to fish. 60 L.R.A. 496.

Prescriptive right by use of underground water pipes. 2 L.R.A.(N.S.) 976.

Prescriptive right to lateral support of

buildings. 20 L.R.A. 730.

Right of way on shore by custom or pre-scription. 4 L.R.A.(N.S.) 880.

Acquisition by prescription of party-wall easement in common division wall. 18 L.R.A.(N.S.) 131.

Prescription or adverse possession of grave or burial lot. 40 L.R.A. (N.S.) 752.

Acquisition of prescriptive right of way across railroad tracks. 35 L.R.A. L.R.A.

(N.S.) 190; 48 L.R.A.(N.S.) 903.
Effect of protest by owner to prevent acquisition of right of way by prescription. 25 L.R.A.(N.S.) 174.

Leaving bars or gates for convenience of neighbor when fencing land, as affecting the acquisition of easement of way by prescription. 35 L.R.A.(N.S.) 941.

Void parol conveyance of easement as foundation for easement by prescription. 13 L.R.A.(N.S.) 991.

Burden of showing that use upon which an easement by prescription is claimed was permissive, and not under claim of right. 8 L.R.A. (N.S.) 149; 44 L.R.A. (N.S.) 98.

#### d. By implication; as appurtenant; of necessity.

§ 10. Generally.

Creation of easement by sale of land as bounded by street or alley, see DEDICA-TION, § 6.

Appurtenant easements. 2 L.R.A. 285;\*

14 L.R.A. 300; 20 L.R.A. 635. Implied grant of, in partition deed. L.R.A. (N.S.) 1082.

Right of way on shore as appurtenant to fishery right. 4 L.R.A.(N.S.) 879.

Reciprocal easements as to artificial water rights. 17 L.R.A.(N.S.) 945.

Way appurtenant to close from which it is separated by intervening lands. L.R.A. (N.S.) 983.

Right to discharge water, snow or ice from roof upon premises of adjoining owner. L.R.A.1916A, 693.

§ 11. By conveyance with reference to street, alley, or private way.

Effect of bounding grant on private way to carry title thereto. 24 L.R.A.(N.S.) 539.

Right of grantee to claim an easement, implied covenant, or estoppel, as against the grantor, by a call in the deed for a street or alley in which the grantor owns the fee. 14 L.R.A. (N.S.) 878. Consult also L.R.A. Digests of Cases.

EASEMENTS, IV. d-cont'd.

Right of purchaser of property according to plat to easements in streets or ways indicated thereon, other than those on which his property abuts. 28 L.R.A. (N.S.) 1024.

Implied easement by exhibiting unfiled plat to intending purchaser. 35 L.R.A. (N.S.)

Bounding land on alley as covenant that alley exists, where grantor does not own the fee thereof. 10 L.R.A.(N.S.)

§ 12. By severance of tract of land with apparent benefit existing

The general rule. 26 L.R.A. (N.S.) 316; L.R.A.1915C, 346.

Requisites. 26 L.R.A.(N.S.) 324; L.R.A. 1915C, 347.

26 L.R.A. (N.S.) 336; L.R.A. Incidents. 1915C, 348.

Application of rules to easements of way or passage. 26 L.R.A.(N.S.) L.R.A.1915C, 349. 344;

Application of rules to easements in waters and water courses. 26 L.R.A. (N.S.) 356; L.R.A.1915C, 351.

Application of rules to easements of drainage. 26 L.R.A. (N.S.) 361; L.R.A. 1915C, 353.

Application of rules to easements of support of land and buildings. 26 L.R.A. (N.S.) 364; L.R.A.1915C, 353.

Application of rules to easements of light and air. 26 L.R.A. (N.S.) 369; L.R.A. 1916C, 354.

Use of building. L.R.A.1915C, 355. Miscellaneous. L.R.A.1915C, 355.

§ 18. Easements of light, air, and prospect.

Interference with easements, see infra, §§ 19-21.

Tenant's easements, see Landlord and TENANT, § 43.

Abutting owner's easements of light and air. 11 L.R.A. 634; 14 L.R.A. 370, 381.

Implied easement of light, air, and prospect. 22 L.R.A. 536.

Tenant's easement of light and air. 22 L.R.A. 540; 23 L.R.A. 158.

Does lease carry right to light and air from adjoining premises of landlord. L.R.A.(N.S.) 333; L.R.A.1918B, 475.

American law as to easements of light, air, and prospect. 22 L.R.A. 536; 8 L.R.A. (N.S.) 350.

Creation of easements of light and air by severance of tract of land with apparent benefit existing. 26 L.R.A. (N.S.) 5.9; L.R.A.1915C, 354.

§ 14. Way of necessity.

Way of necessity where other possible modes of access exist. 17 L.R.A. (N.S.) 1019; 32 L.R.A. (N.S.) 1075.

EASEMENTS, IV. d-cont'd.

Does the fact that the sale of part of a tract is involuntary prevent the implication of a way by necessity over the remainder. 12 L.R.A.(N.S.) 482.

Use of way by necessity as affecting creation of easement by prescription. 44 L.R.A.(N.S.) 101.

§ 15. Implication from necessity of easement other than right of way. In general. 8 L.R.A.(N.S.) 328.

#### V. Transfer of: duration.

16. Transfer of.

Devise as carrying visible easement. L.R.A.(N.S.) 882.

Effect of attempt to sever appurtenant easement from the premises for the benefit of which it exists. 14 L.R.A. 300.

Right to assign or transmit easement in gross. 14 L.R.A. 333.

Easement for use of water as appurtenant or in gross. L.R.A.1918F, 447.

Applicability to, of rule against conveyance of land held adversely. 35 L.R.A.(N. S.) 744.

Transferability of right to take advantage of breach of condition on which easement granted. 60 L.R.A. 764.

Right of owner of dominant estate to grant rights in easement to one having no title to or interest in the tract to which it is appurtenant. 41 L.R.A.(N.S.) 1107.

Right of remote grantee to claim easement by way of necessity not opened by immediate grantee. 46 L.R.A.(N.S.) 156.

17. Duration.

Duration of easements appurtenant. 20 L.R.A. 635.

Duration of right created by provision as to crossing in deed to railroad right of way. 48 L.R.A.(N.S.) 380.

#### VI. Interference with; change of.

18. Generally.

Right to change easement. 15 L.R.A. 93. Building over right of way. 15 L.R.A. 487. Revocability of license interfering with ease-

ment. 49 L.R.A. 505.
Grant of "free" right of way; right to obstruct. 3 L.R.A.(N.S.) 461.

Change in exercising right to take water from another's premises. 43 L.R.A. (N.S.) 824.

Right to maintain gates or bar across right

of way. 48 L.R.A.(N.S.) 87.
Right of owner of servient tenement to fence side of right of way as against owner of the dominant tenement. 7 B. R. C. 261.

## § 19. Easements of light, air, and prospect.

Creation of easements, see supra, § 13.

Change in character or use of dominant tenement as affecting easement. L.R.A. 1917A, 528.

EASEMENTS, VI.—cont'd.

Injury to abutter's easements of light, air, and access by vacating street, changing grade, etc. 14 L.R.A. 370, 383.

Bad motive as affecting liability for ob-

structing light and air. 62 L.R.A. 683. Right to interfere with light and air by building over right of way. 16 L.R.A. (N.S.) 193.

Interference with view. L.R.A.1917C, 1135. Injunction against interference with view from street. 5 L.R.A.(N.S.) 486.

Mandatory injunction for removal of obstruction to light. 20 L.R.A. 161. What constitutes a "taking" of. 18 L.R.A.

166.

20. - by railroad.

Right of property owner to compensation for interference with light or air by railroad structure on company's own property. 20 L.R.A.(N.S.) 1061.

Abutter's right to compensation for interference with easement of light, air, and access by railroad in street. 36 L.R.A.

(N.S.) 736, 778.

§ 21. — on leased premises.

Liability of landlord to tenant for obstruction of. 23 L.R.A. 158; 13 L.R.A. (N.S.) 333; L.R.A.1918B, 475.

Liability of landlord to third person for obstruction of light. 26 L.R.A. 201.

VII. Extent of right; maintenance of easement; remedies.

22. Extent of right.

Adaptation, improvement, and repair of right of way. L.R.A.1918A, 593.

Extent of indefinite easement as affected by the extent to which it has been used. 5 L.R.A.(N.S.) 851.

Rights conferred by grant of unrestricted easement as limited to a reasonable use. 15 L.R.A.(N.S.) 292.

Right of way for irrigation ditch; right of fee owner to cross. 3 L.R.A. (N.S.) 1148.

Easement of way as including the right to lay pipes. L.R.A.1917F, 449. Extent of right conferred by grant or res-

ervation in conveyance of lot of right

to use lane or alley. 3 B. R. C. 533.
Right to maintain gates or bars acrossright of way. 48 L.R.A.(N.S.) 87.

Right of owner of dominant tenement to fence side of right of way as against owner of the servient tenement. R. C. 261.

Character of vehicle that may be used on private right of way. L.R.A.1918A,

Enlarging use of crossing provided for indeed to railroad of right of way. 48 L.R.A.(N.S.) 391.

Change in character or use of dominant tenement as affecting easement. L.R.A. 1917A, 528.

§ 23. Maintenance of casement.

Duty of owner of servient tenement to maintain and protect easement. 15-L.R.A.(N.S.) 992.

EASEMENTS, VII.—cont'd.

Right of owner of upper floor to compel maintenance of walls. 3 L.R.A.(N.S.) 510.

Right to use public funds to maintain or improve private ways, or ways dedicated to public but never accepted. 35 L.R.A. (N.S.) 524.

Negligence in care of private way. 6 L.R.A. (N.S.) 310.

## 24. Remedies.

Ejectment for public easement. 11 L.R.A. (N.S.) 129.

Right of owner of right of way over another's land to compensation when the land is taken for a public highway. 2 L.R.A.(N.S.) 598.

Remedies for failure to comply with provision as to crossing in deed to railroad of right of way. 48 L.R.A.(N.S.) 387.

## VIII. Loss; abandonment; extinguish-

#### 25. Generally.

Interference with easement by fence, see FENCES, § 7.

Effect of gates on easement, see GATES, § 3.

Change in character or use of dominant tenement as affecting easement. L.R.A. 1917A, 528.

Vacation of, or refusal by public to accept, platted street or highway as affecting private easements of abutting owners. L.R.A.1917A, 1123.

Extinguishment of easement for private way by its incorporation into a public way. 21 L.R.A.(N.S.) 1002.

Effect of destruction of building to terminate adjoining owner's easement of support. 19 L.R.A.(N.S.) 883; 46 L.R.A. (N.S.) 1021; L.R.A.1918D, 413.

Right of abutting owner to continue enjoyment of pathway across highway. 12 L.R.A.(N.S.) 918.

Loss of private way by improvements in-consistent with its use. 22 L.R.A.(N. S.) 880.

Tax sale as cutting off easement. L.R.A. 1915D, 1115.

Estoppel to assert easement by deceiving one acquiring title. 48 L.R.A. (N.S.) 765.

Right to maintain gates or bars across right of way. 48 L.R.A.(N.S.) 87.

#### § 26. Adverse possession.

Inclosure of right of way as adverse possession. 1 L.R.A.(N.S.) 565.

§ 27. Effect of nonuser. Mere nonuser will not extinguish easement. 18 L.R.A. 535.

Necessity that nonuse be accompanied by adverse use of servient estate. L.R.A. 537.

Duration of adverse use. 18 L.R.A. 538. Intention of owner of easement as indicated by his acts. 18 L.R.A. 538. Public easements. 18 L.R.A. 540.

Consult also L.R.A. Digests of Cases.

EASEMENTS, VIII.-cont'd.

Abandonment or loss of private way by. 22 L.R.A.(N.S.) 880; 42 L.R.A.(N.S.) 741.

Abandonment of highway by. 26 L.R.A. 449.

#### § 28. Abandonment.

Abandonment or loss of private way by dominant owner cutting off access thereto. 22 L.R.A.(N.S.) 884.

Effect of abandonment of highway. L.R.A. 659.

Abandonment of highway by nonuser or otherwise than by act of public. 26 L.R.A. 449.

Abandonment of private way by nonuser or improvements inconsistent with its use. 22 L.R.A.(N.S.) 880; 42 L.R.A.(N.S.) 741.

Abandonment of crossing created by provision in deed to railroad of right of way by severance of ownership. 48 L.R.A. (N.S.) 386.

Will failure to maintain easement raise a presumption of its abandonment. L.R.A.(N.S.) 832.

Right of one to testify to his intent with reference to abandonment of easement. 23 L.R.A. (N.S.) 397.

#### EATING PLACES.

See also BOARDERS AND BOARDING HOUSES; INNKEEPERS: RESTAURANTS.

Liability for serving unfit food. 40 L.R.A. (N.S.) 480; L.R.A.1915B, 481.

Serving liquor with meals as a sale thereof. 52 L.R.A.(N.S.) 722.

#### EAVES.

Extension of, beyond line as violation of building restriction. 52 L.R.A.(N.S.) 1051.

## EAVES DRIP.

Right to discharge water from roof upon premises of adjoining owner. L.R.A. 1916A, 693.

## EAVESDROPPING.

Admissibility, in criminal case, of testimony as to facts learned while eavesdropping. 17 L.R.A.(N.S.) 451.

## EBB AND FLOW.

See TIDAL WATERS.

#### ECCENTRICITIES.

As insane delusions. 37 L.R.A. 267. As affecting testamentary capacity. L.R.A.(N.S.) 56; L.R.A.1915A, 458.

#### ECCLESIASTICAL OFFICERS.

Privilege of communications to. L.R.A. 1917D, 278.

#### ECCLESIASTICAL TRIBUNALS.

Conclusiveness of judgment of, see Courts, § 12.

See also Religious Societies.

Comparison of handwriting in. 62 L.R.A. 829.

#### ECONOMY.

Statement as to the economy of operation as a warranty. L.R.A.1917C, 1078.

#### EDITOR.

Liability of, for libel, see LIBEL AND SLAN-DER, § 4.

#### EDUCATION.

Charitable bequest for, see CHARITIES. As to schools generally, see Schools.

As a necessary for an infant. 42 L.R.A. (N.S.) 1115.

Fiffect of recital in deed indicating that land is to be used for educational purposes. L.R.A.1918B, 696.

#### EDUCATIONAL INSTITUTIONS.

Taxation of, see Taxes, §§ 24-26. See also COLLEGES: SCHOOLS.

Power to exercise eminent domain for purpose of. 48 L.R.A.(N.S.) 485.
Liability of property of, to local assessment. 35 L.R.A. 37; 44 L.R.A.(N.S.)

Erection of, as violation of restrictive covenant in deed. 41 L.R.A.(N.S.) 616.

## EFFECTS.

Meaning of word "effects" in a will. L.R.A. 1918F, 769.

Will real estate pass under the word "effects" in a written instrument. 12 L.R.A.(N.S.) 661.

#### EFFICIENCY.

Construction of guaranty of, as affected by specifications. L.R.A.1918F, 388.

#### EGGS.

Constitutionality of statute requiring announcement that eggs are imported. L.R.A.1916E, 1186.

EGRESS.

See ACCESS.

## EIGHT-HOUR LAW.

Hours of labor by employee, see MASTER AND SERVANT, §§ 32, 33.

#### EJECTION.

Of passenger, see CARRIERS, §§ 30-35; DAM-AGES, § 45.

Liability of innkeeper for ejecting guests. 42 L.R.A.(N.S.) 830.

Liability for ejecting sick tenant, lodger, or other occupant. 55 L.R.A. 258.

Liability of master other than carrier for wrongful acts of servant in ejecting person from premises. 47 L.R.A.(N.S.) 959.

### EJECTMENT.

§ 1. Generally.

Ejectment not prosecuted to judgment as a conclusive election of remedies. L.R.A. 1917D, 658.

Estoppel in pais on debt as basis for action of. 16 L.R.A. 813.

Appointment of receiver to preserve status quo pending ejectment action. 38 L.R.A. (N.S.) 230.

Effect of remedy by, on equitable jurisdiction to remove all and action.

tion to remove cloud on title. L.R.A.(N.S.) 59.

Right of purchaser to question grantor's right to collect purchase money in action of ejectment. 21 L.R.A.(N.S.) 393.

Conclusiveness of probate in action of. 21 L.R.A. 685.

Injunction against dispossession in ejectment. 30 L.R.A. 129.

§ 2. When proper remedy.

For railroad right of way. 66 L.R.A. 40.

Abutter's right to ejectment against railroad in street. 36 L.R.A.(N.S.) 830. To recover possession of burial lot. L.R.A. 125.

To remove electric wires. 11 L.R.A.(N.S.)

920.

For encroachments under surface, or overhead. 11 L.R.A.(N.S.) 917.

For a public easement. 11 L.R.A. (N.S.) 129.

EJECTMENT-cont'd

Injunction or ejectment as proper remedy where public highway is illegally opened over private property. 25 L.R.A.(N.S.) 511.

§ 3. Prerequisites to action.

Necessity of entry or formal declaration of forfeiture. 14 L.R.A.(N.S.) 1188; 23 L.R.A.(N.S.) 938; L.R.A.1917C, 882.

4. Who may maintain.

Who is real party in interest by whom action must be brought. 64 L.R.A. 620. Right of surviving partner to maintain ejectment for partnership real property. 28 L.R.A. 134.

Remedy of pretermitted heirs by. 37 L.R.A. (N.S.) 1146.

By tenant to secure possession. L.R.A. 1918A, 55.

§ 5. — what title or interest will support.

Estoppel in pais upon defendant as basis of action. 16 L.R.A. 813.

General rule that plaintiff must recover, if at all, on the strength of his own title.

18 L.R.A. 781.

Equitable title. 18 L.R.A. 781.

Interest in public land. 18 L.R.A. 782. Necessity of right of possession and interest in land. 18 L.R.A. 783.

Title acquired by limitation. 18 L.R.A.

Sufficiency of possessory title. 18 784; 46 L.R.A. (N.S.) 487, 508.

Equitable estoppel as basis for action of ejectment. 49 L.R.A.(N.S.) 777.

Ejectment to obtain possession of burial lot. 67 L.R.A. 125; L.R.A.1918A, 150.

Ejectment for pier. 40 L.R.A. 648. Right of action by owner of dominant es-

tate subject to easement. L.R.A. 787.

To obtain railroad right of way. 66 L.R.A.

Sufficiency of mining rights to support. 18 L.R.A. 787.

Interest of a mortgagee. 18 L.R.A. 788. Tenant in common. 18 L.R.A. 789.

Executors, administrators, and guardians. 18 L.R.A. 789.

Ejectment by widow to recover dower. 18 L.R.A. 790.

18 L.R.A. 790. Remaindermen.

Establishment of prima facie title in plain-tiff in ejectment by conveyance, or chain of conveyances, not running back to sovereignty, or to the common source of title. 10 L.R.A.(N.S.) 404; 22 L.R.A.(N.S.) 1100.

Proof under general denial or plea of the general issue of want of title in the plaintiff. L.R.A.1918F, 250.

§ 6. Disselsin.

What disseisin will support action. 13 L.R.A. 664. Public use as. 13 L.R.A. 664.

Overhanging caves as. 13 L.R.A. 664. Consult also L.R.A. Diyests of Cases. 29

EJECTMENT-cont'd

§ 7. Defenses.

Availability of equitable estoppel as defense. 49 L.R.A. (N.S.) 777. Defenses available under general denial or

a plea of the general issue. L.R.A. 1918F, 247.

8 8. Verdict.

Requisites of special verdict in action of. 24 L.R.A.(N.S.) 18.

§ 9. Judgment generally.

Judgment against plaintiff in trespass to try title involving boundary as estab-lishing boundary claimed by defendant. 38 L.R.A.(N.S.) 1026.

Right to accept favorable part of decree and appeal from the rest. 29 L.R.A.(N.S.)

§ 10. - effect; conclusiveness. See JUDGMENT, 37b.

11. Relief granted.

Extent of recovery in ejectment by tenants in common against stranger. 6 L.R.A. (N.S.) 710; 51 L.R.A. (N.S.) 50.

§ 12. — improvements; crops.

As to improvements generally, see IMPROVE-MENTS.

Plowing and cultivating land as an improvement. 20 L.R.A. (N.S.) 378.

Right as between successful plaintiff and evicted defendant to crops unsevered at time of final judgment. 23 L.R.A. (N.S.) 531; L.R.A.1918A, 550.

§ 13. Statutory new trial.

Effect of prior decision on statutory new trial in real actions. 40 L.R.A. 825.

§ 14. Burden of proof. Burden of proof in ejectment case as to testamentary capacity. 17 L.R.A. 496.

§ 15. Costs.

Liability of beneficial plaintiff for costs in ejectment. 62 L.R.A. 623.

Liability for costs of third party defending ejectment suit. 62 L.R.A. 626.

#### ELDERS.

Privilege of communications to elders of church. L.R.A.1917D, 280.

## ELECTION.

Of remedies, see Election of Remedies. Between counts, see TRIAL, § 10.

To take under will, see WILLS, §§ 110-115.

Effect of insurer's election to rebuild, repair, or replace insured property after a loss. 20 L.R.A.(N.S.) 960.

Right of one's creditors or personal representative to make or control election for or against a will, or between different provisions of a will or a statute. 11 L.R.A.(N.S.) 379.

#### ELECTION DISTRICTS.

Validity of apportionment. 15 L.R.A. 561. Interference with, by annexation of property to municipality. 27 L.R.A. 744.

Effect of laches in questioning unconstitutional apportionment of. 10 L.R.A. (N.S.) 1184.

Effect of ordinance of 1787 upon apportionment of state into senatorial and assembly districts. 52 L.R.A.(N.S.) 311.

#### ELECTION OF REMEDIES.

I. In general, § 1.

II. Choice, §§ 2-12.

a. In general, §\$ 2-11.

b. Exclusiveness of statutory remedy, § 12.

III. Effect; pursuing two remedies, \$\$ 13-15.

#### I. In general.

\$ 1. Generally. Right to join defendants, see Parties, § 36. Election to take gift by will, see WILLS, §§ 110-115.

## II. Choice.

## a. In general,

§ 2. Generally.

When plaintiff bound to elect. 4 L.R.A. 147.\*

Alternative remedies. 4 L.R.A. 146.\* When remedies not concurrent. 4 L.R.A. 145.\*

§ 8. Between assumpsit and remedy.

Between tort and assumpsit. 17 L.R.A. (N.S.) 280.

Right to waive tort and sue upon implied contract, where property is negligently destroyed. 37 L.R.A. (N.S.) 230.

Against agent contracting as such without authority. 34 L.R.A. (N.S.) 525.

Action for money had and received as proper remedy to recover money secured by fraudulent contract. 36 L.R.A.(N.S.) 602.

4. Against principal or agent. Conclusiveness of election between, see in-

Against agent contracting as such without authority. 34 L.R.A.(N.S.) 525.

§ 5. Of landlord.

Remedy of landlord on abandonment of premises by tenant. 13 L.R.A.(N.S.) 398.

§ 6. Of pretermitted heirs. In general. 37 L.R.A. (N.S.) 1143. Right or duty to contest probate. L.R.A.(N.S.) 1144. ELECTION OF REMEDIES, II. a—cont'd Setting aside probate. 37 L.R.A. (N.S.) 1144.

Statutory remedy as exclusive. 37 L.R.A. (N.S.) 1145.

By proceedings in equity. 37 L.R.A.(N.S.) 1146.

By writ of entry, or ejectment. 37 L.R.A. (N.S.) 1146.

By proceeding for partition. 37 L.R.A. (N.S.) 1147.

intervening in administration. L.R.A. (N.S.). 1147.

By action on executor's bond. 37 L.R.A. (N.S.) 1147. Miscellaneous. 37 L.R.A.(N.S.) 1147.

## f 7. Of servant.

Remedies as to things produced by labor of employee. 5 L.R.A.(N.S.) 1172. Effect, on common-law action, of employ-

er's liability act. 12 L.R.A.(N.S.) 1038.

Effect on common law action of workmen's compensation acts. L.R.A.1916A, 72; L.R.A.1917D, 96.

Election by servant injured by negligence of third person between right to recover compensation under Workmen's Compensation Act and right to bring action at law against a negligent third person. L.R.A.1917D, 98.

§ 8. — of discharged servant. See MASTER AND SERVANT, §§ 42-45.

§ 9. For enticement of servant, or apprentice.

Case as remedy, see CASE, § 5.

Form of remedy for enticement of servant. 5 L.R.A.(N.S.) 1096.

Waiver of tort in enticing or harboring apprentice. 5 L.R.A. (N.S.) 1161.

§ 10. As to rights in street.

Remedies of abutting owner for railroad in street. 36 L.R.A.(N.S.) 807.

Proper remedy to make available, franchise in street or highway, as against municipality. 6 L.R.A.(N.S.) 782.

Injunction or ejectment as proper remedy where highway is illegally opened over private property. 25 L.R.A.(N.S.) 511.

#### § 11. Miscellaneous.

On promise for benefit of third person. 25 L.R.A. 266.

For violation of statute not expressly conferring right of action. (N.S.) 388. 9 L.R.A.

On conditional sale. 32 L.R.A. 471.

Resale to fix damages for purchaser's refusal to accept goods as election of remedies. 42 L.R.A.(N.S.) 672.

For injuries resulting in death. 34 L.R.A. 788.

Case of legacy charged upon devise. L.R.A. (N.S.) 826.

For enforcing agreement to assume debts on dissolution of partnership. 9 L.R.A. (N.S.) 107.

For protection from pollution of source of municipal water supply. 11 (N.S.) 1166; L.R.A.1918E, 957.

For infringement of copyright. 2 L.R.A.

(N.S.) 914.

Remedy of one who fails to record a deed, against his grantor who subsequently conveys to an innocent third person. 26 L.R.A.(N.S.) 284.

Against one purchasing goods with knowledge that he cannot pay for them. 44

L.R.A.(N.S.) 25.

Right to elect to sue for all the damages caused by a continuing nuisance in one action or to bring successive actions. L.R.A.1916E, 1068.

## b. Exclusiveness of statutory remedy.

12. Generally.

Garnishment of personal representative as exclusive remedy. 47 L.R.A. 365. Effect of legal remedy to defeat equitable

jurisdiction to follow trust funds. L.R.A. (N.S.) 793.

Exclusiveness of particular statutory method for revival of action. 33 L.R.A. (N.S.) 576.

Exclusiveness of statutory remedy for failure to furnish cars. 26 L.R.A.(N.S.)

Is shipper's common-law right of action for discrimination by carriers taken away by statute on the subject. 45 L.R.A. (N.S.) 612.

For enforcement of stockholder's liability in other state. 34 L.R.A. 755.

Exclusiveness of statutory remedy for pre-termitted heirs. 37 L.R.A.(N.S.) 1145. Provision for testing election of city officer before city council or other municipal body as exclusive of remedies in the

courts. 26 L.R.A. (N.S.) 207. Right to resort to court to recover taxes paid on erroneous or excessive assessments without previous resort to stat-

utory remedies. 16 L.R.A.(N.S.) 685. Statutory remedy of one whose property has been taken for public use without his consent and without condemnation proceedings as exclusive of action for compensation or permanent damages. 28 L.R.A.(N.S.) 974.

Action for damages for breach of contract as exclusive remedy of wrongfully discharged servant. 6 L.R.A.(N.S.) 53.

Exclusiveness of remedy furnished by workmen's compensation acts. L.R.A.1916A, 223; L.R.A.1917D, 93.

## III. Effect; pursuing two remedies.

13. Generally.

Estoppel by judgment, see JUDGMENT, III.

Effect of, in case of fraudulent purchase. 15 L.R.A. 89.

Effect of choosing by mistake remedy not legally available. 8 L.R.A.(N.S.) 144; 22 L.R.A.(N.S.) 1153.

Consult also L.R.A. Digests of Cases.

ELECTION OF REMEDIES, II. a-cont'd | ELECTION OF REMEDIES, III.-cont'd Effect of electing to resell goods to fix damages for purchaser's refusal to accept. 42 L.R.A.(N.S.) 673.

Purchaser's election to rescind for breach of warranty as affecting recovery against seller. 27 L.R.A.(N.S.) 925.

Effect of election between tort and contract to determine character of action. 50 L.R.A. (N.S.) 31.

Provisions, in lease accelerating maturity of future rents and giving lessor right to take possession upon default in payment of rentals or upon insolvency of lessee, as alternative or concurrent. L.R.A.1916B, 1101.

14. Conclusiveness of election.

Election between causes of loss in case of property insurance. L.R.A.1918F, 997.

Bringing suit not prosecuted to judgment as a conclusive election of remedies. 34 L.R.A. (N.S.) 309; L.R.A.1917D, 657.

Action for price as bar to action for damages for fraud. 8 L.R.A.(N.S.) 582.

Bringing action for purchase price as waiver of right of vendor in conditional sale to recover property in specie. 23 L.R.A.(N.S.) 144.

Bringing an action for the purchase price as a waiver by the vendor of the title and remedy clauses in a conditional sale contract. L.R.A.1916A, 925.

By parent for enticing or harboring of minor child. 45 L.R.A.(N.S.) 874.

Effect of bringing action at common law to bar action under Federal employers' liability act. 47 L.R.A. (N.S.) 78.

Election of remedy against one purchasing goods with knowledge that he cannot pay for them. 44 L.R.A.(N.S.) 25.

Suit for damages as waiver of right to for-feit deed for breach of condition. 5 L.R.A. (N.S.) 603.

Waiver of purchaser's right to rescind the contract for purchase of real property. 30 L.R.A.(N.S.) 872.

Waiver of lien of chattel mortgage by at-24 L.R.A. tachment or execution. (N.S.) 490; 51 L.R.A.(N.S.) 1068.

Attempt to enforce lien under clause in a lease giving landlord lien on crops and chattels, as election preventing its enforcement as a chattel mortgage. 20 L.R.A.(N.S.) 259.

Suit upon agreement for stipulated damages as bar to remedy by injunction to restrain the violation of agreement not to practise medicine or surgery within a certain territory. L.R.A.1915B, 210.

Principal's collecting or attempting to collect proceeds of contract from agent as precluding assertion, as against the other party to the contract, of the agent's fraud or lack of authority. L.R.A.1917D, 701.

Recovery of damages against tort feasor in case of injury to servant by negligence of third person as bar to recovery under Workmen's Compensation Act or vice versa. L.R.A.1917D, 99.

-against principal or agent. Right to choose between, see supra, § 4. ELECTION OF REMEDIES, III.—cont'd Action against agent as bar to one against \$4. Residence. principal undisclosed when first action Does "residence,"

begun. 6 L.R.A. (N.S.) 729.

Commencing action or taking judgment against either an undisclosed principal or his agent as a bar to a subsequent action against the other. L.R.A.(N.S.) 786.

Effect of election by injured person on liability of agent of leased premises for injuries due to defects therein. L.R.A. 1917C, 85.

#### ELECTIONS.

I. Voters; right to vote, \$\$ 1-8. II. Elections, \$\$ 9-24.

a. In general, §§ 9-18.

- . b. Ballots; voting machines, \$\$ 19-23.
  - c. Election frauds and crimes, \$ 24.
- III. Nominations; primary elections, \$\$ 25, 26.

IV. Contests, §§ 27, 28.

As to initiative, referendum, or recall, see Initiative, Referendum, and Recall.

#### I. Voters; right to vote.

1. Generally.

Right to vote as a privilege or immunity of citizen of United States. 14 L.Ř.A.

Federal control of elections under 15th Amendment forbidding abridgement of right to vote on account of race, color, or previous condition of servitude. 53 L.R.A. 668.

Right to vote as a qualification of grand juror. 28 L.R.A. 196. Validity of statutory regulation of voters.

25 L.R.A. 484.

Constitutionality of statute prescribing property qualification on right to vote on establishment of drainage district. 44 L.R.A.(N.S.) 539.

§ 2. Qualifications of voters generally. fax or property qualification. 25 L.R.A. 482.

Payment of poll taxes as a qualification of electors. 29 L.R.A. 414.

Constitutionality of primary election law imposing new restrictions or qualifications on voters. 22 L.R.A. (N.S.) 1140; L.R.A.1917A, 261.

Effect on public election of wrongful disqualification of sufficient number of voters to have changed the result. 38 L.R.A. (N.S.) 1007.

Disqualification for crime. 25 L.R.A. 483.

§ 3. Right of women to vote. Right of women to vote. 21 L.R.A. 662; 27 L.R.A.(N.S.) 522; L.R.A.1915B, 247. Begin with this book on every law question.

ELECTIONS, I.-cont'd

residence," as a qualification of voters mean "domicil." 19 L.R. (N.S.) 759.

Acquiring residence as a voter while attending school or public institu-tion. 23 L.R.A. 215; 40 L.R.A. tion. (N.S.) 168.

Nature of occupancy of premises as affecting elective franchise. 4 L.R.A.(N.S.) 698, 704, 711.

§ 5. How far right to vote is absolute. Generally. 25 L.R.A. 480. As affected by acts of Congress. 25 L.R.A.

Registration. 25 L.R.A. 480.

Tax or property qualification. 25 L.R.A. 482.

Soldiers voting. 25 L.R.A. 482. Test oaths and disqualification for crime. 25 L.R.A. 483.

Ballots and primaries. 25 L.R.A. 484. Other statutory conditions, restrictions, and qualifications. 25 L.R.A. 484.

§ 6. Registration.

Registration as condition of right to vote. 25 L.R.A. 480.

Validity of statutory regulation of. 25 L.Ř.A. 484.

Good faith as affecting criminal responsibility for illegal registration. 37 L.R.A. (N.S.) 1177.

Effect of loss or destruction of registry lists. 28 L.R.A.(N.S.) 989.

§ 7. Disfranchisement.

Denial of right to vote for person whose name is not on ballot as disfranchisement. 16 L.R.A. 278.

Disfranchisement as cruel and unusual punishment. 35 L.R.A. 569.

§ 8. Restoration of right to vote. Restoration of right to vote by service of sentence upon conviction for crime. 32 L.R.A.(N.S.) 418.

Effect of suspension of sentence upon right to vote. 18 L.R.A.(N.S.) 684.

## II. Elections.

#### a. In general.

§ 9. Generally.

Congressional elections, see Congress, § 2. Elections by corporate stockholders, see CORPORATIONS, § 60.

At stockholders' meetings, see Corpora-TIONS, §§ 122-126.

By school district, see Schools, § 26. Constitutionality of statutes as to, see Con-

STITUTIONAL LAW, §§ 75-78.
Election districts, see Election DISTRICTS.
Equity jurisdiction of matters affecting

elections, see Equity, § 11a.

ELECTIONS, II. a-cont'd

Initiative or referendum election, 998 INITIATIVE, REFERENDUM AND RECALL, § 1.

Injunction as to, see Injunction, § 39. Mandamus as to, see MANDAMUS, § 11.

Applicability to election officers of Workmen's Compensation Acts. L.R.A.1918F,

Validity of agreements tending to influence elections. 51 L.R.A.(N.S.) 549.

Election as distinguished from appointment. 15 L.R.A. 106.

Statutes restricting the vote of an elector to less than all when several officers are to be chosen for the same office. 33 L.R.A. 141.

Constitutionality of statute requiring voter to vote for all officers. L.R.A.1915B, 402.

Right of taxpayer in absence of statute, to enjoin payment of election expenses by municipality. 36 L.R.A. (N.S.) 11.

Promise by candidate to electors to serve for less than regular salary. 36 L.R.A. (N.S.) 246; L.R.A.1917B, 190.

Promise to accept less than compensation fixed by law as affecting right to hold office. L.R.A.1917B, 196.

Applicability of constitutional or statutory provisions relating to general elections, to elections other than for the selection of officers. 14 L.R.A.(N.S.) 850.

Right of candidate receiving next highest number of votes in the event that the person receiving the highest number is ineligible. 13 L.R.A.(N.S.) 1013; 34 L.R.A.(N.S.) 240.

Election of presidential electors. 43 L.R.A. (N.S.) 284.

10. Petition for.

Petition for initiative or referendum election, see Initiative, Referendum and

RECALL, § 1.
For recall of officer, see Initiative, Ref-ERENDUM AND RECALL, § 2.

Right to withdraw name from. 11 L.R.A. (N.S.) 372.

11. Combination of objects at.

What objects or purposes may be combined in a single question submitted to the voters of a municipality. 26 L.R.A. (N.S.) 665.

12. Place of voting.

Use of public school building for. L.R.A.(N.S.) 592.

Right of municipal corporation to place polling booth in street. (N.S.) 571. 4 L.R.A.

13. Time for.

First and last days in computing time of elections. 49 L.R.A. 244; 15 L.R.A. (N.S.) 691.

Power to extend term of office by postponing time of election. L.R.A.1915C, 378.

14. Federal control of.

Existence, sources, and extent of power. 53 L.R.A. 660.

Under U. S. Const. art. 1. 53 L.R.A. 667. Consult also L.R.A. Digests of Cases.

! ELECTIONS, II. a-cont'd

Under U. S. Const. art. 2. 53 L.R.A. 668.

Under 14th Amendment. 53 L.R.A. 668. Under 15th Amendment. 53 L.R.A. 668.

Summary of present statutes. 53 L.R.A. 671.

Election of presidential electors. 43 L.R.A. (N.S.) 284.

14a. Assisting voter.

Right to assistance. 40 L.R.A.(N.S.) 535. As affected by requirement of secrecy of the ballot. 40 L.R.A.(N.S.) 535.

What necessary to entitle voter to assistance. 40 L.R.A.(N.S.) 536.

Effect of illegal or irregular assistance. 40

L.R.A.(N.S.) 538.

§ 15. Computation of majority votes at.

Upon what basis majority essential to adoption of constitutional or other special proposition submitted at general election is to be computed. 22 L.R.A. (N.S.) 478.

When vote on special question considered a "special" election although submitted at general election. 22 L.R.A. (N.S.) 485.

Effect on public election of wrongful disqualification of sufficient number of voters to have changed the result. 38. L.R.A.(N.S.) 1007.

§ 16. Decision of the vote.

In general. 47 L.R.A. 551.

In the absence of statutory provisions. 47 L.R.A. 554.

Statutory provisions applicable to tie vote. 47 L.R.A. 554.

Tie vote at local option election. 49 L.R.A. (N.S.) 1204.

§ 17. Duty to receive vote; liability for preventing vote.

Duty of election officer to accept sworn vote. 36 L.R.A. (N.S.) 968.

Personal liability of an election officer for rejecting ballots. 11 L.R.A.(N.S.) 501. Right to damages for being prevented from voting at a public election. 31 L.R.A.(N.S.) 1106.

§ 18. Canvassing; deciding results. Initiative or referendum election. 50 L.R.A. (N.S.) 225; L.R.A.1917B, 44.

Constitutionality of preferential system of voting. L.R.A.1916B, 939.

Are rejected ballots to be counted in de-

termining total vote cast. L.R.A.(N.S.) 714.

Presumption as to time of alteration in statement of return of votes made by officials. 39 L.R.A.(N.S.) 115.

Mandamus to compel election officers to act after they have met and adjourned. 36 L.R.A. (N.S.) 1089.

Right of candidate receiving next highest number of votes where person receiving highest number is ineligible. 13 L.R.A. (N.S.) 1013; 34 L.R.A.(N.S.) 240; 51 L.R.A.(N.S.) 226; L.R.A.1918C, 1157.

#### ELECTIONS, II.—cont'd

## b. Ballots; voting machines.

## § 19. Generally.

Constitutionality of statute as to, see Con-STITUTIONAL LAW, § 76.

Constitutionality of statute providing for election by separate ballot. 44 L.R.A. (N.S.) 712.

Irregularities in taking ballots. 16 L.R.A. 754.

Assistance in preparing ballots, rendered by unauthorized person, as affecting their validity. 29 L.R.A. (N.S.) 1170.

#### § 19a. Names on.

Constitutionality of provision limiting names of candidates on official ballot. L.R.A.1915A, 1190.

#### 20. Numbering.

Statute providing that ballots be numbered. 8 L.R.A. (N.S.) 888.

Effect of failing to number ballots. 1 L.R.A. (N.S.) 656.

Effect of officers numbering or otherwise supplying means of identifying ballots. 32 L.R.A. (N.S.) 730.

#### 21. Marking.

Irregularities in marking ballots. 16 L.R.A. 754.

Validity and construction of law. 47 L.R.A. 806.

Official marks. 47 L.R.A. 808. Voter's marks. 47 L.R.A. 812.

Distinguishing marks. 761; 47 L.R.A. 820. 13 L.R.A.

Does marking some but not all of the candidates on a party ticket defeat the effect of marking under the party emblem as a vote for the omitted candidates, where no votes were cast for their opponents. 28 L.R.A.(N.S.) 461.

## § 22. Preservation of; producing ballot boxes.

Scope and effect of provisions in election law for preservation of ballots. 30 L.R.A. (N.S.) 602.

Power of courts to require ballot boxes to be produced or opened in proceedings other than election contests. 33 L.R.A.

## § 23. Voting machine.

Constitutionality of statute as to, see Con-STITUTIONAL LAW, § 77.

## c. Election frauds and orimes.

#### 24. Generally.

Libel or slander by charging corruption of voters by public officer or candidate. L.R.A.1918E, 31.

Delegation to judiciary of investigation of election frauds. L.R.A.1917D, 1046.

Good faith as affecting criminal responsibility for illegal registration or voting. 37 L.R.A.(N.S.) 1177.

ELECTIONS—cont'd

#### III. Nominations; primary elections.

## § 25. Generally.

Constitutionality of statute as to, see Con-STITUTIONAL LAW, § 78.

Mandamus as a proper remedy to enforce duties with respect to nominations. L.R.A.1917E, 480.

Statutory regulation of primaries. L.R.A. 484.

Validity of fee exacted for filing nominations. L.R.A.1915B, 197.

Nomination of presidential electors. L.R.A.(N.S.) 287.

Refusal to have one's name placed on primary ballot. L.R.A.1916E, 709.

Defects in nomination papers. 16 L.R.A. 754.

Conclusiveness of certificate of nomination.

9 L.R.A. (N.S.) 916.

"Primary elections" as elections, within Constitution or statute relating to elections generally. 18 L.R.A. (N.S.) 412.

Power to determine eligibility to office of one nominated at primary election. 39 L.R.A.(N.S.) 826.

25a. Filling vacancy in party ticket. When does vacancy in party ticket occur within statute authorizing filling of vacancies. 41 L.R.A.(N.S.) 1088.

#### §'26. Constitutionality of primary election laws.

general. 22 L.R.A.(N.S.) 1136; L.R.A.(N.S.) 132; L.R.A.1917A, 259.

Destruction of parties. 22 L.R.A.(N.S.) 1137; L.R.A.1917A, 260.
Sufficiency of title. 22 L.R.A.(N.S.) 1137; 41 L.R.A.(N.S.) 133; L.R.A.1917A, 260.

Primary law as amendment to prior act. 22 L.R.A.(N.S.) 1139; L.R.A.1917A, 260.

Special or local laws. 22 L.R.A. (N.S.) 1139; 41 L.R.A.(N.S.) 135.

Imposition of new restrictions or qualifications on voters. 22 L.R.A.(N.S.) 1140; 41 L.R.A.(N.S.) 135; L.R.A.1917A, **261.** 

Imposition of new restrictions or qualifications on candidate. 22 L.R.A.(N.S.) 1142; 41 L.R.A.(N.S.) 136; L.R.A. 1917A, 262.

Discrimination as to parties. 22 L.R.A. (N.S.) 1144; 41 L.R.A. (N.S.) 138; L.R.A.1917A, 263.

Discrimination as to candidates or voters. 22 L.R.A.(N.S.) 1145; 41 L.R.A.(N.S.)

138; L.R.A.1917A, 263. Secrecy of ballot. 22 L.R.A.(N.S.) 1145; L.R.A.1917A, 264.

Delegation of powers. 22 L.R.A.(N.S.) 1146; L.R.A.1917A, 264.

Popular election of United States senators. 22 L.R.A.(N.S.) 1147; 41 L.R.A.(N.S.) 140.

ELECTIONS, III.—cont'd
Provisions regulating independent nominations. 41 L.R.A. (N.S.) 140.

Miscellaneous objections. 41 L.R.A. (N.S.)

Miscellaneous objections. 4

#### IV. Contests.

§ 27. Generally.

In case of decision of tie vote. 47 L.R.A. 559.

Right of judge who may be affected by the result to hear election case. 42 L.R.A. (N.S.) 788.

Right of candidate receiving next highest number of votes in the event that the person receiving the highest number is ineligible. 13 L.R.A.(N.S.) 1013; 34 L.R.A.(N.S.) 240; 51 L.R.A.(N.S.) 226; L.R.A.1918C, 1157.

Adequacy of provision for contesting an election other than for selection of offices, upon the grounds and in the manner prescribed by a statute which has reference only to the election of officers. 18 L.R.A.(N.S.) 566.

§ 28. Remedy for testing election.

Provision for testing election of city officer
before city council or other municipal body as exclusive of remedies
in the courts. 26 L.R.A.(N.S.)
207.

#### ELECTRIC CHANDELIERS.

Tenant's right to remove. 3 L.R.A.(N.S.)

## ELECTRIC COMPANIES.

See ELECTRICITY, §§ 7-9; ELECTRIC LIGHTS; ELECTRIC RAILWAYS.

## ELECTRIC CONDUIT.

Under highway, see HIGHWAYS, § 25.

#### ELECTRICITY.

I. In general, §§ 1-6.
II. Electric companies, §§ 7-9.
III. Injuries resulting from, §§ 10-18.
a. Negligence of party causing,
§§ 10-17.

b. Contributory negligence, \$ 18.

#### I. In general.

§ 1. Generally.

Electric lights, see ELECTRIC LIGHTS.
Electric railways generally, see ELECTRIC
RAILWAYS.

Use of street for electric conduits, poles, and wires, see Highways. §§ 21-25.

Consult also L.R.A. Digests of Cases.

ELECTRICITY, I.—cont'd

License of electricians and electrical work, see License, § 25.

Electricity as subject of larceny. L.R.A. 1918C, 580.

Mistake in statement of amount of electricity furnished as affecting the right to recover for a larger amount actually furnished. L.R.A.1915B, 711.

Poles and wires as real estate or personal property. 66 L.R.A. 56.

Duty to cut off electric connection in case of fire. 31 L.R.A.(N.S.) 1099.

Revocability of license for poles and wires after licensee has incurred expense in reliance thereon. 25 L.R.A.(N.S.) 727. Ejectment to remove wires. 11 L.R.A.

(N.S.) 920.

Liability to abutting owner for mutilating trees in highway by erecting poles or stringing wires. 12 L.R.A. (N.S.) 1125; 30 L.R.A. (N.S.) 1084.

Injunction by municipality against nuisances by telegraph and telephone poles. 44 L.R.A. 577.

#### § 2. Eminent domain proceedings.

Generation of electricity as a public purpose, see EMINENT DOMAIN, § 11.

Poles as additional burden in highway, see EMINENT DOMAIN, § 56.

Taking of property for generation and diffusion of, as a public use. 22 L.R.A. (N.S.) 136.

Effect of offer to serve public on right to resort to eminent domain in aid of attempt to transmute water power into electricity for sale. 6 L.R.A.(N.S.) 122.

# § 3. Right of municipality to own or operate.

Power of municipal corporation to own electric light plant. 14 L.R.A. 268; 15 L.R.A. (N.S.) 711.

Right of municipal corporation to engage

Right of municipal corporation to engage in business of supplying electrical fixtures. 31 L.R.A.(N.S.) 119.

tures. 31 L.R.A. (N.S.) 119.
Right of municipality to make profit from its water or lighting plant. 24 L.R.A. (N.S.) 290.

## § 4. Liability for damages from maintenance.

Right of property owner to damages or injunction for maintenance of electric light plant in vicinity of his property. 27 L.R.A.(N.S.) 237.

Liability to abutting owner for mutilating trees in highway by erecting poles of stringing wires. 12 L.R.A. (N.S.) 1125; 30 L.R.A. (N.S.) 1084; 51 L.R.A. (N.S.) 1082.

#### § 5. — due to induction.

Liability of user of electricity for interference with the business or injury to the property of another resulting from induction or from use of earth as a return electric circuit. 2 B. R. C. 129.

ELECTRICITY, I .-- cont'd

§ 6. Interference with wires.

Right of railroad to cut wires crossing tracks. 35 L.R.A.(N.S.) 1212.

Right to interfere with wires of public-service corporation in moving house along street. 14 L.R.A.(N.S.) 448; L.R.A.1917C, 774.

#### II. Electric companies.

§ 7. Generally.

Valuation of property of, see Public Serv-ICE CORPORATIONS, § 5.

Electric railroads, see ELECTRIC RAILWAYS.

Power of Public Service Commission to regulate disposition of surplus products. L.R.A.1918C, 680.

Corporation supplying as a manufacturing company. 64 L.R.A. 59; 38 L.R.A. (N.S.) 90.

Charge for poles and wires of interstate telegraph and telephone companies. 24 L.R.A. 163.

Right of electrical company to impose penalty for failure to pay service bills promptly. 43 L.R.A. (N.S.) 63.

Duty to adapt electrical appliances and connections to the system which supplies the current. 46 L.R.A.(N.S.) 437.

Right of electric supply company, in absence of contract, to discontinue service generally. 46 L.R.A.(N.S.) 1119.

Liability of electric power or light company for cutting off, or failure of, electric current. L.R.A.1916D, 451.

§ 8. Regulation and control.

As to regulation of carriers, see CARRIERS,

Power of municipality over nuisances on streets created by electrical company, see MUNICIPAL CORPORATIONS, § 37.

As to regulation of public service corporations generally, see Public Service CORPORATIONS.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 79.

Police regulation of. 31 L.R.A. 798.

Municipal regulation of nuisances relating to electricity or electric wires. 38 L.R.A. 306; 39 L.R.A. 609.

Injunction by municipality against telegraph and telephone poles. 44 L.R.A.

Power of state or city to charge for poles and wires of telegraph or telephone company engaged in interstate business. 24 L.R.A. 163.

Power to require public service corporation to carry municipal wires on its poles. 32 L.R.A.(N.S.) 997.

Right to require telegraph or telephone wires to be placed underground. L.R.A. 165; 14 L.R.A. (N.S.) 654.

Power of municipal corporation to regulate electricians and the installation of Notice. 52 L.R.A.(N.S.) 605. electrical work. 36 L.R.A.(N.S.) 78. Questions for jury. 52 L.R.A. Begin with this book on every law question.

ELECTRICITY, II.-cont'd

§ 9. Franchises.

Treatment of franchises in valuation of property of. 48 L.R.A.(N.S.) 1063. Grant of franchise to electrical subway company. 34 L.R.A. 369.

Privilege of using street for poles and wires as a contract within provision against

impairing obligation. 50 L.R.A. 147. Power of municipality, in absence of express legislative authority, to grant street franchises to electrical company. 22 L.R.A. (N.S.) 925.

## III. Injuries resulting from.

## a. Negligence of party causing.

## § 10. Generally.

Evidence as to condition prior and subsequent to accident. 32 L.R.A. (N.S.) 1094.

Violating ordinance as to electric wires as ground for private action. 5 L.R.A. (N.S.) 260.

Liability for negligence with respect to electric current as affected by concurring negligence of third person. 7 L.R.A.

(N.S.) 293. Liability of electric company for injury by wire strung by a third person to connect with its system. 39 L.R.A.(N.S.) 1046.

Liability of one furnishing an electrical current to be distributed by another for injury to third person after delivery. 27 L.R.A.(N.S.) 893.

Duty, in stringing electric wires, to guard against danger to children. 11 L.R.A. (N.S.) 449; 25 L.R.A. (N.S.) 1220; 43 L.R.A.(N.S.) 137; L.R.A.1918E, 1039

Liability of physician for injuries resulting from electrical or X-ray treatment. 28 L.R.A. (N.S.) 262; 43 L.R.A. (N.S.) 734.

Duty and liability to inspectors entering premises in the performance of their duty. 31 L.R.A. (N.S.) 380. duty.

Liability for death or injury of one other than employee, who climbs poles bearing electric wires. 52 L.R.A.(N.S.) ing electric wires.

Right of electric company constructively liable for tort to contribution or indemnity from one actually responsible for its commission. 40 L.R.A. (N.S.) . 1149.

§ 10a. Duty to prevent contact of

wires carrying electric current. General rules. 52 L.R.A.(N.S.) 587. Degree of care. 52 L.R.A.(N.S.) 588. Wires in highway. 52 L.R.A. (N.S.) 590.

Wires over private premises. 52 L.R.A. (N.S.) 600.

Duty to linemen and other employees. 52 L.R.A. (N.S.) 600. Joint liability. 52 L.R.A. (N.S.) 603.

Persons entitled to protection. 52 L.R.A. (N.S.) 604.

Questions for jury. 52 L.R.A. (N.S.) 606.

ELECTRICITY, III. a-cont'd.

§§ 11, 12. On private property.

Negligence as to electric wires on or in buildings. 32 L.R.A. 400.

Liability for injuries caused by wires extended over premises of others. 46 L.R.A. 97.

Duty of company maintaining electric wire over or across private property. 34 L.R.A.(N.S.) 1089.

Degree of care required of one furnishing electricity toward persons rightfully on premises supplied. 6 L.R.A. (N.S.)

Measure of duty of company maintaining electric wires on another's premises, toward trespasser or licensee on such premises. 3 L.R.A.(N.S.) 988; L.R.A.(N.S.) 1094.

Duty to protect wires for safety of workmen on premises. 2 L.R.A. (N.S.) 777.

Duty of electric light company with respect to wiring or fixtures installed in private property. 13 L.R.A.(N.S.) 226; 20 L.R.A.(N.S.) 816; L.R.A.1915C, 570.

Duty to prevent contact of wires carrying electric current. 52 L.R.A.(N.S.) 600. Liability of electric light company for es-

cape of electricity from unauthorized wiring. 4 B. R. C. 498.

Applicability of rule res ipsa loquitur to accidents on private property due to escape of electricity from disordered electrical appliances. 22 L.R.A.(N.S.) 1183; 32 L.R.A.(N.S.) 848.

Liability of electric railway for injury to trespasser or licensee from exposed third rail. 28 L.R.A.(N.S.) 98.

#### 13. Liability of municipality.

Municipal liability for negligent operation of electric light plant. 5 L.R.A. (N.S.)

Municipal liability for injuries by electric wires and appliances. 20 L.R.A. (N.S.) 648.

Municipal liability for injury by poles in highway. 20 L.R.A. (N.S.) 649.

Municipal liability for injury to, or death of, traveler from electricity carried by

wires strung along highway. 22
L.R.A. (N.S.) 1176; 1 B. R. C. 809.

Duty of municipality to inspect electric wires maintaired by others in its streets. 2 L.R.A.(N.S.) 475.

Duty of municipality to prevent contact of wires carrying electric current in highway. 52 L.R.A.(N.S.) 590.

Liability for injury of employees of another company while on defendant's poles, or poles used jointly. L.R.A. (N.S.) 303.

#### § 14. Master's liability for injury by servant.

Master's liability for injury done by servant to third person in use of. 10 L.R.A.(N.S.) 389.

Consult also L.R.A. Digests of Cases.

ELECTRICITY, III. a-cont'd. § 15. Liability to employee. See Master and Servant, § 86.

§ 16. Liability to passenger.

Applicability of doctrine of res ipsa loquitur to injury to passenger resulting from disorder of electrical appliances. 2 L.R.A.(N.S.) 836; 12 L.R.A.(N.S.) 760; 13 L.R.A.(N.S.) 615; L.R.A.1916C,

17. In highway.

Duty to prevent contact of wires carrying electric current. 52 L.R.A.(N.S.) 600. Liability for injury or death of traveler coming in contact with electric wire in highway. 31 L.R.A. 566; 22 L.R.A. (N.S.) 1169; 1 B. R. C. 797.

Duty of municipality to inspect wires maintained by others in its streets. 2 L.R.A. (N.S.) 475.

Liability for negligence in permitting wires to hang down, notwithstanding intervening act of third person in connection therewith. 24 L.R.A.(N.S.) .978.

Applicability of rule res ipsa loquitur to accidents on highway due to disordered electrical appliances. 22 L.R.A.(N.S.) 1178; 32 L.R.A.(N.S.) 1043.

#### b. Contributory negligence.

§ 18. Generally.

As to electric wires on or in buildings. 32 L.R.A. 403.

Of children. L.R.A.1917F, 100. Of volunteer handling or testing electric wire or apparatus. 6 L.R.A. (N.S.) 290.

In touching live wires in street. 1 L.R.A. (N.S.) 822.

By traveler coming in contact with electric wire in highway. 31 L.R.A. 589; 32 L.R.A. 403; 22 L.R.A.(N.S.) 1177; 1 B. R. C. 810.

Duty of one to ascertain if there is danger before passing under a wire strung over a highway. 22 L.R.A. (N.S.) 1189.

## ELECTRIC LIGHTS.

§ 1. Generally.

Valuation of property of electric light company, see Public Service Corpora-TIONS, § 5.

Lighting company as a manufacturing company. 64 L.R.A. 58.

Privilege of using street for poles and wires

as a contract within provision against impairing contract obligations. 50 L.R.A. 147; L.R.A.1918E, 907.

Electric light line in street or highway as an additional burden. 36 L.R.A. (N.S.) 185; 52 L.R.A. (N.S.) 760.

ELECTRIC LIGHTS-cont'd

Duty of electric light company as to wiring or fixtures installed in private property. 13 L.R.A. (N.S.) 226.

Right to interfere with wires in moving building along street. 14 L.R.A. (N.S.) 448; L.R.A.1917C, 774.

Right of property owner to damages or injunction for maintenance of electric light plant in vicinity of his property. 27 L.R.A. (N.S.) 237.

Right of lighting company performing two kinds of service to refuse to furnish one without the other. 33 L.R.A. (N.S.) 1078.

Taking of property for production and distribution of light by electricity as a public purpose. 22 L.R.A.(N.S.) 137.

Duty of electric light company as to wiring or fixtures installed in private property. L.R.A.1915C, 570.

Liability of electric light company for cutting off, or failure of, electric current. L.R.A.1916D, 451.

#### § 2. Rights, duties, and liabilities of municipality.

Power of city to own plant and manufacture. 10 L.R.A. 194;\* 14 L.R.A. 268; 15 L.R.A. (N.S.) 711.

Right of municipality to make profit from its lighting plant. 24 L.R.A.(N.S.) 290.

Right of municipality to secure electric light plant by piecemeal to avoid constitutional debt limit. 12 L.R.A. (N.S.) 433.

Power of municipality in absence of express legislative authority to grant use of streets for electric lights. 22 L.R.A. (NS) 933 937

(N.S.) 933, 937.
Exemption of municipal light plant from taxation. 16 L.R.A.(N.S.) 867.

Municipal liability for negligent operation of electric light plant. 5 L.R.A. (N.S.) 536.

#### 8 3. Rates.

Valuation of property for purpose of fixing rates, see Public Service Corpora-

Right of lighting company whose rates are fixed by public authority to establish a minimum charge. 26 L.R.A.(N.S.) 1109.

Right of electric light company to discriminate between consumers as to rates. 27 L.R.A.(N.S.) 674; L.R.A.1915D, 1086.

Giving of free service or reduced rates to governmental agencies, cities, schools, charities and the like as an unlawful discrimination. L.R.A.1918D, 904.

Power of municipality apart from contract to regulate rates to be charged by lighting company. 33 L.R.A.(N.S.) 759; 43 L.R.A.(N.S.) 994.

Effect of contract with patron to preclude regulation of rates. L.R.A.1915C, 282. Right to reduce rates fixed by franchise or

charter. L.R.A.1915C, 261. See See Begin with this book on every law question.

ELECTRIC LIGHTS—cont'd

Validity of statute or ordinance making property or property owner liable for light furnished tenant. L.R.A.1918D, 364.

#### ELECTRIC POWER.

Electric power line in street or highway as additional burden. 36 L.R.A.(N.S.) 185; 52 L.R.A.(N.S.) 7β0.

Liability of electric power company for cutting of, or failure of, electric current. L.R.A.1916D, 451.

#### ELECTRIC RAILWAYS.

See also Carriers; Interurban Rail-ROADS; STREET RAILWAYS.

Right to compensation on laying out electric road across railroad, see EMINENT DOMAIN, § 52.

As additional servitude in street. 4 L.R.A. (N.S.) 202; 36 L.R.A. (N.S.) 722.

Right of railroad company to compensation for the crossing of its track, where it intersects a street or highway, by an electric road. 13 L.R.A.(N.S.) 916; L.R.A.1915D, 843.

Liability of user of electricity for interference with the business or injury to the property of another resulting from induction or from use of earth as a return electric circuit. 2 B. R. C. 129.

Liability for injury to trespasser or licensee from exposed third rail. 28 L.R.A.(N.S.) 98.

Liability for frightening horses by construction apparatus in street. 28 L.R.A.(N.S.) 942.

Duty to look and listen before crossing the tracks of an electric road. 15 L.R.A. (N.S.) 254; 23 L.R.A. (N.S.) 1224.

## ELECTRIC SUBWAY.

Grant of franchises to electrical subway companies. 34 L.R.A. 369.

#### ELECTRIC TREATMENT.

Application of statutes regulating practice of medicine to persons giving. 3 L.R.A.(N.S.) 763; 25 L.R.A.(N.S.) 1297.

#### ELECTRIC WIRES.

See ELECTRICITY.

#### ELECTROLYSIS.

See Electricity, § 5.

## ELECTROTYPE PLATES.

Right of purchaser to sell or use free from restrictions affecting them in hands of vendor. 55 L.R.A. 632.

#### ELEEMOSYNARY INSTITUTION.

See CHARITIES.

#### ELEMENTS.

Proximate cause of death, loss or injury by, see PROXIMATE CAUSE, §§ 4-7.

What constitutes damage by. 53 L.R.A.

Liability for removal of lateral or subjacent support of land by exposure to elements. 68 L.R.A. 687.

#### ELEPHANT.

Liability for injury by. 11 L.R.A. (N.S.) 748.

#### ELEVATED RAILROADS.

§ 1. Generally.

As to street railways, generally, see STREET RAILWAYS.

Right to construct in street. 15 L.R.A.

377.

Liability for private nuisance. 1 L.R.A. (N.S.) 117.

Duty to light space below tracks. 36 L.R.A. (N.S.) 1081.

§ 2. Damages to abutting owner by. Injury by, to abutting owner's easements. 14 L.R.A. 381; 15 L.R.A. 377.

As additional servitude in street. 36 L.R.A. (N.S.) 673.

Right of abutting owner to enjoin.

L.R.A.(N.S.) 826. Right of abutting owner to damages for

special injuries where elevated road is not considered an additional burden. 25 L.R.A. (N.S.) 1269.

3. Injury to passenger on.

Duty to passengers on overcrowded cars. 24 L.R.A. 713.

Starting car before passenger is seated. 42 L.R.A. 294.

Injury by crush in entering car at elevated station. 7 L.R.A. (N.S.) 729; 51 L.R.A. Validity of regulations concerning. (N.S.) 1152.

Consult also L.R.A. Digests of Cases.

ELEVATED RAILROADS-cont'd

§ 4. Injury to person on surface of street.

Ground of liability; duty and degree of care, generally. 42 L.R.A.(N.S.) 90. Contributory negligence. 42 L.R.A.(N.S.)

Rule of res ipsa loquitur. 42 L.R.A. (N.S.) 91.

Falling cinders, coals, or sparks from engine. 42 L.R.A.(N.S.) 92.

Sparks and explosions from electric cars.
42 L.R.A.(N.S.) 93.

Bursting cylinder. 42 L.R.A.(N.S.) 94. Fall of iron, wood, etc., from elevated structure. 42 L.R.A.(N.S.) 94.

#### ELEVATION.

Right of witness to express opinion as to. L.R.A.1918A, 697.

## ELEVATORS.

I. Grain elevators, § 1. II. Freight and passenger elevators, \$\$ 2-8.

#### I. Grain elevators.

§ 1. Generally.

Liability of grain to taxation while in elevator in course of interstate transportation. 44 L.R.A.(N.S.) 586.

Elevators and their sites on railroad right of way as separate subjects of taxation.

L.R.A.1916E, 413.

Validity of agreement in restraint of trade ancillary to sale of grain elevator business as affected by its territorial scope. L.R.A.1916C, 631.

Loss of profits as element of damages in case of elevator contracts. 53 L.R.A.

Legislative regulation of rates of. L.R.A. 178; 6 L.R.A.(N.S.) 836.

Furnishing site for elevator to one shipper as discrimination against others. 12 L.R.A.(N.S.) 509.

Right to use railroad right of way for purpose of, as against owner of fee. L.R.A.(N.S.) 516.

Delegation by legislature of power to require lease of ground to. 32 L.R.A. (N.S.) 652.

## II. Freight and passenger elevators.

§ 2. Generally.

Constitutionality of statutes as to, see CONSTITUTIONAL LAW, § 80.

Presumption and burden of proof as to injury on, see EVIDENCE, § 65.

Discontinuance of, interference with, elevator service as eviction of tenant. 21,

L.Ř.A. (N.S.) 899.

ELEVATORS, II.—cont'd

Loss of rent as element of damages for failure to install elevator. 17 L.R.A. (N.S.) 1130.

Landlord's liability for injury to employee of tenant falling into elevator shaft. L.R.A.1916F, 1147.

Private action for violation of statute as to guarding elevators and their shafts. L.R.A.1915E, 541.

§ 3. Injury to passengers.

Proximate cause of injury, see PROXIMATE CAUSE. § 10.

Insurance against liability for injury. L.R.A.1918C, 812.

Liability for injury to elevator passenger. 25 L.R.A. 33; 2 L.R.A.(N.S.) 744; L.R.A.1915E, 722.

Leaving elevator in position to be operated by stranger as proximate cause of injury to passenger occasioned by act of third party in connection therewith. 22 L.R.A. (N.S.) 297.

Responsibility of owner or occupier of building where operation of elevator is let to independent contractor.

L.R.A.(N.S.) 945.
Responsibility of general employer for negligence of employee in operating elevator for convenience of workmen not in former's employ. L.R.A.1917E, 964. Violating ordinance as to, as ground for private action. 5 L.R.A. ((N.S.) 260.

Private action for violation of statute as to, not expressly conferring right of action. 9 L.R.A.(N.S.) 380.

Presumption of negligence from injury to passenger on. 13 L.R.A.(N.S.) 619; 29 L.R.A.(N.S.) 816; L.R.A.1916C, 378.

Evidence as to conditions before and after accident. 32 L.R.A.(N.S.) 1093, 1103.

Admissibility of evidence of prior accidents in. 32 L.R.A.(N.S.) 1103.

4. Injury to trespassers or licensees. Liability of owner of elevator for injury to trespassers or licensees. 15 L.R.A. (N.S.) 402; 27 L.R.A. (N.S.) 124.

Rights of one who has been prohibited from entering a passenger elevator, but who does so for the purpose of doing business with a tenant. 14 L.R.A.(N.S.)

5. Injury to tenant or guest at inn. Liability for condition of, to tenant of part of premises. 23 L.R.A. 155.

Liability of innkeeper for injury to guest by negligence as to. 16 L.R.A.(N.S.) 290; 43 L.R.A.(N.S.) 659, 661.

Liability of landlord for personal injury by defect in, to member of lessee's family other than wife. L.R.A.1916F, 1161.

§ 6. Injury to customer at store.

Duty of storekeeper towards customer as to condition of elevator shafts. 21 L.R.A. (N.S.) 458; L.R.A.1915F, 572.

for negligent operation of elevators. 21 | L.R.A. (N.S.) 460; L.R.A.1915F, 573. Begin with this book on every law question.

ELEVATORS, II.—cont'd Storekeeper's liability to customer for injury by defective elevators. 21 L.R.A. (N.S.) 461.

§ 7. Injury to employees.

See also Master and Servant, §§ 85, 101.

Operator of elevator as fellow servant of other employees of the establishment. 41 L.R.A.(N.S.) 156.

Landlord's liability for injury to servant of tenant. L.R.A.1916F, 1146, 1147.

§ 8. Contributory negligence.

 In stepping into elevator shaft. 2 L.R.A.
 (N.S.) 757; 24 L.R.A.(N.S.) 246;
 L.R.A.1915E, 731; L.R.A.1917D, 892. Of children on and about elevators. L.R.A.

1917F, 195. Of child falling down shaft. L.R.A.1917F,

#### ELIGIBILITY.

To office of judge, see Judges, § 2. To office generally, see Officers, §§ 4-9.

#### ELIXIR OF ORANGE MINT.

\*\*\*

Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 316.

#### ELKINS ACT.

Violation of, see Monopoly and Combi-NATIONS.

Right of carrier to grant rebate or allowance to shipper for use of latter's track. 26 L.R.A.(N.S.) 551.

## ELOPEMENT.

Effect to bar dower. 11 L.R.A. 791.

#### EMANCIPATION.

Of infants, see Infants, § 15.

#### EMBANKMENT.

Liability of storekeeper toward customer Obstruction of stream by, see MUNICIPAL CORPORATIONS, §§ 90-92; WATERS, §§ 46-50, 63, 102.

#### EMBARGO.

Liability of insurer under policy of marine insurance for loss occasioned by embargo. 5 B. R. C. 33.

Effect of insertion of unauthorized provisions in embargo bond. L.R.A.1917B,

Against exportation of arms to Mexico, indictment for violating. L.R.A.1917A,

### EMBEZZLEMENT.

1. Generally.

Indictment for, see Indictment, Informa-tion, and Complaint, § 17.

Validity and enforceability of contract to compensate the owner of property embezzled in absence of duress or agreement, express or implied, to stifle prosecution. L.R.A.1915E, 139.

Existence of a trust in property embezzled.

L.R.A.1915B, 442.

Check as subject of. 42 L.R.A.(N.S.) 498.
Meaning of phrase "convert to his own
use" in criminal statutes. 42 L.R.A. (N.S.) 601.

Does wrongful appropriation of money received through mistake constitute embezzlement. 19 L.R.A. (N.S.) 371.

Failure to account for fund to one jointly interested therein. 31 L.R.A.(N.S.)

Transfer of fund or security from one estate to another by a common trustee. 16 L.R.A. (N.S.) 205.

By one spouse of other's property.

L.R.A. (N.S.) 830.

Embezzlement as affected by want of authority of defendant to receive the money or property in the first instance. 17 L.R.A. (N.S.) 531.

Valuation of property for purposes of transportation as affecting carrier's liability where it is embezzled while in its possession. 31 L.R.A. (N.S.) 309; L.R.A. 1918A, 756.

Disbarment of attorney for withholding client's money. 19 L.R.A. (N.S.) 414.

As affected by belief in right to property taken. 41 L.R.A. (N.S.) 556.

Intent, or offer to return or actual return of property as affecting charge of. 52 L.R.A.(N.S.) 1013.

Libel or slander by charge of embezzlement against public officer or candidate. L.R.A.1918E, 29.

Truth of charge of, as a defense to a civil action for libel or slander. 31 L.R.A. (N.S.) 144.

Evidence of other crimes in prosecution for. 62 L.R.A. 226, 264; 43 L.R.A.(N.S.) 774.

Necessity and sufficiency of description of offense in bail bond or recognizance. 38 L.R.A.(N.S.) 314, 320.

Cruel and unusual punishment for. L.R.A. 1915C, 570.

Proof of corpus delicti in embezzlement. L.R.A.1917A, 1289.

Consult also L.R.A. Digests of Cases.

EMBEZZLEMENT—cont'd

Proof of mere failure to pay over money. L.R.A.1917B, 1266.

Venue of prosecution for. L.R.A.1918E, 744.

§ 2. By agent. Effect of fact that one is entitled to commissions out of fund upon his prosecution for embezzlement in case he retains the whole fund. 13 L.R.A.(N.S.) 511.

Failure of foreign corporation to comply with conditions of doing business in the state as defense of action by it against officer or agent for embezzlement. L.R.A.1916A, 650.

§ 3. By bailee.

Liability of bailee for wrongful appropriation of subject of bailment by servant. 29 L.R.A. 92.

Of property while in possession of bailee, presumption and burden of proof as to negligence. 43 L.R.A. (N.S.) 1190.

§ 4. By public officer.

May estoppel to deny authority to receive money alleged to have been embezzled be invoked against public officer charged with embezzlement. 23 L.R.A. (N.S.) 761.

§ 5. From one not properly in possession.

Title of one who takes money from thief or embezzler. 25 L.R.A. (N.S.) 631; L.R.A. 1917A, 707.

Illegality of transaction by which owner obtained money or other property, as a defense. 27 L.R.A.(N.S.) 415.

### EMBLEMENTS.

See CROPS.

### EMERGENCY.

§ 1. Generally. Effect of an emergency in enlarging the ordinary powers of agents to contract for services of other persons. L.R.A. 1918F, 85.

Emergency which will authorize an extra tax. 52 L.R.A. (N.S.) 676.

What is an emergency within the hours of service laws. L.R.A.1915D, 420; L.R.A. 1917A, 1206.

Care required of one in sudden emergency. 37 L.R.A. (N.S.) 43.

Liability for death of, or injury to, one attempting to stop runaway horse. L.R.A.1917C, 1083.

Sudden stopping of train in an emergency as negligence toward passenger. L.R.A. 1915D, 368.

Contributory negligence at railroad crossing of driver of automobile required to act in. 46 L.R.A. (N.S.) 708.

Contributory negligence of child acting in emergency. L.R.A.1917F, 83, 104. On or about railroad track. L.R.A. 1917F, 162.

EMERGENCY-cont'd

Implied power of attorney to compromise cause of action in case of emergency. 31 L.R.A.(N.S.) 527.

§ 2. Act of employee in. As to obtaining medical assistance, see

infra, § 5.

Reliance by servant on orders given in emergency as contributory negligence. 17 L.R.A. 606.

Liability of restaurant keeper to customer for injury by act of servant in emergency. 21 L.R.A. (N.S.) 464.

3. Act of passenger in.

Negligence of passenger in getting on or off moving street car to avoid impending danger. 38 L.R.A. 790; 30 L.R.A. (N.S.) 275.

Negligence in alighting from moving train to avoid impending danger. 22 L.R.A. (N.S.) 756; L.R.A.1915C, 186.

Causing trespasser to jump from moving wagon as actionable misconduct. 31 L.R.A. (N.S.) 1064.

§ 4. Act of person in street in case of. Liability for death of, or injury to, one attempting to stop L.R.A.1917C, 1083. runaway horse.

Duty of pedestrian injured by automobile in case of emergency. 38 L.R.A.(N.S.) 494; 51 L.R.A.(N.S.) 1005.

By pedestrian in front of passing trains. 19 L.R.A. 165; 39 L.R.A.(N.S.) 485.

As excuse for contributory negligence of person injured by defect in street. 21 L.R.A.(N.S.) 654; 48 L.R.A.(N.S.) 628.

§ 5. Medical expenses in case of.

Physician's right to recover for emergency service rendered unconscious person. 12 L.R.A.(N.S.) 1090.

Power of corporate agents to defray medical expenses of injured employees in case of. 4 L.R.A.(N.S.) 63; L.R.A. 1915C, 809.

Implied power of employee to employ physician to attend injured employee in cases of emergency. 34 L.R.A.(N.S.) 353, 355.

Existence of, as basis for implied promise by public to compensate for relief furnished poor person in cases not pro-vided for by law where there has been no compliance with statutory prerequisites. 39 L.R.A. (N.S.) 164.

#### EMERGENCY ASSISTANTS.

Liability of master for injury to. L.R.A. (N.S.) 1180. 40

#### EMERGENCY CLAUSE.

Resort to legislative journals to show enactment of bill with. 40 L.R.A. (N.S.)

#### EMERGENCY FUND.

Effect of provision that deficiency in assessment may be paid from. 10 L.R.A. (N.S.) 264.

#### EMINENT DOMAIN.

I. In general, § 1.

II. Right to take property, §§ 2-26.

a. In general, §§ 2-4.

b. Who may exercise, \$ 5.

c. What may be taken, §§ 6-8.

d. For what purpose, §§ 9-23. e. Rights and title acquired, \$\$ 24-26.

III. Procedure, \$\$ 27-35.
IV. Rights and remedies of owners and others, §§ 36-53.

a. In general, §§ 36-40.

b. What constitutes a taking of, or injury to property, \$\$ 41-44.

c. Right to compensation, §\$ 45-53.

1. In general, \$ 45.

2. Who entitled to, § 46.

3. For what property or injury, §§ 47-53.

V. Additional burdens, §§ 54-57.

### I. In general.

\$ 1. Generally.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 81.

Power of courts as to right of eminent domain, see Courts, § 16.

Measure of damages in, see DAMAGES, §§ 11, 82-93.

Loss of dower right by condemnation proceedings, see Dower, § 12.

Acquiring mining property by, see MINES, § 3.

Nature of eminent domain. 22 L.R.A. (N.S.) 7.

Effect of condemnation of property of pub-lic corporation exempt from taxation on taxes accruing between date of initiation of proceedings and their completion. L.R.A.1915C, 132.

Pending condemnation proceedings as breach of covenant against encumbrances. 36 L.R.A. (N.S.) 1067.

Power to impose assessments for public improvement by front-foot rule under power of eminent domain. 28 L.R.A. (N.S.) 1130, 1144.

Assessment by front-foot rule for public improvements involving power of eminent domain. 28 L.R.A.(N.S.) 1197.

Begin with this book on every law question.

EMINENT DOMAIN, I .-- cont'd

Does statute of limitations run during life estate against proceedings by remainderman to compel appropriation of property by third person having power of eminent domain. 15 L.R.A.(N.S.) 1154.

Eminent domain proceedings after forfeiture of deed to railroad for noncompliance with condition for construction of road within a specified time. 32 L.R.A. (N.S.) 120.

Federal courts following state decisions on questions relating to. 40 L.R.A. (N.S.) **4**44.

### II. Right to take property.

#### a. In general.

2. Generally.

Right to exercise eminent domain as af-fected by the extent to which the general scheme has progressed. 7 L.R.A. (N.S.) 198.

8. Extinguishment of right.

When exercise of power for purposes of water supply exhausted. 58 L.R.A. 248.

§ 4. Necessity for taking.

Necessity for private road. 16 L.R.A. 83. Necessity for taking railroad right of way 42 for telegraph or telephone lines. L.R.A.(N.S.) 235.

Existence of necessity for drainage of private lands. 49 L.R.A. 782.

Necessity for establishment of drains and sewers. 60 L.R.A. 191.

Discretion as to necessity of exercise of power for purposes of water supply. 58 L.R.A. 249.

Judge of necessity. 22 L.R.A.(N.S.) 64. Degree of necessity requisite to exercise power of eminent domain. 22 L.R.A. (N.S.) 58.

Public necessity as gauge of power to exercise right of eminent domain. 22 L.R.A. (N.S.) 55.

Necessity of taking particular land by emi-nent domain as a judicial question. 11 L.R.A.(N.S.) 940.

#### b. Who may exercise.

§ 5. Generally.

For purpose of water supply. 58 L.R.A. 243.

Right of de facto corporation to exercise. 2 L.R.A.(N.S.) 144; 50 L.R.A.(N.S.)

Right of foreign corporation to exercise. 24 L.R.A. 327.

Exercise of power by one corporation for a public purpose to be subserved by another. 21 L.R.A. (N.S.) 448.

Constitutionality of statute conferring power of eminent domain on private person or corporation other than railroad company, for spur or lateral track. 35 L.R.A.(N.S.) 646.

Consult also L.R.A. Digests of Cases.

EMINENT DOMAIN, II. b—cont'd Exercise of power of eminent domain by depot and belt or terminal railway companies. 10 L.R.A.(N.S.) 909.

Right of private educational corporation to exercise power of eminent domain. 48 L.R.A. (N.S.) 491.

### c. What may be taken.

§ 6. Generally.

Property subject to appropriation for public use. 22 L.R.A.(N.S.) 6.

What may be acquired for construction and operation of canals. 61 L.R.A. 833. For purposes of sewer. 60 L.R.A. 198.

For purposes of a water supply. 58 L.R.A. 244.

Acquisition of tide lands by right of. 66 L.R.A. 897.

Power to condemn riparian rights apart from the land to which they are appurtenant. 17 L.R.A.(N.S.) 1005.

What property may be taken for school purposes. 48 L.R.A.(N.S.) 488.

Taking school lands for other public uses. 48 L.R.A.(N.S.) 489.

Scope and effect of constitutional or statutory provision exempting property from eminent domain proceedings. L.R.A.1916A, 1097.

§ 6a. Shares of minority stockholder.

In general. 1 L.R.A.(N.S.) 605.
Relation of stockholder to his associates
and the corporation. 1 L.R.A.(N.S.) 607.

Remedies. 1 L.R.A. (N.S.) 609.

Property subject to condemnation. 1 L.R.A. (N.S.) 611.

Some statutes in point. 1 L.R.A.(N.S.) 615.

§ 7. Property already devoted to public or quasi public use.

Right to take other public property for purposes of water supply. 58 L.R.A. 246.

Power to take property already devoted to a public use by a political or governmental agency. 37 L.R.A. (N.S.) 101.

Right to condemn property previously condemned or purchased for public use, but which is not actually so used. 24 L.R.A. (N.S.) 383.

Taking for school purposes lands already devoted to other public use. 48 L.R.A. (N.S.) 489.

§ 8. — railroad property.

Power to lay out street or highway across railroad property or right of way. 24 L.R.A. (N.S.) 1213.

Taking railroad lands for municipal purposes. 2 L.R.A. (N.S.) 227.

Taking railroad lands for exclusive municipal uses. 41 L.R.A.(N.S.) 828.

Location of railroad; what sufficient to exclude another road. 4 L.R.A. 791;\* 12 L.R.A. 220.

EMINENT DOMAIN, II. c-cont'd

What constitutes appropriation of land for right of way by one railroad company which will prevent its condemnation by another railroad company. 13 L.R.A. (N.S.) 197.

Right of railroad to condemn a right of way over or across the tracks of another company for a spur track to private establishments. 5 L.R.A.(N.S.) 512.

Condemnation of right of way for telegraph or telephone line along railroad 42 L.Ř.A. (N.S.) right of way. 225.

### d. For what purpose.

\$ 9. Generally.

Where power resides to declare what is a public use. 22 L.R.A.(N.S.) 50.

Extent of user as affecting public nature of a use. 22 I.R.A.(N.S.) 48.

For what purposes the flowage of lands may be authorized by statute. 14 L.R.A.

Exercise of power by one corporation for public purpose to be subserved by another. 21 L.R.A.(N.S.) 448.

Taking property of one person to compensate another for property taken for a public purpose. 46 L.R.A. (N.S.) 319.

Right to exercise power as affected by fact that principal benefit will be derived out of the state. 46 L.R.A. (N.S.) 1073.

Power to exercise for purposes of school. 48 L.R.A. (N.S.) 485.

§ 10. Combination of public and pri-

Private use and incidental public use. 21 L.R.A. (N.S.) 539.

Public use and incidental private use. 21 L.R.A.(N.S.) 540.

Combination of public use and private as principal purposes. 21 L.R.A.(N.S.) 543.

Exercise of power for public purpose by corporation whose objects include pri-

vate purposes. 21 L.R.A.(N.S.) 544. Mask of public character. 22 L.R.A. (N.S.)

Plural purposes. 22 L.R.A. (N.S.) 80. Incidental private advantage.
(N.S.) 81. 22 L.R.A.

rate payment of compensation. L.R.A.(N.S.) 82. Private

Constitutionality of statute authorizing the taking of more property than is in-tended to be used for the public purpose. 46 L.R.A.(N.S.) 1196.

11. Generation of electricity.

For generation and diffusion of electric en-2 L.R.A. (N.S.) 842; 19 L.R.A. (N.S.) 725; 22 L.R.A.(N.S.) 136.

§ 12. Mining purposes.

For mining purposes. 22 L.R.A. (N.S.) 153. For mining road. 1 L.R.A. (N.S.) 977; 22

L.R.A. (N.S.) 701. Begin with this book on every law question.

EMINENT DOMAIN, II. d-cont'd For right of way for mining tunnel. L.R.A.(N.S.) 106.

§ 13. Roads.

Highways. 22 L.R.A.(N.S.) 99. Turnpikes. 22 L.R.A.(N.S.) 101. Byways. 22 L.R.A.(N.S.) 102.

Streets and alleys. 22 L.R.A.(N.S.) 111. Compulsory use of private property in road work. 42 L.R.A.(N.S.) 1045; L.R.A. 1918D, 974.

§ 14. - private road.

Private road. 16 L.R.A. 81.

For mining road. 1 L.R.A.(N.S.) 977; 22 L.R.A.(N.S.) 701.

Logging road or logging railroad. L.R.A. 19ĭ7A, 102.

§ 15. Water power.

Taking of property for manufacturing power as a public purpose. 22 L.R.A. (N.S.) 160.

Furnishing water power for municipal purposes as a public purpose. 21 L.R.A. (N.S.) 410.

Right of government to divert water from nontidal stream for power purposes without compensation to riparian owner. 37 L.R.A.(N.S.) 308.

Effect of offer to serve public on right to resort to eminent domain in aid of attempt to transmute water power into electricity for sale. 6 L.R.A. (N.S.) 122.

Right to consider value of property as a part of a natural water power, in fixing compensation in eminent domain. L.R.A.(N.S.) 912.

8 16. Water supply.

Exercise of power of eminent domain for water supply. 58 L.R.A. 241; 22 L.R.A. (N.S.) 156.

Discretion as to necessity of exercise of power for purposes of water supply. 58 L.R.A. 249.

Furnishing water and water power to the public for manufacturing purposes as a public purpose justifying the exercise of eminent domain. 21 L.R.A. (N.S.) 410.

§ 17. Drains and sewers.

For drains and sewers. 60 L.R.A. 198; 22 L.R.A. (N.S.) 168.

Acquisition by municipality of right of way for drain. 65 L.R.A. 273.

Drainage of private lands as public purpose authorizing exercise of power of eminent domain. 49 L.R.A. 781; L.R.A. (N.S.) 208; 22 L.R.A. (N.S.) 163.

Creation of easement of drainage by severance of tract of land with apparent benefit existing. 26 L.R.A.(N.S.) 361.

Right to divert water from nontidal stream for drainage purposes without compensation to riparian owner. 37 L.R.A. (N.S.) 311. EMINENT DOMAIN, II. d-cont'd Taking railroad lands for drainage district. 2 L.R.A. (N.S.) 227.

§ 18. Irrigation.

Taking property for irrigation purposes. 1 L.R.A. (N.S.) 208; 22 L.R.A. (N.S.) 162; 33 L.R.A. (N.S.) 807.

19. Levees.

Exercise of eminent domain to acquire rights of way for levees. 58 L.R.A.

§ 20. Canals.

For canals. 22 L.R.A.(N.S.) 152. What may be acquired for construction and operation of canals. 61 L.R.A. 833.

§ 21. Railroad purposes.

Right to take other railroad property for, see supra, § 8.

Relocation of railroad. 36 L.R.A. 510. For logging railroad. 1 L.R.A. (N.S.) 969; L.R.A.1917A, 102.

For appurtenances. 22 L.R.A.(N.S.) 122. Location of route. 22 L.R.A.(N.S.) 123. Quantity of land that may be taken. 22 L.R.A.(N.S.) 126.

Exercise of power of eminent domain by depot and belt or terminal railway companies. 10 L.R.A. (N.S.) 909.

Power of railroad to condemn property to obtain construction material. 40 L.R.A. (N.S.) 793.

§ 22. — spurs and sidings.

For spur tracks and sidings. 22 L.R.A. (N.S.) 129.

Power of railroad company to condemn right of way for spur or siding to private establishment. 20 L.R.A. 434; 22 L.R.A. (N.S.) 181; 35 L.R.A. (N.S.)

Constitutionality of statute conferring power of eminent domain on private person or corporation other than railroad company for spur or lateral track. 35 L.R.A. (N.S.) 646.

Right of railroad to condemn right of way over or across tracks of another company for a spur track to private establishments. 5 L.R.A.(N.S.) 512.

Delegation by legislature to railroad com-

mission of power as to building spur tracks. 32 L.R.A.(N.S.) 654.

§ 23. Miscellaneous purposes. Street railways. 22 L.R.A.(N.S.) 134. Bridges. 22 L.R.A.(N.S.) 135. Toll bridge. 30 L.R.A. (N.S.) 360. Ferries. 22 L.R.A. (N.S.) 135. Wharves. 22 L.R.A. (N.S.) 135. Pipe lines. 22 L.R.A.(N.S.) 136. Mill dams. 22 L.R.A.(N.S.) 140. Gristmill. 18 L.R.A.(N.S.) 356. Booms and logging ways. 22 L.R.A. (N.S.) Fisheries.

22 L.R.A. (N.S.) 152; L.R.A. 1915E, 443.

Sewers. 22 L.R.A.(N.S.) 168. Municipal purposes. 22 L.R.A.(N.S.) 168. Common schools. 22 L.R.A.(N.S.) 169. Consult also L.R.A. Digests of Cases. 30

EMINENT DOMAIN, II. d-cont'd Private schools. 48 L.R.A. (N.S.) 491. Parks. 22 L.R.A. (N.S.) 170. Cemeteries. 22 L.R.A. (N.S.) 171.

Purveying of water for governmental and domestic consumption. 22 L.R.A. (N.S.)

For improvement of navigability of stream. 67 L.R.A. 847; 22 L.R.A.(N.S.) 153. Production of gold. 15 L.R.A.(N.S.) 616.

### e. Rights and title acquired.

§ 24. Generally.

Extent of title or rights taken for purposes of canal. 61 L.R.A. 836, 838.

Extent of rights acquired for purposes of water supply. 58 L.R.A. 248. Effect of condemnation of husband's lands

upon wife's right of dower. 18 L.R.A. 79.

Does eminent domain proceeding secure . title "through or under" the former owner. 9 L.R.A.(N.S.) 1092.

Judge of necessity as to extent of estate to be taken. 22 L.R.A.(N.S.) 76.

§ 25. For railroad purposes.

Validity of sale of land by railroad. 25 L.Ř.A. 139.

Condemnation or grant of land for railroad right of way as carrying right to lateral and subjacent support. 32 L.R.A. (N.S.) 155.

Uses to which railroad right of way may be devoted as against the owner of the fee. 36 L.R.A.(N.S.) 512.

Right of railroad company to material or mineral within right of way. 45 L.R.A. (N.S.) 796.

§ 26. Taking subject to liens.

Estoppel, when property is taken, subject to certain liens, to deny the validity of the liens. 21 L.R.A. (N.S.) 72.

Effect of acquisition of title by eminent domain to cut off tax liens. 21 L.R.A. (N.S.) 68.

#### III. Procedure.

§ 27. Generally.

Limitation applicable to action to recover compensation for property taken or damaged. L.R.A.1918E, 139.

Procedure in condemning property for water supply, generally. 58 L.R.A. 250.

Proceedings to condemn land for drain or sewer. 60 L.R.A. 198.

Practice and remedies when property subject to lease. 21 L.R.A. 219, 222.

How power of eminent domain is exercised. 22 L.R.A. (N.S.) 17.

Fraud in proceedings for opening or extending highway as defense to proceedings to acquire property for that purpose. 7 L.R.A. (N.S.) 639.

Selection of property for condemnation. 22 L.R.A.(N.S.) 82.

When title passes in eminent domain proceedings. 16 L.R.A.(N.S.) 537.

EMINENT DOMAIN, III.—cont'd § 28. Time for proceedings.

First and last days in computing time. 49 L.R.A. 238.

Time allowed for making claim for damages from taking property for water supply. 58 L.R.A. 259.

Time within which power to condemn land and water rights must be exercised. 58 L.R.A. 258.

§ 29. Removal of proceedings. Removal of condemnation proceedings be-

cause of separable controversy. L.R.A.(N.S.) 75.

§ 30. Discontinuance of proceedings. Abandonment of proceedings for acquisition of water supply. 58 L.R.A. 253.

Right of condemning party to dismiss con-demnation proceedings after award or verdict and before confirmation or judg-28 L.R.A.(N.S.) 91. ment.

Right to dismiss condemnation proceedings after confirmation of award or

after judgment. L.R.A.1916C, 644. What damage or loss is within provision for payment of damages upon discontinuance of proceedings in eminent domain. 52 L.R.A.(N.S.) 262.

§ 31. Trial; award. Appeal, see infra, § 34.

Setting aside award, see infra, § 35.

Interest which will disqualify one to serve as commissioner or juror in eminent domain proceedings. L.R.A.(N.S.) 151.

Right to interest on award. L.R.A.1916C, 1109.

Distribution of award in condemnation of land subject to an assessment for public improvements. 45 L.R.A.(N.S.)

Conclusiveness of judgment or order in condemnation proceeedings as a settlement of rival claims to the award. L.R.A. 1917A, 690.

§ 32. Notice.

In proceedings to establish drains and sewers. 60 L.R.A. 209.

In proceedings to acquire water supply. 58 L.R.A. 253.

Necessity of providing for notice of hearing on question of damages or compensation. 4 L.R.A. (N.S.) 169.

§ 33. — to whom.

To occupant only. 16 L.R.A. 186.

tenants and reversioners. 21 L.R.A. 222

Right of mortgagee to notice. 18 L.R.A. 115.

Effect of failure to give mortgagee notice. 18 L.R.A. 117.

§ 34. Appeal.

Provision for appeal to court in proceedings to establish drains and sewers. 60 L.R.A. 224.

EMINENT DOMAIN, III.—cont'd

Effect of appeal in condemnation proceedings. 2 L.R.A.(N.S.) 313.

Accepting damages as waiver of right to

appeal. 29 L.R.A.(N.S.) 21.

Liability for costs on appeal from award condemnation proceedings. L.R.A.(N.S.) 624.

§ 35. New trial; setting aside award. Power of court to set aside award for misconduct of commissioners or jurors. 27 L.R.A.(N.S.) 567.

IV. Rights and remedies of owners and others.

#### a. In general.

36. Generally.

Rights on vacation of highway, see High-WAYS, § 111.

Right of one whose property has been taken for public use without condemnation proceedings, to maintain action for compensation or for permanent damages. 28 L.R.A.(N.S.) 968.

Data necessary to warrant recovery for consequential damages to real property. 3 L.R.A.(N.S.) 333.

§ 87. Rights of tenants and reversion-

Generally. 21 L.R.A. 212.

Effect on liability for rent. 17 L.R.A. 276; 21 L.R.A. 213, 222.

Damages; application of. 21 L.R.A. 215. Damages, right to and estimation of. 21 L.R.A. 217, 223.

Rights of life tenants, reversioners, and remaindermen. 21 L.R.A. 219, 221.

Ground rents. 21 L.R.A. 221.

As affected by duration of tenancy. L.R.A. 222.

Effect on the lease. 21 L.R.A. 222.

Rights of tenant receiving proper notice to quit. 21 L.R.A. 222.

§ 38. Rights of mortgagee.

As between mortgagor and mortgagee. L.R.A. 113.

As between mortgagee and appropriator. 18 L.R.A. 114.

§ 39. Payment of compensation.

Private payment of compensation. L.R.A. (N.S.) 82.

§ 40. What lands deemed to be part of tract taken.

Different holdings. 57 L.R.A. 932. Property in city. 57 L.R.A. 936.

Farm lands in a contiguous body. 57 L.R.A.

Farm lands separated by highways, railroads, canals, or other property. L.R.A. 945; 9 L.R.A. (N.S.) 426.

Lands in different counties. 57 L.R.A. 948.

Begin with this book on every law question.

EMINENT DOMAIN, IV. a-cont'd

### b. What constitutes a taking of, or injury to property.

41. Generally.

Right to compensation for property taken or damaged, see infra, IV. c.

Additional burdens on property, see infra,

What constitutes a "taking." 18 L.R.A.

166. What is a "damaging." 36 L.R.A.(N.S.) 1194.

Distinction between taking or damaging property and consequential injuries. 47 L.R.A.(N.S.) 462.

Taking or damaging property by discharg-48 L.R.A. ing sewers into waters.

Compelling occupant or owner of property bordering on public street to remove snow and ice from sidewalks. L.R.A. 1918D, 1019.

Statute providing for removal of covenant restrictions on use of land. L.R.A. 1918B, 61.

Temporary use of or interference with property. L.R.A.1918E, 991.
Interference with view. L.R.A.1917C, 1135.

Laying pipe through land as a taking for which compensation must be made. 24 L.R.A. (N.S.) 230. Extension of city limits to include toll

road as taking of property for which compensation must be made. 17 L.R.A.(N.S.) 1071.

Injury to riparian property by deflection of water by structure erected under statutory authority as a taking. L.R.A.(N.S.) 1040.

Casting water upon opposite bank by raising hank of a stream, as a taking or damaging of property within constitutional provisions. 48 L.R.A.(N.S.) 994.

nt under constitutional provision against "damaging" private property Right for public use without compensation. to compensation for consequential damages to property, no part of which is taken, from smoke, noise, dust, etc., incident to ordinary operation of rail-roads. 17 L.R.A.(N.S.) 1054; 40 L.R.A.(N.S.) 48; L.R.A.1916E, 445.

Does a constitutional prohibition against damaging property for public use without compensation apply to work done after the provision takes effect, under ordinances passed before that time. 3 L.R.A. (N.S.) 404.

Requiring connection or joint use of properties of public service corporation as a taking for which compensation must be made. 50 L.R.A.(N.S.) 652; L.R.A. 1916E, 759; L.R.A.1917E, 1083.

§ 42. Tax or assessment.

Taxing for municipal purposes lands which Consult also L.R.A. Digests of Cases.

EMINENT DOMAIN, IV. b—cont'd received no benefit from municipal government as a taking without compensation. 27 L.R.A. 741.

Assessment for public improvement by the front-foot rule. L.R.A.1917D, 375.

§ 48. Removal of lateral or subjacent support.

Liability of municipal corporation for removal of lateral or subjacent support of land. 68 L.R.A. 699.

Removal of lateral support as constituting damage or injury within meaning of constitutional provision against taking, damaging or injuring property for public use without compensation. L.R.A.(N.S.) 1086; L.R.A.1917E, 576.

§ 44. Matters as to highways.

What constitutes a "taking" of easement of light, air and access. L.R.A. 166.

Cutting off access to a highway as a taking or injury. 15 L.R.A. (N.S.) 49.

Compulsory use of private property in road work. 42 L.R.A.(N.S.) 1045; L.R.A. 1918D, 974.

Liability of municipality for injury to abutting property from bringing street to the grade established in the first instance. 7 L.R.A. (N.S.) 108.

Liability of municipal corporation for in-jury to abutting property by changing the grade of street. 36 1194; L.R.A.1915A, 383. 36 L.R.A. (N.S.)

Railroad in street as a taking of property. 36 L.R.A. (N.S.) 693.

#### c. Right to compensation.

#### 1. In general,

45. Generally.

What constitutes a taking or damaging which compensation must be made, see supra, IV. b.

Additional burdens for which compensation must be made, see infra, V.

Extent of recovery, see Damages, §§ 11, 82-93.

On vacation of highway, see HIGHWAYS, § 111.

Limitation applicable to action to recover compensation for property taken or damaged. L.R.A.1918E, 139.

Prepayment as a condition of acquisition of a water supply. 58 L.R.A. 257. Self-executing effect of constitutional pro-

vision that private property shall not be taken or damaged for public use without compensation. 16 L.R.A. 283.

Right to take private property for public use without compensation on the theory that it has been abandoned. 39 L.R.A. (N.S.) 1029.

EMINENT DOMAIN, IV. c, 1-cont'd

Are counties within constitutional provision requiring "municipal and other corporations" to make just compensation for property injured by public work. 18 L.R.A. (N.S.) 884.

Claim for compensation for property taken or damaged as within statute or ordinance requiring notice or presentation as a condition of municipal liability. 50 L.R.A.(N.S.) 181.

Right to compensation for property taken or damaged in construction of levees. L.R.A.1916F, 1187.

### 2. Who entitled to.

46. Generally.

Who entitled to compensation in proceedings to acquire water supply. L.Ř.A. 256.

Right of tenant of property to compensation. 11 L.R.A. 839; 21 L.R.A. 217. Licensee's right to compensation. 21 L.R.A.

Right to compensation of grantor in conveyance of determinable fee or estate upon condition subsequent. 22 L.R.A. (N.S.) 1063.

### 8. For what property or injury.

47. Generally.

Distinction between taking or damaging property, and consequential injuries. 47 L.R.A.(N.S.) 462.

Compensation for right of redemption where property is taken in condemnation proceedings. L.R.A.1917F, 801.

Property for which compensation must be made to public utility company upon taking its plant. 47 L.R.A. (N.S.) 770.

Right to compensation for interference with switch connections or other shipping facilities. 52 L.R.A.(N.S.) 192.

Injuries to abutter's easements of light, air, and access by vacating street, changing grade, etc. 14 L.R.A. 370.

Right of owner of easement of way to com-

pensation upon its conversion into public highway. 2 L.R.A.(N.S.) 598. Municipal liability for injury to abutting property from changing street grade under constitutional provision against "damaging" private property for pub-"damaging" private property for public use without compensation. 36 L.R.A. (N.S.) 1194; L.R.A.1915A, 383.

Owner's right to compensation for improvements made by taker before condemnation without owner's consent. 5 L.R.A. (N.S.) 922.

Right to allowance for improvements made with knowledge that property would be required for public use. 36 L.R.A.(N.S.) 273,

Power to authorize construction of telegraph of way, without compensation to rail-road company. 29 L.R.A.(N.S.) 703.

Begin with this book on every law question.

EMINENT DOMAIN, IV. c, 3-cont'd § 48. For matters as to waters.

Right to acquire water supply without compensation. 58 L.R.A. 240.

Government's right to divert water from nontidal stream without compensation to riparian owner. 37 L.R.A.(N.S.) 307.

Right to compensation for damages to oyster beds by improvement of navigation. 34 L.R.A.(N.S.) 1084.

Right of riparian owner to compensation for damages to his property by construction, under legislative authority, of dams or booms for floating or storing logs. 22 L.R.A.(N.S.) 641.

Right to compensation for appropriation of land for drain or sewer. 60 L.R.A.

Compensation for injury from establishment of drains and sewers. 60 L.R.A. 223.

Right of action by owner of upland for interference with access to navigable waters. L.R.A.1918E, 738.

§ 49. For railroads.

Right to compensation for railroad structures placed on land before condemnation. 66 L.R.A. 44.

Right of property owner to compensation for interference with light or air by railroad structure on company's own property. 20 L.R.A.(N.S.) 1061.

Right to obstruct or destroy wharf rights in navigable waters for railroad without compensation. 34 L.R.A. (N.S.) 428.

Right to compensation for consequential damages to property, no part of which is taken, from smoke, noise, dust, etc., incident to ordinary operation of rail-road. 17 L.R.A.(N.S.) 1054; L.R.A. 1916F, 445.

Liability of railroad company in constructing its roadway for removal of lateral support to adjoining property. L.R.A. 1918D 714.

§ 50. — in street.

Abutter's right to compensation for railroad in street. 36 L.R.A.(N.S.) 673.

Liability of railroad company to abutting owner for damages from change of grade of highway necessary to carry it across tracks. 26 L.R.A.(N.S.) 226; L.R.A.1916D, 1078.

Right of landowner to damages for obstruction of street or highway by railroad not adjacent to his property. 9 L.R.A. (N.S.) 496; 46 L.R.A. (N.S.) 615.

Right of abutting owner to damages for special injuries where street railway is not considered an additional burden. 25 L.R.A.(N.S.) 1265.

§ 51. For street railways.

or telephone line along railroad right | Injury to abutting owner by laying street railway near side of street. 43 L.R.A. 554. EMINENT DOMAIN, IV. c, 3-cont'd

Right of abutting owner to compensation where street railway is located on the side, rather than in the center, of the street. 25 L.R.A.(N.S.) 1278.

Right of abutting owner to damages for special injuries where street railway is not considered an additional burden. 25 L.R.A. (N.S.) 1265.

§ 52. For laying out highway or electric road across railroad.

Necessity of making compensation on laying out street across railroad property. 24 L.R.A. (N.S.) 1226.

Right of railroad company to compensation for the crossing of its track, where it intersects a street or highway, by an electric road. 29 L.R.A. 485; 13 L.R.A. (N.S.) 916; L.R.A.1915D, 843.

§ 53. For obstruction or destruction of wharf rights in navigable waters. Right to obstruct or destroy wharf rights in navigable waters for public purposes, without compensation. 34 L.R.A. (N.S.) 423.

#### , V. Additional burdens.

#### § 54. Generally.

What constitutes a taking of, or injury to property, see supra, IV. b.

Right to compensation for property taken, see supra, IV. c.

Railroads. 3 L.R.A. 175; 8 L.R.A. 31;\* 17 L.R.A. 474.

#### 55. On highway.

As to rights of abutting owners on highways, generally, see HIGHWAYS, §§ 11-

What use of a street or highway constitutes an additional burden. 17 L.R.A. 474.

Gas-pipe line as. 17 L.R.A. 480; 7 L.R.A. (N.S.) 506.

§ 56. — electric poles and wires; telegraph and telephone line.

Electric railroad, see infra, § 57. Poles as an additional burden on highway.

24 L.R.A. 721.

Telegraph and telephone poles and wires in street as additional burden on ease-ment. 17 L.R.A. 480; 24 L.R.A. 721; 3 L.R.A.(N.S.) 323; 7 L.R.A.(N.S.) 87.

Electric power or light line in street or highway as an additional burden. 36 L.R.A. (N.S.) 185; 52 L.R.A. (N.S.) 760.

§ 57. - railroads of various kinds. Railroad in street as. 36 L.R.A. (N.S.)

698. Street railway as. 17 L.R.A. 477; 36 L.R.A.

(N.Š.) 709. Interurban trolley road as. 4 L.R.A.(N.S.) 202; 40 L.R.A.(N.S.) 254.

Consult also L.R.A. Digests of Cases.

EMINENT DOMAIN, V.—cont'd

Damages to abutting owner for right to run interurban cars over the tracks of a street railway company. 15 L.R.A. (N.S.) 531.

Subway in public street for street railway purpose as proper street use. L.R.A 1915F, 1005.

#### EMOTIONS.

Protection of personal rights relating to. 37 L.R.A. 784.

Right of witness to express opinion as to. L.R.A.1918A 721.

#### EMPLOYEES.

In general, see Master and Servant. Who are, within meaning of statute giving preferences. 18 L.R.A. 305.

#### EMPLOYERS.

See MASTER AND SERVANT.

EMPLOYERS' INDEMNITY INSUR-ANCE.

See Insurance, §§ 212-217.

#### EMPLOYERS' LIABILITY.

Insurance against, see Insurance, §§ 212-217.

#### EMPLOYERS' LIABILITY ACT.

See Master and Servant, §§ 56, 57.

#### EMPLOYMENT.

Validity of contract of, see Contracts, §§ 79-81.

Contract of, generally, see MASTER AND SERVANT, II.

Of school teacher, see Schools, § 15.

Implied authority of claim agent to promise employment to induce settlement of claim. 38 L.R.A.(N.S.) 826.

### EMPLOYMENT AGENCIES.

Constitutionality of statutes regulating, see CONSTITUTIONAL LAW, § 88. License of, see LICENSE, § 26.

#### ENACTING CLAUSE.

Attack on enrolled bill passed without. 40 L.R.A.(N.S.) 30.

#### ENACTMENT.

Of ordinance, see MUNICIPAL CORPORATIONS, § 21. Of statutes, see STATUTES, §§ 3-7.

#### ENCLOSURE.

Notice of title to land from. 13 L.R.A. (N.S.) 93.

#### ENCROACHMENTS.

On highway, see Highways, §§ 13, 14, 19a, 33-39.

Awnings as, see Awnings.

Prescriptive right to maintain, 53 L.R.A.

Projection of building or other structure over a boundary as a continuing trespass or nuisance. 32 L.R.A.(N.S.) 1010.

Easement created by severance of tract of land. 26 L.R.A.(N.S.) 367; L.R.A. 1915C, 353.

Right of riparian owner to protect shore from encroachment of water. 6 L.R.A. (N.S.) 162.

Injunction against encroachment on cemetery lands. 3 L.R.A.(N.S.) 482.

Ejectment for encroachments under surface or overhead. 11 L.R.A.(N.S.) 917.

Mandatory injunction to compel removal of structure which encroaches on adjoining property. 36 L.R.A. (N.S.) 402. Effect of, on marketability of title. 38 L.R.A. (N.S.) 33.

Enjoining interference with highway fence for purpose of removal of. 7 L.R.A. (N.S.) 62.

### ENCUMBRANCE.

Covenant against, see Covenants, §§ 10, 11, 28–30.

On insured property, see INSURANCE, §§ 78, 88; LANDLORD AND TENANT, § 20. On homestead, see Homestead, § 15.

Condition against, in policy, see INSURANCE, §§ 66–73.

Conveyance of property subject to, see

MORTGAGE, §§ 40-46.
Railroad right of way as, see RAILROADS, § 18.

Subrogation of person discharging, see Sub-

ROGATION, § 2.

ENCUMBRANCE—cont'd

Lease as, within statute requiring joinder or consent of spouse. 39 L.R.A. (N.S.) 675.

When taxes become an encumbrance on land. 15 L.R.A. 236.

Parol evidence that property was sold "subject to." 20 L.R.A. 106.

Power of surviving partner to remove. 28 L.R.A. 134.

Right of devisee of encumbered property to exoneration at expense of legatee. 3 L.R.A.(N.S.) 898.

Effect of defendant's mistake of fact as to, on right to specific performance of contract induced by the mistake. L.R.A. (N.S.) 86.

Rights of life tenant who pays off, as against remainderman. 29 L.R.A. (N.S.)

Repudiating cotenancy as affecting right to contribution of cotenant paying encumbrance. L.R.A.1915B, 973.

What fund is chargeable with costs and expenses of sale when encumbered property is sold in bankruptcy free of liens. 29 L.R.A.(N.S.) 737.

Agreement by vendee to pay encumbrance as promise to answer for debt of another within statute of frauds. L.R.A.(N.S.) 1087.

Right of one advancing money to pay off encumbrance on security which proves defective to be subrogated to such encumbrance. 5 L.R.A. (N.S.) 838.

Validity of encumbrance by husband and wife of property held by entireties to secure individual debt of husband. 66 L.R.A. 637.

Merger of mortgage by conveyance from mortgagor to mortgagee or revival thereof after such conveyance where there are intermediate encumbrances on the property. 39 L.R.A.(N.S.) 834.

#### ENCYCLOPÆDIA.

Use of, as evidence. 40 L.R.A. 575. Master's rights in respect to work of employee upon. 5 L.R.A. (N.S.) 1190. Right of employer and employee with respect to work done for. 1 B. R. C. 330.

#### ENDOWMENT POLICY.

As assets of insured on bankruptcy or insolvency. 50 L.R.A. 44; 46 L.R.A. (N.S.) 148.

Right to subject, to claims of creditors. 4 L.R.A. (N.S.) 456.

Are endowment policies within statute exempting life insurance policies. L.R.A.(N.S.) 722.

Right of beneficiary as against insured or his estate to proceeds of endowment insurance. 52 L.R.A.(N.S.) 689.

Begin with this book on every law question.

#### ENEMY.

Alien enemy, see ALIEN ENEMIES.

Consul trading with enemy. 45 L.R.A. 588. Validity of contract made for purpose of aiding and abetting. 12 L.R.A.(N.S.) 606.

#### ENFORCEMENT.

Of award of arbiters, see Arbitration, § 5. Of illegal contract, see CONTRACTS, §§ 112-

Of alimony, see DIVORCE AND SEPARATION, §§ 43-45.

Of judgment, see JUDGMENT, §§ 73, 81-86.

Of contract of employment, see MASTER AND SERVANT, § 9.
Of mechanics' lien, see Mechanics' Liens,

Of mortgage, see MORTGAGE, VII.

Of ordinance, see MUNICIPAL CORPORATIONS, § 51.

Of improvement assessment, see Public Im-PROVEMENTS, IV. e.

Of tax, see Taxes, IV.

Of trust, see TRUSTS, §§ 38, 39.

Of vendor's lien, see VENDOR AND PUR-CHASER, § 34.

Of payment of legacy, see WILLS, § 106.

#### ENGINE.

Liability for fires set by threshing engine, see FIRES, § 7.

Frightening of horses by, see Horses, § 10.

Right to use water of stream for. 41 L.R.A. 741.

As fixture when placed on land by the owner of the realty. 8 L.R.A. (N.S.) 376.

Use of engine on farm premises as violation of general provision in fire policy against increase of risk or specific provisions relating to engines. L.Ř.A.

1915D, 187.

Negligence as to spark arresters on.
L.R.A.(N.S.) 530.

Private action for violation of statutes requiring spark arresters on. 1915E, 539. L.R.A.

Liability of master where servant invites or permits children to ride on. L.R.A. 1915E, 888.

### ENGINEER.

Certificate of, see Contracts, §§ 140-142.

Validity of contract with unlicensed engineer. 12 L.R.A. (N.S.) 617.

As fellow servants. 52 L.R.A.(N.S.) 1086. Waiver by, of stipulation in building con-tract that alterations or extras must be 582, **592**, 594.

Consult also L.R.A. Digests of Cases.

ENGINEER-cont'd

Power of courts to enforce ministerial duties of state engineer. 52 L.R.A. (N.S.)

Liability of architect or engineer for negligence in issuing certificates. 4 B. R. C. 859

#### ENGINEERING.

Treatment of expense of engineering in public service property valuations. L.R.A. (N.S.) 1040.

#### ENGINE HOUSE.

Right to use railroad right of way for purpose of. 36 L.R.A.(N.S.) 516.

#### ENGLISH COURTS.

Jurisdiction of civil actions against consuls. 45 L.R.A. 580.

#### ENGLISH LANGUAGE.

Master's duty as to instructing and warning servant unable to understand English. 23 L.R.A. (N.S.) 296.

Master's liability as affected by fellow servant's inability to understand. 20 L.R.A.(N.S.) 39.

#### ENGLISH STATUTES.

See Common Law.

#### ENGRAVINGS.

Right to use engraved plates without the consent of the party who has paid for making them. 50 L.R.A. 397.

#### ENGROSSED BILL.

Impeachment of enrolled bill by. 40 L.R.A. (N.S.) 31.

### ENHANCED PENALTY.

ordered in writing. 48 L.R.A.(N.S.) For habitual criminals or prior offenders, see CRIMINAL LAW, § 83.

#### ENLARGED COPIES.

Of handwriting as evidence. 35 L.R.A. 813; 51 L.R.A. (N.S.) 857.

#### ENLISTMENT.

In Army or Navy, see Army and Navy.

#### EN MASSE.

Sale en masse on foreclosure, see MORT-GAGE, § 79.

#### ENROLLED BILL.

Conclusiveness of, see STATUTES, § 12.

#### ENSILAGE CUTTER.

Recovery under Workmen's Compensation
Act for injury to employee operating. L.R.A.1918F, 202.

#### ENTERTAINMENT.

In general, see AMUSEMENTS. Innkeeper's duty as to, see INNKEEPERS, § 12.

#### ENTICING.

Of servant, see Master and Servant, § 43. Liability for enticing servant to quit employment, see Case, § 5.

Liability generally for enticing minor to leave parent, see Case, § 6.

Remedy for enticing servant, see Election of Remedies, § 9.

Effect of defendant's mistake as to age of girl enticed. 25 L.R.A.(N.S.) 661. What amounts to enticing of minor child from parent's custody. (N.S.) 1001. 48 L.R.A.

Right of action for enticement of wife as asset of bankrupt. 43 L.R.A.(N.S.) 941.

### ENTIRETIES.

Tenancy in, see Husband and Wife, § 27.

### ENTIRETY.

Of contract, see Contracts, § 62.

### ENTITY.

See Contagious Diseases; Health. Torts of partnership as. 51 L.R.A. 465. Regin with this book on every law question.

#### ENTRANCES.

§ 1. Generally.

Duty of storekeeper toward customer as to condition of. 21 L.R.A.(N.S.) 463; L.R.A.1915F, 572.

Duty as to entrances to building located on street with ascending grade. 22 L.R.A. (N.S.) 730.

§ 2. Of leased premises.

Landlord's liability to third persons as to condition of. 26 L.R.A. 202.

Landlord's liability as to condition of com-

mon entrance. 23 L.R.A. 155.

Right of tenant to have entrances kept open. 4 L.R.A. (N.S.) 565; 30 L.R.A. (N.S.) 926.

#### ENTRY.

Right of, on condition broken, see Con-

DITIONS, § 12.
In books of account as evidence, see Evi-

DENCE, §§ 139-144.
Admissibility in evidence of entries in family Bible, see EVIDENCE, § 145. Of judgment, see JUDGMENT, §§ 14-18.

By mortgagee, see Mortgage, § 31. Of public lands, see Public Lands, III.

Writ of, see Writ of Entry.

In bank book as contract. 24 L.R.A. 737. May entry on land which would otherwise constitute a trespass be justified by private necessity. 20 L.R.A. (N.S.) 152.

Necessity of entry as a condition of maintaining an action, other than for damages, based on breach of condition subsequent in a conveyance of freehold. 14 L.R.A.(N.S.) 1188; 23 L.R.A.(N.S.) 938; L.R.A.1917C, 882.

#### ENTRYMAN.

See Public Lands.

#### EN VENTRE SA MERE.

Infant in, as grantee in deed. 44 L.R.A. 489.

Premature injury to infant as ground of action. 45 L.R.A.(N.S.) 625.

May a child en ventre sa mere be considered as in being for purpose of rule against perpetuities. 4 B. R. C. 492.

#### EPIDEMICS.

#### EPILEPSY.

affecting testamentary capacity. L.R.A. (N.S.) 30; L.R.A.1915A, 451.

#### EPITHET.

See LIBEL AND SLANDER.

### EQUAL ACCOMMODATIONS.

Right to. 14 L.R.A. 579.

#### EQUALITY.

Of protection and privileges, see Constitu-TIONAL LAW, IX. b.

In license fee, see LICENSE, §§ 46, 46a. In taxation, see Taxes, §§ 8-12, 39, 93, 94.

Of judgment liens on after-acquired property. 42 L.R.A. 210.

## -+++ EQUALIZATION.

Board of, see TAXES, § 59b.

Of assessment for drains and sewers. 60 L.R.A. 234.

## -++-EQUAL PROTECTION.

See Constitutional Law, IX. b.

#### EQUIPMENT.

State regulation of equipment of railroad rolling stock as interference with interstate commerce. 32 L.R.A.(N.S.) 20.

#### EQUITABLE ASSIGNMENT.

See Assignment, § 8.

#### EQUITABLE CONVERSION.

By will, see WILLS, §§ 116-118.

As affecting descent of ancestral estates. LR.A.1916C, 910.

As applied to land contract. 57 L.R.A.

643.

Devolution of vendee's interest under contract for purchase of real property. 42 L.R.A.(N.S.) 446.

Consult also L.R.A. Digests of Cases.

EQUITABLE CONVERSION—cont'd

Devolution of interests of respective parties to option for purchase of real estate. L.R.A.1917D, 719.

Effect of agreement converting real estate into personalty, upon widow's right to dower. 27 L.R.A. 347.

As affecting descent to kindred of the half blood. 29 L.R.A. 567.

As against persons not in being. 8 L.R.A.
(N.S.) 72.

Of partnership realty. 27 L.R.A. 473; 37 L.R.A. (N.S.) 900.

Taxes on succession as affecting real estate in other states, under doctrine of. 1 L.R.A.(N.S.) 400; 19 L.R.A.(N.S.) 290.

Effect of purchase of real property at judicial sale to work an equitable conversion of a corresponding part of the purchaser's personal estate into realty. 16 L.R.A.(N.S.) 859.

Allowing period for conversion of property as violation of rule against perpetuities or suspension of power of alienation. 26 L.R.A.(N.S.) 724.

Surplus realized upon foreclosure sale of real estate after mortgagor's death as real or personal property. 19 L.R.A. (N.S.) 723.

Reconversion into real property after equitable conversion into personalty by contract for sale of land. 57 L.R.A. 652.

### EQUITABLE DEFENSES.

Proof of, under general denial or a plea of the general issue in action of ejectment. L.R.A.1918F, 255.

#### EQUITABLE ESTOPPEL.

See ESTOPPEL, III.

### EQUITABLE LIEN.

See LIENS, §§ 5-7.

EQUITABLE LIMITATIONS.

See Limitation of Actions, §§ 6-12.

#### EQUITABLE MORTGAGE.

See MORTGAGE, §§ 7, 14.

#### EQUITABLE REMEDY.

In aid of execution, see Execution, § 17.

### EQUITABLE SET-OFF.

See SET-OFF AND COUNTERCLAIM, §§ 10-12.

#### EQUITABLE TITLE.

Sufficiency of, to sustain action for trespass. 47 L.R.A. 637.

Sufficiency of, to sustain action for injury to real property. 30 L.R.A.(N.S.) 231. Owner of equitable title as sole and unconditional owner of insured property, the legal title of which is in another. L.R.A.1918E, 375.

#### EQUITY.

I. Jurisdiction and powers, §§ 1-21. II. Rules; principles; maxims, \$ 22. III. Practice, §§ 23, 24.

Particular kinds of actions in equity, see ACCOUNTING; CREDITORS' BILL; IN-JUNCTION; MORTGAGE, VII; SPECIFIC PERFORMANCE.

Effect and conclusiveness of decree in, see JUDGMENTS, § 22.

Equitable assignment, see Assignments,

Equitable conversion, see Equitable Con-

version; Wills, §§ 116-118. Equitable estoppel, see ESTOPPEL, III.

Equitable lien, see LIENS, §§ 5-7.

Equitable limitations, see Limitation of Actions, §§ 6-12.

Equitable mortgage, see MORTGAGE, § 14. Equitable remedy in aid of execution, see EXECUTION, § 17.

Equitable set off, see SET-OFF AND COUNTER-CLAIM, §§ 10-12.

Application to suits in equity of statute or ordinance requiring notice or presentation of claim as a condition of municipal liability. 50 L.R.A.(N.S.) 186.

#### I. Jurisdiction and powers.

1. Generally.

Jurisdiction in particular cases, see CAN-CELATION OF INSTRUMENTS; CHARI-TIES; CLOUD ON TITLE, §§ 2, 3; CRED-ITOR'S BILL; DISCOVERY AND INSPEC-TION; FRAUD AND DECEIT, §§ 36-41; INJUNCTION: JUDGMENT, §§ 87-97; JUDGMENT, §§ MORTGAGE, VIII.; RECEIVERS; SPECIFIC PERFORMANCE.

Jurisdiction of courts, generally, COURTS.

Jurisdiction as affected by amount in dispute, see Courts, § 27.

Jurisdiction of equity as affected by territorial limitations, see Courts, IV.

Jurisdiction of equity over suits affecting real property in another state or country, see COURTS, § 21.
Jurisdiction of bill to perpetuate testimony.

see DEPOSITION, § 2.

Jurisdiction of, to set aside judgment, see JUDGMENT, VIII.

Remedy in equity for wrongful issuance of license for sale of intoxicating liquor. L.R.A.1915E, 408.

Writ of error coram nobis in chancery proceedings. L.R.A.1918A, 1178.

Begin with this book on every law question.

| EQUITY, I.—cont'd

§ 2. Federal jurisdiction.

Federal jurisdiction in equity, see Courts, § 38.

§ 3. Remedy at law.

In action to remove cloud on title. see CLOUD ON TITLE, § 3. Injunction in case of, see Injunction, § 3.

Jurisdiction of equity to cancel instrument notwithstanding remedy at law. L.R.A.(N.S.) 1048.

Effect of legal remedy to defeat equitable remedy to follow trust funds. 6 L.R.A. (N.S.) 793.

Effect of adequate remedy at law in relief from mistake of law as to effect of instrument. 28 L.R.A. (N.S.) 912.

Effect of remedy at law on equitable jurisdiction to remove cloud on title. L.R.A.(N.S.) 55.

Jurisdiction of equity to try claims against its receiver which involve purely legal questions. 13 L.R.A.(N.S.) 709.

Relief of grantor in conveyance in consideration of agreement to support, which is broken by grantee, as affected by remedy at law. 43 L.R.A. by remedy at law. (N.S.) 923.

Right to have void judgment reviewed by appellate court as affecting right to equitable relief. 50 L.R.A. (N.S.) 1055.

Effect of remedy at law on jurisdiction of action for specific performance of contract for sale of corporate stock. L.R.A. 1915D, 300.

Equitable relief from divorce where remedy at law exists. L.R.A.1917B, 422.

4. Multiplicity of suits.

Injunction to prevent, see Injunction, § 4.

Jurisdiction of equity, on the ground of pre-venting a multiplicity of suits, to enforce liability of members of a club or corporation. 28 L.R.A.(N.S.) 743.

Jurisdiction of equity, upon the ground of avoidance of multiplicity of suits, to entertain suit for possession of separate parcels of land held adversely by different defendants claiming under a common source. 14 L.R.A. (N.S.) 239.

Power of equity to take jurisdiction because of multiplicity of actions at law for personal injuries growing out of a single tort. 20 L.R.A.(N.S.) 848; 35 L.R.A.(N.S.) 491; 40 L.R.A.(N.S.) 464.

Multiplicity of suits as ground for equitable relief to grantor in conveyance in consideration of agreement to support, which is broken by the grantee. 43 L.R.A.(N.S.) 924.

§ 5. Protection of personal rights. The general rule. 37 L.R.A. 783.

Rights relating to physical life. 37 L.R.A. 784.

Rights relating to the intellectual, emotional, and moral life. 37 L.R.A. 784.

Injunction against nonlibelous publication affecting personal or political rights. L.R.A.1917A, 163. EQUITY, I.—cont'd

§ 6. Mistake as ground of equitable relief.

Mistake as ground for relief from contract generally, see Contracts, §§ 147, 148.

As to mistake generally, see MISTAKE.

Mistake as to law of another state or country as one of law or of fact. 46 L.R.A. (N.S.) 174.

Equitable relief against forfeiture of estate due to. 69 L.R.A. 849.

Mistake in computation by contractor as ground for relief. 10 L.R.A.(N.S.) 114; L.R.A.1917D, 745.

Relief from mistake of law as to effect of instrument. 28 L.R.A.(N.S.) 785.

§ 7. In case of fraud.

To cancel instrument on ground of fraud, see infra, § 15a.

Denial of remedy under fraudulent contract, see CONTRACTS, §§ 112-120.

Equitable relief against forfeiture of estate due to fraud. 69 L.R.A. 849.

Jurisdiction of equity to relieve from fraud affecting real property in another state or country. 69 L.R.A. 686.

Relief in equity against bona fide holder of note obtained by fraud. 36 L.R.A. 465.

Enforcing rights in land as affected by statute of frauds. 5 L.R.A.(N.S.) 112.

As ground for enforcement in equity of grantee's oral promise to grantor to hold in trust. 39 L.R.A.(N.S.) 911,

Jurisdiction of equity over suits by corporation or its representative to hold directors or officers liable for losses occasioned by their fraud. 8 L.R.A. (N.S.) 738.

Equity jurisdiction of suit by trustee in bankruptcy to recover a sum of money from one who has received a fraudulent transfer or unlawful preference. 16 L.R.A.(N.S.) 414.

Right to affirmative relief in equity from contract upon the ground that it was procured from complainant while intoxicated. 17 L.R.A.(N.S.) 1066.

Jurisdiction of equity over suits by a corporation or its representative to hold the directors or officers liable for the losses occasioned by their fraud, bad faith, or negligence. 8 L.R.A.(N.S.) 739.

lgnorance or carelessness as affecting the right to equitable relief from a contract by which one had been overreached. 5 L.R.A.(N.S.) 799.

Equitable relief on ground of fraud to grantor in conveyance in consideration of agreement to support, which is broken by the grantee.

43 L.R.A. (N.S.) 924; L.R.A.1917D, 627.

Inherent jurisdiction of equity at instance of stockholders to appoint receiver or wind up corporation because of fraud of its officers. L.R.A.1915A, 606.

Consult also L.R.A. Digests of Cases.

EQUITY, I.-cont'd

8 8. Duress.
Relief in equity against contract procured by threat to prosecute relative. 26
L.R.A. 52; 20 L.R.A. (N.S.) 489; L.R.A. 1915D, 1118.

§ 9. Trusts.

Origin and nature of chancery jurisdiction over charities. 14 L.R.A.(N.S.) 55; 37 L.R.A.(N.S.) 994.

Equitable control of discretion vested in trustee. 8 L.R.A.(N.S.) 398.

Effect of legal remedy to defeat equitable jurisdiction to follow trust funds. 6 L.R.A. (N.S.) 793.

Jurisdiction of court of equity to award compensatory damages for breach of trust. 14 L.R.A.(N.S.) 900.

Grounds upon which equity will enforce grantee's oral promise to grantor to hold in trust. 39 L.R.A.(N.S.) 910.

Power of court to hasten enjoyment of trust fund. 46 L.R.A.(N.S.) 43.

Trust doctrine as ground for equitable relief to grantor in conveyance in consideration of agreement to support, which is broken by grantee. 43 L.R.A. (N.S.) 926; L.R.A.1917D, 627.

Suit in equity to avoid sale by executor or administrator to himself. L.R.A.

1918B, 35.

§ 10. Foreclosure suits.

Foreclosure of mortgage upon land in another state. 4 L.R.A.(N.S.) 986.

Jurisdiction to order foreclosure sale of railroad in different states. 32 L.R.A. 208; 69 L.R.A. 682.

Power of equity in jurisdiction where mortgage does not convey the title, to impound rents and profits of mortgaged property pending foreclosure. 7 L.R.A. (N.S.) 1001.

§ 11. Insurance matters.

Jurisdiction of equity to enforce liability of members of mutual insurance company. 40 L.R.A.(N.S.) 781.

Jurisdiction to adjust losses between concurrent insurance polices on same property. 32 L.R.A.(N.S.) 941.

Right to maintain single suit in equity to enforce separate liability of members of an insolvent insurance association. 33 L.R.A.(N.S.) 1057.

§ 11a. Matters as to elections. Interference by equity with matters preceding election. 3 L.R.A.(N.S.) 382; 40 L.R.A.(N.S.) 576.

§ 12. Divorce cases; annulment; alimony.

Inherent power of equity to decree alimony or maintenance independently of proceedings for divorce. 38 L.R.A.(N.S.) 954.

EQUITY, I.—cont'd

Jurisdiction of equity to award custody of children after prayer for divorce has been withdrawn or dismissed. 35 L.R.A.(N.S.) 1159; L.R.A.1917D, 976.

To decree nullity of marriage or its dissolution. 25 L.R.A. 800.

Equitable jurisdiction to enforce a foreign decree for alimony. 9 L.R.A.(N.S.) 1071.

#### 3 13. In case of wills.

Right of court to control discretion vested by will in one person to determine whether or when another is fit to receive legacy or devise. 25 L.R.A.(N.S.) 421.

Will court determine whether condition in devise or bequest as to good conduct or character of beneficiary has been satisfied where that duty has been imposed on no one else. 25 L.R.A.(N.S.) 424.

Equity jurisdiction of bills for the construction of wills of real property passing only legal estates. 15 L.R.A. (N.S.) 599.

§ 14. Conspiracy.

Right of party to a conspiracy to the aid of equity to compel a corporation to transfer on its books stock required in aid of such conspiracy. 24 L.R.A. (N.S.) 108.

### § 15. Cancelation of instruments. Cancelation of instruments generally, see CANCELATION OF INSTRUMENTS,

Cancelation of contracts, see Contracts, §§ 149-156.

Jurisdiction of equity, notwithstanding remedy at law. 5 L.R.A. (N.S.) 1048. Jurisdiction of equity of suit to cancel void mortgage on realty in other state or country. 69 L.R.A. 682.

Right to cancelation of contract made with foreign corporation because it has not complied with the laws entitling it to do business within the state. 21 L.R.A. (N.S.) 707.

Equity jurisdiction to cancel oil or gas lease for failure to develop the leased premises. 34 L.R.A.(N.S.)

Jurisdiction to cancel license for sale of intoxicating liquor wrongfully issued. L.R.A.1915E, 408.

### § 15a. — for fraud.

Jurisdiction of equity to cancel instrument on ground of. 5 L.R.A.(N.S.) 1036.

Jurisdiction of equity to cancel instrument notwithstanding remedy at law. 5 L.R.A.(N.S.) 1048.

Power of equity to cancel false record. 14 L.R.A. (N.S.) 304.

Power of equity to take jurisdiction of suit to cancel insurance policy for fraud, and to enjoin action at law on the policy. 12 L.R.A. (N.S.) 881; 48 L.R.A. (N.S.) 265.

EQUITY, I.-cont'd

Equity jurisdiction to cancel oil or gas lease for fraud of lessee in refusing to protect against adjoining wells. 34 L.R.A.(N.S.) 40.

§ 16. Reformation of instruments. Reformation of instruments generally, see REFORMATION OF INSTRUMENTS.

17. Actions by or against heirs.

Remedy in, against heirs for obligations of ancestor. 21 L.R.A. 91; L.R.A.1916A, 1189.

Remedy of pretermitted heirs by proceedings in equity. 37 L.R.A.(N.S.) 1146.

#### § 18. Equitable relief against forfeiture of estate.

General rules. 69 L.R.A. 833.

Conditions precedent. 69 L.R.A. 836.

Forfeiture will be relieved when compensation can be made. 69 L.R.A. 839. Fraud, accident, mistake. 69 L.R.A. 849.

Fraud, accident, mistake. 69 L.R.A. 849. Effect of conduct of obligee. 69 L.R.A. 851.

Collateral covenants. 69 L.R.A. 853. Conditions against marriage. 69 L.R.A. 858.

After forfeiture declared. 69 L.R.A. 865. Statutory forfeiture. 69 L.R.A. 866. Statutory jurisdiction. 69 L.R.A. 866.

§ 19. Over corporations.

Equitable relief against corporation for unauthorized transfer of stock on its books. 45 L.R.A.(N.S.) 1080.

Jurisdiction to enforce liability or unpaid subscriptions to stock of a corporation. 46 L.R.A.(N.S.) 440.

Jurisdiction of equity on ground of preventing multiplicity of suits to enforce liability of stockholders. 28 L.R.A. (N.S.) 743.

Inherent jurisdiction of equity independently of statute at the instance of stockholders to appoint a receiver or wind up a corporation because of mismanagement or fraud of its officers. L.R.A. 1915A, 606.

Right of creditor, who is also a stockholder of an insolvent corporation, to invoke aid of equity as affected by his own statutory liability. 41 L.R.A.(N.S.) 986.

Suit in equity by creditors of corporation for negligence or other breach of duty owed primarily to the corporation. 45 L.R.A.(N.S.) 422.

Power to appoint receiver for foreign corporation for which no domiciliary receiver has been appointed. L.R.A. 1917D, 295.

### § 20. Fixing public service rates.

Power of equity courts to fix rate to be charged by public service corporation.

8 L.R.A. (N.S.) 529.

Power of equity to regulate charges of public warehousemen. 24 L.R.A.(N.S.) 399.

Begin with this book on every law question,

EQUITY, I.—cont'd § 21. Miscellaneous matters.

Questioning validity of attachment by bill in equity. 35 L.R.A. 771.

To protect rights of ferryman. 59 L.R.A. 552; L.R.A. 1916D, 835.

Power of court of equity to permit perrepresentative, testamentary sonal trustee, or guardian to carry on business in behalf of estate. 40 L.R.A. (N.S.) 210.

Jurisdiction of equity when the only relief sought is an injunction or receiver to preserve status quo, pending action or proceedings before other tribunal. 38 L.R.A. (N.S.) 228

Right of creditor of taxing district to in voke aid of court to obtain satisfac-tion of debt where ordinary remedies

not available. 32 L.R.A.(N.S.) 1020. Equitable remedies available to one whose property has been taken for public use without his consent and without condemnation proceedings. 28 L.R.A. (N.S.) 973.

Remedy by proceedings in equity, where debts have been assumed on dissolu-tion of partnership. 9 L.R.A. (N.S.)

Remedies of master against servant in respect of products of servant's labor. 5 L.R.A.(N.S.) 1172.

Inherent power to devest estates of persons not in being. 8 L.R.A.(N.S.) 61. Equitable remedy to subject choses in ac-

tion to judgment after return of no property found. 63 L.R.A. 673; 15 L.R.A.(N.S.) 976.

Equitable relief where form of execution of instrument by attorney in fact or agent is defective. 41 L.R.A.(N.S.)

**826.** 

Equitable remedy of creditors where sale is made in violation of bulk sales law. 39 L.R.A. (N.S.) 374; L.R.A.1916B, 976.

Equitable cognizance of accounts as complicated. 39 L.R.A.(N.S.) 49.

Jurisdiction of courts of equity to entertain bill to perpetuate testimony. 25 L.R.A. (N.S.) 673.

Arbitration agreements in courts of equity. 47 L.R.A.(N.S.) 364.

Equity jurisdiction of suit against tax collector who is in default. 43 L.R.A. (N.S.) 604.

Equitable relief to grantor in conveyance in consideration of agreement to support, which is broken by grantee, when no ground is stated. 43 L.R.A.(N.S.) 927; L.R.A.1917D, 627. Power of. to relieve member of labor union

from unlawful fine or suspension.

L.R.A.(N.S.) 353.

Jurisdiction, as between equity and law courts, of suits or actions on lost negotiable instruments. 48 L.R.A.(N.S.)

### II. Rules; principles; maxims.

§ 22. Generally.

Refusal to enforce illegal or immoral contract, see CONTRACTS, §§ 112-120. Consult also L.R.A. Digests of Cases.

EQUITY, II.—cont'd

Equitable liens, see Liens, §§ 5-7.

As to equitable set-off, see SET-OFF AND COUNTERCLAIM, §§ 10-12.

Suspension of operation of Statute of Limitations as incident to grant or denial of equitable relief. L.R.A.1918C, 123.

Ignorance or carelessness as affecting right to equitable relief from contract by which one has been overreached. L.R.A.(N.S.) 799.

Right of party to antenuptial marriage settlement who is in default to enforce covenants of other party. 26 L.R.A. (N.S.) 858.

Relief from divorce decree where seeker of relief has been at fault or negligent. L.R.A.1917B, 424.

Whether equitable title will support ejectment. 18 L.R.A. 781.

Conclusiveness of probate in action in equity. 21 L.R.A. 686.

Equitable defense as ground for injunction against judgment against surety. L.R.A. 64.

Maxim that one must come into equity with clean hands as affecting one who has violated or induced another to violate an invalid or unenforceable contract. L.R.A.1915A, 820.

Reimbursement of taxes paid by purchaser as condition of equitable relief against invalid tax title. L.R.A.1915C, 492.

### III. Practice.

33. Generally.

As to conditions precedent to equitable remedy of creditors, see CREDITORS' BILL,

Right to jury trial in equity case, see JURY, § 6.

Exclusiveness of particular statutory method for revival of action in. 33 L.R.A.

(N.S.) 578. Right of insane person to institute proceedings by next friend in. 64 L.R.A. 530.

Right to plead inconsistent defenses in. 48 L.R.A. 177.

May original petition in equity which states no cause of action be aided by supplemental pleading. L.R.A.1816D, 679.

Joinder of successive owners of property in suit in equity for nuisance maintained thereon. 46 L.R.A. (N.S.) 1188.

Joinder of parties in suit in equity with alternative allegations as to liability. 51 L.R.A. (N.S.) 640.

Constitutional right to trial by jury in equitable case on account of demand for damages. 15 L.R.A. 287.

Right to accept favorable part of decree and appeal from the rest. 29 L.R.A. (N.S.)

Permitting chancery to set aside a verdict upon an issue directed by it to a law court, as an unconstitutional infringe ment upon the powers of the latter. 8 L.R.A. (N.S.) 866.

EQUITY, III.—cont'd

Admissibility in evidence in, of copies of records of other states. 5 L.R.A.(N.S.) 948.

Binding effect of decisions of state courts respecting statute of limitations upon Federal courts in suits in equity. 40 L.R.A. (N,S.) 423, 448.

§ 24. Relief obtainable on failure to establish equitable jurisdiction.

Right, upon failure to establish ground of equitable jurisdiction, to obtain in a suit in equity relief that might be obtained at law. 19 L.R.A. (N.S.) 1064.

#### EQUITY OF REDEMPTION.

See MORTGAGE.

#### ERASURES.

Of name from official ballot. 47 L.R.A.

As affecting admissibility of books of account in evidence. 52 L.R.A. 574.

Burden of explaining erasure appearing on face of will. 17 L.R.A.(N.S.) 184.

As reason for omitting part of will from probate. 34 L.R.A.(N.S.) 975.

On negotiable paper as putting purchaser on inquiry. 29 L.R.A. (N.S.) 376; on inquiry. 29 L.R.A.1918F, 1155.

Alteration of instrument by erasure of material provision thereof without substituting new matter. 32 L.R.A.(N.S.) 519.

#### ERECTION.

Of public building, see PUBLIC BUILDINGS, §§ 3, 4.

#### EROSION.

See Waters, § 43.

### ERRONEOUS THEORY.

Trial under erroneous theory as to crime charged as former jeopardy. 24 L.R.A. (N.S.) 481.

#### ERROR.

See Appeal and Error; Coram Nobis. Begin with this book on every law question.

#### ERROR OF JUDGMENT.

Personal liability of highway officers in case of. 22 L.R.A. 826; 52 L.R.A. (N.S.) 145.

#### ERYSIPELAS.

As element of damage for negligent injury. 48 L.R.A. (N.S.) 99.

### ESCAPE.

§ 1. Generally.

Liability for damage by escaping water, see. NEGLIGENCE, § 29a. Of slaves, see SLAVES, § 3.

Evidence of crime committed in attempting to escape after commission of crime

charged. 62 L.R.A. 338. Right of peace officer to enter dwelling to recapture escaping prisoner. 16 L.R.A.

Liability of county for. 39 L.R.A. 60. Effect of escape on appeal from conviction. 26 L.R.A. (N.S.) 921.

Effect of escape of prisoner during trial or during a recess therein on liability of sureties on bail bond. L.R.A.1916F, 364.

Evidence of, to show motive for crime. 62 L.R.A. 211.

Admissibility of evidence of defendant's voluntary surrender or refusal to em-

brace an opportunity to escape. 20 L.R.A.(N.S.) 409.

Constitutionality of statute punishing escape by reimprisonment for term dependent upon length of original term. 22 L.R.A.(N.S.) 1123.

Necessity of arrest to prevent, as condition of right to make arrest without a warrant. 2 L.R.A.(N.S.) 730.

§ 2. Justification of prison breach. See Jails and Prisons, § 6.

§ 3. Homicide in preventing or at-

tempting.

Homicide to prevent. 67 L.R.A. 302. Homicide while attempting to make. L.R.A. 378, 380.

Homicide in carrying out conspiracy to effect. 68 L.R.A. 209.

Criminal responsibility for homicide in carrying out unlawful conspiracy for. 68 L.R.A. 199.

### ESCHEAT.

Right of state to contest will so as to escheat the property. 2 L.R.A.(N.S.)

Termination of right to declare escheat by death of alien or transfer in his lifetime. 9 L.R.A.(N.S.) 186.

#### ESCROW.

§ 1. Generally.

As to delivery of deed to third person, generally, see DEEDS, § 8.

Liability of depositary for wrongful delivery of escrow. L.R.A.1917E, 907.

Necessity of strict compliance with conditions. L.R.A.1916A, 502.

Effect upon escrow, of the imposition of conditions in violation of vendor's contract. 11 L.R.A.(N.S.) 1183.

Proof of escrow agreement by parol. 18 L.R.A.(N.S.) 337.

Delivery of deed to third person to be delivered to grantee after grantor's death and performance of conditions by grantee. 9 L.R.A.(N.S.) 317.

Deed delivered in escrow as satisfying statute of frauds. 43 L.R.A.(N.S.) 390.

§ 2. Effect.

Effect of delivery in escrow as to bona fide purchaser from grantee who has wrong-fully obtained and recorded the deed. 17 L.R.A. 511.

Delivery of deed in, as change of title or interest. 38 L.R.A. (N.S.) 142.

Effect of deed delivered in escrow as further security for mortgage debt. 2 L.R.A. (N.S.) 628; L.R.A.1915B, 492.

Effect of delivery in escrow of bond unsigned by principal obligor. 12 L.R.A. (N.S.) 1120.

Deposit of deed in escrow, to be delivered to mortgagee on default, as clog on equity cf redemption. 6 B. R. C. 436.

#### ESPIONAGE ACT.

Exclusion of seditious matter from the mails under the Espionage Act. L.R.A. 1918C, 89.

Decisions under the Espionage Act of June 15, 1917. L.R.A.1918F, 410.

#### ESSENTIAL OILS.

Sufficiency of delivery of, on sale out of larger lot. 26 L.R.A. (N.S.) 37.

#### ESTABLISHMENT.

Of highway, see HIGHWAYS, III.

#### ESTATE.

In real property generally, see COTENANCY; CURTESY; DEEDS. §§ 28-31: DOWER; HUSBAND AND WIFE, § 27; LIFE TEN-ANTS; REAL PROPERTY, § 3; WILLS, 88 77-102.

Created by dedication, see DEDICATION, § 5. Estate created by deed, see DEED, §§ 28-31. Consult also L.R.A. Digests of Cases.

ESTATE-cont'd

Estate created by will, see WILLS, §§ 77-102

decedent, see DESCENT AND DISTRIBU-TION; EXECUTORS AND ADMINISTRATORS. In property mortgaged, see Mortgage, § 27. Devestiture of estates of persons not in being, see After-Born Children, § 2.

Constitutionality of devestiture of, see Constitutional Law, § 54s. Recovery of costs out of estate, see Costs

AND FEES, § 4.

Equitable jurisdiction against forfeiture of, see EQUITY, § 18.

Distinguished from title. 15 L.R.A. 68. Character of estate in burial lot. 67 L.R.A. 118; L.R.A.1918A, 147.

Construction of decree for alimony in real property as regards the nature of the estate provided for. L.R.A.1918B, 868.

Relationship of owners of different floors of building. 3 L.R.A.(N.S.) 510. Estates in remainder as assets which will

pass to the trustee in bankruptcy. 47 L.R.A. (N.S.) 284.

#### ESTATE DUTY.

See TAXES, VI.

#### ESTATES TAIL.

In general, see DEEDS, § 30.

Effect of confiscation of an estate tail for treason on rights of innocent remainderman. L.R.A.1916E, 345.

#### ESTHETICS.

Constitutionality of statute as to, see Con-STITUTIONAL LAW, § 89.

Exercise of police power for purposes of. 34 L.R.A.(N.S.) 998; L.R.A.1917A.

Measure of damages for injury to, or destruction of, trees or shrubbery not valuable for their timber or firewood. 11 L.R.A.(N.S.) 930; 28 L.R.A.(N.S.) 757; 37 L.R.A.(N.S.) 1115.

#### ESTIMATE.

Garnishment of claims subject to. 59 L.R.A.

Right of witness to express opinion as to. L.R.A.1918A, 681.

#### ESTOPPEL.

I. Of state or public corporation generally, §§ 1, 2. II. By deed or bond, \$\$ 3-5.

### ESTOPPEL-cont'd

- III. Equitable estoppel or estoppel in By decision of engineer or other empowered pais, § § 6-39.
  - a. In ceneral, \$\$ 6, 7.b. Of married women, \$ 8.

  - c. As to corporate existence or powers, §\$ 9, 10.
  - d. By contracts or agreements generally; ratification, §\$ 11, 12.
  - e. By conduct or admissions generally; consent, §§ 13-
  - f. By lackes, silence, or acquiescence, §§ 18-26.
    - 1. In general, §§ 18-20. 2. As to real property, §§
  - 21-26. g. By negligence, fraud,
  - misrepresentations, §§ 27-29.
  - h. By inconsistency in acts, claims, etc., §§ 30, 31.
  - i. By receiving benefits, §§ 32, 22.
  - j. By character or relation of parties, §§ 34-37.
  - k. Who may set up, § 38.
  - l. Effect of estoppel, \$ 39.

By judgment, see JUDGMENT, III.

### I. Of state or public corporation generally.

### § 1. Generally.

As to assertion of governmental power over certain territory. 16 L.R.A. 178.

Nonuser of highway as estoppel of public to claim title to. 26 L.R.A. 469.

Estoppel of taxing power to tax land by wrongful claim of ownership. L.R.A. (N.S.) 1074.

Estoppel of state because of laches, to attack municipal charter. 13 L.R.A. (N.S.) 533.

Effect of laches on state's right to oust corporation of its franchises. 14 L.R.A. (N.S.) 336.

Assessment of property as estopping municipality from claiming its dedication and acceptance for public use. L.R.A. 1916B, 1179.

Estoppel of municipality to open or use street. 46 L.R.A.(N.S.) 1211.

Estoppel of municipality to compel removal of spur track, turnout, or switch from street or highway. L.R.A.1918B, 482.

Estoppel to question right to transfer or mortgage privilege to use streets for telegraph, telephone or other quasi public purpose. L.R.A.1917D, 711.

To deny liability for water furnished. 61 L.R.A. 71.

To question validity of an order or license under which a business is being conducted. 21 L.R.A.(N.S.) 299.

To cut off access to navigable water by owner of upland. 40 L.R.A. 605.

Begin with this book on every law question.

### ESTOPPEL, I.—cont'd

officer as to matters concerning contracts for public improvements. L.R.A. (N.S.) 317.

Effect of improvements by abutting owner with reference to what is erroneously supposed to be the street boundary line, to estop the municipality from asserting the true line. 7 L.R.A. (N.S.) 243.

Effect of acquiescence or consent by a town or municipality to construction or use of a railroad in street or highway to estop it from objecting thereto. 7 L.R.A.(N.S.) 1187.

Encroachment on public street or alley by occupier of abutting property for storage or similar purposes, as basis of estoppel. 36 L.R.A.(N.S.) 1057.

#### 2. By bond.

Estoppel of public corporation to deny validity of bonds. L.R.A.1915A, 916.

#### § 2a. By contract.

Estoppel of public corporation to deny validity of contract. L.R.A.1915A,

Distinction between estoppel of public corporation to deny validity of contract and ratification of invalid contract. L.R.A.1915A, 1024.

### II. By deed or bond.

### § 3. Generally.

Estoppel by bond, of state or public corpo-

ration generally, see supra, § 2. permitting title to real property to stand in name of another, see infra, § 26.

Right of purchaser of land subject to mortgage to question validity of the mortgage. L.R.A.1917C, 832. By deed or covenant. 22 L.R.A. 779.

By deed in partition. 57 L.R.A. 337.

Right of grantee to claim estoppel as against the grantor by a call in the grantor owns the fee. 14 L.R.A.(N.S.) 878. deed for a street or alley in which the

Effect of warranty deed to prevent grantor from asserting title by adverse possession subsequently initiated as against his grantee or his privies. 25 L.R.A. (N.S.) 129.

Estoppel of one who executes a deed as executor or administrator to set up existing title in himself. 21 L.R.A. (N.S.) 60.

Effect of one spouse joining in the execution of the other's deed or mortgage to convey the former's separate property included therein. 28 L.R.A.(N.S.) 289. Estoppel by giving forthcoming bond to

question legality of levy under an execution. 51 L.R.A.(N.S.) 635.

ESTOPPEL, II.—cont'd

Effect of bond or receipt given to secure surrender of property by officer who has seized it under process as an es-toppel after property has been returned to officer. L.R.A.1916F, 942.

Esttoppel to complain of insertions of unauthorized provisions in bond.

1917B, 1001.

Estoppel to deny liability on bond executed under unconstitutional statute. L.R.A. 1918C, 834.

4. Deeds of married women.

Effect of covenants of married women and their estoppel by deed or mortgage. 22 L.R.A. 779.

Of wife to deny the validity of encumbrance of entirety property to secure debt of husband. 66 L.R.A. 636.

Effect of wife's joining in husband's deed or mortgage to convey her separate property included therein. 28 L.R.A. (N.S.) 289.

§ 5. As to after-acquired title. Effect of quitclaim deed, see QUITCLAIM DEED, § 4.

By partition deed. 57 L.R.A. 337.

Effect of covenant of married woman as an estoppel against acquiring superior title. 22 L.R.A. 779.

Doctrine of estoppel as affecting notice by record of deed before grantor has title.

23 L.R.A. 561.

Validity of agreement to transfer after-acquired title in consideration of maintenance. 70 L.R.A. 485.

Effect of covenants to carry title to a future or subsequently acquired interest of the grantor, where he had a present interest which passed by the deed. 13 L.R.A.(N.S.) 1003.

Effect of warranty deed to prevent grantor from asserting title by adverse possession subsequently initiated, as against his grantee or privies. (N.S.) 129. 25 L.R.A.

Effect of quitclaim deed upon after-acquired title. 35 L.R.A.(N.S.) 1182.

Right of grantor of mining claim to relocate same for his own benefit. L.R.A. 186.

Estoppel of one who executes deed as executor or administrator to set up an existing title in himself. 21 L.R.A. (N.S.) 60.

Right of one receiving advancement and executing release of interest in estate to share in after-acquired property. 65 L.R.A. 578.

Of heir to claim interest in expectancy from Ancestor. 32 L.R.A. 597.

Doctrine of, as applied to sale of expectancy by prospective heir. 33 L.R.A. 273, 281.

As means of giving effect to sales of expectancy. 25 L.R.A.(N.S.) 438. pectancy. Consult also L.R.A. Digests of Cases. 31

ESTOPPEL-cont'd

III. Equitable estoppel or estoppel in vais.

#### a. In general,

6. Generally.

Of state or other public corporation, see supra, I.

Of insurance, see INSURANCE, VII. b.

Of insured, see INSURANCE, §§ 130, 131.

To plead statute of limitations, see LIMITA-TION OF ACTIONS, § 2.

Proof of estoppel under general denial or a plea of the general issue in action of ejectment. L.R.A.1918F, 257.

Doctrine of, to create exception to statute. 25 L.R.A. 573.

Estoppel to profit by one's own wrong. L.R.A. 693; 25 L.R.A. 573.

wording of warehouse receipt. LR.A. 302.

By entries in books of account. 53 L.R.A.

Of one who issues or indorses check or bill to impostor. 50 L.R.A. 83.

To claim set-off. 23 L.R.A. 309.

To deny liability of partnership for tort. 51 L.R.A. 491.

To assert condition against bond taking effect until signed by others. L.R.A. 329.

By accord and satisfaction to set up claim against state. 42 L.R.A. 39.

To assert carrier's liability for misdelivery. 37 L.R.A. 179.

Effect of purchaser's knowledge of encumbrance in action for breach of cove-

nant. 32 L.R.A.(N.S.) 737. Right of one spouse living apart from the other to claim community rights in property as against persons ignorant of relationship. 29 L.R.A.(N.S.) 468.

Estoppel to introduce parol evidence that written instrument importing absolute transfer of title was intended to operate as a mortgage. L.R.A.1916B, 599.

Mistake in statement of commodity furnished as affecting the right to recover for a larger amount actually furnished. L.R.A.19Ĭ5B, 711.

Assessment or nonassessment of property to raise estoppel against claiming or denying its dedication for public use. L.R.A.1916B, 1179.

Estoppel of minor to acquire outstanding title as against the purchaser at his guardian's sale. L.R.A.1915E, 836.

Estoppel of husband to deny liability for necessaries furnished wife while living with him. 47 L.R.A.(N.S.) 282.

Estoppel of cotenants to dispute title of grantee in conveyance by one cotenant of parcel in severalty. 47 L.R.A. (N.S.) 580.

Estoppel of purchaser at execution sale to set up outstanding title against his redemptioner without returning the redemption money. 48 L.R.A.(N.S.) 481.

Of beneficiary to hold trustee personally liable for losses to trust estate from investments. 44 L.R.A. (N.S.) 980.

#### ESTOPPEL-cont'd

III. Equitable estoppel or estoppel in By decision of engineer or other empowered pais, §\$ 6-39.

a. In ceneral, \$\$ 6, 7.
b. Of married women, \$ 8.

c. As to corporate existence or powers, §§ 9, 10.

d. By contracts or agreements generally; ratification, §\$ 11, 12.

e. By conduct or admissions generally; consent, §§ 13-

f. By lackes, silence, or acquiescence, §§ 18-26. 1. In general, §§ 18-20.

2. As to real property, §§ 21-26.

g. By negligence, fraud, misrepresentations, §\$ 27-29.

h. By inconsistency in acts, claims, etc., §§ 30, 31.

i. By receiving benefits, §§ 32, 33.

j. By character or relation of parties, §§ 34-37.

k. Who may set up, § 38.

l. Effect of estoppel, \$ 39.

By judgment, see JUDGMENT, III.

#### I. Of state or public corporation generally.

### § 1. Generally.

As to assertion of governmental power over certain territory. 16 L.R.A. 178.

Nonuser of highway as estoppel of public to claim title to. 26 L.R.A. 469.

Estoppel of taxing power to tax land by wrongful claim of ownership. L.R.A. (N.S.) 1074.

Estoppel of state because of laches, to attack municipal charter. 13 L.R.A. (N.S.) 533.

Effect of laches on state's right to oust corporation of its franchises. 14 L.R.A. (N.S.) 336.

Assessment of property as estopping municipality from claiming its dedication and acceptance for public use. L.R.A. 1916B, 1179.

Estoppel of municipality to open or use 46 L.R.A. (N.S.) 1211. street.

Estoppel of municipality to compel removal of spur track, turnout, or switch from street or highway. L.R.A.1918B, 482.

Estoppel to question right to transfer or. mortgage privilege to use streets for telegraph, telephone or other quasi public purpose. L.R.A.1917D. 711.

To deny liability for water furnished. 61 L.R.A. 71.

To question validity of an order or license under which a business is being conducted. 21 L.R.A. (N.S.) 299.

To cut off access to navigable water by owner of upland. 40 L.R.A. 605.

ESTOPPEL, I.—cont'd

officer as to matters concerning contracts for public improvements. L.R.A. (N.S.) 317.

Effect of improvements by abutting owner with reference to what is erroneously supposed to be the street boundary line, to estop the municipality from asserting the true line. 7 L.R.A. (N.S.)

Effect of acquiescence or consent by a town or municipality to construction or use of a railroad in street or highway to estop it from objecting thereto. 7 L.R.A.(N.S.) 1187.

Encroachment on public street or alley by occupier of abutting property for storage or similar purposes, as basis of estoppel. 36 L.R.A.(N.S.) 1057.

#### **§ 2.** By bond.

Estoppel of public corporation to deny validity of bonds. L.R.A.1915A, 916.

#### § 2a. By contract.

Estoppel of public corporation to deny validity of contract. L.R.A.1915A,

Distinction between estoppel of public corporation to deny validity of contract and ratification of invalid contract. L.R.A.1915A, 1024.

### II. By deed or bond.

§ 3. Generally.

Estoppel by bond, of state or public corporation generally, see supra, § 2.

permitting title to real property to stand in name of another, see infra,

Right of purchaser of land subject to mortgage to question validity of the mort-gage. L.R.A.1917C, 832.

By deed or covenant. 22 L.R.A. 779. By deed in partition. 57 L.R.A. 337. Right of grantee to claim estoppel as against the grantor by a call in the deed for a street or alley in which the grantor owns the fee. 14 L.R.A.(N.S.) 878.

Effect of warranty deed to prevent grantor from asserting title by adverse possession subsequently initiated as against his grantee or his privies. 25 L.R.A. (N.S.) 129.
Estoppel of one who executes a deed as

executor or administrator to set up existing title in himself. 21 L.R.A. (N.S.) 60.

Effect of one spouse joining in the execution of the other's deed or mortgage to convey the former's separate property included therein. 28 L.R.A. (N.S.) 289. Estoppel by giving forthcoming bond to

question legality of levy under an execution. 51 L.R.A.(N.S.) 635.

Begin with this book on every law question.

ESTOPPEL, II.—cont'd

Effect of bond or receipt given to secure surrender of property by officer who has seized it under process as an es-toppel after property has been returned to officer. L.R.A.1916F, 942.

Esttoppel to complain of insertions of unauthorized provisions in bond. 1917B, 1001.

Estoppel to deny liability on bond executed under unconstitutional statute. L.R.A. 1918C, 834.

4. Deeds of married women.

Effect of covenants of married women and their estoppel by deed or mort-gage: 22 L.R.A. 779.

Of wife to deny the validity of encumbrance of entirety property to secure debt of husband. 66 L.R.A. 636.

Effect of wife's joining in husband's deed or mortgage to convey her separate property included therein. 28 L.R.A. (N.S.) 289.

§ 5. As to after-acquired title.

Effect of quitclaim deed, see QUITCLAIM DEED, § 4.

By partition deed. 57 L.R.A. 337.

Effect of covenant of married woman as an estoppel against acquiring superior title. 22 L.R.A. 779.

Doctrine of estoppel as affecting notice by record of deed before grantor has title. 23 L.R.A. 561.

Validity of agreement to transfer after-acquired title in consideration of maintenance. 70 L.R.A. 485.

Effect of covenants to carry title to a future or subsequently acquired interest of the grantor, where he had a present interest which passed by the deed. 13' L.R.A.(N.S.) 1003.

Effect of warranty deed to prevent grantor from asserting title by adverse possession subsequently initiated, as against his grantee or privies. (N.S.) 129. 25 L.R.A.

Effect of quitclaim deed upon after-acquired title. 35 L.R.A.(N.S.) 1182.

Right of grantor of mining claim to relocate same for his own benefit. L.R.A. 186.

Estoppel of one who executes deed as executor or administrator to set up an existing title in himself. 21 L.R.A.

Right of one receiving advancement and executing release of interest in estate to share in after-acquired property. 65 L.R.A. 578.

Of heir to claim interest in expectancy from ancestor. 32 L.R.A. 597.

Doctrine of, as applied to sale of expectancy by prospective heir. 33 L.R.A. 273, 281.

As means of giving effect to sales of expectancy. 25 L.R.A. (N.S.) 438. Consult also L.R.A. Digests of Cases. 31

ESTOPPEL—cont'd

III. Equitable estoppel or estoppel in mais.

#### a. In general,

6. Generally.

Of state or other public corporation, see supra, I.

Of insurance, see INSURANCE, VII. b.

Of insured, see INSURANCE, §§ 130, 131.

To plead statute of limitations, see LIMITA-TION OF ACTIONS, § 2.

Proof of estoppel under general denial or a plea of the general issue in action of ejectment. L.R.A.1918F, 257.

Doctrine of, to create exception to statute. 25 L.R.A. 573.

Estoppel to profit by one's own wrong. 5 L.R.A. 693; \* 25 L.R.A. 573.

By wording of warehouse receipt. L.R.A. 302.

By entries in books of account. 53 L.R.A. 534.

Of one who issues or indorses check or bill to impostor. 50 L.R.A. 83.

To claim set-off. 23 L.R.A. 309.

To deny liability of partnership for tort. 51 L.R.A. 491.

To assert condition against bond taking effect until signed by others. L.R.A. 329.

By accord and satisfaction to set up claim against state. 42 L.R.A. 39.
To assert carrier's liability for misdelivery.

37 L.R.A. 179.

Effect of purchaser's knowledge of encumbrance in action for breach of covenant. 32 L.R.A.(N.S.) 737.

Right of one spouse living apart from the other to claim community rights in property as against persons ignorant of relationship. 29 L.R.A.(N.S.) 468.

Estoppel to introduce parol evidence that written instrument importing absolute transfer of title was intended to operate as a mortgage. L.R.A.1916B, 599.

Mistake in statement of commodity furnished as affecting the right to recover for a larger amount actually furnished. L.R.A.1915B, 711.

Assessment or nonassessment of property to raise estoppel against claiming or denying its dedication for public use. L.R.A.1916B, 1179.

Estoppel of minor to acquire outstanding title as against the purchaser at his guardian's sale. L.R.A.1915E, 836.

Estoppel of husband to deny liability for necessaries furnished wife while living with him. 47 L.R.A.(N.S.) 282.

Estoppel of cotenants to dispute title of grantee in conveyance by one cotenant of parcel in severalty. 47 L.R.A. (N.S.) 580.

Estoppel of purchaser at execution sale to set up outstanding title against his redemptioner without returning the redemption money. 48 L.R.A.(N.S.) 481.

Of beneficiary to hold trustee personally liable for losses to trust estate from investments. 44 L.R.A.(N.S.) 980.

ESTOPPEL, III. a-cont'd

Estoppel of one seeking to hold notary or other officer liable for fault or mistake in certifying to acknowledgment or affidavit. 49 L.R.A.(N.S.) 54.

Estoppel of borrower to complain of usury because of his connection with the lender. 49 L.R.A.(N.S.) 1044.

To assert forfeiture or penalty under contract providing therefor. 50 L.R.A. (N.S.) 897.

Actions or suits in which equitable estoppel involving title or interest in real property is available. 49 L.R.A. (N.S.) 775.

Right of purchaser of land subject to mortgage to question validity of the mort-gage. L.R.A.1917C, 832.

7. As to taxes and assessments. Estoppel by laches or silence, see infra, § 19.

To complain of illegal Aax. 22 L.R.A. 708. To contest assessment for sewer. 60 L.R.A.

To assert defect in work as defense to an assessment for local improvements. 56 L.R.A. 915.

To assert priority over lien of local assessment. 30 L.R.A.(N.S.) 769.

Estoppel to attack assessment for special benefits upon the ground that property is not benefited. 36 property is not L.R.A.(N.S.) 39.

Estoppel of taxing power to tax land by wrongful claim of ownership. 14 L.R.A.(N.S.) 1074.

Estoppel to claim lack of notice of tax proceedings. L.R.A.1916E, 34.

§ 7a. Knowledge or reliance of other pasty.

Estoppel against assertion of title or interest in real property by concealing the same or representing it to be in another as affected by knowledge or ignorance of person claiming estoppel. 48 L.R.A. (N.S.) 766.

7c. Change of position. Bringing suit or other legal proceeding as change of position within law of estoppel. 52 L.R.A. (N.S.) 1185.

### b. Of married women.

8. Generally.

By deed, see supra, § 4.

Applicability of doctrine of equitable estoppel to married women, independently of contract. L.R.A.1916C, 240.

By conduct during husband's lifetime to claim dower. 3 L.R.A.(N.S.) 971.

Estoppel of wife living apart from husband to claim homestead or dower as against purchaser ignorant of the relationship. 26 L.R.A. (N.S.) 575; 34 L.R.A. (N.S.) ESTOPPEL, III. b-cont'd

Rights of wife living apart from her husband to claim community rights in property as against persons ignorant of relationship. 29 L.R.A.(N.S.) 468.

Estoppel of wife who conceals her interest in property to assert it as against one who purchases it as property of husband. 48 L.R.A.(N.S.) 757.

c. As to corporate existence or powers.

9. Existence.

Estoppel to allege partnership liability of stockholders in case of defective or illegal incorporation. L.R.A.1916C, 212.

§ 10. Powers.

Estoppel to set up plea of ultra vires, see CORPORATION, § 32a.

To deny validity of preferred stock. 27 L.R.A. 139.

deny validity of contract of foreign corporation because of failure to comply with statute. 24 L.R.A. 320.

To deny character or powers of foreign corporation. 24 L.R.A. 297.

Estoppel of building association to assert illegality of its by-law or stipulation in stock that the stock will mature at a fixed time. 15 L.R.A.(N.S.) 503.

### d. By contracts or agreements generally; ratification.

§ 11. Generally.

Estoppel of public corporation by contract, see supra, § 2a.

Estoppel of corporation to raise defense of ultra vires, see Corporations, § 32a.

To deny terms of contract. 3 L.R.A. 308. To plead defense of limitations. 63 L.R.A. 192.

To deny validity of contract by offer and acceptance without execution of con-templated formal instrument. 29 L.R.A. 436.

As to forgery of signature to negotiable paper. 36 L.R.A. 539.

Of parent to reclaim child. 27 L.R.A. 60.

Estoppel of parent to deny validity of contract for transfer of parental responsibility or authority. 42 L.R.A. (N.S.) 1018.

Effect of acts or agreement with respect to real property, made by one while a tenant of such property, to estop him after he has purchased the fee. 7 L.R.A.(N.S.) 614.

To deny liability for injuries resulting from breach of gratuitous promise as to lateral support. 48 L.R.A.(N.S.) 475.

Estoppel of carrier to recover difference between rate charged shipper and proper rate. 49 L.R.A.(N.S.) 99.

Effect of bond or receipt given to secure surrender of property by officer who has seized it under process as an estoppel after it has been returned to officer. L.R.A.1916F, 942.

Begin with this book on every law question.

ESTOPPEL, III. d-cont'd

Right of lessor to maintain an action for possession against his covenant not to disturb lessee's possession, when the covenant is repugnant to the estate granted. L.R.A.1915D, 467.

To attempt to defeat stock subscription or stockholder's liability on the ground that corporation is not legally organ-

ized. L.R.A.1915A, 475.

Right of receiver of foreign corporation to question its contracts upon the ground that it had not complied with conditions of doing busness. L.R.A.1918A,

§ 12. By ratification.

Ratification of invalid contract, see Con-TRACTS, §§ 110, 111.

Ratification of agent's acts, see PRINCIPAL AND AGENT, §§ 28-31.

Ratification generally, see RATIFICATION.

To assert forgery of signature to negotiable paper. 36 L.R.A. 539.

Validation of undelivered deed by ratification or estoppel of grantor. 9 L.R.A. (N.S.) 945.

Ratification or estoppel where agreement to pay mortgage is inserted in deed by mistake. L.R.A.1918A, 1005.

# e. By conduct or admissions génerally;

13. By conduct.

By receiving benefits, see infra, §§ 32, 33. Waiver of objections to sufficiency of performance, by accepting work, see Con-TRACTS, § 139.

Waiver by acceptance, of objections to goods purchased, see SALE, § 24.

To rescind subscription to corporate stock. 33 L.R.A. 722.

claim penalty against national bank for charging or taking usury. 56 L.R.A. 680.

Of landowner to object to assessment by front-foot rule for public improvements. 28 L.R.A.(N.S.) 1206.

Of divorced spouse to attack decree. L.R.A. 1917B, 499.

By sale of personal property with particular description of kind or quality. 35 L.R.A.(N.S.) 285.

To deny existence of relation of independent contractor. 17 L.R.A. (N.S.) 382.

Estoppel to deny that person whose negligence caused injury was independent contractor. 8 L.R.A.(N.S.) 896.

Assisting physically in creation of condition as affecting one's right to recover for damages to property caused thereby. 42 L.R.A.(N.S.) 709.

Participation by indemnity insurer in de-fense of suit against insured as estoppel to assert that latter's liability was predicated on ground not covered by policy. 34 L.R.A. (N.S.) 491.

Paying interest on forged mortgage as estoppel to question the mortgage. 41 L.R.A. (N.S.) 740.

Consult also L.R.A. Digests of Cases.

ESTOPPEL. III. e—cont'd Against railway as to use to which right of way may be devoted. 36 L.R.A. (N.S.) 515.

Estoppel of one charged with embezzlement to deny authority to receive the money generally. 17 L.R.A.(N.S.) 531.

May estoppel to deny authority to receive money alleged to have been embezzled be invoked against public officer charged with the embezzlement. 23 L.R.A.(N.S.) 761.

14. — matters as to real property. Of possessor to assert claim to land. 13 L.R.A.(N.S.) 135.

Conduct during husband's lifetime as estoppel to claim dower. 3 L.R.A.(N.S.)

Estoppel of grantee where agreement to pay mortgage is inserted in deed by mistake. L.R.A.1918A, 1005.

Estoppel of purchaser to maintain injunction against collection of purchase money where title to land is defective. 7 L.R.A.(N.S.) 459.

To deny power of cashier of bank to sell or lease property. 31 L.R.A.(N.S.)

738.

Estoppel against assertion of title or interest in real property by concealing the same or representing it to be in another. 48 L.R.A.(N.S.) 745.

§ 15. — matters as to commercial. paper.

To set up forgery of signature to negotiable paper. 36 L.R.A. 539.

To deny that note was made in state where it is dated and payable. 2 L.R.A. (N.S.) 299.

To recover money paid on forged check or draft. 10 L.R.A. (N.S.) 49; 25 L.R.A. (N.S.) 1308; 29 L.R.A. (N.S.) 100; L.R.A.1915A, 77.

By renewing forged paper. 23 L.R.A. (N.S.)

Of one who, after receiving reindorsement, transfers notes for value wthout canceling his indorsement. 10 L.R.A. (N.S.) 260.

To recover money paid on forged check or draft. L.R.A.1915A, 77.

16. By admissions.

Admissibility of admissions in evidence, see EVIDENCE, § 215.

Conclusiveness of judicial admissions as to strangers. 28 L.R.A. (N.S.) 327; L.R.A. 1915A, 200.

§ 17. By consent.

Effect of acquiescence by town or municipality to construction of railway instreet or highway to estop it from objecting thereto. 7 L.R.A.(N.S.) 1187.

Right of party consenting to divorce to contest its validity. 51 L.R.A. (N.S.) 534. Estoppel by acquiescence in erection of

building or plant to complain of it as a nuisance. L.R.A.1916C, 940.

ESTOPPEL, III. e-cont'd

Beneficiary's consent to surrender of policy or designation of new beneficiary as affecting his right to question validity thereof. L.R.A.1915A, 872. Estoppel of remainderman by consenting to

conveyance of fee by life tenant. L.R.A.

1918D, 441.

### f. By laches, silence, or acquiescence.

#### 1. In general.

§ 18. Generally.

Estoppel of divorced spouse to attack de-

cree. L.R.A.1917B, 499.
Estoppel by acquiescence to claim relief from mistake of law as to effect of instrument. 28 L.R.A.(N.S.) 891.

Effect of laches of original seller of goods sold for cash but delivered without payment and resold. 13 L.R.A.(N.S.)

Of purchaser of goods deliverable in instalments to rescind contract for breach as to quality. 38 L.R.A.(N.S.) 542. By laches in probating will. 57 L.R.A.

260. To deny liability as partner. 20 L.R.A.

Effect of complainant's laches on right to injunction against infringement of pat-

ent. 39 L.R.A.(N.S.) 7. Effect of laches on right to protection in use of geographical name as a trademark or tradename or on ground of unfair competition. 26 L.R.A. (N.S.)

91. . To deny liability on forged paper. L.R.A. 540.

Delay in giving notice of forgery as estoppel of true owner to recover against party which has paid paper on a forged indorsement. 40 L.R.A.(N.S.) 657.

Effect of laches of one accepting transfer without indorsement of worthless check or note of third person. 10 L.R.A. (N.S.) 540.

Liability of sureties on bond of bank as depository of public funds as affected by acquiescence or connivance of public officials in misuse of the funds. 26 L.R.A.(N.S.) 865.

Of pledgee or transferee of stock to assert title against claims subsequently accruing where pledge or transfer not entered on books of company. 67 L.R.A.

Laches or acquiescence by stockholder as affecting his right to complain of act by which corporation devests itself of title or control of its entire property. 9 L.R.A.(N.S.) 606.

To assert governmental power over certain territory. 16 L.R.A. 178.

Estoppel of state because of laches to at-13 L.R.A. tack municipal charter. (N.S.) 533.

Effect of laches on state's right to oust corporation of L.R.A.(N.S.) 336. its franchises.

ESTOPPEL, III. f, 1—cont'd Of municipality to question right to transfer or mortgage privilege to use streets for telegraph, telephone or other quasi public purpose. L.R.A.1917D, 711.

To claim new trial for known disqualifica-

tion of juror. 18 L.R.A. 474.

Acquiescence in irregularities in election. 16 L.R.A. 755.

Effect of complainant's laches on right to injunction against nuisance. 31 L.R.A. (N.S.) 897.

Effect of attorney's acquiescence in assignment of judgment on his right to lien thereon. 37 L.R.A.(N.S.) 228.

Estoppel of beneficiary to hold trustee personally liable for losses to trust estate from investments. 44 L.R.A.(N.S.)

Estoppel to contest right of directors to vote bonus to officers as compensation for services. L.R.A.1915D, 637.

Effect of complainant's laches on right to injunction against nuisance. L.R.A. 1916C, 1270.

Right of plaintiff in a suit in which a decree of sale was rendered to assert, as against a purchaser thereunder, a title or interest not litigated in the suit. L.R.A.1917C, 888.

§ 19. As to assessments.

Of street railway company to deny liability for paving assessment. 46 L.R.A. 200.

To contest validity of assessment for drainage ditches. 69 L.R.A. 811.

Laches as affecting attack on assessment for special benefits on ground that property is not benefited. 36 L.R.A.(N.S.)

§ 20. By putting chattels or securities in another's possession.

Right of one leaving his chattels in another's possession to claim title against the later's vendees or creditors. 25 L.R.A.(N.S.) 760.

Effect of putting paper or securities transferable by delivery or indorsed or assigned in blank, into another's possession, to estop owner against purchaser in good faith. 29 L.R.A. (N.S.) 252.

Effect of permitting assignor of a contract to receive non-negotiable instrument issued in payment thereof, to estop assignee as against a subsequent assignee of such instrument. 11 L.R.A. (N.S.)

### 2. As to real property.

§ 21. Generally.

Delay in recording instrument conveying title to real property, see RECORDS AND RECORDING LAWS, § 23.

By nonuser, to claim land as part of highway. 18 L.R.A. 147. 14 Of possessor to assert claim to land. 13

L.R.A.(N.S.) 135.

Begin with this book on every law question.

ESTOPPEL, III. f, 2-cont'd

Laches as affecting the right of one cotenant to benefit of purchase of outstanding title by another. 19 L.R.A. (N.S.) 526; 42 L.R.A.(N.S.) 242.

Effect of acquiescence in violations of restrictive covenant on right to enforcement thereof. 28 L.R.A.(N.S.) 710.

Effect of continued occupation by trespasser for less than limitation period to eston owner to maintain trespass q. c. f. 23 L.R.A. (N.S.) 270.

Laches as waiver of purchaser's right to rescind contract for purchase of real property. 30 L.R.A.(N.S.) 872.

To claim forfeiture of oil and gas lease. 31 L.R.A. 673.

Estoppel against assertion of title or interest in real property by concealing the same. 48 L.R.A.(N.S.) 745.

Right of plaintiff in a suit in which a decree of sale was rendered to assert, as against a purchaser thereunder, a title or interest not litigated in the suit. L.R.A.1917C, 888.

22. As to boundary line.

Estoppel by silence or acquiescence to assert true boundaries. 48 L.R.A.(N.S.) 756. Effect of improvements by abutting owner with reference to what is erroneously supposed to be state boundary line to stop municipality from asserting true line. 7 L.R.A.(N.S.) 243.

§ 23. As to pollution of water.
To question pollution of stream. 22 L.R.A.
(N.S.) 282.

To pollute stream for mining purposes. 24 L.R.A. 66.

\$ 24. As to railroad or telegraph or telephone in street.

Laches as affecting abutting owner's right to compensation for railroad in street. 36 L.R.A.(N.S.) 832.

Effect of acquiescence to defeat particular remedies of abutting owner who has consented to construction of railroad or street railway in street or highway. 7 L.R.A. (N.S.) 995.

Effect of acquiescence by town or municipality to construction of railway in street or highway to estop it from objecting thereto. 7 L.R.A.(N.S.) 1187.

Delay in applying for an injunction against maintaining telephone or telegraph line in street or highway. 8 L.R.A. (N.S.) 1091.

\$ 25. By permitting expenditures.

Against revocation of license. 49 L.R.A.

520.
To claim damages for obstruction of waters of stream. 59 L.R.A. 904.

To insist upon forfeiture of oil or gas lease. 31 L.R.A. 673.

To revoke license to maintain burden on land after licensee has incurred expense in reliance thereon 19 L.R.A.(N.S.) 700; 25 L.R.A.(N.S.) 727.

Consult also L.R.A. Digests of Cases.

ESTOPPEL, III. f, 2—cont'd

Effect of improvements by abutting owner with reference to what is erroneously supposed to be the street boundary line to estop municipality from asserting the true line. 7 L.R.A.(N.S.) 243.

Estoppel against assertion of title or interest in real property against one making improvements thereon. 48 L.R.A.(N.S.) 759.

Estoppel, by encouraging or acquiescing in erection of building or plant, to complain of it as a nuisance. L.R.A.1916C, 940.

§ 26. By permitting title to real property to stand in another's name.

Estoppel of landowner by allowing record title to remain in another. 22 L.R.A. 256.

Permitting undelivered deed, wrongfully recorded by grantee, to remain on record, as estoppel of grantor or his successors to deny its delivery as against one who has purchased in reliance on the record. 7 L.R.A.(N.S.) 712.

Estoppel of one who permits title of real property to stand in another's name, to assert title as against the latter's creditors. 30 L.R.A.(N.S.) 1; 46 L.R.A.(N.S.) 1097.

Estoppel against assertion of title or interest in property by concealing the same. 48 L.R.A.(N.S.) 757.

g. By negligence, fraud, or misrepresentations.

§ 27. By negligence. See also §§ 20, 26, supra.

Failure to read contract as affecting right to assert fraud in respect thereto. 6 L.R.A.(N.S.) 463; L.R.A.1917F, 637.

Effect of negligence of principal on his right to repudiate indorsement of check by agent in a manner not contemplated by his restricted authority. L.R.A. 1918B, 578.

Estoppel to enforce contract of suretyship or guaranty released through mistake. 13 L.R.A.(N.S.) 576.

Estoppel to set up original obligee's breach of condition to make future advances as against assignee of contract for payment of money, not protected by the law merchant. 23 L.R.A. (N.S.) 178. Effect of negligence of purchaser of real

Effect of negligence of purchaser of real property on right to rescind because of misstatement as to title. 39 L.R.A. (N.S.) 1143.

Estoppel as against innocent payee of one who signed note in blank and intrusted it to a third person who exceeded his authority in filling up blanks before delivery to payee. L.R.A.1915B, 144.

Mistake in statement of commodity furnished as affecting the right to recover for a larger amount actually furnished. L.R.A.1915B, 711.

#### EVERYTHING.

Construction of word "everything" as used in devise or legacy. L.R.A.1918A, 224.

#### EVICTION.

Of tenant, see Landlord and Tenant, §§ 32,

Necessity of, to maintenance of action for breach of covenant of warranty of title or of seisin. 17 L.R.A.(N.S.) 1178.

#### EVIDENCE.

I. In general, § 1.

II. Judicial notice, §\$ 2-17.

a. By court, \$\$ 2-16.

b. By jury, \$ 17. resumptions and bu proof, **\$\$** 18-117. III. Presumptions burden of

a. In general, § 18.

b. As to laws, \$\$ 19, 20.
c. Exceptions or exemptions; defenses, § 21.

d. Concerning persons, §§ 22-

1. Status, relation, or condition, §§ 22-24.

2. Character; identity; marriage; divorce, \$\$ 25-29.

8. Death: survivorship; suicide, 🖇 30-32.

4. Assent; authority; cense, §§ 33-36.

5. Knowledge; notice; sanity; capacity; intent, §§ 37-42.

6. Malice; motive; prob-able cause, §§ 43-46.

7. Fraud or good faith; undue influence, \$\$ 47-53.

falsity; 8. Truth; innocence; guilt, \$\$ 54-

9. Against suppressor or destroyer of evidence, \$ 56.

e. Corporate matters; carriers, \$\$ 57-59.

1. Cause; continuance, \$\$ 60-61a.

g. Care; negligence; res ipsa loquitur, \$\$ 62-84.

1. Of person causing injury, **§§** 62-79.

(a) In general, § § 62-69.

(b) Of carriers, \$\$ 70, 71.

(c) Railroads; street railways, 🖇 🕻 72-75a.

(d) On highway, \$ 76.

EVIDENCE, III. g, 1-cont'd (e) Of master, §§ 77, 78.

(f) Miscellaneous, § 79.

2. Contributory negligence, \$\$ 80-84.

(a) In general, \$\$ 80, 81.

(b) On highway, § 82.

(c) Of servant, \$ 83. (d) Of parent, § 84.

h. As to official acts, §§ 85-88. i. As to rights, contracts, in-

struments, and property, 🕻 89-105a

1. In general, §\$ 89-94. 2. Different instruments,

\$\$ 95-103a. 8. Ownership; title; pos-

session; occupation, \$\$ 104-105a. .

j. Payment; value, \$\$ 106-107a.

k. Miscellaneous civil matters, \$\$ 108-111. l. Criminal matters, \$\$ 112-

117.

IV. Best and secondary evidence, §§ 118-121.

V. Documentary evidence, §§ 122-150.

a. In general, §§ 122-125.

 Becords, reports, and or-ders; legislative journals, **\$\$** 126-130.

o. Judgments; findings; pleadings, §§ 131-133a.

d. Depositions, former mony, and affidav affidavits, 🕏 134.

e. Memoranda; receipts, \$\$` 135, 136.

f. Letters; telegrams, §§ 137, 138.

g. Account books, §§ 139-144. h. Entries in family Bible or other religious book, \$ 145.

i. Scientific books and treatises. § 146.

j. Mortality tables, § 147.

k. Miscellaneous documents, \$ 148.

l. For purposes of comparison, \$ 149.

m. Putting whole writing in evidence, \$ 150.

VI. Demonstrative evidence; articles view of jury, and things: **§§** 151-159.

VII. Parol and extrinsic evidence as to writing, §§ 160-184.

a. In general, § 160.

b. Custom, § 161. c. Prior and collateral parol agreements, §§ 162, 163.

d. Subsequent changes, § 164.

e. Meaning; intention; explanation, \$\$ 165-168.

f. As to commercial paper, \$\$ 169-174.

Begin with this book on every law question.

EVIDENCE, VII.—cont'd

g. As to consideration, \$\$ 175, 17B.

h. Fraud; surprise; mistake; omissions, §§ 177-179.

i. Condition; trust; mortgage, \$\$ 180-182.

To identify subject or persons, \$ 183.

k. Character of party, \$ 184. **▼III.** Opinions and conclusions; expert testimony, §§ 155-206.

a. In general, § 185.b. Hypothetical questions, 186.

c. Cause and effect, § 187.

d. Intoxication, § 188.

e. Sanity and mental capacity, §§ 189-193.

f. Value; damages; speed, \$\$ 194, 195.

g. Negligence; intent, §§ 196,

h. Handwriting, typewriting; finger prints, §§ 198-205b.

i. Miscellaneous, § 206.

IX. Confessions; involuntary evidence, §§ 207-214. X. Admissions, § 215.

XI. Declarations; hearsay; 768 gestae; privileged communications, §§ 216-245.

a. In general, \$\$ 216-219.

b. Privileged communications, **\$\$** 220-226.

c. Party's own acts and declarations, § 227.

d. Acts and declarations of third person generally, \$\$ 228-233a.

6. Acts and declarations of agent, cobeneficiary, partner, or co-conspirator, \$\$ 234-237.

f. Complaints of injuries and suffering, \$ 238.

g. Threats, \$ 239.

h. Conversation by telephone, \$ 240.

i. Conversation through interpreter, **§** 241.

j. Dying declarations, **§** 242.

k. Former testimony, §§ 248-245.

XII. Belevancy and materiality, \$\$
246-287.

a. In general, \$ 246.

b. Custom; habit; cause, \$\$ 247, 2**48**.

c. Character and reputation, §§ 249-258.

d. Mental capacity, \$ 254.

e. Intent; motive; fraud; undue influence; malice, \$\$ 255-261.

f. Value; damages, \$\$ 262-265.

g. Negligence, \$\$ 266-269.

\$ 270.

Consult also L.R.A. Digests of Cases.

EVIDENCE, XII.—cont'd

i. Circumstantial evidence, 271.

j. Similar acts and facts, \$\$ 272-275.

k. Rebuttal, §§ 276, 277.

1. Contracts; personal lations, \$\$ 278-280.

Ownership; authority, 281, 282.

n. Miscellaneous civil matters, § 283.

o. Criminal matters, \$\$ 284-287.

XIII. Weight; effect; sufficiency, \$\$ 288-328.

a. In general, \$\$ 288-293.

b. Negligence, \$ 294.

c. Matters as to persons, §§ 295-303.

d. To overcome writing, \$ 804.

e. Of documentary evidence, §§ 305-308a.

f. Contracts, \$\$ 309-311.

g. Will cases, \$ 312.

civil cases, h. Miscellaneous **\$\$** 313, 314.

i. Oriminal cases, § § 315-328. 1. In general, \$\$ 315-325.

particular 2. Various orimes, \$\$ 326-328.

XIV. Admissibility under pleadings; variance, \$\$ 829-388.

### I. In general.

🖁 1. Generally.

On trial for assault and battery, see As-BAULT AND BATTERY, § 13.

In action for breach of promise, see BREACH of Promise, § 6.

In prosecution for burglary, see BURGLARY, § 5.

In action on note, see BILLS AND NOTES, § 70.

Constitutionality of statutes as to, see CONSTITUTIONAL LAW, § 183. Validity of contract to procure, see Con-

TRACTS, § 103. to self-incrimination generally, see CRIMINAL LAW, §§ 49-53.

Right to introduce evidence before insurance appraisers, see Insurance, § 152a.

Newly discovered evidence as ground for new trial, see NEW TRIAL, §§ 10, 11.

Newly discovered evidence as ground for bill of review, see REVIEW, § 3.

False evidence, see PERJURY.

Search and seizure to obtain evidence, see SEARCH AND SEIZURE.

Reception of, see TRIAL, §§ 12-14. Striking out of, see TRIAL, § 14.

Instructions as to, see TRIAL, §§ 61-63.

As to witnesses generally, see WITNESSES. As to competency of witnesses in general,

see WITNESSES, §§ 9-25. As to impeachment of witnesses, see WIT-NESSES, §§ 41-44.

h. Precautions after accident, As to examination of witnesses, see WIT-NESSES, III.

EVIDENCE, I.—cont'd

Newly discovered evidence as ground for opening decree of divorce. L.R.A. 1917B, 466.

Applicability in proceeding to punish criminal contempt of rules of evidence in criminal cases. L.R.A.1917B, 118.

Rules of evidence under Workmen's Compensation Acts. L.R.A.1917D, 182.

Right of convicted person to maintain an action against witness for negligently giving false evidence. 3 B. R. C. 251. Liability of one who procures defamatory testimony to be given. 4 B. R. C. 986.

Propriety of referring in argument to jury to testimony in previous trials in the same cause. L.R.A.1918D, 62.

Comment by counsel in argument to jury upon evidence impropely admitted or excluded. L.R.A.1918D, 76.

Prosecuting attorney's comments on excluded evidence as ground for reversal.

46 L.R.A. 661. Jurisdiction of courts of equity to entertain bill to perpetuate testimony. 25 L.R.A. (N.S.) 673.

Federal courts following state decisions as to rules of evidence. 40 L.R.A.(N.S.) 449.

### II. Judicial notice.

## a. By court.

\$ 2. Laws. Presumption and burden of proof as to, see infra, § 19.

Of Federal employers' liability act in action thereunder. 47 L.R.A. (N.S.) L.R.A.1915C, 78.

Judicial notice of adoption of local-option law. L.R.A.1915B, 788.

§ 3. — of other state or country. Presumption and burden of proof as to, see infra, § 20.

As to law of other state. 4 L.R.A. 41; 67 L.R.A. 34.

Judicial cognizance of foreign law. 67 L.R.A. 33.

4. Ordinances. Of municipal ordinances. 4 L.R.A. 41.

§ 5. Legislative journals. Judicial notice of existence and contents of legislative journals. 40 L.R.A. (N.S.)

§ 6. Customs. Of banking customs. 21 L.R.A. 446.

§ 7. Courts; judicial matters; records. Of court proceedings. 4 L.R.A. 34. Of terms of courts. 4 L.R.A. 34. Of jurisdiction and authority of courts. 4 L.R.A. 34.\*

of records and decrees of court. Judicial notice of the court's own records in other actions. 11 L.R.A.(N.S.) 616; 29 L.R.A.(N.S.) 905.

Begin with this book on every law question.

EVIDENCE, II. a-cont'd

Right to take judicial notice of decree in proceeding to punish violation of same as contempt. 24 L.R.A.(N.S.) 404.

9. Political matters.

Of elections, and changes in office. 4 L.R.A. 38.\*

Of the seal of the state. 4 L.R.A. 41.\*

§ 10. Geographical matters.

Of geographical and topographical facts. 4 L.R.A. 39.\*
Of the civil divisions of the state. 4 L.R.A.

37.\*

Of population. 4 L.R.A. 39.\*

§ 11. Officers. Of public officers. 4 L.R.A. 37.\*

§ 12. Corporations. Of private corporations. 4 L.R.A. 36.\* Of public corporations. 4 L.R.A. 36.

§ 13. Time. Time. 4 L.R.A. 35.\*

14. Place. Place. 4 L.R.A. 35.\*

§ 15. Intoxicating character of liquor. As to intoxicating character of beverages. 20 L.R.A. 648.

Of intoxicating character of mixed drink. 19 L.R.A. (N.S.) 848.

Judicial notice or inference as to spirituous, vinous, distilled, malt, fermented, or intoxicating quality of liquor, from its name. 48 L.R.A. (N.S.) 302.

"Near beer" or other local appellation, as justifying judicial notice as to intoxicating or other statutory qual-

ity of liquor. 48 L.R.A.(N.S.) 315.

Judicial notice that "beer" or "lager heer"
is intoxicating. 48 L.R.A.(N.S.) 308.

§ 16. Other matters.

Of holidays. 19 L.R.A. 316.

Of mortality tables in death action. L.R.A. 1918C, 1076.

Of regulations made under the Selective Service Act. L.R.A.1918E, 1018.

Right of court to decide question as to quickest means of stopping train as a matter of common knowledge. 14 L.R.A.(N.S.) 262.

Judicial notice that certain articles are within provision in fire insurance policy prohibiting presence of designated articles on premises. 3 B. R. C. 47.

#### b. By jury.

17. Generally. Right of jurors to act on their own knowledge of the facts in or relevant to the issue. 31 L.R.A. 489; 37

L.R.A.(N.S.) 790.

#### EVIDENCE—cont'd

#### III. Presumptions and burden of proof.

#### a. In general.

18. Generally.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 183.

Burden of proof in ejectment, see Ejectment, § 14.

As to effect of tax deeds, see TAXES, § 81. Effect of admissions on burden of proof, see TRIAL, § 9.

Effect of admission to change burden of proof. 61 L.R.A. 513.

Effect of preumptions created by workmen's compensation acts. L.R.A. 1917D, 183.

#### b. As to laws.

§ 19. Generally.

Judicial notice as to, see supra, § 2.

Presumption as to statutory authority to permit nuisance, see Nuisances, § 29.

As to regularity of legislative action in passing bill. 67 L.R.A. 966.

Presumption as to regular enactment of

bills. 40 L.R.A.(N.S.) 36.

20. Of other state or country. Judicial notice as to, see supra, § 3. Oral evidence as to, see infra, § 119.

Presumption as to law of foreign country. 34 L.R.A. (N.S.) 261; 38 L.R.A. (N.S.) 40.

As to law of other state or country. 21 L.R.A. 471; 67 L.R.A. 33.

Presumption as to authority of notary public of another state or country to administer an oath. L.R.A.1916A, 1169.

#### c. Exceptions or exemptions; defenses.

§ 21. Generally. Burden of establishing defense of falsity of statement by insured respecting family history. L.R.A.1917C, 876.

Duty of insured to negative death or accident from excepted cause. 4 L.R.A. (N.S.) 636; 50 L.R.A. (N.S.) 1006.

Burden of proof as to provisions in insurance policies forbidding use of intoxi-

cating liquor. 15 L.R.A.(N.S.) 212.

Must a claimant of land show that it is not included within the exceptions from the grant or conveyance on which he relies. 5 L.R.A.(N.S.) 156.

Presumption of exemption from local assessments of public property, including schools. 18 L.R.A.(N.S.) 453.

Burden of proof when the defense in an action to recover for loss or injury to goods during carriage is act of God or vis major. L.R.A.1915D, 547.

Presumption and burden of proof as to self-defense or justification in a civil action for intentional killing of another. L.R.A.1918A. 359.

Consult also L.R.A. Digests of Cases.

#### EVIDENCE, III.-cont'd

#### d. Concerning persons.

#### 1. Status, relation, or condition.

§ 22. Generally.

As to relation of vice principal. 54 L.R.A. 61.

Existence of relation of master and servant between parent and child committing tort. 10 L.R.A. (N.S.) 942.

Does fact that name signed to bill or note below signature of another obligor is that of a partnership raise presumption that it is a surety only. 10 L.R.A. (N.S.) 426.

Presumption as to death without issue. 4 B. R. C. 632.

Making prima facie case of responsibility for negligence of driver of automobile by proof of defendant's ownership of car or employment of driver. 46 L.R.A. (N.S.) 1091.

Presumption as to possibility of issue as affecting property rights. 48 L.R.A. (N.S.) 865.

Burden of proof of condonation of matri-monial offense. 6 B. R. C. 674.

Making prima facie case of responsibility for negligence of driver of automobile by proof of defendant's ownership of car or employment of driver. L.R.A. 1918D, 924.

Conclusive presumption of dependency within meaning of Workmen's Compensa-tion Statutes. L.R.A.1918F, 491.

§ 23. Citizenship.

Presumption of citizenship from residence. 8 L.R.A.(N.S.) 1245.

Presumption and burden of proof as to citizenship of locator of mining claim. 7 L.R.A.(N.S.) 815.

§ 24. As to legitimacy. Sufficiency of evidence as to, see infra, § 296.

Proof necessary to establish bastardy of child born to married woman. 86 L.R.A.(N.S.) 255.

Status of child begotten after divorce be-tween parents. 51 L.R.A.(N.S.) 308.

#### 2. Character; identity; marriage; divorce.

25. Character.

Relevancy of evidence as to, see infra, XII.

Sufficiency of evidence as to, see infra, XIII.

Presumption as to character of independent contractor. 65 L.R.A. 459.

As to good character of accused. 20 L.R.A. 609; 46 L.R.A.(N.S.) 342.

Presumption and burden of proof as to chastity where it is an ingredient of the offense or a condition of conviction. 43 L.R.A.(N.S.) 476. EVIDENCE, III. d, 2-cont'd

§ 26. Identity.

As to identity of person from identity of name. 17 L.R.A. 824. In criminal cases. 4 L.R.A. (N.S.) 539.

§ 27. Marriage.

Presumptions flowing from marriage ceremony, see infra, § 28.

Sufficiency of evidence as to, see infra, § 295.

Presumption of marriage from habit and repute. L.R.A.1915E, 33, 72.

Presumption of marriage from continued cohabitation following removal of impediment. L.R.A.1915E, 91.

Sufficiency of circumstantial evidence to imply marriage. L.R.A.1915E, 60.

Presumption as to validity of former marriage in prosecution for bigamy. 9 L.R.A.(N.S.) 1036.

§ 28. Presumption from marriage ceremony.

Presumptions flowing from marriage ceremony. 14 L.R.A. 540; 16 L.R.A. (N.S.) 98; 34 L.R.A. (N.S.) 940; L.R.A.1915E, 186.

#### § 29. Divorce.

Burden of proof where divorce decrees are attacked. L.R.A.1917B, 433.

Presumption from marriage ceremony as to dissolution of previous marriage by divorce. 14 L.R.A. 543; 16 L.R.A. (N.S.) 106; 34 L.R.A. (N.S.) 940; L.R.A. 1915E, 186.

### 3. Death; survivorship; suicide.

3 30. Death.

Presumption as to death of former spouse.

14 L.R.A. 542; 16 L.R.A. (N.S.) 105;
L.R.A.1915E, 186.

Presumption of death from absence. L.R.A. 1915B, 729.

Necessity of inquiry to raise presumption. 2 L.R.A. (N.S.) 809; 28 L.R.A. (N.S.) 178; L.R.A.1915B, 740.

Effect of presumption of death from absence upon payment of life insurance premiums, filing proofs, and operation of Statutes of Limitations. L.R.A. 1918B, 93.

Abridgment of time necessary to raise presumption of death. L.R.A.1915B,

Place from which absence must be shown in order to raise presumption of death. L.R.A.1915B, 749.

Presumption as to time of death of one presumed to be dead after seven years' absence, unheard of. 26 L.R.A.(N.S.) 294; L.R.A.1915B, 756.

Gap in record title as remedied by presumption of death or of death without issue. 38 L.R.A.(N.S.) 24.

Presumption that drowning of insured was accidental. 42 L.R.A.(N.S.) 635.

EVIDENCE, III. d, 3-cont'd

Validity of by-law of mutual benefit society refusing to pay indemnity upon presumption of death from seven years' absence. L.R.A.1915B, 793; L.R.A. 1917C, 1032.

Burden of proving death of employee in proceedings under Workmen's Compensation Act. L.R.A.1917D, 113.

§ \$1. Survivorship.

Among those who perish in common calamity. 10 L.R.A. 550; 51 L.R.A. 863.

§ 82. Suicide.

As to suicide. 35 L.R.A. 263.

#### 4. Assent; authority; license.

§ 33. Assent.

Presumption of assent to statement of account retained without objection. 29 L.R.A.(N.S.) 348; L.R.A.1917C, 455.

Circumstances from which owner's consent to making of improvements by lessee or vendee may be inferred. 23 L.R.A. (N.S.) 612; L.R.A.1917D, 583.

Presumption of consent of creditor to assumption of debts on dissolution of partnership. 48 L.R.A.(N.S.) 552.

§ 34. Authority; agency.

Presumption as to authority of one found at place of payment designated who is not in possession of the securities. 21 L.R.A.(N.S.) 52.

Burden of proof as to authority for arrest in action for false imprisonment. 10 L.R.A.(N.S.) 303.

Presumption as to authority to place building on another's land. 9 L.R.A. (N.S.)

Statutory authority to commit nuisance not to be presumed. 70 L.R.A. 579.

Presumption of agent's authority to sell intoxicating liquor in violation of law.
41 L.R.A. 672; 16 L.R.A. (N.S.) 786;
20 L.R.A. (N.S.) 321; 33 L.R.A. (N.S.)
419.

As to power of insurance agent to make parol contract of insurance. 22 L.R.A. 773.

Inferring from usage authority of insurance agent to bind insured by transferring risk from one company to another represented by agent. 51 L.R.A. (N.S.) 539.

Inference of employee's authority to expel trespassers from his practice of doing so. 34 L.R.A.(N.S.) 693.

Presumptive agency of wife to purchase necessaries arising from cohabitation. 65 L.R.A. 539; 47 L.R.A. (N.S.) 281.

Presumption that a contract within the powers of a corporation is within the authority of its president. 7 L.R.A. (N.S.) 376.

nn with this book on every law question.

EVIDENCE, III. d, 4-cont'd

The burden of showing that use upon which an easement by prescription is claimed was permissive, and not under claim of right. 8 L.R.A.(N.S.) 149; 44 L.R.A. (N.S.) 98.

Implication of child's authority to bind parent by contracts other than for necessaries from parent's payment of debt contracted by child 20 LP A debt contracted by child. 39 L.R.A. (N.S.) 884.

Implication of child's authority to bind parent by contracts other than those for necessaries from use of father's name on notes, etc. 39 L.R.A. (N.S.) 884.

Presumption of continuance of agency. 1 L.R.A.(N.S.) 891.

Making prima facie case of responsibility for negligence of driver of automobile by proof of defendant's ownership of car, or employment of driver. 46 L.R.A. (N.S.) 1091; L.R.A.1918D, 924.

Implied authority of an agent for the sale of personal property to warrant the same. L.R.A.1916C, 412.

35. — of attorney.

Presumption that attorney appearing in action has full authority to do so. 21 L.R.A. 848.

Presumption as to authority of attorney to compromise cause of action. 31 L.R.A. (N.S.) 531.

Presumption as to authority of attorney to bind client by consent decree. 46 L.R.A. (N.S.) 753.

#### \$ 36. License.

Burden of proof as to physician's license in suit to recover for services. 8 L.R.A. (N.S.) 1238.

5. Knowledge; notice; sanity; capacity; intent.

§ 37. Knowledge or notice.

As to master's knowledge as element of negligence. 41 L.R.A. 149.

As to testator's knowledge of contents of his will. L.R.A.1918D, 747.

That new promise to pay note after failure to give notice of dishonor was made with knowledge of the laches. L.R.A. 314.

As to knowledge of vein or lode within placer claims. 50 L.R.A. 292.

Presumption as to knowledge of nonexpert witness to handwriting. 63 L.R.A. 968. Necessity of proving scienter in action for

fraud in misrepresentations as to location of property sold. 38 L.R.A. (N.S.) 306.

Presumption of notice from nature or wording of telegram that negligence in respect thereto might cause mental anguish. 49 L.R.A. (N.S.) 315.

§ 38. Sanity; capacity. nion evidence as §§ 189-193, 291, 292. Opinion 866 infra, Consult also L.R.A. Digests of Cases.

EVIDENCE, III. d, 5-cont'd

Relevancy of evidence as to, see infra, § 254.

Sufficiency of evidence as to, see infra, §§ 291, 292, 297, 298, 316.

Presumption as to continuance, see infra, § 61a.

Presumption and burden of proof as to sanity. 36 L.R.A. 721.

As to sanity at time of marriage. 40 L.R.A. 742.

As to sanity of witness. 37 L.R.A. 426; 46 L.R.A. (N.S.) 1030.

As to mental and physical conditions of one whose dying declarations offered in evidence. 56 L.R.A. 418.

Presumption as to whether child is capable of contributory negligence. 1917F, 42.

§ 39. — of testator.

Sufficiency of evidence as to, see infra, § 298.

As to testamentary capacity. 17 L.R.A. 494; 36 L.R.A. 724, 733.

Burden of proving sanity with relation to wills. 36 L.R.A. 733.

As to effect of drunkenness upon testamentary capacity. 39 L.R.A. 226.

40. — of accused.

Sufficiency of evidence as to, see infra, § 316.

Presumption and burden of proof as to sanity in criminal cases. 36 L.R.A. 722, 727; 44 L.R.A.(N.S.) 119. Burden of proof on issue of present in-

sanity of defendant in criminal prosecution. 34 L.R.A.(N.S.) 1115.

Right of jury to abide by presumption of defendant's sanity as against uncontradicted evidence to contrary. 24 L.R.A. (N.S.) 545.

§ 41. Intent.

Parol evidence as to, see infra, § 166. Opinion evidence as to, see infra, § 197. Relevancy of evidence as to, see infra, §§ 255, 256.

Sufficiency of evidence as to, see infra, § 299.

Presumed intention of parties to contract with carrier. 18 L.R.A.(N.S.) 880.

Presumption of general intent from recording deed or delivering for record. 54 L.R.A. 885.

As to intent characterizing omission of in-

ternal revenue stamp. 48 L.R.A. 309. Necessity of proving that intent to charge for services rendered by relative or member of household was entertained at time of their rendition. 11 L.R.A. (N.S.) 911.

Inference of fraudulent intent from gran-

tee's oral promise to grantor to hold in trust. 39 L.R.A.(N.S.) 911. creditors' participation in debtor's fraudulent intent in making transfer. 31 L.R.A. 646; 32 L.R.A. 71.

EVIDENCE, III. d, 5-cont'd

Inference of intent to sell intoxicating liquor from possession. 39 L.R.A. (N.S.) 534.

Intent of one purchasing goods with knowledge that he cannot pay for them. 44
L.R.A.(N.S.) 21.
Presumption and burden of proof in action

on insurance policy exempting insurer or limiting its liability in case of injury intentionally inflicted by another. 48 L.R.A. (N.S.) 524.

As to intent of grantor in case of conveyance to one and his children to give the children an estate jointly or in common with the parent or a remainder upon a life estate in the parent. L.R.A. 1917B, 76.

### § 42. — of testator.

Parol evidence as to, see infra, § 167. Relevancy of evidence as to, see infra, § 257.

Presumption of intent to revive revoked will. 37 L.R.A. 577.

Presumption as to testator's intent to adeem general legacy by gift. 38 L.R.A.(N.S.) 589; L.R.A.1916C, 618. Presumption of satisfaction of debt by

legacy or devise to creditor. L.R.A. 1915B, 1156.

Presumptive meaning of testamentary gift to one and his children. L.R.A.1917B,

#### 8. Malice; motive; probable cause.

### 43. Malice.

Relevancy of evidence as to, see infra, 8 261.

When malice may be inferred in action for malicious prosecution. 9 L.R.A.(N.S.) 1087.

Instruction, in action for malicious prosecution, that malice may be inferred from want of probable cause. L.R.A.1918A, 872.

} 43a. — in libelous statement.

Presumptions and burden of proof where action for defamation is brought in respect to statements made in character of witness. 4 B. R. C. 971

May malice, which precludes qualified privilege be inferred from publication alone.

12 L.R.A.(N.S.) 91.

Circumstances from which malice in giving or refusing information as to character or reputation of servant may be inferred. 4 L.R.A.(N.S.) 1115.

Where communication is qualifiedly privileged. 3 L.R.A. (N.S.) 696.

§ 44. — from act of killing. Presumption of malice from killing. L.R.A.(N.S.) 934.

Presumption as to implied malice arising \$ 302.

from act of killing. 38 L.R.A.(N.S.) In transfer of property by debtor in sat-1077.

Begin with this book on every law question.

EVIDENCE, III. d, 6-cont'd

§ 45. Motive.

Relevancy of evidence as to, see infra, § 258. Of proper motive of teacher in punishing pupil. 65 L.R.A. 894.

### 46. Probable cause.

Sufficiency of evidence as to, see infra, § 303.

When malice may be inferred in action for malicious prosecution. 9 L.R.A. (N.S.) 1087.

Effect on presumption of probable cause for prosecution of fact that conviction was procured by fraud, perjury, or other undue means. 15 L.R.A.(N.S.) 1143.

Effect of release without prosecution to create presumption of want of probable cause. 12 L.R.A. (N.S.) 717; L.R.A. 1918D, 1137.

Discharge of accused by examining magistrate as evidence of want of probable cause. 64 L.R.A. 481; 3 L.R.A. (N.S.) 929.

## 7. Fraud or good faith; undue influ-

#### 47. Fraud generally.

Parol evidence as to fraud, see infra, § 177. Relevancy of evidence as to, see infra, § 259. Sufficiency of evidence as to, see infra, § 301.

Power of legislature to enact prima facie rules of evidence as to fraud in criminal cases. L.R.A.1915C, 732, 733.

Necessity of proving fraud in civil action. 33 L.R.A.(N.S.) 837.

Of broker. 45 L.R.A. 53.

In inspection of negotiable instrument. 10 L.R.A. 679; 17 L.R.A. 328. In respect to will. 36 L.R.A. 737.

Necessity of proving scienter in action for fraud in misrepresentations as to lo-cation of property sold. 38 L.R.A. cation of property sold. (N.S.) 306.

Of one purchasing goods with knowledge that he cannot pay for them. 44 L.R.A. (N.S.) 21.

Presumption from fact of immediate departure from state after procuring divorce. 44 L.R.A.(N.S.) 689.

Burden of proof where conveyance of wife's real property to husband through a third person is attacked. L.R.A.1915C, 771.

Burden of proof as to payment of value by, or notice of fraud to, subvendee of chattels, when original seller seeks to rescind for fraud of first purchaser. 8 L.R.A.(N.S.) 448.

Necessity of proving fraud in use of geo-graphical name as a trademark or trade name or on the ground of unfair competition. 26 L.R.A.(N.S.) 75.

### § 48. Fraud of creditors.

Sufficiency of evidence as to, see infra, § 302.

isfaction of debt. 36 L.R.A. 361.

EVIDENCE, III. d, 7—cont'd

Rebuttal of presumption of acceptance of assignments hindering, delaying, or defrauding creditors. 24 L.R.A. 376.

As to participation by transferee in fraudulent intent of debtor in making transfer. 31 L.R.A. 646; 32 L.R.A. 71.

- Burden of proof as to conveyance by husband in fraud of wife's support when bona fides are alleged. 18 L.R.A. (N.S.) 1155.
- § 49. from retention of possession. May presumption of fraud following from retention of chattel by vendor be overcome. 24 L.R.A. (N.S.) 1127.
- § 50. burden of proving husband's debt on account of property received from wife,

In contests between themselves or persons claiming under them. 56 L.R.A. 817.

In contests with creditors, 56 L.R.A. 823. Exceptions to the above rules. 56 L.R.A. 845.

51. Good faith.

Burden of showing good faith on privileged occasion. 3 L.R.A.(N.S.) 696.

Burden of proving good faith on holder of negotiable instrument. 17 L.R.A. 328.

Does fact that negotiable instrument was, contrary to agreement, transferred before happening of a certain contingency impose burden of proof as to bona fides upon the holder. 22 L.R.A. (N.S.) 718.

Burden of proof as to bona fides of transferee of warehouse receipts for property secured by fraud. 10 L.R.A. (N.S.)

Burden of proof as to bona fides of purchaser claiming against prior unrecorded conveyance or encumbrance. 36 L.R.A.(N.S.) 1124.

Burden of proof as to good faith of one accused of larceny who claims to have taken the property in good faith under an honest claim of right. 41 L.R.A. (N.S.) 554.

52. Undue influence.

Relevancy of evidence as to, see infra, § 260. Sufficiency of evidence as to, see infra, § 300.

Presumption and burden of proof as to undue influence respecting gifts inter vivos from parent to child. L.R.A. (N.S.) 944.

Character of presumption as to undue influ-

Burden of proof as to undue influence in conveyance or transfer of property in consideration of support of the grantor or a third person. 52 L.R.A.(N.S.) 476.

Consult also L.R.A. Digests of Cases.

EVIDENCE, III. d, 7—cont'd Burden of proof where conveyance of wife's real property to husband through a third person is attacked. L.R.A.1915C, 771.

§ 53. — on testator.

In respect to will. 36 L.R.A. 737.

Presumption of undue influence from unnatural testamentary disposition. 6
L.R.A. (N.S.) 202; 22 L.R.A. (N.S.) 1024.

Character of presumption in bequest to mistress. 11 L.R.A.(N.S.) 554.

Inference of undue influence from meretricious relations between testator and beneficiary. 17 L.R.A.(N.S.) 477.

Effect on burden of proof of circumstance that one benefited by will was the draftsman thereof or active in procuring its execution. 28 L.R.A.(N.S.) 275, 284, 288.

#### 8. Truth; falsity; innocence; guilt.

§ 54. Truth.

Instruction that witness is presumed to speak truth as invading province of jury. 14 L.R.A.(N.S.) 947.

Burden of establishing defense of falsity of statements by insured respecting family history. L.R.A.1917C, 876.

§ 55. Innocence.

In habeas corpus proceeding. 22 L.R.A. 678.

In civil action. 33 L.R.A.(N.S.) 841.

In proceeding to punish criminal contempt. L.R.A.1917B, 122.

§ 55a. Guilt.

Flight as creating presumption of guilt. 39 L.R.A.(N.S.) 58.

Production of bill of sale as repelling inference or presumption of guilt from possession of recently stolen property. 39 L.R.A.(N.S.) 320.

Presumption and burden of proof in bas-tardy proceedings. L.R.A.1918C, 891.

#### 9. Against suppressor or destroyer of evidence.

§ 56. Generally.

Presumption from failure to produce evidence. 14 L.R.A. 470.

Where a party fails to introduce documen-tary (the "best") evidence which would properly be a part of the case. 34 L.R.A. 582.

ence in gift to mistress. 11 L.R.A. Where a party fails to produce evidence (N.S.) 554. entitled to the production thereof. 34 L.R.A. 581.

Where a party adversely interested destroys or withholds evidence to which the adversary is entitled. 34 L.R.A. 585.

#### EVIDENCE, III.—cont'd

#### e. Corporate matters: carriers.

\$ 57. Generally.

As to incorporation. 22 L.R.A. 276. Presumption that a contract within the powers of a corporation is within the authority of its president. 7 L.R.A. (N.S.) 376.

As to fairness of contracts between corporations having common directors or officers. 33 L.R.A. 796.

As to negligence of corporate directors. 55 L.R.A. 758.

§ 58. As to quorum.

Presumption as to quorum for meeting of stockholders. 21 L.R.A. 175.

§ 59. Matters relating to carriers. Negligence of carrier, see infra, §§ 70, 71.

Presumed intention of parties to contract with carrier. 18 L.R.A.(N.S.) 880.

#### f. Cause; continuance.

60. Cause.

Relevancy of evidence as to, see infra, § 248.

As to cause of delay in prosecution. 56 L.R.A. 536.

Burden of proving cause of loss of insured property in case of explosion. 38 L.R.A.(N.S.) 477.

Burden of proof under fall of building clause in fire insurance policies. 32 L.R.A.(N.S.) 608; L.R.A.1917F, 1065.

Possible inference that accident to servant was due to negligence of fellow servant. 6 L.R.A.(N.S.) 354.

Burden of proof when the defense in an action to recover for loss or injury to goods during carriage is act of God or vis major. L.R.A.1915D, 547.

Possible inference that accident to servant was due to negligence of fellow servant. L.R.A.1917E, 52, 194, 208, 215, 232, 241, 249.

Burden of proving cause of death or injury in proceedings under Workmen's Compensation Act. L.R.A.1917D, 113.

61. Continuance.

Presumption of continuance of agency. 1 L.R.A. (N.S.) 891.

Presumption of continuance of marriage. 16 L.R.A.(N.S.) 101, 105; L.R.A.1915E, 186.

61a. — of insanity.

Habitual insanity. 35 L.R.A. 117. Temporary insanity. 35 L.R.A. 119.

Habitual and temporary insanity distinguished. 35 L.R.A. 120.

Alcoholism and alcoholic insanity.
L.R.A. 122.

Presumption of continuance of a lucid interval. 35 L.R.A. 123. Nature of the presumption.

35 L.R.A. 123.

Begin with this book on every law question.

EVIDENCE, III.—cont'd

g. Care; negligence; res ipsa loquitur.

#### 1. Of person causing injury.

#### (a) In general.

§ 62. Generally.

Opinion evidence as to, see infra, VIII, g. Relevancy of evidence as to, see infra, XII,

Sufficiency of evidence as to, see infra, XIII, b.

What law governs. 56 L.R.A. 223.

Power of legislature to make injury prima facie evidence of negligence. 32 L.R.A. (N.S.) 226.

As to insufficiency of statutory precautions to prevent injury. 21 L.R.A. 724. Applicability of rule res ipsa loquitur in

the absence of contractual relations. 15 L.R.A. 33; 6 L.R.A.(N.S.) 800.

Pleading particular cause of injury as waiver of right to rely on res ipsa loquitur. 24 L.R.A.(N.S.) 788; L.R.A. 1915F, 992.

Relation of doctrine res ipsa loquitur to burden of proof. 16 L.R.A.(N.S.) 527: L.R.A.1916A, 930.

May negligence be inferred from mere fact that a horse runs away. 39 LaR.A. (N.S.) 574.

63. In case of injury by electricity. Presumption of negligence from injury to person from broken or fallen wires. 15 L.R.A. 33.

As to broken or fallen electric wires in highway. 31 L.R.A. 576.

Applicability of rule res ipsa loquitur to accidents on highway due to disordered electrical appliances. 22 L.R.A. (N.S.) 1178; 32 L.R.A. (N.S.) 1043.

Applicability of rule res ipsa loquitur to accidents on private property due to escape of electricity from disordered electrical appliances. 22 L.R.A. (N.S.) 1183; 32 L.R.A. (N.S.) 848.

Applicability of res ipsa toquitur in case of injury to servant by electrical appliances. L.R.A.1917E, 248.

Presumption of negligence from injury to passenger by escaping electricity. 2 L.R.A.(N.S.) 836; 12 L.R.A.(N.S.) 760; 13 L.R.A.(N.S.) 615; L.R.A.1916C,

64. Injury by explosion.

Respecting escape and explosion of gas. 29 L.R.A. 345.

Presumption of negligence from injury to

person by explosion. 15 L.R.A. 35.

Applicability of rule res ipsa loquitur to explosion of bottle. L.R.A.1916E, 1078.

Presumption of negligence from injury to passenger by explosion. 15 L.R.A. 38; passenger by explosion. 15 L.R.A. 38; 13 L.R.A. (N.S.) 615; 29 L.R.A. (N.S.) 815; L.R.A.1916C, 377.

Applicability of res ipea loquitur in case of injury to servant by explosion. L.R.A. 1917E, 186. EVIDENCE, III. g, 1 (a)—cont'd 65. On elevator.

Presumption of negligence from injury to passenger by elevator. 2 L.R.A. (N.S.) 748; 13 L.R.A. (N.S.) .619; 29 L.R.A. (N.S.) 816; L.R.A.1915E, 724; L.R.A. 1916C, 378.

🕽 66. Of innkeeper.

Presumption of negligence of innkeeper from injury to guest or his property. 20 L.R.A. (N.S.) 1027; 43 L.R.A. (N.S.)

§ 67. Of storekeeper.

Applicability of rule res ipsa loquitur as between storekeeper and customer. 16 L.R.A. (N.S.) 931; L.R.A.1915F, 577.

§ 68. Of manufacturer.

Applicability of rule res ipsa loquitur in action for personal injuries from defects in articles manufactured or sold by the defendant. 28 L.R.A.(N.S.) 949.

§ 69. Of physician or surgeon.

As to skill of physician or surgeon. L.R.A. 837.

Proof necessary to discharge the burden resting upon plaintiff, in action against a physician for malpractice, to show that the negligence or unskilfulness of the physician caused or contributed to the death or injury of the patient. 15 L.R.A. (N.S.) 416.

# (b) Of carriers.

§ 70. To passenger.

Presumption of negligence from injury to nassenger. 15 L.R.A. 35; 13 L.R.A.(N.S.) 601; 29 L.R.A.(N.S.) 808; L.R.A.1916C, 364.

Res ipsa loquitur as applied to disorder of electrical appliances. 2 L.R.A. (N.S.) 836; 12 L.R.A. (N.S.) 760; 13 L.R.A. (N.S.) 615; L.R.A.1916C, 376.

Presumption of negligence in case of injury to passenger by missile thrown from outside. 7 L.R.A.(N.S.) 231.

Presumption of negligence from injury of passenger by door of vehicle. L.R.A. 1918D, 529.

Applicability of doctrine of res ipsa loquitur where passenger is injured by instrumentality introduced by another passenger. 3 B. R. C. 428.

Applicability of doctrine of res ipsa loquitur where accident to passenger is occasioned by skidding of vehicle. 3 B. R. C. 97.

§ 71. To freight or baggage.

As to injury to livestock during transportation. 17 L.R.A. 339.

Failure of carrier to deliver goods to con-signee as prima facie evidence of negli-

gence and liability. 13 L.R.A. 33. Burden of proof as to negligence where property is destroyed while in the possession of a carrier holding as a warehouseman. 22 L.R.A. (N.S.) 975.

Consult also L.R.A. Digests of Cases. 32

EVIDENCE, III. g, 1 (b)—cont'd Burden of proof when the defense in an action to recover for loss or injury to goods during carriage is an act of God

or vis major. 29 L.R.A.(N.S.) 663. Presumption and burden of proof as to where loss or damage occurred in case of connecting carriers. 31 L.R.A. (N.S.) 102.

As to liability of common carrier for hag-

gage. 36 L.R.A. 781.

Burden of proving negligence in case of loss of hand baggage or other effects in the custody or control of a passenger. L.R.A.1915B, 611; L.R.A.1918B, 1063.

§ 71a. — in case of contract limiting liability.

Presumption and burden of proof as to carrier's negligence or lack of negligence in case of contract limiting its liability. L.R.A.1915D, 644.

## (c) Railroads; street railways.

§ 72. Railroads.

Power of legislature to make injury to person prima facie evidence of negli-

gence. 32 L.R.A.(N.S.) 226.

Negligence of railroad operating longitudinally along street. 49 L.R.A.(N.S.) 688.

73. — injury to livestock.

Presumption of negligence from injury to livestock by railway trains. 15 L.R.A.

Necessity of affirmative proof of negligence in leaving gate of railroad fence open.
49 L.R.A. 638.

Negligence as to cattle guards. L.R.A. 1915B, 135.

Power of legislature to make killing of stock prima facie evidence of negligence. 32 L.R.A.(N.S.) 227.

§ 74. — fires.

Presumption of negligence by railway fires. 15 L.R.A. 40.

Power of legislature to make injury by fire from locomotive prima facie evi-dence of negligence. 32 L.R.A.(N.S.) 227.

Does presumption of negligence arising from fact that fire was set by railroad company's locomotive necessarily make the question of negligence one for the jury. 5 L.R.A.(N.S.) 99.

§ 75. Street railways.

In case of injury by defect in street railway track. 15 L.R.A.(N.S.) 844.

As to negligence of street railway company in case of defects in track or street. 52 L.R.A. 456.

In case of injury to one other than pas-senger struck by object hurled by car. · L.R.A.1915B, 1111.

EVIDENCE, III. g, 1 (c)—cont'd § 75a. Elevated railways.

Rule of res ipsa loquitur as applied to personal injury by elevated railway company to person on surface of street. 42 L.R.A.(N.S.) 91.

### (d) On highway.

§ 76. Generally.

Relevancy of evidence as to, see infra, § 267.

Presumption of negligence from accident. 15 L.R.A. 33.

Res ipsa loquitur in action for injury on highway. 43 L.R.A.(N.S.) 591.

Applicability of rule, Res ipsa loquitur, to accidents on highway, due to disordered electrical appliances. 22 L.R.A.(N.S.) 1178; 32 L.R.A.(N.S.) 1043.

Applicability of rule, Res ipea loquitur to injury by automobile or other vehicle on highway. 32 L.R.A.(N.S.) 1177.

Burden of proof in action for injury re-ceived through collision of automobile and horse, or through horse becoming frightened by automobile. 48 L.R.A. (N.S.) 968.

Applicability of maxim, Res ipsa loquitur, to caving in or sinking of surface of street. 23 L.R.A.(N.S.) 1022.

May negligence be inferred from mere fact that a horse runs away. 23 L.R.A. (N.S.) 171.

Leaving horse unhitched in highway as prima facie evidence of negligence. L.R.A.(N.S.) 850.

Negligence of railroad company operating trains longitudinally along public street. 49 L.R.A.(N.S.) 688.

## (e) Of master.

77. Generally.

Relevancy of evidence as to, see infra, § 268.

As to master's knowledge as element of negligence. 41 L.R.A. 149.

As to care and selection of coemployee. 25 L.R.A. 717.

Applicability of maxim Res ipsa loquitur as between master and servant. 6 L.R.A.(N.S.) 337; 16 L.R.A.(N.S.) 214; L.R.A.1917E, 4.

Applicability in case of injury by explosion. L.R.A.1917E, 187.

Applicability in case of injury by falling object. L.R.A.1917E, 201.

Applicability to fall of bridge. 28 L.R.A. (N.S.) 591. 28

Applicability to fall of scaffold. L.R.A.(N.S.) 586.

In case of injury by derailment of rolling stock. L.R.A.1917E, 212.
In case of injury from defects in roll-

ing stock. L.R.A.1917E, 226.

In case of injury by breaking of rope, chain, etc. L.R.A.1917E, 239.

case of injury by electrical appliances. L.R.A.1917E, 248.

Begin with this book on every law question.

EVIDENCE, III. g, l (e)—cont'd

Presumption of negligence of master from unexplained starting of machinery injuring servant. 1 L.R.A. (N.S.) 298; 44 L.R.A.(N.S.) 1050.

Pleading particular cause of injury as waiver of right to rely on res ipsa lo-quitur. 24 L.R.A. (N.S.) 788; L.R.A. 1915F, 992.

§ 78. Incompetency of servant.

May incompetency of a minor to perform the duties of a particular employment be inferred from his minority alone. 20 L.R.A.(N.S.) 331.

May breach of duty to employ or retain none but competent servants be inferred from the fact of their incompetency. 20 L.R.A.(N.S.) 322.

Possible inference that accident to servant was due to negligence of fellow servant. 6 L.R.A.(N.S.) 354; L.R.A.1917E, **52**, 194, 208, 215, 232, **2**41, 249.

#### (f) Miscellaneous.

§ 79. Generally.

Necessity of proving negligence in mode of keeping animal known to be dangerous. 2 B. R. C. 21.

Presumption of negligence from accident to persons on defendant's premises and elsewhere than in highway. 15 L.R.A. 34.

As to negligence of directors of corporation. 55 L.R.A. 758.

Application of rule of res ipsa loquitur in case of fall of wall of building left standing after fire. L.R.A.1915C, 709.

Presumption of negligence from personal injury to guest at inn. 43 L.R.A.(N.S.) 662.

Presumption and burden of proof as to care or negligence in respect to subject of bailment. 43 L.R.A. (N.S.) 1168.

# 2. Contributory negligence.

# (a) In general.

§ 80. Generally.

Relevancy of evidence as to, see infra, § 269.

Burden of proof as to contributory negligence. 33 L.R.A.(N.S.) 1085.

Relation between presumption of care and burden of proof as to contributory negligence. 33 L.R.A.(N.S.) 1097.

As to intoxication as affecting negligence. 40 L.R.A. 142; 47 L.R.A. (N.S.) 740 Contributory negligence of child. L.R.A. 1917F, 42, 76.

§ 81. Of person killed by another's negligence.

As to exercise of due care by person found to have been killed through al-leged negligence of another. 16 L.R.A. 261.

6 1 7 1 3 2 2

EVIDENCE, III. g, 2 (a)—cont'd

Right to rely on presumption of self-preservation in an action for negligent killing, in order to prevent nonsuit, where there were no eyewitnesses to the killing. 11 L.R.A. (N.S.) 844.

Presumption of care of person killed at rail-road crossing. 4 L.R.A.(N.S.) 344.

Presumption and burden of proof as to negligence of person injured by trains operated longitudinally along public street. 49 L.R.A.(N.S.) 688.

## (b) On highway.

82. Generally.

Burden of proving contributory negligence on defective highway. 13 L.R.A. (N.S.)

Burden of proof as to contributory negligence in action against municipality on account of defects and obstructions in streets. 21 L.R.A.(N.S.) L.R.A.(N.S.) 639. 673; 48

Right of pedestrian to rely upon presumption of exercise of due care by one driving in street. 19 L.R.A.(N.S.) 166.

Presumption and burden of proof as to negligence of person injured by trains operated longitudinally along public street. 49 L.R.A.(N.S.) 688.

### (c) Of servant.

8 88. Generally.

Presumption of contributory negligence from servant's knowledge of defects and resulting dangers. 49 L.R.A. 37.

Burden of proof as to contributory negligence under fellow servant act. 33 L.R.A.(N.S.) 1219. Burden of proof as to contributory negli-

gence under employers' liability acts. 33 L.R.A.(N.S.) 1218.

Presumption as to servant's knowledge that molten metal is liable to explode. 27 L.R.A.(N.S.) 953.

Presumption and burden of proof as to capacity of minor servant to comprehend and avoid danger 29 L.R.A.(N.S.)

Possible inference that accident to servant was due to his own negligence. 6 L.R.A.(N.S.) 354; L.R.A.1917E, 52, 194, 208, 215, 232, 241, 249.

# . (d) Of parent.

84. Generally.

Unexplained presence of unattended child non sui juris in place of danger as prima facie evidence of negligence on part of parents. 16 L.R.A.(N.S.) 395.

# h. As to official acts.

§ 85. Generally.

Presumption of, to regularity of proceedings before grand jury. 26 L.R.A. As to sale of expectancy by prospective heir. (N.S.) 684.

Consult also L.R.A. Digests of Cases.

EVIDENCE, III. h-cont'd

Statute creating conclusive presumption as to validity of tax sale under proceed-ings void for jurisdictional defects where possession has not been taken. 8 L.R.A.(N.S.) 157.

§ 86. Burden of proof in action to recover for failure to execute process. Mesne process. 3 L.R.A.(N.S.) 420. Final process. 3 L.R.A.(N.S.) 422.

87. Judicial matters.

Presumption as to jurisdiction where record shows defect. 1 L.R.A.(N.S.) 740.

§ 88. From judgment.

Judgment as prima facie evidence of debt. 67 L.R.A. 590.

Judgment against officer as prima facie evidence against surety on official bond. 52 L.R.A. 170, 184, 187.

Judgment against one as prima facie evidence of amount of damages against another liable over who had no notice of the original suit. 16 L.R.A. (N.S.) 911.

i. As to rights, contracts, instruments, and property.

#### 1. In general.

§ 89. Generally.

Relevancy of evidence as to contracts, see infra, XII. l.

Sufficiency of evidence as to contracts, see infra, XIII. f.

As to conveyances in fraud of creditors, see supra, §§ 48-50.

Presumption and burden of proof as to account stated. L.R.A.1917C, 455.

Presumption that contract was not within statute of frauds or was in writing where complaint is silent on that question. 49 L.R.A.(N.S.) 6.

Burden of proof in action for specific performance of contract to leave property to child in consideration of his living with promisor. 44 L.R.A.(N.S.) 769.

Burden of proof in action to recover subscription to charity. 48 L.R.A.(N.S.) 813.

Burden of proving secondary contract abrogating or altering prior contract. L.R.A.1915B, 68.

Burden of proof in suit for relief from mistake of law as to effect of instrument. 28 L.R.A.(N.S.) 915.

As to intent characterizing omission of in-

ternal revenue stamp. 48 L.R.A. 309.

As to affixing of internal revenue stamp.
48 L.R.A. 318.

Presumption as to character of subterranean water. 19 L.R.A. 98.

Burden of proving what are depot grounds within meaning of fence laws. 7 L.R.A.

33 L.R.A. 283.

EVIDENCE, III. i, 1—cont'd

Presumption of gift by wife to husband on investment by him in his own name of wife's separate property in real estate. 6 L.R.A.(N.S.) 381; 26 L.R.A.(N.S.) 161.

Inference as to character of transaction arising from fact that it was on margin. 22 L.R.A.(N.S.) 174.

Presumption and burden of proof as to account stated. 29 L.R.A.(N.S.) 348.

§ 90. As to consideration. Parol evidence as to, see infra, VII, g.

## § 91. Alteration of instruments.

Presumption as to alteration of typewritten instrument made in duplicate. 18 L.R.A.(N.S.) 680.

Burden of explaining erasures or alterations appearing on face of will. 17 L.R.A. (N.S.) 184.

## § 91a. — as to time of.

Presumption as to time of alteration in written instrument and its effect on burden of proof. 39 L.R.A. (N.S.) 100.

§ 92. Contracts of employment. Sufficiency of evidence as to, see infra, § 310.

Presumption as to contract being that of an independent contractor. 17 L.R.A. (N.S.) 372.

Presumption of agreement to pay for services rendered by relative or member of household. 11 L.R.A.(N.S.) 873.

Rebuttal of presumption as to the gratuitous character of services rendered by relative or member of household, by proof of an agreement to remunerate them. 11 L.R.A.(N.S.) 891.

Necessity of proving that intention to charge for services rendered by relative or member of household was entertained at the time of their rendition. 11 L.R.A. (N.S.) 911.

Presumption from continuing in employer's service after the expiration of the original term. L.R.A.1918C, 706.

Presumption of condonation of servant's breach of duty from mere retention. 8 L.R.A.(N.S.) 1005.

In action by wrongfully discharged servant for damages from breach of contract. 6 L.R.A.(N.S.) 68.

Burden of proof of defensive matters in action for damages for wrongful discharge of servant. 6 L.R.A.(N.S.) 81.

Burden of proving other employment in mitigation or reduction of damages for wrongful discharge of servant. 6 L.R.A. (N.S.) 108.

Necessity of showing that alleged dissatisfaction was covered by contract containing stipulations permitting rescission by employer if work was not satisfactorily performed. 12 L.R.A.(N.S.)

EVIDENCE, III. i, 1-cont'd

§ 93. Dedication.

Of dedication from user. 6 L.R.A. 261.\*

§ 94. Abandonment.

Of abandonment of highway. 18 L.R.A. 146.

By nonuser or otherwise than by acts of public authorities. 26 L.R.A. 450.

Presumption of abandonment of easement from failure to maintain same. 2 L.R.A.(N.S.) 832.

#### 2. Different instruments.

#### § 95. Bills and notes.

Parol evidence as to, see infra, VII. f.

Do presumptions which attach to commercial paper necessarily entitle the holder to go to the jury. L.R.A.1917E, 537.

Legal presumptions in garnishment of debt evidenced by negotiable paper. L.R.A. 1918C, 764.

As to lost note. 16 L.R.A. 206.

In favor of holder of commercial paper. 10 L.R.A. 677;\* 17 L.R.A. 326.

Presumption as to fraud in inspection of negotiable instrument. 10 L.R.A. 679;\* 17 L.R.A. 328.

That new promise to pay note after notice of dishonor was made with knowledge of laches. 29 L.R.A. 314.

Does the fact that a negotiable instrument was, contrary to agreement, transferred before the happening of a certain contingency impose the burden of proof as to bona fides upon the holder. 22 L.R.A.(N.S.) 718.

Does the fact that a name signed to a bill or note below the signature of another obligor is that of a partnership raise a presumption that it is a surety only. 10 L.R.A. (N.S.) 426.

Effect of production of bill or note not transferable by delivery to establish prima facie plaintiff's title to note. 50 L.R.A.(N.S.) 581.

§ 96. — notice of dishonor.

Conduct from which notice of dishonor may be presumed. 29 L.R.A. 311.

Presumption of diligence in presentation and notice of dishonor. 29 L.R.A. 305.

§ 97. — as to indorsement.

Parol evidence as to, see infra; § 170.

As to date of indorsement. 18 L.R.A. 35.

§ 98. - in action by purchaser.

Presumption arising from possession. 17 L.R.A. 326.

Onus on maker to rebut the presumption. 17 L.R.A. 326.

Holder must prove bona fides. 17 L.R.A. 328.

Fraud or illegality in the inception of the instrument. 10 L.R.A. 679; 17 L.R.A. 328.

Begin with this book on every law question.

EVIDENCE, III. i, 2-cont'd

§ 99. Bonds.

As to lien of bottomry bonds. 70 L.R.A. 428.

Presumptions and burden of proof as to effect of delivery of bond unsigned by principal obligor. 12 L.R.A. (N.S.) 1121.

§ 100. Deeds.

Presumption from tax deed, see infra, §

As to acceptance of assignment or deed of trust for creditors. 24 L.R.A. 370.

Presumption of acceptance of deed delivered to third person. 54 L.R.A. 892.

Burden of proof that instrument importing absolute conveyance was intended as a mortgage. L.R.A.1916B, 185.

Burden of proof where conveyance of wife's real property to husband through a third person. L.R.A.1915C, 771.

As to intent of grantor in case of conveyance to one and his children to give the children an estate jointly or in common with the parent or a remainder upon a life estate in the parent. L.R.A.1917B, 76.

§ 101. - of delivery.

As to delivery of deed, from record. L.R.A. 884; 9 L.R.A.(N.S.) 224.

Possession of deed by grantor at his death as negativing delivery to grantee. 44 L.R.A.(N.S.) 528.

§ 101a. Lease.

Burden of proof as to effect of provision in mining lease excusing payment of minimum royalty. L.R.A.1917E, 1078.

§ 101b. Mortgage.

Burden of proof that instrument importing absolute conveyance was intended as a mortgage. L.R.A.1916B, 185.

Presumption that mortgage is for purchase price of land and is a part of transaction of purchase as against widow's claim of dower. 52 L.R.A.(N.S.) 554.

§ 102. Wills.

As to testamentary capacity, see supra, § 39.

As to testator's intent, see supra, § 42. As to undue influence, see supra, § 53.

Sufficiency of evidence as to wills, see infra, XIII. g.

Effect of probate of will. L.R.A.1917E, 533. As to probate of will in other state. 48 L.R.A. 136.

As to fraud respecting will. 36 L.R.A. 737.

Presumption of regularity where attesting witnesses have forgotten circumstances attending execution of will. 51 L.R.A. (N.S.) 927.

§ 103. — revocation.

As to revocation of missing will. 38 [ L.R.A. 433; 50 L.R.A. (N.S.) 864. Consult also L.R.A. Digests of Cascs.

EVIDENCE, III. i, 2—cont'd Effect of unfulfilled intention to execute new will on presumptive revocation of old one. 2 B. R. C. 538.

Burden of explaining erasures or altera-tions appearing on face of. 17 L.R.A. (N.S.) 184.

103a. Insurance policy.

Sufficiency of evidence as to, see infra, § 311.

Presumption and burden of proof in action on insurance policy exempting insurer or limiting its liability in case of injury intentionally inflicted by another. 48 L.R.A.(N.S.) 524.

Burden of establishing defense of falsity of statements by insured respecting family history. L.R.A.1917C, 876.

3. Ournership; title; possession; occupation.

§ 104. Generally.

Relevancy of evidence as to, see infra, § 281.

Rebuttal of presumption that title of ground bounded on river goes to center. 42 L.R.A. 506.

Right of one in possession to maintain action for nuisance without proving title. 34 L.R.A.(N.S.) 560.

Necessity that plaintiff in ejectment prove title. 18 L.R.A. 781.

Burden of proof in detinue. 18 L.R.A. (N.S.) 1276.

Burden of showing that use on which easement is claimed was permissive and not under claim of right. 8 L.R.A. (N.S.) 149; 44 L.R.A.(N.S.) 98.

Establishment of prima facie title in plaintiff in ejectment by conveyance or chain of conveyances not running back to sovereignty or common source of title. 10 L.R.A. (N.S.) 404; 22 L.R.A. (N.S.)

Presumption as to adverse possession by tenant holding over. 53 L.R.A. 949.

Presumption as to common hoard when earnings of both spouses or of family are invested in the name of one spouse. 35 L.R.A.(N.S.) 713.

Burden of proof where marketability of title is questioned. 38 L.R.A. (N.S.)

Marketability of title subject to defeat by birth of person not in being as affected by presumption that possibility of issue is extinct. 38 L.R.A.(N.S.) 35.

As to change in character of occupation of premises. 4 L.R.A.(N.S.) 724.

Presumption as to occupation of premises as a servant or as a tenant. 4 L.R.A. (N.S.) 723.

§ 105. Presumption from possession. Presumption of fraud as to creditors from retention of possession, see supra, § EVIDENCE, III. i, 3—cont'd

Presumption arising from possession of note in action by purchaser. 17 L.R.A. 326.

Effect of production of bill or note not transferable by delivery, to establish prima facie plaintiff's title to note. 50 L.R.A. (N.S.) 581.

Presumption as to assignment of lease where leased property is in possession

of one other than the lessee. 52 L.R.A. (N.S.) 986.

Presumption of ouster of one tenant in common from long-continued undisturbed possession of another.

L.R.A.(N.S.) 185.
Inference of intent to sell intoxicating liquor. 39 L.R.A. (N.S.) 534.

105a. From tax deed.

Tax deed as presumptive evidence of title. 2 L.R.A. 773,\* 774.\*

Tax deed as prima facie evidence of truth of its recitals. 2 L.R.A. 774.\*

Tax deed as prima facie evidence of pre-

requisites complied with. 2 L.R.A. 773.\*

## j. Payment; value.

106. Payment.

Presumption as to payment by giving of commercial paper. 35 L.R.A. (N.S.)

Applicability of presumption of payment from lapse of time as against sovereign or governmental body. L.R.A.1916B,

§ 107. Value.

Relevancy of evidence as to, see infra, §

Allowance for physician's services in action for personal injuries without evidence of their value. 19 L.R.A. (N.S.) 920.

#### § 107a. Damages.

Burden of proof as to profits in suit for profits from infringement of patent or copyright. 41 L.R.A. (N.S.) 653.

Necessity for evidence as to amount of funeral and medical expenses of person negligently killed. 2 B. R. C. 720.

Presumption and burden of proof as to pecuniary loss in death action. L.R.A. 1916E, 144; L.R.A.1918C, 1056.

# k. Miscellaneous civil matters.

§ 108. Generally.

As to intoxicating character of liquor. 20 L.R.A. 648.

As to public character of purpose for which power of eminent domain is exercised. 49 L.R.A. 787.

As to time to which contingency of death of legatee or devisee without child or issue on which gift is conditioned is re- | Of reasonableness of license fees. ferable. 25 L.R.A. (N.S.) 1045. L.R.A. 432.

Begin with this book on every law question.

EVIDENCE, III. k—cont'd

Inference as to character of transaction arising from fact that it was on margin. 22 L.R.A.(N.S.) 174.

Presumption of correctness of statement of account from retention without objection. 29 L.R.A. (N.S.) 348; L.R.A. 1917C, 455.

Effect of failure to prove filing of claims by creditors and insufficiency of assets in action by trustee in bankruptcy to recover assets of estate, set aside preference, or recover property fraudulently transferred by bankrupt. 17 L.R.A. (N.S.) 350.

Presumption as to pecuniary loss in statutory action for death. L.R.A.1916E, 144; L.R.A.1918C, 1056.

Burden of proof as to applicability of Federal employers' liability act. LR.A. 1915C, 64.

Burden of proof that injury arose out of and in the course of employment within the meaning of the Workmen's Compensa-tion Act. L.R.A.1917D, 130.

Making prima facie case of responsibility for negligence of driver of automobile by proof of defendant's ownership of car or employment of driver. 46 L.R.A.

(N.S.) 1091; L.R.A.1918D, 924. Burden of proof in action between owner and contractor as to claims of mechanics and materialmen paid by owner. 44 L.R.A. (N.S.) 80.

Presumption and burden of proof in action against notary or other officer for wrong or negligence in certifying to acknowledgment or affidavit. 49 L.R.A. (N.S.) 50.

Presumption and burden of proof as to mental anguish in case of negligence in respect of telegrams. 49 L.R.A.(N.S.) 283.

Burden of proving that telegram would have accomplished its purpose in action for mental anguish for negligence in transmission of telegram. 49 L.R.A. (N.S.) 258.

Presumption that a train, which it would have been necessary to take in order that telegram might accomplish its purpose, ran on schedule time in action for damages for mental anguish for failure to deliver telegram. 49 L.R.A. (N.S.) 265.

Presumption as to receipt of communication sent through mail. 49 L.R.A. (N.S.) 458.

§ 109. Necessity.

As to necessity of obstructing street. 14 L.R.A. 559.

Must the plaintiff in an action against an infant for necessaries furnished show them actually to have been required. 1 B. R. C. 156.

#### § 110. Reasonableness.

80

EVIDENCE, III. k-cont'd

Presumption as to reasonableness of railroad rates prescribed by state for local traffic. 15 L.R.A.(N.S.) 108; 25 L.R.A.(N.S.) 1001.

Burden of proof of confiscatory or unreasonable rates established for public service corporations. L.R.A.1915A, 57.

§ 111. Matters between husband and

As to whether husband furnished wife with suitable support. 65 L.R.A. 538; 47 L.R.A. (N.S.) 281.

L.R.A. (N.S.) 281.

As to husband's failure to properly furnish necessaries for wife while living with him. 65 L.R.A. 538, 548.

Presumption that debts contracted during marriage are common debts. 19 L.R.A. 235.

Burden of proof of liability of husband for mecessaries furnished wife while living apart from him. L.R.A.1917A 969.

Presumption and burden of proof in action against husband for necessaries furnished wife while living with him. 47 L.R.A. (N.S.) 279.

Burden of proof where conveyance of wife's real property to husband through a third person is attacked. L.R.A.1915C, 771.

#### l. Oriminal matters.

§ 112. Generally.

Presumption as to character of accused, see supra, § 25.

As to sanity of accused, see supra, § 40. Presumption of malice from killing, see supra, § 44.

Relevancy of evidence in, see infra, XII.
o.

Weight and sufficiency of evidence in, see infra, XIII, i.

Effect of admission to change burden of proof in criminal case. 61 L.R.A. 562.

Power of legislature to enact prima facide rules of evidence for criminal cases. 2 L.R.A.(N.S.) 1007; L.R.A.1915C, 717.

Burden of proving contributory negligence in criminal cases. 33 L.R.A. (N.S.) 1178.

Burden of proving injury from separation of jury in capital case. 24 L.R.A. (N.S.) 779.

As to criminal responsibility of children. 36 L.R.A. 196.

Presumption as to incorporation in criminal cases. 22 L.R.A. 278.

Necessity of proving that person bore both real name and the alias by which the indictment purports to describe him. 30 L.R.A.(N.S.) 134.

Presumption as to burglary from possession of recently stolen property. 12 L.R.A. (N.S.) 200.

Burden of proving guilt of one in possession of recently stolen property. 12 L.R.A.(N.S.) 219.

Consult also L.R.A. Digests of Cases.

EVIDENCE, III. 1-cont'd

Burden of proving that weapon was not loaded in prosecution for assault with firearm. 42 L.R.A.(N.S.) 975.

Burden of proof on application for bail in capital case. 39 L.R.A.(N.S.) 772.

Presumption and burden of proof in prosecution for violation of hours of service laws. L.R.A.1915D, 422; L.R.A.1917A, 1207.

Burden of proof of impotency or senility set up as defense to prosecution for rape. L.R.A.1915B, 133.

Presumption and burden of proof as to chastity where it is an ingredient of the offense or a condition of conviction.

43 L.R.A.(N.S.) 476.

Presumption as to voluntariness of confession. 50 L.R.A.(N.S.) 1081.

§ 113. As to confessions.

As to confessions generally, see infra, IX.

Presumption as to character of confession. 18 L.R.A. (N.S.) 783.

Presumption as to voluntariness of subsequent confessions. 18 L.R.A. (N.S.) 857.

§ 114. As to alibi.

Sufficiency of proof as to, see infra, § 317. Burden of proof as to alibi. 41 L.R.A. 534.

§ 115. As to corpus delicti. Relevancy of evidence as to, see infra, §

285. Sufficiency of proof, see infra, § 318.

Necessity of proving. 68 L.R.A. 45. In larceny. 68 L.R.A. 48, 54; 28 L.R.A. (N.S.) 536.

§ 116. In prosecution for homicide. Presumption of malice from act of killing, see supra, § 44.

Relevancy of evidence in, see infra, § 286. Sufficiency of proof, see infra, § 326.

Necessity of proving corpus delicti. 68 L.R.A. 35, 46, 53.

May finding of premeditation and deliberation essential to murder in first degree rest upon evidence that at the time defendant was fleeing from the scene of another crime. L.R.A.1918C, 566.

Burden of proof in case of homicide by misadventure. 3 L.R.A.(N.S.) 1161.

Burden of proof of freedom from fault in case of homicide on plea of self-defense, 45 L.R.A. 706.

Burden of proving self-defense by preponderance of evidence in prosecution for homicide. 19 L.R.A.(N.S.) 492.

Presumption as to distinctive elements of murder in first degree from use of deadly weapon. 34 L.R.A.(N.S.) 74.

§ 117. In prosecution for sale of liquor.

Sufficiency of evidence as to, see infra, § 327.

Power of legislature to enact prima facie rules of evidence. 1 L.R.A. (N.S.) 626; L.R.A.1915C, 729. EVIDENCE, III. 1-cont'd

Inference of intent to sell intoxicating liquor. 39 L.R.A.(N.S.) 534.

Burden of proof as to license or permit in, prosecution for sale of intoxicating liquor without a license. .36 L.R.A. (N.S.) 98.

"Near beer" or other local appellation, as justifying inference as to intoxicating or other statutory quality of liquor. 48 L.R.A. (N.S.) 315.

Inference as to spirituous, vinous, distilled, malt, fermented, or intoxicating quality of liquor, from its name. 48 L.R.A. (N.S.) 302.

### IV. Best and secondary evidence.

\$ 118. Generally.

Effect of omission of stamp from instrument on admissibility as primary or second-

ary evidence. 48 L.R.A. 310.

Rebuttal of presumption of fraud in destroying primary evidence as condition of admission of secondary evidence. 34 L.R.A. 583.

Use of ledgers as secondary evidence. 52 , L.R.A. 581.

Photograph as secondary evidence. L.R.A. 804; 51 L.R.A. (N.S.) 849. 35

Oral testimony of dying declarations reduced to writing. 56 L.R.A. 427.

Proof of contents of writing by admissions. L.R.A.1918C, 664.

Secondary evidence of writing which is be-yond territorial jurisdiction of court. L.R.A.1917D, 530.

Secondary evidence of contents of will lost after probating or filing for record. 38 L.R.A. 456.

Proof of will where attesting witnesses have forgotten circumstances attending its execution. 51 L.R.A.(N.S.) 927.

Necessity and sufficiency of proof to account for nonproduction of will upon application to probate it as a lost or destroyed will. 50 L.R.A.(N.S.) 861.

Admissibility of newspaper files to prove the publication or contents of an order of publication. L.R.A.1915C, 690.

Secondary, to identify record of justice of peace. 2 L.R.A.(N.S.) 652.

Admissibility of secondary evidence of writing of privileged character of which a third person has power of disclosure. 33 L.R.A.(N.S.) 484.

Mode of proving the mailing of notice of maturity of premiums or assessments. 7 L.R.A.(N.S.) 238.

119. Oral proof of foreign laws. Presumption and burden of proof as to, see supra, § 20.

25 L.R.A. 451. In general.

The unwritten or common law-Lex non scripta. 25 L.R.A. 451.

The written law—Lex scripta. 25 L.R.A. 454.

EVIDENCE, IV.-cont'd

Construction of written laws. 462.

Proof of practice under statutes. 25 L.R.A. 462

State statutes. 25 L.R.A. 462. The English doctrine. 25 L.R.A. 467.

§ 120. As to books of account. With respect to books of account generally, see infra, V. g.

Admissibility in evidence of books of account produced on notice. 52 L.R.A. 602.

Secondary evidence of contents of absent books of account. 52 L.R.A. 604. Admissibility of statements taken from

partnership books of accounts. L.R.A. 847.

§ 120a. Notice to produce.

Use in evidence of books produced on. 52 L.R.A. 602.

Notice to produce document as making it admissible in favor of producer. 33 L.R.A.(N.S.) 553.

§ 121. Copies.

Proof of copies of genuine handwriting. 64 L.R.A. 314.

Proof of lost or destroyed will by copy or draft. 38 L.R.A. 448.

Copies of documents made by mechanical means, as originals. 12 L.R.A.(N.S.) 343.

Admissibility of copy of writing which is beyond territorial jurisdiction of court. L.R.A.1917D, 534.

Admissibility in evidence of copies of records of other states. 5 L.R.A.(N.S.) 938.

## V. Documentary evidence.

# a. In general.

§ 122. Generally.

Documentary evidence as best evidence, see supra, IV. Weight and sufficiency of, see infra, XIII.

Misuse of documentary evidence by counsel in argument to jury. L.R.A.1918D, 78.

Injunction against use of document. 51 L.R.A. 754.

Effect of omission of stamp upon use of instrument as evidence. 48 L.R.A. 310.

Use of documents before grand jury. 28 L.R.A. 320.

Aiding the interpretation of building contract by extrinsic documents or examples. 9 L.R.A.(N.S.) 1007.

Right of party producing documents upon notice, to use and control their use as evidence. 15 L.R.A. 138.

Recital in deed as evidence of heirship. 45 L.R.A. (N.S.) 93.

§ 123. Attested instruments.

Modifications of the common law. 25 L.R.A. Necessity of calling subscribing witnesses to 462.

Necessity of calling subscribing witnesses to prove. 35 L.R.A. 321.

Begin with this book on every law question.

EVIDENCE, V. a-cont'd

Proof of signature by mark when attesting witnesses thereto are dead or cannot remember the transaction. 44 L.R.A. 142.

§ 124. Effect of calling for and inspecting document to make it competent.

In favor of party calling. 33 L.R.A. (N.S.) 552.

In favor of producer. 33 L.R.A.(N.S.) 553. Miscellaneous. 33 L.R.A.(N.S.) 556.

§ 125. Documents taken from defendant.

Admissibility against defendant of documents taken from him. 59 L.R.A. 467; 8 L.R.A. (N.S.) 762; 34 L.R.A. (N.S.) 58; L.R.A.1915B, 834; L.R.A.1916E,

b. Records, reports, and orders; legislative journals.

§ 126. Records.

Record of mining claim as evidence. L.R.A. (N.S.) 879.

Train despatcher's record as evidence.

L.R.A.(N.S.) 1190.

May records of sales of liquor which a druggist is required by law to keep be used as evidence against him in a criminal prosecution. 25 L.R.A.(N.S.) 818.

Effect of public record as notice or evidence of notice to start statute of limitations against action based on fraud. 22 L.R.A.(N.S.) 208.

Sufficiency of record offered to prove conviction or acquittal. L.R.A.1916B, 954. Physician's private records or memoranda as evidence of birth, death, etc. L.R.A.

1915F, 803. Admissibility of entries in diary. 51 L.R.A. (N.S.) 813.

§ 127. — of deeds.

Admissibility of record, or copy of record, of deed, to prove deed under which party offering it claims. 19 L.R.A. (N.Š.) 438.

§ 128. —of other states.

Admissibility of copies of records of other states. 5 L.R.A.(N.S.) 938.

129. Legislative journals.

Conclusiveness of enrolled bill, see infra, § 308a.

Of legislative journals. 23 L.R.A. 340.

§ 130. Reports; orders.

Admissibility of report by agent or employee to employer to prove facts in issue. 18 L.R.A. (N.S.) 231; 25 L.R.A. (N.S.) 930; 47 L.R.A. (N.S.) 830.

o. Judgments; findings; pleadings.

131. Judgments.

Weight and sufficiency of, see infra, § 308. Consult also L.R.A. Digests of Cases.

EVIDENCE, V. c-cont'd

Judgment against officer as evidence against surety on official bond. 52 L.R.A. 165, 184, 187.

Judgment against one as prima facie evidence of amount of damages against another liable over who had no notice of the original suit. 16 L.R.A.(N.S.) 911.

132. - in criminal prosecution. Judgment rendered in a civil action. 26 L.R.A. (N.S.) 461.

§ 133. Findings.

Admissibility of coroner's finding to show cause of death. 68 L.R.A. 285; 45 L.R.A.(N.S.) 404; L.R.A.1918E, 924.

§ 133a. Pleadings.

Use of plea of nolo contendere against defendant or third person in another proceeding. 41 L.R.A.(N.S.) 73, 74. Former plea of guilty. L.R.A.1918E, 92.

## d. Depositions, former testimony, and affidavits.

§ 134. Generally.

As to former testimony, see infra, XI. k.

Admissibility of testimony or deposition given in action for personal injury, in another action growing out of the same injury or accident, in which the witness or deponent is not available. L.R.A.1916A, 990.

Admissibility after death of adversary of deposition of party taken before former's death and relating to a personal transaction with him. L.R.A.1915F, 771.

#### e. Memoranda: receipts.

§ 135. Memoranda.

Use of memoranda. 28 L.R.A. 143.

Admissibility of memoranda on check stubs. 42 L.R.A.(N.S.) 727.

Admissibility of insurance agent's memoranda as to policies and risks. L.R.A.(N.S.) 1169.

Admissibility in evidence of books of account containing entries transferred from. 52 L.R.A. 577.

Scope and effect of statutes making competent entries and memoranda of deceased person. 44 L.R.A.(N.S.) 28.

Admissibility of entries in diary. 51 L.R.A. (N.S.) 813.

Physician's private memoranda as evidence of birth, death, etc. L.R.A.1915F, 803.

§ 136. Receipts.

As evidence of payment as against third parties. 29 L.R.A. 737.

Right of insurance company to rely on clause giving it option as to payee of proceeds of policy and making receipt conclusive evidence of payment to proper person. 20 L.R.A.(N.S.) 928. EVIDENCE, V.—cont'd

#### 1. Letters; telegrams.

§ 137. Letters.

Admissibility of, as proof of partnership. 20 L.R.A. 598.

Necessity of proof of genuineness of reply letter. 17 L.R.A.(N.S.) 229.

Admissibility of insurance agent's letters as to policies and risks. (N.S.) 1169. 37 L.R.A.

Letters identified only by prosecutrix as corroboration of her testimony to prove seduction or rape. 49 L.R.A.(N.S.)

§ 138. Telegrams.

Admissibility of telegram on behalf of person receiving it in reply to another. 44 L.R.A. 438.

## g. Account books.

§ 139. Generally. Authentication of books of account and entries as affecting admissibility in evidence. 52 L.R.A. 590.

Admissibility of, in evidence in case of money loaned or payments made by party whose books are offered. 2 L.R.A. (N.S.) 401.

Admissibility, upon testimony of book-keeper, of entries in a party's books account, based upon oral or written statements by others. 36 L.R.A.(N.S.) 899.

Admissibility of card index or loose-leaf system of accounts. L.R.A.1916B, 634.

§ 140. Partnership books.

General rules as to admissibility. 52 L.R.A.

In favor of the partnership or a partner. 52 L.R.A. 836.

Against the partnership or a partner. 52 L.R.A. 838.

As between the partners. 52 L.R.A. 842. As between third persons. 53 L.R.A. 538. Entries in partnership books of account as admissions or as creating an estoppel. 53 L.R.A. 534.

Admissibility of entries in partnership books of account by absent or deceased partner. 52 L.R.A. 561.

Admissibility of entry of sale and delivery of goods in books of account to charge copartnership. 52 L.R.A. 693.

#### § 141. Party's books as evidence in his own favor.

General doctrines independent of, and under, statutes. 52 L.R.A. 546.

Rule where party keeps a clerk. 52 L.R.A. 570.

Form and requisites generally. 52 L.R.A. 572.

Entries original or transferred. 52 L.R.A. 576.

Begin with this book on every law question.

EVIDENCE, V. g-cont'd

Time for making the entries. 52 L.R.A. 583.

Regularity as to course of business. L.R.A. 587.

Entries showing intent to charge. 52 L.R.A.

Authentication and correctness of books and entries. 52 L.R.A. 590.

Knowledge of the person making the entries. 52 L.R.A. 595.

Effect of exhibition of books to, and admission of correctness by, charged. 52 L.R.A. 598. the person

Use of whole book after use of part. 52 L.R.A. 600.

Books produced on notice. 52 L.R.A. 602. Production of all books pertaining to trans-

actions. 52 L.R.A. 602. Pass books. 52 L.R.A. 602.

Secondary evidence of contents of absent books. 52 L.R.A. 604.

Province of court and jury. 52 L.R.A. 608.

# § 142. Books as evidence between other parties.

The general rule. 53 L.R.A. 513.

Exceptions—enumerated. 53 L.R.A. 515. Entries against interest. 53 L.R.A. 516. Entries constituting part of the res gestar. 53 L.R.A. 521.

Entries required by legal or particular duty. 53 L.R.A. 521.

Entries in the course of business. 53 L.R.A. 526.

Ancient books. 53 L.R.A. 532.

Use of, to contradict, corroborate, or explain other evidence. 53 L.R.A. 532. Entries treated as admissions, or as creating an estoppel. 53 L.R.A. 534.

Necessity of authentication and proof of death or absence. 53 L.R.A. 540.

Variation of rules by statutory and constitutional provisions. 53 L.R.A. 542.

### § 143. - entries made by deceased persons.

Admissibility, as between third parties, of entries against interest made by deceased persons in books of account. 2 B. R. C. 670.

### § 144. What provable by books. Generally. 52 L.R.A. 689.

Sale and delivery of goods. 52 L.R.A. 690.

Work done, and services rendered, and materials furnished. 52 L.R.A. 697. Money paid out or loaned. 52 L.R.A. 703. Collateral facts generally. 52 L.R.A. 710. Contracts and their performance. 52 L.R.A. 711.

Ownership of property. 52 L.R.A. 716. Contradiction and corroboration of witnesses. 52 L.R.A. 717.

Pecuniary condition. 52 L.R.A. 719. Proof of negative. 52 L.R.A. 719.

Amount and value of insured goods burned. 52 L.R.A. 721.

Miscellaneous cases. 52 L.R.A. 722.

## EVIDENCE, V .- cont'd

### h. Entries in family Bible or other religious book.

§ 143. Generally. General rule. 41 L.R.A. 449. Grounds upon which admitted. 41 L.R.A. Cases in which admitted. 41 L.R.A. 452. Time of entry material. 41 L.R.A. 454. Necessity of production of book. 41 L.R.A. 454. Necessity of proof of handwriting. L.R.A. 455. When declarant is alive. 41 L.R.A. 455. When excluded. 41 L.R.A. 456. Right of jury to book on retirement. 41 L.R.A. 456.

# i. Scientific books and treatises.

§ 146. Generally. Exact sciences. 40 L.R.A. 553. Inexact sciences. 40 L.R.A. 561. Law. 40 L.R.A. 572. Miscellaneous matters. 40 L.R.A. 574.

### j. Mortality tables.

147. Generally. Weight and sufficiency of, see infra, § 307. Mortality tables as evidence. 40 L.R.A. 553; L.R.A.1918C, 1071.

Necessity of showing authenticity of mortality tables offered in evidence in death action. L.R.A.1918C, 1076.

Method of authenticating mortality tables. 17 L.R.A.(N.S.) 1138.

## k. Miscellaneous documents.

§ 148. Generally. Price lists as evidence. 17 L.R.A. 851. Use of photographs of documents as evidence. 35 L.R.A. 811; 51 L.R.A. (N.S.) 857.

Ordinances as evidence in private action for violation of ordinance affecting operation of railroads. 5 L.R.A. (N.S.) 216.

Census returns as evidence of age. 9 L.R.A. (N.S.) 718.

Newspaper quotations as evidence of value. 16 L.R.A.(N.S.) 758.

In prosecution for infringement of union labels. 39 L.R.A.(N.S.) 1202.

Resort to documentary evidence other than journals in aid of enrolled bill. L.R.A.(N.S.) 34.

Admissibility of entries in diary. 51 L.R.A. (N.S.) 813.

Admissibility of abstract under the Torrens Law. L.R.A.1916D, 40.

### l. For purposes of comparison.

§ 149. Generally. Opinion evidence as to handwriting or type Identification of a person by voice. writing, see supra, VIII. h. L.R.A.(N.S.) 373. writing, see supra, VIII. h.
Consult also L.R.A. Digests of Cases.

EVIDENCE, V. 1-cont'd

Use of photographs of documents for. 35 L.R.A. 812; 51 L.R.A. (N.S.) 857.

Admission of document, not otherwise relevant as standard of comparison of handwriting. 18 L.R.A. (N.S.) 520.

Use of letter press copy as standard for comparison of handwriting. 63 L.R.A.

Finger prints as evidence. 43 L.R.A. (N.S.) 1206.

# m. Putting whole writing in evidence.

§ 150. Generally. Use of whole book of accounts after use of part. 52 L.R.A. 600.

VI. Demonstrative evidence; articles and things; view of jury.

§ 151. Generally.
Articles taken from accused, see infra, § 214.

As to protection of accused against selfincrimination, see CRIMINAL LAW, §§ 49-53.

Physical examination of party, see Dis-COVERY AND INSPECTION, § 5.

Exhibition of article or sample to jury on issue of quality of goods. 35 L.R.A. (N.S.) 1021.

Right of jury in criminal case to determine one's age by inspection or observation. 40 L.R.A.(N.S.) 470.

Finger prints as evidence. 43 L.R.A. (N.S.) 1206; 3 B. R. C. 70.

Permitting expert witness as to handwriting and typewriting to use diagrams and black boards. L.R.A.1918D 645.

§ 152. Dead body or portion of it. Admission in evidence of portions of body of deceased on trial for homicide. 12 L.R.A.(N.S.) 238.

Right of court to order disinterment of corpse for evidential purposes. 22 L.R.A. (N.S.) 513.

153. Things taken from accused. Admissibility against defendant of documents or articles taken from him. 59
L.R.A. 467; 8 L.R.A.(N.S.) 762: 34
L.R.A.(N.S.) 58; L.R.A.1915B, 834; L.R.A.1916E, 715.

### § 154. Resemblance as evidence of relationship.

Parol testimony as to resemblance. L.R.A. 500.

Exhibition of person for purpose of comparison. 52 L.R.A. 502.

Exhibition of child for purpose of determining paternity in bastardy proceedings. L.R.A.1917B, 1148.

Comment by counsel in argument. L.R.A. 505.

153. Identification by voice.

EVIDENCE, VI.—cont'd

Necessity and sufficiency of identification as foundation for admission of conversation or communication by telephone. 6 L.R.A.(N.S.) 1180; L.R.A.1918D, 720.

§ 156. Photographs.

In general. 35 L.R.A. 802; 51 L.R.A. (N.S.) 843.

Proof of correctness. 35 L.R.A. 803; 51 L.R.A. (N.S.) 843.

As secondary evidence. 35 L.R.A. 804; 51 L.R.A. (N.S.) 849.

Discretion of court. 35 L.R.A. 805.

Of persons. 35 L.R.A. 805; 51 L.R.A. (N.S.) 850.

Of places. 35 L.R.A. 808; 51 L.R.A. (N.S.) 853.

Of documents. 35 L.R.A. 811; 51 L.R.A. (N.S.) 857.

For purpose of comparison of handwriting. 35 L.R.A. 812; 63 L.R.A. 438; L.R.A.1918D, 645.

Photographic copies of documents as originals. 12 L.R.A.(N.S.) 343. Of other things. 35 L.R.A. 814; 51 L.R.A.

(N.S.) 858.

Extraneous matter on photographs. 35 L.R.A. 815; 51 L.R.A. (N.S.) 858. X-ray photographs. 35 L.R.A. 815; 51 L.R.A. (N.S.) 858.

Effect and conclusiveness of photographs introduced in evidence. 15 L.R.A. (N.S.) 1162.

§ 157. Phonograph. Evidence by. 8 L.R.A. (N.S.) 306.

§ 158. Experiments.

Generally. 15 L.R.A. 221.

Experiments outside of the courtroom. 15 L.R.A. 222.

Experiments in the courtroom. 15 L.R.A.

Self-incriminating evidence. 15 L.R.A. 223. During view by jury. L.R.A. (N.S.) 720. 42 L.R.A. 384; 34

Probability, without direct evidence, of existence of condition as basis for admission of experiment. 8 L.R.A. (N.S.) 974.

§ 158a. — by jury.

Experiments by jurors. 15 L.R.A. 221; 34 L.R.A. (N.Š.) 717.

During view. 42 L.R.A. 384; 34 L.R.A. (N.S.) 720.

§ 159. View of jury. Right to. 42 L.R.A. 368.

Discretion of the court as to. 42 L.R.A. 372.

Conduct of view. 42 L.R.A. 375.

Experiments during. 42 L.R.A. 384; 34 L.R.A. (N.S.) 720.

Nature and effect of view. 42 L.R.A. 385. Appeals and reviews. 42 L.R.A. 391. Costs of view. 42 L.R.A. 393.

Unauthorized views. 42 L.R.A. 394; L.R.A. | As to recital in insurance policy of receipt. 1915B. 703.

EVIDENCE, VI.—cont'd

View outside the territorial jurisdiction ... L.R.A.1917F, 984.

VII. Parol and extrinsic evidence asto writing.

#### a. In general.

§ 160. Generally.

Parol evidence as best or secondary, see-

supra, IV. Statute of frauds generally, see Contracts, §§ 25-59.

Parol evidence rule as to estoppel or waiverby insurance company, see INSURANCE, § 144.

As to wills, see WILLS, § 61.

General rule that parol evidence not admissible to vary, add to, or alter a written contract. 6 L.R.A. 38;\* 17 L.R.A. 270.

As to warehouse receipts. 19 L.R.A. 304. show nature of partition deed. 57 To L.R.A. 341.

To show partnership in real estate. L.R.A. 464; 37 L.R.A.(N.S.) 898.

To vary contract between heir and ancestor relating to expectancy. 32 L.R.A. 597.

Parol evidence as to whether guaranty was a continuing one. 39 L.R.A. (N.S.) 740. Resort to parol evidence in aid of enrolled

bill. 40 L.R.A. (N.S.) 35. Impeachment of enrolled bill by parol evi-

dence. 40 L.R.A.(N.S.) 32. Consideration of extrinsic evidence to showunconstitutionality of statute. L.R.A. 459; L.R.A.1915D, 458.

Admissibility of extrinsic evidence as to-time for delivery of goods where none is specified in written contract. 31 L.R.A.(N.S.) 619.

Admissibility of parol evidence as to manner or means of paying written-contract not within statute of frauds, purporting to be payable in money. 31 L.R.A.(N.S.) 235.

Parol evidence rule as to varying or contradicting written contracts as affected' by the doctrine of waiver or estoppel as applied to policies of insurance. 16 L.R.A. (N.S.) 1165.

Parol evidence to segregate lienable and nonlienable items intermingled in mechanics' lien claim. 39 L.R.A. (N.S.)

Bill of review for newly discovered parol' evidence. 30 L.R.A. (N.S.) 1035.

Parol evidence to vary or supplement minutes of public body. 50 L.R.A. (N.S.) 99.

Admissibility of extrinsic evidence as ta-time for delivery of goods where none is specified in written contract. L.R.A. 1916B, 1039.

Deposit slips and deposit entries in pass books as contracts within the rule against parol evidence to vary or contradict written contracts. L.R.A.1918B, 298.

of first premium. L.R.A.1918A, 308.

Begin with this book on every law question.

EVIDENCE, VII. a-cont'd Applicability of rule excluding parol evidence to vary a written contract in favor of or against a stranger to the contract. L.R.A.1916A, 592.

#### b. Custom.

§ 161. Generally.

Admissibility of parol evidence that prohibited articles were customarily kept on such premises as those insured. L.R.A.1917C, 296. Admissibility of evidence of custom to ere-

ate an exception to written contract.

3 L.R.A.(N.S.) 248.

Parol evidence of custom to vary or supplement minutes of public body. 50

L.R.A. (N.S.) 102.

Extrinsic evidence of custom or usage as to time for delivery of goods where none is specified in written contract. 31 L.R.A.(N.S.) 619; L.R.A.1916B, 1040.

# c. Prior and collateral parol agree-

§ 162. Generally.

Admissibility of, to vary terms of written contract, generally. 17 L.R.A. 273.

Admissibility of parol evidence as to im-

provements to be made on tract from which a lot is sold. 36 L.R.A.(N.S.)

Admissibility of evidence of conversation expressly referred to in written con tract. 32 L.R.A.(N.S.) 383.

Proof of escrow agreement by parol. 18 L.R.A. (N.S.) 337.

Admissibility of parol evidence to show reservation of growing crops from deed. 23 L.R.A. (N.S.) 1218; L.R.A.1917C, 37, 44.

Parol evidence that written instrument for payment of money was executed in reliance on parol promise that payment was subject to a condition not incorporated therein. 18 L.R.A.(N.S.) 434.

Admissibility of parol evidence that payment agreed in writing to be made was to be made by note. 3 B. R. C. 77.

Admissibility of parol evidence to affect scope of covenants in a conveyance of real property. L.R.A.1916E, 221.

Competency of parol evidence of an agreement by the vendor of a business not to re-engage therein, where some part of the agreement has been reduced to writing. L.R.A.1917B, 276.

§ 163. — warranty.

Right to show parol warranty in connection with a contract of sale of personalty. As 19 L.R.A.(N.S.) 1183.

Consult also L.R.A. Digests of Cases.

EVIDENCE, VII.-cont'd

### d. Subsequent changes.

164. Generally. To show waiver. 13 L.R.A. 633.

# e. Meaning; intention; explanation.

§ 165. Meaning.

May an instrument not on its face of a testamentary character be shown by extrinsic evidence to be such, so as to take effect as a will. 13 L.R.A. (N.S.) 1203.

166. Intention.

Presumption and burden of proof as to, see supra, § 41. Opinion evidence as to, see infra, § 197.

Relevancy of evidence as to, see infra, §§ 255, 256.

Sufficiency of evidence as to, see infra, § 299.

As to purpose of indorsement of commercial

paper, see infra, § 170. Parol evidence that deed was intended to operate as a mortgage or pledge, see infra, § 182.

Of parties to written contract, admissibility of parol evidence to prove. 6 L.R.A. 40;\* 17 L.R.A. 273. To show that a writing was not intended

to create legal relations, but was executed as a sham. L.R.A.1917B, 263.

Parol evidence to show persons meant by ambiguous designation in policy on property belonging to decedent's estate. 42 L.R.A.(N.S.) 82.

Right to show by extrinsic evidence that payment of judgment against, or consideration for release of, alleged joint tort feasor, was not a satisfaction of claim. 14 L.R.A.(N.S.) 329.

Parol evidence to show that the parties to a written contract which merely names a class or species contemplated a particular quality or kind. (N.S.) 967.

Right to show by extrinsic evidence that payment of judgment against or consideration for release of alleged joint tort feasor was not a satisfaction of claim. 14 L.R.A.(N.S.) 330; 33 L.R.A. (N.S.) 983.

Admissibility of parol evidence to show to which indorsement qualifying words belong. 49 L.R.A.(N.S.) 789.

Admissibility of parol evidence as to mo-tive or intention to contradict minutes of public body. 50 L.R.A.(N.S.) 102.

# § 167. — of testator.

Presumption and burden of proof as to,

see supra, § 42.
Relevancy of evidence as to, see infra, § 257.

to intention to incorporate extrinsic document into will. 68 L.R.A. 384.

EVIDENCE, VII. e-cont'd

Admissibility of extrinsic evidence of testator's intent to adeem legacy or de-legacy by gift. 39 L.R.A. (N.S.) 592; 40 L.R.A. (N.S.) 551, 558; L.R.A.1916C, 618.

Admissibility of extrinsic evidence for the purpose of charging property with pay ment of legacies or debts where the will is silent on that point. 19 L.R.A. (N.S.) 457.

Admissibility of extrinsic circumstances in ascertaining intention of testator in respect to disinheriting an after-born child. 13 L.R.A.(N.S.) 780.

Admissibility of extrinsic evidence as to whether omission of child from will intentional. L.R.A. (N.S.) 646.

Admissibility of extrinsic evidence to show that instrument, on its face a will, was not intended as such. 28 L.R.A. (N.S.) 417.

May beneficiary be put to his election by extrinsic evidence of testator's intention. 28 L.R.A.(N.S.) 657.

Admissibility of parol evidence to create or rebut presumption of satisfaction of debt by legacy or devise to creditor. L.R.A.1915B, 1178.

## § 168. To aid construction and explain ambiguities.

To explain telegrams. 50 L.R.A. 245.

Admissibility of parol evidence to aid in construction of fire insurance policy covering "additions." 33 L.R.A.(N.S.)

Parol evidence to vary or contradict insurance policy which is ambiguous. 16 L.R.A.(N.S.) 1181.

Admissibility, under rule that parol evidence is admissible to explain ambiguities, of parol evidence that written instrument importing an absolute conveyance was intended as a mortgage or pledge. L.R.A.1916B, 64.

#### f. As to commercial paper.

## § 169. Generally.

Presumption and burden of proof as to, see supra, §§ 95-98.

Applicability of rule excluding parol evidence to vary contract in favor of or against a stranger to the contract.

L.R.A.1916A, 597, 608. Admissibility of parol evidence to show to which indorsement qualifying words belong. 49 L.R.A.(N.S.) 789.

### § 170. Purpose of indorsement. Presumption and burden of proof as to. see supra, § 97.

Parol evidence to show intention of party indorsing paper before delivery. L.R.A. 33.

As to intention of irregular indorser. 18 L.R.A. 36.

Begin with this book on every law question.

## EVIDENCE, VII. f-cont'd

171. - unrestricted indersement. Right to show by parol evidence that indorsement unrestricted in form was made for purpose of collection enly. 17 L.R.A. (N.S.) 838.

Admissibility of parol evidence, as between indorser and indorsee, that unrestricted indorsement was made merely to transfer title to the owner. 28 L.R.A.(N.S.) 530.

# § 172. Character of parties to.

Parol evidence to disclose and charge principal on negotiable paper executed by agent. 21 L.R.A.(N.S.) 1080.

Admissibility of parol evidence to vary the liability of an irregular party to a bill or note from that declared by the negotiable instruments act. 19 L.R.A. (N.S.) 136.

Admissibility of parol evidence as to liability of accommodation parties inter se. 28 L.R.A. (N.S.) 1045.

Right of agent to show that a note signed: by him apparently as obligor was not to be delivered until words indicating representative capacity had been added to his signature. L.R.A.1915A, 590.

#### 173. Conditions in.

Admissibility of parol evidence to show that bill or note was delivered upon condition. 18 L.R.A. (N.S.) 288; L.R.A. 1917C, 306.

Admissibility of parol evidence of an agreement between accommodation partiesto become cosureties. 28 L.R.A. (N.S.) 1045.

Admissibility of parol evidence to prove-agreement by bank officer that liability of party to commercial paper shall not be enforced. 28 L.R.A.(N.S.) 501.

Admissibility of parol evidence that written instrument for the payment of money was executed in reliance upon parol promise that payment was subject to a condition not incorporated therein. 18 L.R.A. (N.S.) 434.

# § 174. To show who is liable as-

Principals and agents. 20 L.R.A. 705.

Right of agent to show that a note signed by him apparently as obligor was not to be delivered until words indicating representative capacity had been added to his signature. L.R.A.1915A, 590. Principal and surety. 20 L.R.A. 711.

#### g. As to consideration.

#### 175. Generally.

Presumption and burden of proof as to, see supra, § 90.

Admissibility, under rule admitting parol evidence to show real consideration of contract, of parol evidence that written instrument importing an absolute transfer of title was intended as a mortgage or pledge. L.R.A.1916B, 63. EVIDENCE, VII. g-cont'd

\$ 176. Of deed.
In general. 20 L.R.A. 101; 68 L.R.A. 928;
25 L.R.A.(N.S.) 1194. 14 he. 41
Where sale was made "subject to" an en-

cumbrance. 20 L.R.A. 106.

Evidence to deny receipt of consideration acknowledged as paid by the deed. 20 L.R.A. 102; 25 L.R.A. (N.S.) 1197.

Evidence to show an additional considera-tion. 20 L.R.A. 103; 25 L.R.A. (N.S.) 1198.

Evidence to show what is meant by other considerations. 25 L.R.A. (N.S.) 1201.

Evidence that consideration was given for something in addition to the land. 20 L.R.A. 105; 25 L.R.A.(N.S.) 1201.

Evidence to show that expressed consideration is larger than agreed consideration. 25 L.R.A. (N.S.) 1202.

Evidence to show that grantee assumed existing liens. 25 L.R.A.(N.S.) 1202.

Evidence to show that the land had been sold by unit of measurement.

L.R.A. 106; 25 L.R.A.(N.S.) 1204.

Payment otherwise than in money. L.R.A. 106.

Evidence to show that the deed was intended as an advancement. 20 L.R.A. 108; 25 L.R.A.(N.S.) 1205.

Evidence as to damages for breach of covenant. 20 L.R.A. 107; 25 L.R.A. (N.S.) 1205.

Evidence to show a valuable consideration where the deed expresses a good or a nominal consideration only, or vice versa. 25 L.R.A.(N.S.) 1205.

Where the consideration is contractual. 25 L.R.A. (N.S.) 1207.

Evidence as to consideration which tends to vary the deed. 25 L.R.A.(N.S.) 1208. Evidence to invalidate the deed. 25 L.R.A. (N.S.) 1209.

In an action by the grantor to set aside the deed. 20 L.R.A. 108.

To establish a trust in a third person. 20 L.R.A. 109.

To establish a use. 20 L.R.A. 109.

In an action by a creditor to set aside. 20 L.R.A. 110.

Deed by or to a married woman. 20 L.R.A.

In an action by one grantee against another. 20 L.R.A. 113.

Admissibility of parol evidence to show true nature of transaction where the recited consideration of a deed is shown not to have been paid. 24 L.R.A.(N.S.) 413.

#### h. Fraud: surprise: mistake: omissions.

§ 177. Fraud; surprise; mistake. Presumption and burden of proof as to fraud, see supra, § 47.

Relevancy of evidence as to fraud, see infra, § 259.

Sufficiency of evidence as to fraud, see infra, § 301.

As exception to rule excluding parol evidence to vary written contract, generally. 6 L.R.A. 45, 46, 838; 17 17 | ally. 6 L L.R.A. 272.

Consult also L.R.A. Digests of Cases.

EVIDENCE, VII. h-cont'd

§ 178. — to correct description

To show mistake in description of land devised. 16 L.R.A. 321; 6 L.R.A.(N.S.) 943; L.R.A.1915E, 1008.

May an extrinsic document not referred to in a memorandum of sale of real property be referred to in aid of a defective description in the memorandum or contract so as to satisfy the statute of frauds. 18 L.R.A.(N.S.) 616.

§ 179. Omissions. To supply omission. 6 L.R.A. 324.

# i. Condition; trust; mortgage.

### § 180. Condition.

In bill or note, see supra, § 173.

Admissibility of parol evidence to show that release was delivered upon condition. 36 L.R.A.(N.S.) 1147.

Right of an agent to show that a contract signed by him apparently as obligor was not to be delivered until words indicating representative capacity had been added to his signature. L.R.A. 1915A, 590.

 § 181. Parol evidence as to trusts.
 To establish trusts. 6 L.R.A. 47;\*
 L.R.A. 401;\* 17 L.R.A. 270. In case of partnership lands. 27 L.R.A. 464.

# § 182. Mortgage.

In case of mortgage of future or growing crops. L.R.A.1917C, 27, 28, 30.

Admissibility of extrinsic evidence to extend scope of mortgage clause. 34 L.R.A.(N.S.) 503.

Parol evidence that a written instrument which on its face imports a complete transfer of a legal or equitable estate or interest in property was intended to operate as a mortgage or pledge. L.R.A.1916B,

Applicability of rule excluding parol evidence to vary contract in favor of or against a stranger to the contract. L.R.A.1916A, 594, 606.

# j. To identify subject or persons.

§ 183. Generally.

To identify mortgaged property in case of mortgage of future or growing crops. L.R.A.1917C, 28.

To identify grantees in deed describing them by firm name. 1 L.R.A.(N.S.) 157.

Parol evidence to establish identity of legatee or devisce. 47 L.R.A.(N.S.) 514.

As to resemblance between persons. 52

L.R.A. 500.

# k. Character of party.

§ 184. Generally. To commercial paper, see supra, § 172. EVIDENCE, VII. k-cont'd As to party in interest in contract. 25 L.R.A. 265.

Parol evidence that one of the persons who signed an instrument relating to real property was agent for undisclosed principal. 24 L.R.A. (N.S.) 315.

Right of agent to show that a contract signed by him apparently as obligor was not to be delivered until words indicating representative capacity had been added to his signature. L.R.A. 1915A, 590.

#### VIII. Opinions and conclusions; expert testimony.

#### a. In general.

185. Generally.

Weight of expert testimony, see infra, § 290.

Right of witness to express an opinion on nontechnical subject because of impossibility or difficulty of reproducing the data. L.R.A.1918A, 662.

Admissibility of opinions founded on books of inexact sciences, 40 L.R.A. 566.

Admissibility of dying declarations consisting of opinions and conclusions. L.R.A. 375; 21 L.R.A. (N.S.) 840.

By person causing accident made sometime thereafter as res gestæ. 42 L.R.A. (N.S.) 938.

Constitutionality of statute permitting court to appoint expert witnesses. 33 L.R.A. (N.S.) 917.

# b. Hypothetical questions.

🖁 186. Generally.

To witness testifying as to sanity or insanity. 39 L.R.A. 313.

Opinion of expert witness as basis of question to other witnesses. 29 L.R.A. (N.S.) 537.

# c. Cause and effect.

§ 187. Generally.

Relevancy of evidence as to, see infra, § 248.

Right of witness to express opinion as to, because of impossibility or difficulty of reproducing the data. L.R.A.1918A,

Admissibility of opinion of witness as to damaging effect of libel or slander. 35 L.R.A.(N.S.) 1119.

May perjury be predicated of testimony as to effect of an understanding or agreement. 22 L.R.A.(N.S.) 1216.

§ 187a. Cause of occurrence or acci-

Expert opinions. L.R.A.1915A, 1045. Nonexpert opinions. L.R.A.1915A, 1053. Miscellaneous. L.R.A.1915A, 1056.

§ 187b. Cause of death, disease, or

Expert opinions. L.R.A.1915A, 1058. Begin with this book on every law question.

EVIDENCE, VIII. c-cont'd

Nonexpert opinions. L.R.A.1915A, 1076. Admissibility of opinion evidence as to whether wounds or other external injuries were self-inflicted. L.R.A.1915A, 1088.

Admissibility of opinion evidence as to kind or nature of weapon or object with which wound or other external injury was inflicted. L.R.A.1915B, 1143.

#### d. Intoxication.

3 188. Generally.

Opinion evidence by nonexperts as to intoxication. 11 L.R.A. (N.S.) 639.

Opinion evidence as to intemperance of particular person. 15 L.R.A.(N.S.) 583.

## e. Sanity and mental capacity.

189. Generally.

Relevancy of evidence as to, see infra, § 254. Sufficiency of evidence as to, see infra, §§ 291, 292, 297, 298, 316.

§ 190. Expert opinion as to. Admissibility; generally. 39 L.R.A. 305. Privilege of witnesses. 39 L.R.A. 306. From observation or examination. L.R.A. 308.

From the evidence. 39 L.R.A. 310. On hypothetical statements or questions. 39 L.R.A. 313.

Qualifications of experts. 39 L.R.A. 317. Basis of facts or reasons for opinion. 39 L.R.A. 319.

Cross-examination; contradiction; redirect examination, 39 L.R.A. 326. Weight. 39 L.R.A. 328; 42 L.R.A. 767. In prosecution for rape of female of unsound mind. L.R.A.1916F, 749.

191. Nonexpert opinion as to. The general rule as to admissibility. L.R.A. 721.

Exceptions. 38 L.R.A. 724.

As to the contractual or testamentary

capacity of another. 37 L.R.A. (N.S.)

In prosecution for rape of female of unsound mind. L.R.A.1916F, 749. What constitutes opinion evidence.

L.R.A. 727. Who may give. 38 L.R.A. 728.

Acquaintance necessary. 38 L.R.A. 729. Facts and reasons as a basis for an opinion. 38 L.R.A. 733.

Time to which opinion relates. 38 L.R.A. 743.

Cross-examination, rebuttal, and impeachment. 38 L.R.A. 743.

Weight. 38 L.R.A. 745; 39 L.R.A. 331.

§ 192. - opinions of subscribing witnesses.

Admissibility. 39 L.R.A. 715. Necessity of giving. 39 L.R.A. 717. Scope. 39 L.R.A. 718. EVIDENCE, VIII. e-cont'd Contradiction. 39 L.R.A. 719. Weight. 39 L.R.A. 720.

§ 193. Right of witness to give opinion on exact issue. The general rule. 36 L.R.A. 64. Criminal prosecutions. 36 L.R.A. 65. Evidence with respect to contracts and deeds. 36 L.R.A. 65. Evidence with respect to guardianship of the insane. 36 L.R.A. 66. Evidence in will contests. 36 L.R.A. 66. Contrary cases. 36 L.R.A. 68.

### f. Value; damages; speed.

§ 194. Value; damages. Relevancy of evidence as to, see infra, XII.

Right of witness to express opinion as to, because of impossibility or difficulty of reproducing the data. L.R.A.1918A,

Opinion evidence on question of value of the use or rental of property.

L.R.A.(N.S.) 501.
Conclusiveness of the testimony of experts as to the value of professional services. 45 L.R.A.(N.S.) 181.

As to value of household goods or wearing apparel in action for loss or conversion

of or injury to. L.R.A.1917D, 505.

Admissibility of opinion of party or witness as to extent of monetary damages sustained in consequence of personal injury. 52 L.R.A. (N.S.) 167.

To show pecuniary loss in action for wrong-ful death. L.R.A.1918C, 1096.

§ 195. Speed.

As to speed of automobiles or other road vehicles. 34 L.R.A.(N.S.) 778.

As to the speed of street cars. 34 L.R.A. (N.S.) 784.

As to speed of trains and hand cars. 34 L.R.A.(N.S.) 790.

#### g. Negligence; intent.

§ 196. Negligence. Presumption and burden of proof as to, see supra, III, g.

Relevancy of evidence as to, see infra, XII.

Sufficiency of evidence as to, see infra, XIII.

Admissibility of opinion as to existence of defect in appliances furnished servant. 41 L.R.A. 153.

Admissibility, of expert testimony in action for damages from escape and explosion of gas. 29 L.R.A. 345.

#### § 197. Intent.

Presumption and burden of proof as to, see supra, §§ 41, 42.

Parol evidence as to, see supra, §§ 166, 167. Relevancy of evidence as to, see infra, §§ 255, 257.

Sufficiency of evidence as to, see infra, § 299. Consult also L.R.A. Digests of Cases. 33

EVIDENCE, VIII. g-cont'd Right of witness to give conclusions as to his intent. 23 L.R.A.(N.S.) 379.

h. Handwriting; typewriting; finger prints.

#### 1. Handwriting.

198. Generally.

Opinion evidence as to ancient signature. 36 L.R.A.(N.S.) 162.

Opinion evidence as to age of writing. L.R.A.1918B, 437.

Value of expert testimony as to handwriting. L.R.A.1918D, 642.

Conclusiveness of expert testimony as to hand writing. 42 L.R.A. 771.

§ 199. Competency of witnesses to. In general. 63 L.R.A. 985. Witness to ancient writings. 63 L.R.A. 984.

Competency of opinion as to handwriting of lost instrument based upon comparison with admittedly genuine hand-writing. 41 L.R.A.(N.S.) 391.

§ 200. — nonexpert witnesses. Generally. 63 L.R.A. 964.

What is prima facie a sufficient foundation for the opinion of the witness. 63 L.R.A. 966.

Presumptions as to knowledge. 63 L.R.A.

Knowledge from seeing the individual write. 63 L.R.A. 968.

Knowledge from correspondence. 63 L.R.A. 971.

Knowledge from acknowledged writings. 63 L.R.A. 973.

Knowledge from official signatures. L.R.A. 974.

Knowledge otherwise acquired. 63 L.R.A. 975. Knowledge otherwise limited. 63 L.R.A.

977. Knowledge acquired post litem motam. 63

L.R.A. 978. Uncertainty of opinion. 63 L.R.A. 979. Identity of the writer. 63 L.R.A. 981.

Competency as affected by comparison. 63 L.R.A. 982. by previous

Knowledge necessary for proof of writings not in court. 63 L.R.A. 983.

Competency of nonexpert to testify as to authorship of writings when he bases his opinion upon letters purporting to come from the person whose handwriting is in question. 7 L.R.A.(N.S.) 557.

§ 201. Comparison of.

Admissibility of document for purpose of comparison, see supra, § 149.

Generally. 62 L.R.A. 818.

The English general rules. 62 L.R.A. 818. The various American general rules. 6 L.R.A. 832.

Comparison of ancient writings. 62 L.R.A. 861.

EVIDENCE, VIII. h, 1—cont'd Comparison with writings already in evidence or in the record. 62 L.R.A.

Comparison with writings made in court. 62 L.R.A. 864.

Comparison by the jury and by the court 62 L.R.A. 867.

Comparison by witnesses. 62 L.R.A. 869. Comparison to show copying of signature (the Howland Will Case). 62 L.R.A.

Construction and validity of the statutes. 62 L.R.A. 871.

Weight and relevancy of the evidence. 62 L.R.A. 871.

Comparison of lost instruments. 62 L.R.A. 873.

Comparison of marks and spelling of disputed instrument. 65 L.R.A. 95.

Comparison of handwriting to show copying of signature. 34 L.R.A.(N.S.) 10ŏ4.

Examination of witnesses to handwriting by comparison. 63 L.R.A. 163.

Opinion of expert as to hand writing by comparison. 42 L.R.A. 773.

Value of expert testimony as to handwriting. L.R.A.1918D, 642.

## § 202. - competency of handwriting as standard for.

Admissibility of document for purposes of comparison, see supra, § 149.

Generally. 63 L.R.A. 428. Sufficiency of the proof of genuineness. 63 L.R.A. 428.

What genuine documents are competent standards. 63 L.R.A. 438.

#### § 203. - competency of expert witness.

Generally. 63 L.R.A. 937.

Necessity of professional knowledge. L.R.A. 940.

Disclaimer of being an expert. 63 L.R.A.

Bank officers. 63 L.R.A. 941. Public officers. 63 L.R.A. 942. Bias of the witness. 63 L.R.A. 943. Finality of the decision of the trial court. 63 L.R.A. 943.

# § 204. Procedure in proof of; exami-

nation of witness.

Generally. 65 L.R.A. 151.

Purpose of the proof. 65 L.R.A. 153.

Examination of the witness. 65 L 65 L.R.A.

Deciphering of obscurities. 65 L.R.A. 155. Examination of witnesses to handwriting by comparison. 63 L.R.A. 163.

§ 205. Limitations of evidence to. Immaterial facts. 64 L.R.A. 303. Immaterial opinions. 64 L.R.A. 305. Limits of expert testimony. 64 L.R.A. 307. Proof of marks. 64 L.R.A. 313. Proof of copies. 64 L.R.A. 314.

EVIDENCE, VIII. h, 1-cont'd

Value or weight of the evidence. 64 L.R.A. 315.

Expert testimony. 42 L.R.A. 771; 64 L.R.A. 317.

# 2. Typewriting; finger prints.

### § 205a. Typewriting.

Comparison of, and expert evidence as to, typewriting. 45 L.R.A. (N.S.) 860. Value of expert testimony as to. L.R.A.

1918D, 642.

# 205b. Finger prints.

Finger prints as evidence. 43 L.R.A. (N.S.) 1206.

Admissibility of evidence of resemblance between finger or hand prints, and its sufficiency as proof of identity. 3 B. R. C. 70.

#### i. Miscellaneous.

### 206. Generally.

Right of witness to express an opinion on nontechnical subject because of impossibility or difficulty of reproducing the data. L.R.A.1918A, 662.
Under the Torrens Law. L.R.A.1916D, 39.

Opinions of witnesses as to identity of per son referred to in action for defamation of unnamed person. 48 L.R.A.(N.S.) 364.

Identification of substance by odor. 42 L.R.A. (N.S.) 854. Right of witness to state who was in pos-

session of property. 14 L.R.A. (N.S.) 289.

Expert testimony as to vicious character of animals. 24 L.R.A.(N.S.) 1189.

Distance within which sparks from a properly equipped engine will set fire as a subject of expert testimony. 22 L.R.A. (N.S.) 1039.

Conclusion of witness as to sense of impending death at time dying declara-tions were made. 30 L.R.A.(N.S.)

Right of court to decide question as to quickest means of stopping train as matter of common knowledge. L.R.A. (N.S.) 261.

Admissibility of opinion evidence as to safety of place or appliance. 51 L.R.A.

Competency of witness to express his conclusion as to character, quality or marketability of title to real property. L.R.A.1915E, 271.

IX. Confessions; involuntary evidence.

# § 207. Generallý.

As to self incrimination, generally, see CRIMINAL LAW, §§ 49-53.

Competency and sufficiency of, as evidence before grand jury. 28 L.R.A. 318. Admissibility in evidence of former plea of guilty. L.R.A.1916E, 640.

Begin with this book on every law question.

EVIDENCE, IX.—cont'd Admissibility of confession made before coroner. 70 L.R.A. 47.

Admissibility in criminal case of statements

or confessions made by accused before the grand jury. 9 L.R.A.(N.S.) 533. Admissibility in criminal case of testi-mony as to facts learned while spying or eavesdropping. 17 L.R.A. (N.S.) 451.

Admissibility of schedules filed in Federal bankruptcy proceedings, in prosecution of bankrupt for concealment of property. 18 L.R.A.(N.S.) 1194.

Necessity of proving corpus delicti in larceny in connection with confession. 28 L.R.A. (N.S.) 536.

Proof of corpus delicti in embezzlement independent of confession. L.R.A.1917A, 1**2**89.

Proof of corpus delicti for purpose of corroborating confession. 68 L.R.A. 50, 64, 68, 71, 73; L.R.A.1916B, 748, 848. Right to cross-examine accused who has

taken witness stand as to confession which would not be admissible in evidence. 10 L.R.A.(N.S.) 604.

Opinion based on newspaper reports of confession as disqualification of juror in criminal case. 35 L.R.A.(N.S.) 1014.

Conclusiveness in civil action as a confession of judgment in criminal action.

11 L.R.A. (N.S.) 662.

Is extrajudicial confession circumstantial testimony? L.R.A.1917D, 595.

§ 208. Uncontradicted statement in presence of accused as.

General rules. 25 L.R.A.(N.S.) 543; 42 L.R.A.(N.S.) 890.

Foundation, grounds of admission, and nature. 25 L.R.A.(N.S.) 549; 42 L.R.A.(N.S.) 890.

Circumstances of the accusation as affecting. 25 L.R.A.(N.S.) 552; 42 ing. 25 L.R.A. (L.R.A. (N.S.) 891.

Nature of statement as calling for response. 25 L.R.A.(N.S.) 564; 42 L.R.A. (N.S.) 893.

Admission and use. 25 L.R.A.(N.S.) 570; 42 L.R.A.(N.S.) 894.

Rule admitting statements made in presence of party, and undenied by him, as affected by his mental or physical condition at the time. 13 L.R.A.(N.S.) 349.

§ 209. When confession is voluntary. Reasons for exclusion of confessions, 18 L.R.A.(N.S.) 772; 50 L.R.A.(N.S.) 1077.

Character of confession; determination. 18 L.R.A.(N.S.) 777.

Confessions under personal restraint. 18 L.R.A. (N.S.) 795. Arrest, suspicion. 18 L.R.A. (N.S.) 796; 50 L.R.A. (N.S.) 1084.

Confessions elicited by questions. 18 L.R.A. (N.S.) 799; 50 L.R.A. (N.S.) 1085.

Effect of language assuming guilt addressed to accused. 18 L.R.A.(N.S.) 802; 50 Uncontradicted statement in presence of accused, N.S.) 1085. Uncontradicted statement in presence of accused, see supra, § 208.

Consult also L.R.A. Digests of Cases.

EVIDENCE, IX.—cont'd Confessions induced by hope or fear. 18 L.R.A.(N.S.) 804; 50 L.R.A.(N.S.)

Confessions procured by artifice or fraud. 18 L.R.Á. (N.S.) 840; 50 L.R.A. (N.S.) 1088.

Confessions to persons in authority. 18 L.R.A.(N.S.) 843; 50 L.R.A.(N.S.)

Confessions in presence of persons in authority. 18 L.R.A.(N.S.) 855.
Subsequent confessions. 18 L.R.A.(N.S.)

857; 50 L.R.A.(N.S.) 1088.

Inducements not immediately acted upon. 18 L.R.A.(N.S.) 868; 50 L.R.A.(N.S.) 1088.

Confessions under oath. 18 L.R.A.(N.S.) 872; 50 L.R.A.(N.S.) 1089.

Adopted confessions. 50 L.R.A. (N.S.) 1089. Illegality of arrest as affecting confession. 27 L.R.A.(N.S.) 151.

Admissibility of confession of guilt induced by offer of collateral benefit. 1 B. R. Č. 896.

§ 209a. While under arrest.

Voluntariness of confession made under. 18 L.R.A.(N.S.) 796; 50 L.R.A.(N.S.) 1084.

Illegality of arrest, as affecting confession. 27 L.R.A. (N.S.) 151.

Uncontradicted statement in presence of accused while under arrest as confession. 25 L.R.A.(N.S.) 558.

§ 210. Confession by infant. Confession by infants. 36 L.R.A. 208.

§ 211. Admissibility of confession of

third person.

Admissibility, upon joint trial, of admission or confession of one defendant tending to incriminate codefendant. 2 B. R. C. 353.

- in behalf of accused. 8 212. Admissibility in behalf of accused of extrajudicial confession of stranger. 37 L.R.A.(N.S.) 345.

§ 218. Admissibility of evidence obtained by involuntary or inadmissible confession.

In general. 53 L.R.A. 402.

Necessity of identifying things found. 53 L.R.A. 407,

§ 214. Admissibility of articles taken

from accused.

Admissibility against defendant of documents or articles taken from him. 59 L.R.A. 467; 8 L.R.A.(N.S.) 762; 34 L.R.A.(N.S.) 58; L.R.A.1915B, 834; 34 L.R.A.1916E, 715.

#### X. Admissions.

η.

EVIDENCE, X.—cont'd

Competency before grand jury, of admissions. 28 L.R.A. 318.

Proof of contents of writing by admissions. L.R.A.1918C, 664.

Effect of admissions by adverse party to dispense with production of attesting witnesses. 35 L.R.A. 346.

Conclusiveness of judicial admission as to strangers. 28 L.R.A. (N.S.) 327; L.R.A. 1915A. 200.

Admissibility on subsequent trial of admission made for purpose of defeating continuance. 25 L.R.A. (N.S.) 169.

Admissions as evidence of agency against persons making them. 35 L.R.A.(N.S.) 165.

Probative effect of admission by party of fault or responsibility for accident. 15 L.R.A.(N.S.) 1096.

Admissibility, upon joint trial, of admission of one defendant tending to incriminate codefendant. 2 B. R. C. 353.

Impeachment of enrolled bill by stipulations or admissions of litigants. 40 L.R.A. (N.S.) 33.

Admissibility of declarations against interest as to ownership by one in possession of personal property. 49 L.R.A. (N.S.) 70ī.

Admissions showing that written instrument importing absolute conveyance was intended as a mortgage. L.R.A. 1916B, 285.

Admissibility in evidence of former plea of

guilty. L.R.A.1916E, 640.
Admissions or statements by assured outside of his application as evidence against beneficiary. 11 L.R.A. (N.S.)

## XI. Declarations; hearsay; res gestæ; privileged communications.

#### a. In general.

§ 216. Generally.

Reputation as proof of partnership. L.R.A. 1918D, 505.

Newspaper quotations as evidence of value 16 L.R.A.(N.S.) 758.

Evidence of other crime which is part of the res gestæ. 62 L.R.A. 308.

Admissibility of memoranda on check stubs as part of the res gestæ. 42 L.R.A. (N.S.) 727.

Declarations as to ownership by one in possession of personal property. 49 L.R.A. (N.S.) 700.

Admissibilty of declarations and repute on question whether child was born dead or alive. L.R.A.1918D, 1085.

§ 217. Relative time of transaction and declarations.

How near the main transaction must declarations be made in order to constitute part of the res gestar. L.R.A. 733.

EVIDENCE, XI. a-cont'd

§ 218. Admissibility of declarations as res gestae as affected by incompetency as a witness of person making them.

Children. 65 L.R.A. 316; L.R.A.1915E, 204. Husband and wife. L.R.A.1915E, 204. Convicts and unpardoned felons. L.R.A.

1915E, 205. Slaves. L.R.A.1915E, 205.

Insane persons. L.R.A.1915E, 207.

§ 219. As to marriage, pedigree, paternity, or maternity.

Admissibility of declarations of relatives of

claimant on issue of his relationship or heirship to decedent. L.R.A.1915D, 215.

Declarations to show maternity of illegitimate child. 11 L.R.A. (N.S.) 1052.

Admissibility of declarations of parents or putative parent as to paternity or maternity of child. 6 B. R. C. 852.

# b. Privileged communications.

§ 220. Generally.

As to protection against self-incrimination, see CRIMINAL LAW, §§ 49-53.

Effect of death of party to render other party incompetent as a witness, see WITNESSES, §§ 22-24.
For privilege of witnesses, generally, see WITNESSES, § 40.

As to sanity or insanity. 38 L.R.A. 726. Communications made in confidence as privileged communications. 35 L.R.A. (N.S.) 583.

Admissibility in evidence of communications made to persons serving in a judicial capacity. 67 L.R.A. 923.

Privilege of communications to clergy, or other church or ecclesiastical officers. L.R.A.1917D, 278.

Reports to corporations by agents as. 6 L.R.A. (N.S.) 325.

§ 221. To physician.

Loss or waiver of privilege, see infra, § 225. Privilege of statement by physician to patient. 27 L.R.A. (N.S.) 326.

Competency of attending physician to testify as to capacity of testator in will contest. 32 L.R.A.(N.S.) 72.

Admissibility as res gestæ of statements

or declarations made by injured person to physician while latter was examining him in order to qualify as a witness. 21 L.R.A.(N.S.) 826.

Admissibility of statements or letters by physician as to physical condition of insured. 38 L.R.A. (N.S.) 343.

Right of plaintiff in action for malpractice to avail himself of privilege as against testimony of defendant or other physicians. 20 L.R.A.(N.S.) 1003.

Does privilege as to communications to, or information acquired by, physician extend to physician not employed by patient. 16 L.R.A. (N.S.) 886; L.R.A. 1915F, 888.

Does disqualification of physician as witness extend to mental condition of patient. L.R.A.1918E, 974.

Begin with this book on every law question.

EVIDENCE, XI. b-cont'd

Are hospital records within the privilege extended to communications between physician and patient. 14 L.R.A.(N. S.) 565.

Privilege of records of insane asylum. 51 L.R.A.(N.S.) 22.

Privilege as to information acquired by autopsy. 38 L.R.A.(N.S.) 1186.

§ 222. To attorney.

Admissibility in evidence of communications to attorney. 67 L.R.A. 923.

To attorney during preparation of will. 17 L.R.A. 188.

Privilege of communication to attorney as affected by the fact that no fee is paid. 34 L.R.A.(N.S.) 577.

Communications between attorney and client affecting their respective rights or interests, as privileged communica-tions. 7 L.R.A.(N.S.) 426.

Privilege of attorney against revealing identity of client. L.R.A.1916C,

602.

Requiring attorney to produce papers or documents belonging to client as violation of privilege. 48 L.R.A. (N.S.) 334.

§ 223. Between husband and wife. Competency of husband and wife as witnesses, see WITNESSES, §§ 17-21.

Are communications between husband and wife tending to show affection, or the want of it, privileged. 2 L.R.A. (N.S.)

Effect of statute making husband and wife competent witnesses for or against each other upon the privilege as to confidential communications between 27 L.R.A. (N.S.) 273; L.R.A. 1916F, 389.

Admissibility of declarations by husband or wife as to prenuptial nonaccess of husband. 14 L.R.A. (N.S.) 544.

Separation of husband and wife as affecting privilege of communication between L.R.A.1916B, 1275.

Admissibility of communication between husband and wife, otherwise privileged, to explain the reason for testifying in a certain way. 44 L.R.A.(N.S.) 243.

Waiver of privilege as to communication between husband and wife by calling one spouse as a witness for the other. 40 L.R.A. (N.S.) 43.

§ 224. Loss of privilege.

Loss of privilege in respect to written confidential communications by loss of their possession and control. 15 L.R.A.

Waiver on first trial of privilege as to confidential communications as affecting its exercise on a second trial. 6 L.R.A. (N.S.) 1082; L.R.A.1916A, 524.

Waiver of privilege as to communication between husband and wife by calling one spouse as a witness for the other. 40 L.R.A. (N.S.) 43.

Consult also L.R.A. Digests of Cases.

EVIDENCE, XI. b-cont'd

225. — disclosures to physician.

Waiver of privilege as to communication between physician and patient. 48 L.R.A.(N.S.) 395.

Waiver of statutory provisions as to confidential disclosures to physicians. 1

L.R.A.(N.S.) 1068.

Waiver of privilege against attending physician testifying as to testator's capacity in will contest. 32 L.R.A.(N.S.) 73. Who, aside from the patient, may waive privilege. 48 L.R.A. (N.S.) 418.

Waiver of privilege on first trial as affecting its exercise on a second trial. L.R.A.1916A, 525.

26. — effect of third per knowledge of communication. § 226. — effect person's

Is privileged character of written or oral communication lost when a third person has power of disclosure. 33 L.R.A.(N.S.) 477.

## c. Party's own acts and declarations.

§ 227. Generally.

Admissibility in criminal case of state ments made by accused before grand jury. 9 L.R.A.(N.S.) 533.

Admissibility of evidence of defendant's voluntary surrender or refusal to embrace an opportunity to escape. 20 L.R.A.(N.S.) 409.
Admissibility of declarations as to owner-

ship by one in possession of personal property. 49 L.R.A.(N.S.) 700.

Statements made some time after accident as res gestæ. 42 L.R.A. (N.S.) 917.

Declarations explaining why person injured or killed was at place of accident as res gestæ. L.R.A.1915D, 503.

## d. Acts and declarations of third persons generally.

228. Generally.

Statements by by-standers made sometime after accident as res gestæ. 42 L.R.A. (N.S.) 948

Does the fact that one was not a participant or actor in an accident or affray render his statements or exclamations inadmissible as res gestæ. 20 L.R.A. (N.S.) 133; 33 L.R.A. (N.S.) 109.

Admissibility of declarations of relatives of

claimant upon the issue of his relationship or heirship to decedent. 36 L.R.A.(N.S.) 530; L.R.A.1915D,

Admissibility of declarations on question whether child was born dead or alive. L.R.A.1918D, 1085.

Admissibility, upon issue of forgery, of declarations out of court by person whose name is charged to have been forged. 28 L.R.A.(N.S.) 240.

Admissibility as res gestæ of uncontradicted statement in presence of accused: 25 L.R.A.(N.S.) 550.

EVIDENCE, XI. d-cont'd

Admissibility of declarations as to owner-ship by one in possession of personal property. 49 L.R.A.(N.S.) 700.

Admissibility in prosecution for false pretenses of statements or communications between the prosecutor and a third person. L.R.A.1915B, 1125.

§ 229. Of deceased person generally. Scope and effect of statutes making competent entries, memoranda, and declarations of a deceased person. 44 L.R.A. (N.S.) 28.

Admissibility of declarations as to ownership by one in possession of personal property, after his death. 49 L.R.A. (N.S.) 700.

Admissibility of declarations of person since deceased against his or her own mar-

riage. 15 L.R.A.(N.S.) 190. Declarations of deceased putative father as to paternity of child. 6 B. R. C. 852.

Admissibility of declarations on question whether child was born dead or alive. L.R.A.1918D 1085.

Admissions or statements by assured outside of his application as evidence against beneficiary. 11 L.R.A.(N.S.) 92; 49 L.R.A.(N.S.) 853.

Declarations of insured tending to show good faith regarding statements in his application. L.R.A.1918F, 271.

Evidence of declarations of intent to commit suicide. L.R.A.1916B, 819.

#### § 230. Of testator.

To prove contents of lost or destroyed will. 38 L.R.A. 453.

To prove execution of lost or destroyed will. 38 L.R.A. 442.

To overcome or sustain presumption of revocation of lost or destroyed will. 38 L.R.A. 436; 50 L.R.A.(N.S.) 867.

Ante-testamentary declarations as evidence of undue influence. 3 L.R.A.(N.S.)

Admissibility of declarations of testator on issue of his intention in destroying his will. 24 L.R.A.(N.S.) 180.

Admissibility of testator's declarations to correct misdescription of land in will. 6 L.R.A.(N.S.) 965.

Evidence of declarations of testator to identify legatee or devisee. L.R.A.(N.S.) 540.

§ 231. Of beneficiary or executor to show lack of testamentary capacity, or undue influence.

Declarant one of several beneficiaries. 38 L.R.A.(N.S.) 732.

Declarant sole beneficiary. 38 L.R.A.(N.S.) 741.

Declarations part of res gestæ. 38 L.R.A. (N.S.) 742.

To impeach or discredit declarant as a witness. 38 L.R.A.(N.S.) 743. To show intent or disposition. 38 L.R.A. (N.S.) 743.

Begin with this book on every law question.

EVIDENCE, XI. d-cont'd

As against successor in interest of declarant. 38 L.R.A.(N.S.) 744.

§ 232. Of subscribing witness to will. Admissibility of declarations of deceased subscribing witness, unfavorable to testator's competency. 27 L.R.A.(N. S.) 294.

§ 233. Of former owner.

Admissibility of declarations against title by former owner as against those claiming under him, as affected by fact that

declarant is living and available as witness. 26 L.R.A.(N.S.) 814.

Admissibility of declarations by vendor, made out of court, as to his purpose in making a conveyance or transfer attacked as fraudulent against creditors. 41 L.R.A. (N.S.) 1.

Admissibility of declarations as to ownership by one in possession of personal property. 49 L.R.A. (N.S.) 700.

§ 233a. Of principal or surety.

Admissibility against sureties on bond of statements by principal after expira-tion of term of office or employment, 40 L.R.A.(N.S.) 662.

e. Acts and declarations of agent, cobeneficiary, partner, or co-conspirator.

334. Agent.

Admissibility of reports by agent or employee to employer, to prove fact in issue. 18 L.R.A. (N.S.) 231; 25 L.R.A. (N.S.) 930; 47 L.R.A. (N.S.) 830.

Admissibility as res gestæ of statements made by agent or servant sometime after accident. 42 L.R.A.(N.S.) 918.

235. Cobeneficiary.

Admissibility of declarations of one of several beneficiaries to show lack of testamentary capacity or undue influence in case of conspiracy. 38 LR.A.(N.S.) 740.

§ 236. Proof against one, of declarations of another, to show partnership.

Generally. 20 L.R.A. 595.

Dormant partners. 20 L.R.A. 597. Estoppel. 20 L.R.A. 598.

Letters, circulars, and entries. 20 L.R.A. 598.

Shipping registers. 20 L.R.A. 599. Declarations in suits. 20 L.R.A. 599.

§ 237. Acts and declarations of coconspirator.

As res gestæ. 19 L.R.A. 745. Admissibility of declarations of one upon whom an abortion is committed, against others charged with complicity therein. 35 L.R.A. (N.S.)

1084; L.R.A.1916C, 570.

EVIDENCE, XI. e-cont'd | EVIDENCE, XI. j-cont'd Admissibility of acts and declarations of Time elapsing between declaration and co-conspirators in prosecution for homicide in carrying out unlawful conspiracy. 68 L.R.A. 220.

## f. Complaints of injuries and suffering.

§ 238. Generally.

Admissibility of expressions or statements of present pain made during sickness or subsequent to injury. 24 L.R.A. (N.S.) 253.

Admissibility as res gestæ of statements or declarations made by injured person to physician while latter was examining him, in order to qualify as a witness. 21 L.R.A.(N.S.) 826.

#### g, Threats,

§ 239. Generally.

Evidence of threats of accused, or of person injured or killed. 17 L.R.A. 654. Evidence of antecedent threats on trial for homicide. 3 L.R.A. (N.S.) 523.

Admissibility of, as dying declarations. 56 L.R.A. 421.

## h. Conversation by telephone.

§ 240. Generally.

Conversations by telephone. 17 L.R.A. 440. Necessity and sufficiency of identification as a foundation for the admission of a conversation or communication by telephone. 6 L.R.A. (N.S.) 1180; L.R.A. 1918D, 720.

# i. Conversation through interpreter.

§ 241. Generally.

Admissibility of evidence given through an interpreter. 17 L.R.A. 813.

## j. Dying declarations.

§ 242. Generally.

Weight of, see infra, § 318a.

Competency of one spouse to testify as to dying declarations of other, see WIT-NESSES, § 21.

In general. 56 L.R.A. 353. Whose declarations admissible. 56 L.R.A. \_358.

In what class of cases admissible. 56 L.R.A. 360.

In favor of defendant. 56 L.R.A. 367; 52 L.R.A. (N.S.) 910.

Subject of declarations. 56 L.R.A. 369.

Opinions and conclusions. 56 375; 21 L.R.A.(N.S.) 840. 56 L.R.A.

Mental and physical conditions. 56 L.R.A. 381

Sense of impending death. 56 L.R.A. 382; 6 B. R. C. 238.

How evidenced. 56 L.R.A. 406; 30 L.R.A.(N.S.) 391.

Reaffirmation under sense of im-

Consult also L.R.A. Digests of Cases.

death. 56 L.R.A. 421; 1 L.R.A.(N.S.)

Form and completeness of declaration; oral or written. 56 L.R.A. 423.

By signs and nods. 56 L.R.A. 427; 2 B. R. C. 923.

Made in answer to questions. 56 L.R.A. 429; 2 B. R. C. 920.

Competency of declarant as witness. L.R.A. 432.

When there is other evidence of same facts. 56 L.R.A. 433.

Questions for court or jury. 56 L.R.A. 434; 16 L.R.A.(N.S.) 660.

Right to impeach or contradict, and to sustain declarant, and witness. 56 L.R.A. 441; 37 L.R.A.(N.S.) 252.

Weight to which entitled. 56 L.R.A. 445. Questions of practice. 56 L.R.A. 450. Presence or absence of accused. 56 L.R.A.

453.

Accused not prejudiced. 56 L.R.A. 453. Women in travail. 56 L.R.A. 454.

In prosecution for homicide by commission of, or attempt to commit, abortion. 63 L.R.A. 916.

Admissibility in behalf of accused of dying declarations of stranger. 37 L.R.A. (N.S.) 350.

Admissibility as dying declarations of un-contradicted statement in presence of accused. 25 L.R.A.(N.S.) 550.

Admissibility of dying declaration of person for whose death the accused is not on trial. 40 L.R.A.(N.S.) 1195.

Admissibility of dying declarations in civil cases. 50 L.R.A.(N.S.) 1167.

# k. Former testimony.

§ 243. Generally. See also supra, § 134.

Admissibility, after death of adversary, of testimony or deposition of party given or taken before the former's death and relating to a personal transaction with him. 14 LR.A.(N.S.) 488; L.R.A. 1915F, 771.

§ 244. Testimony of accused at coroner's inquest.

Generally. 70 L.R.A. 33; 33 L.R.A. (N.S.) 465.

Competency. 70 L.R.A. 33. Practice in relation to. 70 L.R.A. 46.

§ 245. Testimony on preliminary examination of witnesses not available at time of trial.

Right of accused to be confronted with witnesses against him. 25 L.R.A.(N.S.)

Necessity of representation by counsel at preliminary examination. 25 L.R.A. (N.S.) 871.

pending death of statement Waiver of objections. 25 L.R.A.(N.S.) 871. previously made. 56 L.R.A. Identity of accusations. 25 L.R.A.(N.S.) 382; 27 L.R.A.(N.S.) 702. 872.

EVIDENCE, XI. k-cont'd

Circumstances justifying admission. L.R.A. (N.S.) 873. 25

Insanity or illness of witness. 25 L.R.A. (N.S.) 873.

Witness out of jurisdiction. 25 L.R.A. (N. S.) 874.

Witness absent by procurement. 25 L.R.A. (N.S.) 874.

Sufficiency of showing as to the circumstances justifying admission. 25 L.R.A.(N.S.) 875.

Method of proving former testimony. L.R.A.(N.S.) 880.

Weight and effect of former testimony. 25 L.R.A.(N.S.) 884.

Impeachment of testimony of absent witness. 25 L.R.A.(N.S.) 884.

## XII. Relevancy and materiality.

### a. In general.

\$ 246. Generally.

Relevancy of documentary evidence, see supra, V.

Admissibility of parol evidence as to writing, see supra, VII.

Admissibility to corroborate or impeach witness, see WITNESSES, IV.

Competency of evidence before grand jury. 28 L.R.A. 318.

Conclusiveness of decisions of the Land Department as to competency of evidence. L.R.A.1918D, 633.

### b. Custom; habit; cause.

**247.** Custom; habit.

On question of negligence or contributory negligence. 41 L.R.A. (N.S.) L.R.A.1916B, 827.

Admissibility of evidence that article prohibited by fire insurance policy is usually and customarily found on similar premises. 3 B. R. C. 48.

 Evidence of habit of witness on question of regularity of will where attesting witnesses have forgotten circumstances attending its execution. 51 L.R.A. (N.S.) 954.

Evidence of customary compensation on question as to amount agreed upon. L.R.A.1915C, 1209.

Admissibility of evidence as to habits of deceased to show pecuniary loss in action for his death. L.R.A.1918C, 1111, 1128; L.R.A.1918E, 283.

#### 1 248. Cause.

Presumption and burden of proof as to, see supra, § 60.

Admissibility of coroner's finding to show 68 L.R.A. 285; 45 L.R.A.(N.S.) 404; L.R.A.1918E, 924.

## c. Character and reputation,

**§ 249**. Generally,

Competency of witnesses as to, see WIT- Right of defendant in criminal case to prove NESSES, § 25.

EVIDENCE, XII. c-cont'd

Admissibility of evidence of bad character or reputation where justification is filed. 38 L.R.A.(N.S.) 1185.

Character of inmates or visitors in prosecution for keeping disorderly house. 20 L.R.A. 612.

Proving house disorderly by evidence of its general reputation. 20 L.R.A. 611. Right of accused to show unchastity of

prosecutrix in statutory rape. L.R.A.(N.S.) 269.

Relevancy of evidence as to character or reputation on issue of fraud or dishonesty in civil case. 49 L.R.A. (N.S.) 724.

Character of accomplice or associate. 20 L.R.A. 614.

Fact that witness's testimony is contra-dicted by opposing testimony as warranting introduction of evidence of his reputation for truth and veracity. 12 L.R.A.(N.S.) 364.

Proof of other crimes to rebut defense of

good character. 62 L.R.A. 300.
Right of witness to testify to character from personal knowledge. 22 L.R.A. (N.S.) 650.

Evidence of bad character to impeach witness. 41 L.R.A. (N.S.) 901.

§ 250. Evidence of specific instances to prove character.

The legal sense of "character." 14 L.R.A. (N.S.) 690.

The general rules of proof. 14 L.R.A. (N.S.) 692.

The impeachment of witnesses. 14 L.R.A. (N.S.) 697.

The victims of crime. 14 L.R.A. (N.S.) 708. Character for chastity. 14 L.R.A. (N.S.) 714; L.R.A.1916B, 965.

The person accused of crime. 14 L.R.A. (N.S.) 735.

Credibility of character of witnesses in criminal cases. 14 L.R.A.(N.S.) criminal cases. 739.

Character in civil actions. 14 L.R.A. (N.S.) 745.

Character of servant in action against master. 14 L.R.A.(N.S.) 756.

§ 251. Of person killed or injured. Evidence of specific instances to prove character of victims of crime, 14 L.R.A.(N.S.) 708.

Evidence of habits and character of person injured or killed, as affecting damages.
1 L.R.A.(N.S.) 198; L.R.A.1918C,

1128. Evidence of character and reputation of deceased on trial for homicide. 2 L.R.A. (N.S.) 102; 3 L.R.A.(N.S.) 352.

Admissibility of evidence of turbulent and dangerous character of victim of assault or homicide on issue of self-defense. L.R.A.1916A, 1245.

#### § 252. Of accused.

character. 20 L.R.A. 613.

Begin with this book on every law question.

EVIDENCE, XII. e-cont'd

Evidence of defendant's character restricted as to time. 20 L.R.A. 312.

Necessity that evidence of defendant's character be applicable to trait involved. 20 L.R.A. 612.

Attacking defendant's character. 20 L.R.A.

Effect of evidence of defendant's good character to rebut presumption from possession of stolen goods. 20 L.R.A. 614.

How and by whom defendant's character proved. 20 L.R.A. 614.

Evidence of specific instances to prove. 14 L.R.A.(N.S.) 735.

Impeaching defendant's character for credibility. 20 L.R.A. 616.

Rebutting evidence of defendant's good character. 20 L.R.A. 616.

Weight and effect of evidence as to char-

acter. 20 L.R.A. 618. Effect of evidence of good character to create a doubt of guilt. 20 L.R.A. 617.

Instructions limiting consideration of good character to doubtful cases. 20 L.R.A. 618.

Considering evidence of good character in determining degree of guilt or crime. 20 L.R.A. 619.

Competency to testify to reputation of accused for peace or violence. 2 L.R.A. (N.S.) 553.

### § 253. To show negligence.

Evidence as to negligence generally, see infra, XII. g.

Evidence of reputation to show incompetency of servant or master's knowledge thereof. 41 L.R.A. 97; 48 L.R.A. 389; 33 L.R.A. (N.S.) 751.

Evidence of specific instances to prove character of servant in action against master. 14 L.R.A.(N.S.) 756.

Admissibility of evidence as to habits, custom, or reputation of one injured or killed, on the question of his own negligence or freedom from negligence. L.R.A. (N.S.) 683; L.R.A.1916B, 827.

## d. Mental capacity.

§ 254. Generally.

Presumption and burden of proof as to, see supra, §§ 38-40.

Opinion evidence as to, see supra, §§ 189-193, infra, 291, 292.

Sufficiency of evidence as to, see infra, §§ 291, 292, 297, 298, 316.

Inquisition of drunkenness as evidence on issue of testamentary capacity. L.R.A. 227.

Admissibility of coroner's finding to show testator's mental condition. 295; 45 L.R.A.(N.S.) 408. 68 L.R.A.

Right of prosecution to show feigned in-sanity. 31 L.R.A. (N.S.) 113. Evidence to establish incompetency of wit-

ness. 46 L.R.A.(N.S.) 1031. Consult also L.R.A. Digests of Cases. EVIDENCE, XII.—cont'd

e. Intent; motive; fraud; undue influence; malice.

#### § 255. Intent.

Presumption and burden of proof as to, see supra, § 41.

Parol evidence as to, see supra, §§ 166, 167. Opinion evidence as to, see supra, § 197. Sufficiency of evidence as to, see infra, § 299.

Evidence of other crimes to show intent. 62 L.R.A. 214; 43 L.R.A.(N.S.) 668, 755, 774, 778.

To have formal instrument in case of offer and acceptance as evidence. 29 L.R.A. 437.

Right on trial for homicide to show immorality of deceased as bearing upon defendant's intent or motive. L.R.A. (N.S.) 397.

Intent of one purchasing goods with knowledge that he cannot pay for them. 44 L.R.A. (N.S.) 21.

To show that a written instrument import-

ing absolute conveyance was intended as a mortgage. L.R.A.1916B, 271.

#### § 256. — right of one to testify as to his intent.

general. 23 L.R. L.R.A. (N.S.) 323. L.R.A.(N.S.) 367; 34

The common-law rule. 23 L.R.A. (N.S.) 368.

Statement of. 23 L.R.A.(N.S.) 368. Retention of common-law rule in some 23 L.R.A. (N.S.) jurisdictions. 368.

Rule under statutes permitting parties to testify. 23 L.R.A. (N.S.) 372.

### § 257. — of testator.

Presumption and burden of proof as to, see supra, § 42.

Parol evidence as to, see supra, § 167.

Competency of scrivener or draftsman to testify as to his own or the testator's intention. 38 L.R.A. (N.S.) 91.

Admissibility of declarations of beneficiary or executor as to lack of testamentary capacity or undue influence to show intent. 38 L.R.A.(N.S.) 743.

Admissibility of testator's declarations on issue of his intention in destroying will. 23 L.R.A.(N.S.) 180.

# § 258. Motive.

Presumption and burden of proof as to, see supra, § 45.

Evidence of other crimes to show motive. 62 L.R.A. 199.

Proof of motive for homicide in resisting 66 L.R.A. 384. arrest.

Right on trial for homicide to show immorality of deceased as bearing on defendant's motive. 36 L.R.A. (N.S.)

EVIDENCE, XII. e-cont'd Right of accused to show unchastity of prosecutrix in statutory rape as showing motive. 48 L.R.A. (N.S.) 275. .

# § 259. Fraud or good faith.

Presumption and burden of proof as to, see supra, §§ 47-50.

Parol evidence as to fraud, see supra, § 177. Sufficiency of evidence as to, see infra, §

Right of one to testify as to his intent as to, 23 L.R.A.(N.S.) 393.

Right to show fraud in procurement of foreign judgment in rem. 20 L.R.A.

Right of alleged fraudulent grantee to show that judgment against grantor was based on fraud. 67 L.R.A. 600.

Right to prove fraud in title, in proceedings of summary nature to recover possession of property demised. 11 L.R.A. (N.S.) 260.

Circumstance that one benefited by will was the draftsman thereof or active in procuring its execution, as bearing on question of fraud and deceit. 28 L.R.A. (N.S.) 272.

Evidence of good faith of one accused of larceny who claims to have taken the property under an honest belief of right. 41 L.R.A.(N.S.) 555.

Of one purchasing goods with knowledge that he cannot pay for them. 44 L.R.A.

(N.S.) 21.

Relevancy of evidence as to character or reputation on issue of fraud or dishonesty in civil case. 49 L.R.A.(N.S.) 724.

## § 260. Undue influence.

Presumption and burden of proof as to, see supra, §§ 52, 53.

Sufficiency of evidence as to, see infra, § 30ŏ.

Ante-testamentary declarations as evidence of undue influence. 3 L.R.A.(N.S.) 749.

#### 261. Malice.

Presumption and burden of proof as to, see supra, § 43.

Proof of malice in homicide while resisting arrest. 66 L.R.A. 384.

Evidence of other crimes to show malice. 62 L.R.A. 277.

Repetition of privileged statement as evidence of malice. 42 L.R.A.(N.S.) 1109.

## f. Value; damages.

§ 262. Value.

. Presumption and burden of proof as to, see supra, § 107.
Opinion evidence as to, see supra, § 194.

Begin with this book on every law question.

EVIDENCE, XII. f-cont'd

Value of household goods or wearing ap-parel in action for loss or conversion of or injury to them. L.R.A.1917D, 505.

Evidence as to price paid for other property by party seeking to condemn property for public use. 43 L.R.A. (N.S.) 985.

Right of owner of baggage to testify as to its value in action for its loss. 37 L.R.A.(N.S.) 588.

Proof of value of goods taken or sought to be taken in prosecution for burglary. 34 L.R.A.(N.S.) 246.

Newspaper quotations as evidence of value.

16 L.R.A. (N.S.) 758.

Evidence of structural value of improvements to fix damages in condemnation. 41 L.R.A.(N.S.) 411.

Determination of the value of the use or rental of property. 44 L.R.A. (N.S.) 499.

Evidence of value of services or of customary compensation on question as to amount agreed upon. L.R.A.1915C, 1208.

#### § 263. Damages.

Opinion evidence as to, see supra, § 194. As to measure of damages, see DAMAGES, III.

Admissibility of drawer's want of credit in action by him against bank for wrongfully dishonoring a check. 11 L.R.A. (N.S.) 224.

Judgment against one as prima facie evi-dence of amount of damages against another, liable over, who had no notice of the original suit. 16 L.R.A. (N.S.) 911.

Obstruction of surface water as element of damages in eminent-domain proceedings for a railroad right of way. 13 L.R.A. (N.S.) 237.

Admissibility of evidence of family relations of plaintiff on question of dainages in action for libel or slander. 23 L.R.A.(N.S.) 362.

Right to prove seduction in aggravation of damages in breach of promise case. L.R.A.(N.S.) 616; 36 L.R.A.(N.S.) 388.

What evidence admissible to show mental anguish. 19 L.R.A.(N.S.) 409. Competency of evidence in action for dam-

ages for mental anguish in telegraph case. 49 L.R.A.(N.S.) 285.

As to damages for loss or conversion of or injury to household goods or wearing apparel. L.R.A.1917D, 501.

#### § 264. — for personal injury.

As to measure of damages, see DAMAGES, III. k.

Character of evidence to show pecuniary loss in action for death. L.R.A.1918C, 1111, 1122; L.R.A.1918E, 279.

Evidence of the earnings of the deceased to show pecuniary loss by his death.

L.R.A.1918C, 1080.

EVIDENCE, XII. f—cont'd

Of earnings in higher position on question of damages for injury to person who was in line of promotion. 1 L.R.A. (N.S.) 1150.

Admissibility, in action for wrongful death, of evidence of profits or contributions from business conducted by decedent. L.R.A.1918C, 1087.

Evidence of amount paid for services of substitute during incapacity. 30 L.R.A. (N.S.) 737.

Evidence as to physical condition of members of deceased's family in action for his death. 49 L.R.A. (N.S.) 737.

§ 265. — mitigation of.

Of provocation to mitigate damages for assault. 1 L.R.A. (N.S.) 137; 11 L.R.A. (N.S.) 670.

In mitigation of damages for wife's libel or slander. 30 L.R.A. 529.

Admissibility of bad .character or reputation of plaintiff in libel or slander to mitigate damages where justification is filed. 38 L.R.A.(N.S.) 1185.

### g. Negligence.

§ 266. Generally.

Presumption and burden of proof as to, see supra, III. g.

Opinion evidence as to, see supra, VIII. g. Sufficiency of evidence as to, see infra, XIII.

Evidence of reputation as to negligence, see supra, § 253.

As to negligence in escape and explosion of gas. 29 L.R.A. 342.

Of negligence of street railway as to excessive speed. 5 L.R.A.(N.S.) 251.

Negligence of railroad company as to cattle guards. L.R.A.1915B, 135.

267. On highway.

Presumption and burden of proof as to, see supra, § 76.

Evidence in action against township for injury by defects in highway. 13 L.R.A. (N.S.) 1244.

Subsequent repair or removal of defect or obstruction in street as evidence of negligence. 20 L.R.A.(N.S.) 667.

Admissibility, in prosecution for driving

at dangerous speed, of evidence of traffic reasonably to be expected upon highway. 2 B. R. C. 201.

Violation of statute or ordinance prohibiting obstruction of crossing by trains as evidence of negligence. 47 L.R.A. (N.S.) 821.

In action for damages resulting from fright of horse by automobile on highway. 48 L.R.A.(N.S.) 969.

268. Of master.

Presumption and burden of proof as to, see supra, § 77.

Consult also L.R.A. Digests of Cases.

EVIDENCE, XII. g—cont'd Of specific acts of incompetency to charge master with negligence in hiring employee. 25 L.R.A. 716.

§ 269. Contributory negligence.

Presumption and burden of proof as to, see

supra, § 80. Evidence as to reputation to show, see supra, § 253.

Intoxication as evidence of negligence. L.R.A. 143; 47 L.R.A. (N.S.) 740.

Evidence of fast driving and intoxication on question of contributory negligence of driver of horse encountering automobile on highway. 50 L.R.A.(N.S.)

### h. Precautions after accident.

§ 270. Generally.

Subsequent repair or removal of defect or obstruction in street as evidence of negligence. 20 L.R.A.(N.S.) 667.

Evidence of repairs made or precautions taken after accident. 32 L.R.A.(N.S.) 1127.

#### i. Circumstantial evidence.

§ 271. Generally.

Sufficiency of, see infra. §§ 293, 319.

Circumstantial evidence as to character of

accused. 20 L.R.A. 614.
Distinction between rule res ipsa loquitur and rule as to circumstantial evidence. 6 L.R.A. (N.S.) 337; L.R.A.1917E, 6.

# j. Similar acts and facts.

§ 272. Generally.

Proof of agency by evidence of similar acts by alleged agents. 17 L.R.A.(N.S.) 219.

Evidence of other assaults made at about the time of one for which action for damages is brought. 44 L.R.A.(N.S.)

Admissibility upon question as to breach of warranty, of evidence as to success or failure of similar goods or apparatus. L.R.A.1915B, 626.

§ 273. Other accidents.

Evidence of prior accidents. 32 L.R.A. (N.S.) 1101.

Evidence of subsequent accidents. L.R.A. (N.S.) 1160.

As evidence of negligence on part of municipality in respect to highway. 20 L.R.A. (N.S.) 668.

Admissibility of other accidents to show implied notice to municipality of danger-ous condition of street. 20 L.R.A. (N.S.) 721.

EVIDENCE, XII. j-cont'd

§ 274. Condition or conduct at other

Admissibility of evidence of condition, before and after accident, of property whose defects are alleged to have caused injury. 32 L.R.A. (N.S.) 1084.

Evidence as to prior conditions. L.R.A.(N.S.) 1085.

Streets, highways, and bridges. 13 L.R.A. (N.S.) 1244; 32 L.R.A. (N.S.) 1090.

Evidence of prior accidents. 32 L.R.A. (N.S.) 1101.

Condition subsequent to the accident. 13 L.R.A.(N.S.) 1244; 32 L.R.A.(N.S.) 1117.

Evidence of repairs made or precautions taken after an accident. 32 L.R.A.(N.S.) 1127.

General condition as evidence of negligence on part of municipality in respect of highway. 20 L.R.A. (N.S.) 665.

Admissibility of evidence of subsequent vicious conduct of animal inflicting injury. 17 L.R.A.(N.S.) 1233.

§ 275. Evidence of other crimes.

General rule. 62 L.R.A. 194.

To show motive. 62 L.R.A. 199.

To show intent. 62 L.R.A. 214. To show malice. 62 L.R.A. 277.

To prove defendant's connection with act charged. 62 L.R.A. 278.

To rebut special defenses. 62 L.R.A. 299. When other crime is part of the res gestæ. 62 L.R.A. 308.

Relevancy. 62 L.R.A. 320. Sexual offenses. 62 L.R.A. 329.

In prosecution for sodomy. 46 L.R.A. (N.S.)

In prosecution for rape or assault to rape. 48 L.R.A. (N.S.) 236.

In prosecution for incest. 26 L.R.A.(N.S.) 466; L.R.A.1915A, 138.

In prosecution for obtaining money or property by fraudulent means. 43 L.R.A. (N.S.) 667.

In prosecution for forgery or uttering forged instrument. 43 L.R.A. (N.S.) 754.

In prosecution for embezzlement. 43 L.R.A. (N.S.) 774.

In prosecution for larceny. 43 L.R.A. (N.S.) 776.

In prosecution for robbery. L.R.A.1917D,

In prosecution for arson. L.R.A.1915A, 809. In prosecution for bribery. L.R.A.1915B, 103.

Committed in resisting arrest, or attempting to escape after commission of crime charged. 62 L.R.A. 338.

Election of offense relied on. 62 L.R.A. 344. Right to question defendant concerning, on cross-examination. 62 L.R.A. 345. When not prejudicial. 62 L.R.A. 347.

Statement or insinuation by prosecution of other crime. 62 L.R.A. 348.

Begin with this book on every law question.

EVIDENCE, XII. j-cont'd

Necessity and correctness of instruction to jury. 62 L.R.A. 350.

Miscellaneous. 62 L.R.A. 356.

#### k. Rebuttal.

§ 276. Generally.

By testimony of accused at coroner's inquest. 70 L.R.A. 43.

Of nonexpert opinion as to sanity or insanity. 38 L.R.A. 743.

Of presumption as to exercise of due care by person injured. 33 L.R.A.(N.S.) 1119.

Of presumption of acceptance of assignment or deed of trust for creditors. 24 L.R.A. 374.

Rebuttal of wife's presumptive agency in procuring necessaries. 47 L.R.A. (N.S.)

Of presumption as to receipt of communication sent through mail. 49 L.R.A. (N.S.) 467.

Admissibility of evidence to rebut presumption of death from absence. L.R.A. 1915B, 742.

# § 277. Criminal cases.

Rebutting evidence of defendant's good character. 20 L.R.A. 616.

Proof of good character of deceased in re-buttal in prosecution for homicide. 3 L.R.A. (N.S.) 374.

Evidence of other crimes to rebut special defense. 62 L.R.A. 299.

Proof of other crimes to rebut defense of good character. 62 L.R.A. 300.

#### l. Contracts; personal relations.

§ 278. Contracts.

Presumption and burden of proof as to, see supra, III. i.

Sufficiency of evidence as to, see infra, XIII.

In action on contract in violation of law. 12 L.R.A.(N.S.) 623.

In action by wrongfully discharged servant for damages from breach of contract. 6 L.R.A.(N.S.) 68.

In action by vendee because of vendor's failure to furnish abstract of title. 43 L.R.A.(N.S.) 51.

Evidence as to results of use of substance upon issue as to breach of warranty as to ingredients. L.R.A.1915D, 875.

Admissibility upon question of breach of warranty, of evidence as to success or failure of similar goods or apparatus. L.R.A.1915B, 626.

# § 279. — insurance matters.

Mode of proving mailing of notice of maturity of premiums or assessments. 7 L.R.A.(N.S.) 238. EVIDENCE, XII. 1-cont'd § 280. Personal relations.

Evidence of divorce in action for alienation of affections or criminal conversation. 46 L.R.A. (N.S.) 1085.

# m. Ownership; authority.

§ 281. Ownership.

Presumption and burden of proof as to, see supra, § 104.

Brand as evidence of ownership of cattle. 11 L.R.A.(N.S.) 87.

Admissibility of declarations as to ownership by one in possession of personal property. 49 L.R.A. (N.S.) 700.

3 282. Authority.

To prove defendant's authority or permission for sale of intoxicating liquors by his servant. 41 L.R.A. 672.

# n. Miscellaneous civil matters.

§ 283. Generally.

Evidence in support of contempt proceedings to compel payment of alimony. L.R.A. 436.

Evidence to establish insanity of witness. 37 L.R.A. 426; 46 L.R.A. (N.S.) 1031.

Relevancy of evidence as to similarity or dissimilarity of handwriting. I..R.A. 873.

'Acquittal or discharge on criminal charge as evidence of want of probable cause. 64 L.R.A. 474.

Evidence in action for divorce on ground of drunkenness. 34 L.R.A. 452.

Matters of evidence peculiar to the Torrens Law. L.R.A.1916D, 39.

Admissibility of evidence of assessment or nonassessment of property as affecting its dedication or acceptance for public use. L.R.A.1916B, 1175.

Evidence in action for defamation of unnamed person. 48 L.R.A. (N.S.) 363.

Evidence in action to enforce subscription to charity. 48 L.R.A.(N.S.) 814.
On question of liability of vendor of trees, shrubs, plants, or vines. 49 L.R.A.(N.S.) 1154.

## o. Criminal matters.

284. Generally.

Presumption and burden of proof in, see supra, III. l.

Evidence of threats, see supra, § 239. Evidence of character of person killed or injured, see supra, § 251.

Evidence of character or reputation of accused, see supra, § 252.

Evidence of other crimes, see supra, § 275. Rebuttal in criminal cases, see supra, § 277. Sufficiency of evidence in, see infra, XIII.

Of the trailing of persons by bloodhounds. 42 L.R.A. 432; 35 L.R.A.(N.S.) 870; L.R.A.1917E, 730.

In prosecution of habitual criminal or prior offender. 24 L.R.A.(N.S.) 437.

Consult also L.R.A. Digests of Cases.

EVIDENCE, XII. o-cont'd

Right of prosecution to show feigned in-

sanity. 31 L.R.A. (N.S.) 113.

Repeal of statute excluding evidence discovered or obtained by judicial proceedings. 37 L.R.A.(N.S.) 96.

Admissibility in criminal case of testimony as to facts learned while spying or eavesdropping. 17 L.R.A. (N.S.) 451.

Is evidence of the truth or falsity of an alleged statement admissible in a criminal case to corroborate or disprove the fact that the statement was made. 10 L.R.A.(N.S.) 335.

Admissibility in a criminal prosecution of a judgment rendered in a civil action.

26 L.R.A.(N.S.) 461.

Proof of former conviction where greater penalty is imposed for crime committed by habitual criminals or prior offenders. 48 L.R.A. (N.S.) 206.

Sufficiency of record offered to prove conviction or acquittal. L.R.A.1916B,

285. Evidence of corpus delicti.

Presumption and burden of proof as to, see supra, § 115.

Sufficiency of evidence as to, see infra, § 318.

Proof of corpus delicti. 68 L.R.A. 33. In arson. 16 L.R.A. (N.S.) 285; L.R.A. 1916D, 1299.

In false pretenses. 19 L.R.A.(N.S.) 443. Larceny. 68 L.R.A. 65; 28 L.R.A. (N.S.) 536; L.R.A.1916B, 846.

In homicide. 68 L.R.A. 57, 73, 75, 76, 77,

In rape. L.R.A.1916B, 747.

3 285a. Evidence of alibi.

Evidence of, in prosecution for homicide in carrying out unlawful conspiracy. 68 L.R.A. 222.

Proof of, on trial of one found in possession of recently stolen property. 12 L.R.A.(N.S.) 199.

§ 286. In prosecution for homicide.

As to character or reputation of deceased, see supra, § 251.

As to character or reputation of accused, see supra, § 252.

Presumption and burden of proof as to, see supra, § 116.

Sufficiency of evidence as to, see infra, § 326.

In prosecution for negligent homicide. 61 L.R.A. 298.

In action for homicide by misadventure. 3 L.R.A.(N.S.) 1161.

In prosecution for homicide in commission of unlawful act. 63 L.R.A. 397.

In prosecution for homicide in commission of, or attempt to commit, an abortion. 63 L.R.A. 914.

In prosecution for homicide in resisting arrest, or of officer of justice. L.R.A. 381.

In prosecution for homicide in carrying out unlawful conspiracy. 68 L.R.A. 215.

EVIDENCE, XII. o-cont'd

In prosecution for homicide resulting from injuries by different persons acting independently. 67 L.R.A. 430.

Right of one to testify as to his intent. 23 L.R.A.(N.S.) 388, 34 L.R.A.(N.S.) 324.

Evidence of lower or different degree in prosecution for homicide. 18 L.R.A. (N.S.) 16; 43 L.R.A.(N.S.) 813.

Proof of corpus delicti. 68 L.R.A. 57, 73, 75, 76, 77, 78.

Evidence of other crimes in prosecution for murder. 62 L.R.A. 200, 227, 278, 308,

Right on trial for homicide to show immorality of deceased as bearing upon defendant's intent or motive. 36 L.R.A. (N.S.) 397.

Admissibility, on trial for murder, of testimony of accused at coroner's inquest. 70 L.R.A. 33; 33 L.R.A. (N.S.) 465.

Admissibility of coroner's finding to show cause of death. 68 L.R.A. 285; 45 L.R.A.(N.S.) 404; L.R.A.1918E, 924.

Admission in evidence of portions of body of deceased, on trial for. 12 L.R.A. (N.S.) 238.

Right of court to order disinterment of corpse for evidential purposes. L.R.A.(N.S.) 513.

Evidence of declarations of victim of intent to commit suicide. L.R.A.1916B, 821.

#### § 287. In prosecution for miscellaneous crimes.

In prosecution of carrier for transporting intoxicating liquors. 46 L.R.A. 420.

Possession of recently stolen property as evidence of burglary. 12 L.R.A. (N.S.)

Competency of prosecuting witness on trial for obtaining property by false pre-tenses to testify that he was induced to part with his property by defendant's statements. 34 L.R.A. (N.S.) 642.

Right of accused to show unchastity of prosecutrix in statutory rape. L.R.A. (N.S.) 269.

Evidence of impotency in prosecution for rape. L.R.A.1915B, 132.

In prosecution for rape of female of unsound mind. L.R.A.1916F, 749.

In prosecution under congressional "white slave traffic act." L.R.A.1915A, 866.

XIII. Weight; effect; sufficiency.

## a. In general.

§ 288. Generally. Conclusiveness of judgment, see JUDGMENT. Weight of evidence as question for jury, see TRIAL, §§ 20, 21.

Conclusiveness of decisions of the Land Department as to sufficiency and weight of evidence. L.R.A.1918D, 633.

Begin with this book on every law question.

EVIDENCE, XIII. a-cont'd

Conclusiveness of judicial admission as to strangers. 28 L.R.A. (N.S.) 327; L.R.A. 1915A, 200.

Effect of party's changing testimony on second trial, to supply defects in the case made on the first trial. 37 L.R.A. (N.S.) 429.

Necessity of qualifying by reference to conscious falsity an instruction under a statute enacting the maxim, Falsus in uno, falsus in omnibus, without that qualification. 29 L.R.A.(N.S.) 680. Power of court to disregard testimony be-

cause contrary to scientific principles. 7 L.R.A.(N.S.) 357; 15 L.R.A.(N.S.) 701; 28 L.R.A.(N.S.) 648; L.R.A. 1916D, 301.

Right to judgment non obstante veredicto because of failure of proof. 12 L.R.A. (N.S.) 1021; L.R.A.1916E, 828.

In obtaining judgment nunc pro tunc. 20 L.R.A. 145.

Injunction against judgment for erroneous decision as to sufficiency. 30 L.R.A. 704.

Power of appellate court to reverse conviction for insufficiency of evidence to sustain verdict. 17 L.R.A. 484.

Degree of certainty with which perjury may be established to constitute ground for relief against judgment. 10 L.R.A. (N.S.) 220.

§ 289. Necessity of corroboration. In criminal cases, see infra, §§ 320, 321.

Necessity of corroboration of admission or testimony of party to divorce in relation to the state of mind. 25 L.R.A. (N.S.) 45.

§ 290. Of expert testimony. Generally. 42 L.R.A. 753. Weight. 42 L.R.A. 755.

Opinions as to values and damages. 42 L.R.A. 767.

As to the value of professional services.
45 L.R.A.(N.S.) 181.

Opinions in patent cases. 42 L.R.A. 770. Opinions as to handwriting. 42 L.R.A. 711: L.R.A.191D, 642.

Opinion as to typewriting. L.R.A.1918D, 652.

§ 291. — as to sanity and mental capacity.

Expert evidence as to, generally, see supra, § 190.

Weight of evidence as to sanity as question for jury, see TRIAL, § 21.

In general. 39 L.R.A. 328; 42 L.R.A. 767 As affected by facts and opportunity to observe. 39 L.R.A. 329

As affected by character, bias, and nature of the question. 39 L.R.A. 331.

As compared with other expert opinions. 39 L.R.A. 331.

EVIDENCE, XIII. a-cont'd As compared with nonexpert opinions. 39

L.R.A. 332.

As question for the jury. 39 L.R.A. 333.

§ 292. Of nonexpert opinion as to

sanity or mental capacity.

Nonexpert evidence as to, generally, see supra, § 191.

Weight of nonexpert opinions as to sanity or mental capacity. 38 L.R.A. 745. Of subscribing witnesses as to sanity or insanity of testator. 39 L.R.A. 720; 6 L.R.A. (N.S.) 575.

293. Circumstantial evidence. In criminal cases, see infra, § 319. Relevancy of, see supra, § 271.

Recovery for death on circumstantial evidence. 2 L.R.A.(N.S.) 905.

Discharge of burden of proof as to contributory negligence by. 33 L.R.A.(N.S.) 1138, 1177.

### b. Negligence.

§ 294. Generally.

Presumption and burden of proof as to, see supra, III. g.

Opinion evidence as to, see supra, VIII. Relevancy of evidence as to, see supra, XII.

Of intoxication as evidence of negligence. 40 L.R.A. 145.

Probative value of various facts as tending to show culpability of master in employment of servants. 48 L.R.A. 378.

Violation by servant of rule adopted by railway company as evidence of negligence toward one other than servant. 8 L.R.A.(N.S.) 1063; L.R.A.1917C, 793.

Operating street car at speed in excess of that prescribed by ordinance as evidence of negligence. 8 L.R.A. (N.S.) 1093.

Sufficiency of proof of negligence of carrier causing injury to passenger. 13 L.R.A. (N.S.) 602; 29 L.R.A. (N.S.) 809; L.R.A.1916C, 366.

Sufficiency of evidence to establish negligence respecting escape and explosion of gas. 29 L.R.A. 346.

Proof necessary to discharge burden resting on plaintiff in action against physician for malpractice to show that his negligence or unskilfulness caused or contributed to death or injury of patient. 15 L.R.A.(N.S.) 416.

Negligence of railroad company as to cattle guards. L.R.A.1915B, 136.

Credibility and effect of testimony of person injured at a railroad crossing that he looked and listened, where he must have detected the train had he looked or listened. L.R.A.1915B, 140.

Violation of statute or ordinance as to obstruction of crossings by trains as negligence per se. 47 L.R.A. (N.S.) 821. Consult also L.R.A. Digests of Cases.

EVIDENCE, XIII. b—cont'd

Sufficiency of evidence to render carrier liable for injury to passenger for act of drunken fellow passenger. 4 B. R.

## c. Matters as to persons.

§ 295. In general; marriage; divorce. Presumption and burden of proof as to, see supra, §§ 27, 28.

Sufficiency of evidence to establish condonation of matrimonial offense. 6 B. R. C. 617.

Proof of ceremonial marriage by testimony of eyewitnesses, celebrant, or parties. L.R.A.1915E, 121.

Insufficiency of evidence to warrant divorce as a basis of attack on decree. L.R.A. 1917B, 432.

296. Legitimacy.

Presumption and burden of proof as to, see supra, § 24.

Proof necessary to establish bastardy of child born to married woman. 36 L.R.A.(N.S.) 255.

§ 297. Sanity; capacity. Presumption and burden of proof as to, see supra, § 38.

Weight of opinion evidence as to, see supra, §§ 291, 292.

As to sanity of accused, see infra, § 316.

Evidence necessary to satisfy or shift burden as to sanity. 36 L.R.A. 735.

As to sanity or insanity at time of marriage. 40 L.R.A. 742.

Degree of proof of mental and physical conditions of persons whose dying declarations are offered in evidence. 56 L.R.A.

§ 298. - of testator.

Presumption and burden of proof as to, see supra, § 39.

Suicide as evidence of testamentary incapacity. 24 L.R.A. 577.
Weight of testimony of subscribing witness-

es as to sanity or insanity. 39 L.R.A. 720.

Against competency of testator. L.R.A.(N.S.) 575.

§ 299. Intent.

Presumption and burden of proof as to, see supra, §§ 41, 42.

Parol evidence as to, see supra, §§ 166, 167. Opinion evidence as to, see supra, § 197.

Relevancy of evidence as to, see supra, §§ 255-257.

Weight and conclusiveness of testimony of party as to his intent. 23 L.R.A. (N.S.)

Sufficiency of evidence to show intentional injury in action on insurance policy exempting insurer or limiting its liability in case of injury intentionally inflicted by another. 48 L.R.A.(N.S.) 524.

EVIDENCE, XIII. e-cont'd

Weight of parol evidence introduced to show that instrument importing an absolute conveyance was intended as a mortgage. L.R.A.1916B, 247.

å 299a. Knowledge; notice.

Knowledge of insured of falsity of statements respecting family history. L.R.A. 1917C, 876.

Knowledge of testator of contents of his will. L.R.A.1918D, 754.

## § 300. Undue influence.

Presumption and burden of proof as to, see supra, §§ 52, 53.

Relevancy of evidence as to, see supra, § 260.

Sufficiency of evidence to repel presumption of undue influence from circumstance that one benefited by will was the draftsman thereof or benefited by procuring its execution. 28 L.R.A. (N.S.) 288.

## § 301. Fraud.

Presumption and burden of proof as to, see supra, § 47.

Parol evidence as to fraud, see supra, § 177. Relevancy of evidence as to, see supra, § 259.

Degree of certainty necessary to establish fraud in a civil action. 33 L.R.A. (N.S.) 836.

Character and sufficiency of proof to repel suspicion of fraud from circumstance that one benefited by a will was the draftsman thereof or active in procuring its execution. 28 L.R.A. (N.S.) 279.

# § 302. — as against creditors.

Presumption and burden of preof as to, see supra, §§ 48-50.

Conclusiveness of presumption of fraud from retention of chattels by vendor. 24 L.R.A.(N.S.) 1127.

#### § 302a. Drunkenness.

Sufficiency of evidence to warrant removal of officer for drunkenness. 50 L.R.A. (N.S.) 915.

Weight and sufficiency of evidence of intoxication as affecting negligence. 47 L.R.A. (N.S.) 742.

# § 303. Probable cause.

Presumption and burden of proof as to, see supra, § 46.

Conclusiveness of presumption of want of probable cause for prosecution from discharge. 64 L.R.A. 486.

# § 303a. Identity.

Parol evidence as to, see supra, § 183.

Sufficiency of evidence to establish identity in action for defamation of unnamed person. 48 L.R.A.(N.S.) 369.

Begin with this book on every law question.

EVIDENCE, XIII. e-cont'd

Sufficiency of evidence of resemblance between finger or hand prints as proof of identity. 3 B. R. C. 70.

# d. To overcome writing.

§ 304. Generally.

Cogency of proof in suit for relief from mistake of law as to effect of instrument. 28 L.R.A.(N.S.) 917.

Sufficiency of evidence to impeach certificate of acknowledgment of deed. 6 L.R.A.(N.S.) 442; 41 L.R.A.(N.S.) 1176.

Sufficiency of proof of mistake to secure avoidance of release of claim for personal injuries. L.R.A.1916B, 785.

### e. Of documentary evidence.

§ 305. Generally.

Comparison of handwriting. 62 L.R.A. 871. Change of law as to effect of tax certificates as evidence of title. 4 L.R.A.(N.S.) 1074.

Effect of public record as notice or evidence of notice to start statute of limitations against action based on fraud. 22 L.R.A.(N.S.) 208.

Right of insurance company to rely on clause giving it option as to payee of proceeds of policy and making receipt conclusive evidence of payment to proper person. 20 L.R.A. (N.S.) 928.

Constitutionality of statute making bill of lading conclusive proof of receipt of property. 22 L.R.A. (N.S.) 821.

§ 306. Judgment.

Judgment against officer as conclusive evidence against surety on official bond. 52 L.R.A. 176, 185, 187.

#### § 307. Life tables.

Conclusiveness and effect of tables of expectancy of life. 40 L.R.A. 560; L.R.A. 1918C, 1074.

§ 308. Photographs.

Conclusiveness of photographs introduced in evidence. 15 L.R.A.(N.S.) 1162.

#### § 308a. Enrolled bill.

Conclusiveness of. 23 L.R.A. 340; 40 L.R.A. (N.S.) 1.

# f. Contracts.

§ 309. Generally.

Presumption and burden of proof as to, see supra, III. i.

Relevancy of evidence as to, see supra, XII. 1.

To overcome denial of contract. 4 L.R.A. (N.S.) 410.

Degree of proof necessary to establish parol gift of real estate. 9 L.R.A. (N.S.) 508.

Proof of secondary contract abrogating or altering prior contract. L.R.A.1915B, 68.

EVIDENCE, XIII. f-cont'd

Weight of parol evidence introduced to show that instrument importing an absolute conveyance was intended to operate as a mortgage. L.R.A.1916B, 247.

Evidence necessary to show waiver of stipulation in building contract that alterations or extras must be ordered in

writing. 48 L.R.A.(N.S.) 583. Sufficiency of evidence, in connection with possession of deed by grantor at his death, to show nondelivery of deed. 44 L.R.A. (N.S.) 529.

Sufficiency of evidence to show delivery of deed, though grantor had possession thereof at his death. 44 L.R.A. (N.S.) 534.

Proof of contract to leave property in consideration of services or support in suit for its specific performance. L.R.A.(N.S.) 743.

Proof of contract to leave property to child in consideration of his living with promisor, in suit for specific performance. 44 L.R.A. (N.S.) 769.

\$10. Of employment.

Presumption and burden of proof as to, see supra, § 92.

Sufficiency of evidence to support a recovery for services rendered by relative or member of household. 11 L.R.A. (N.S.)

In action by wrongfully discharged servant for damages from breach of contract.

6 L.R.A.(N.S.) 68.

Sufficiency of proof of other employment in mitigation or reduction of damages for wrongful discharge of servant. 6 · L.R.A. (N.S.) 110.

## § 311. Insurance matters.

Presumption and burden of proof as to, see supra, § 103a.

Sufficiency of proof of falsity of statements by insured respecting family history. L.R.A.1917C, 876.

Sufficiency of evidence to show intentional injury in action on insurance policy exempting insurer or limiting its liability in case of an injury intentionally inflicted by another. 48 L.R.A.(N.S.)

Conclusiveness of proofs of loss as against insured or his beneficiaries. 44 L.R.A.

Validity and construction of provision in insurance policy requiring the fact or circumstances of loss to be established by eye witness. 51 L.R.A.(N.S.) 221; L.R.A.1918F, 420.

# g. Will cases.

§ 312. Generally.

Testamentary capacity of testator, see supra, § 298.

As to undue influence, see supra, § 300. Presumption and burden of proof as to wills, see supra, § 102.

Consult also L.R.A. Digests of Cases. 34

EVIDENCE, XIII. g—cont'd Sufficiency of proof to account for nonpro-duction of will upon application to probate it as a lost or destroyed will. 50 L.R.A.(N.S.) 861.

To prove execution of lost or destroyed will. 38 L.R.A. 441.

To prove contents of lost or destroyed will. 38 L.R.A. 446.

Sufficiency of proof of knowledge by testator of contents of his will. L.R.A. 1918D, 754.

Evidentiary force of circumstance that one benefited by a will was the draftsman thereof, or was active in procuring its execution. 28 L.R.A.(N.S.) 270.

Proof of will where attesting witnesses have forgotten circumstances attending its execution. 51 L.R.A.(N.S.) 927.

Effect of adverse testimony of attesting witnesses as to execution of will. L.R.A. 1916C, 1218.

## h. Miscellancous civil cases.

313. Generally.

Degree of proof requisite to establish fact and contents of lost instrument which is to constitute muniment of title. L.R.A.1918B, 879.

Under the Torrens Law. L.R.A.1916D, 39. Sufficiency of evidence as to death without issue. 4 B. R. C. 632.

Sufficiency of circumstances to rebut presumption of death from absence. L.R.A. 1915B, 743.

Sufficiency of evidence to establish pecuniary loss in statutory action for L.R.A.1916E, 145; L.R.A. death. 1918C, 1111, 1122.

In action by parents for death of minor child. L.R.A.1918E, 290.

In action by parent to recover for death of adult child. L.R.A.1916E,

In statutory action by adult child to recover for death of parent. L.R.A. 1916E, 180.

Sufficiency of proof that injury to employee arose out of and in the course of the employment within meaning of Workmen's Compensation Act. 1917D, 131; L.R.A.1918F, 915.

Sufficiency of evidence that death resulted from an accident or personal injury within meaning of Workmen's Compensation Act. L.R.A.1918F, 877.

In action for damages for mental anguish . in telegraph case. 49 L.R.A.. (N.S.)

Of poor condition, when delivered, of trees, in action against vendor. 49 L.R.A. (N.S.) 1154.

Constitutionality of statute which makes shipper's statement as to weight conclusive. L.R.A.1917E, 1022.

Making weight as found by public weigher conclusive as between buyer and seller. 51 L.R.A.(N.S.) 731.

EVIDENCE, XIII. h—cont'd Conclusiveness of presumption as to receipt of communication sent through mail. 49 L.R.A.(N.S.) 458.

Weight and sufficiency of evidence to rebut presumption as to receipt of communication sent through mail. L.R.A.(N.S.) 469.

May proof of delivery essential to gift rest upon subsequent declarations of donor alone. L.R.A.1916E, 288.

As to right of set-off on mortgage fore-closure. 21 L.R.A. 327.

Proof of failure or refusal of bankrupt or person having money or property be-longing to bankrupt to deliver it to trustee sufficient to justify contempt order. 23 L.R.A.(N.S.) 256.

Sufficiency of evidence before tribunal of association or corporation to support expulsion of member. 49 L.R.A. 369.

Kind and amount of proof necessary to establish tenant's title by adverse possession. 53 L.R.A. 945.

In action against heirs for obligations of ancestor. 21 L.R.A. 92.

Data necessary to warrant recovery for con-sequential damages to real property. 3 L.R.A.(N.S.) 333.

Degree of certainty with which perjury set up as ground for relief against judgment must be established. 1916B, 891.

Weight and sufficiency of evidence of assessment or nonassessment of property as affecting its dedication or acceptance for public use. L.R.A.1916B, 1177.

## 8 314. Libel.

Sufficiency of evidence to establish identity in action for defamation of unnamed person. 48 L.R.A.(N.S.) 369.

Degree of proof necessary to establish justification in action for libel or slander charging criminal act. 10 L.R.A. (N.S.)

1051; 25 L.R.A. (N.S.) 1215. Character and sufficiency of proof of truth as a defense to a civil action for libel or slander. 31 L.R.A.(N.S.) 132; 50 L.R.A.(N.S.) 1041.

#### i. Criminal cases.

# 1. In general.

315. Generally. Presumption and burden of proof in, see supra, III. l.

Relevancy of evidence in, see supra, XII. o. Sufficiency of evidence before grand jury to sustain indictment, see GRAND JURY, § 8.

Applicability in proceeding to punish criminal contempt of rules as to degree of proof in criminal cases. L.R.A.1917B, 123.

Weight and effect of evidence as to character of accused. 20 L.R.A. 618.

EVIDENCE, XIII. i, 1-cont'd

Right of court to caution jury as to believing testimony of accused in his own behalf. 19 L.R.A. (N.S.) 802.

Weight and effect on trial of accused of testimony given by witnesses on preliminary examination, 25 L.R.A.(N.S.)

Sufficiency as proof of identity, of evidence of resemblance between finger or hand prints. 3 B. R. C. 70.

Degree of proof of venue in criminal cases. L.R.A.1918B, 1187.

#### § 316. As to sanity.

Presumption and burden of proof as to, see supra, § 40.

Beyond a reasonable doubt. 39 L.R.A. 737; 44 L.R.A. (N.S.) 125.

To the satisfaction of the jury. 39 L.R.A. 737.

A preponderance of the evidence. 39 L.R.A. 739; 44 L.R.A.(N.S.) 126.

Clearly proved, reasonable certainty, etc. 39 L.R.A. 742.

On issue of present insanity in criminal case. 34 L.R.A.(N.S.) 1115.
Right of jury to abide by presumption of defendant's sanity as against uncontradicted evidence to the contrary. 24 L.R.A.(N.S.) 545.

# § 317. As to alibi.

Burden of proof as to, see supra, § 114.

Proof by defendant beyond a reasonable doubt. 41 L.R.A. 530.

Proof by defendant by a preponderance of evidence. 41 L.R.A. 530.

Proof by defendant to raise a reasonable doubt. 41 L.R.A. 533.

Proof by prosecution beyond a reasonable doubt. 41 L.R.A. 534.

Time covered by proof. 41 L.R.A. 541.

# § 318. Corpus delicti.

Burden of proving, see supra, § 115. Relevancy of evidence as to, see supra, § 285.

Generally. 68 L.R.A. 57.

16 L.R.A.(N.S.) 285; L.R.A In arson. 1916D, 1299,

In embezzlement. L.R.A.1917A, 1289. In homicide. 68 L.R.A. 73, 75-78 L.R.A.(N.S.) 181.

In larceny. 68 L.R.A. 65; 28 L.R.A. (N.S.)
537; L.R.A.1916B, 846.
In rape. L.R.A.1916B, 747.

#### § 318a. Dying declarations.

Weight to which dying declarations are entitled. 56 L.R.A. 445; 52 L.R.A. (N.S.) 152.

# § 319. Circumstantial evidence.

Relevancy of evidence as to, see supra, § 271.

Sufficiency of evidence before grand jury to Is extrajudicial confession circumstantial sustain indictment. 28 L.R.A. 324. testimony. L.R.A.1917D, 595. Begin with this book on every law question.

EVIDENCE, XIII. i, 1—cont'd Necessity of instruction as to. 193; 12 L.R.A.(N.S.) 220. 69 L.R.A.

Sufficiency of circumstantial evidence to identify remains found as those of person charged to have been killed. 7 L.R.A.(N.S.) 181.

Does chain theory apply where the evidence is wholly circumstantial. 41 L.R.A.

(N.S.) 749.

Establishment in prosecution for perjury of falsity of testimony by circumstantial evidence. 44 L.R.A.(N.S.) 513.

320. Corroboration.

În civil cases, see supra, § 289.

Proof of corpus delicti for purpose of. 68
L.R.A. 50, 64, 68, 71, 73.

Instructing jury as to corroboration of testimony of accused. 19 L.R.A. (N.S.) 812.

Applicability of rule that conviction of perjury cannot rest upon uncorroborated evidence of a single witness, to prosecution for subornation of perjury. 44 L.R.A.(N.S.) 307.

Necessity of corroborating evidence as to reputation of house to support a conviction of keeping a disorderly house. 46 L.R.A.(N.S.) 593.

Contradictory statements made by one accused of perjury as sufficient corrobora-tion of single witness. L.R.A.1918E, 928.

321. — of accomplice.

May corroboration of prosecutrix necessary to conviction of rape be supplied by her own complaints out of court. 26 L.R.A. (N.S.) 1149.

Letters identified only by prosecutrix as corroboration of her testimony to prove seduction or rape. 49 L.R.A. (N.S.) 1198.

Age of alleged accomplice in sexual offense as affecting necessity of corroboration. L.R.A.1915E, 1222.

Necessity of corroboration of testimony of a person accepting aid to escape from jail in order to convict persons rendering the assistance. 24 L.R.A.(N.S.) 625.

Who is accomplice in gambling within rule requiring corroboration of testimony. 43 L.R.A.(N.S.) 546.

Who is accomplice in bribery case within the rule requiring corroboration of testimony. 39 L.R.A.(N.S.) 704.

Purchaser of intoxicating liquors illegally sold as an accomplice. 46 L.R.A. (N.S.) 410.

§ 322. Self-contradictory testimony of accomplice.

Conviction on the testimony of accomplice which is self-contradictory. 21 L.R.A. (N.S.) 878.

§ 323. Reasonable doubt.

Proof of venue beyond. L.R.A.1918B, 1187. Proof of alibi beyond. 41 L.R.A. 530. Proof of insanity beyond. 39 L.R.A. 737; 44 L.R.A. (N.S.) 119.

Consult also L.R.A. Digests of Cases.

EVIDENCE, XIII. i, 1-cont'd

Effect of evidence of good character to raise. 20 L.R.A. 609.

Applicability of rule of, to self-defense in homicide. 19 L.R.A.(N.S.) 483; 31 L.R.A. (N.S.) 1166,

Question whether suit for statutory penalty is a civil or criminal prosecution as affecting necessity for proof be-yond. 27 L.R.A.(N.S.) 746. Propriety of instruction to the effect that

a reasonable doubt is one for which a reason can be assigned. 16 L.R.A. (N.S.) 260.

324. — what constitutes.

Mere conjecture. 17 L.R.A. 705.

Such doubt as would influence action in one's own affairs. 17 L.R.A. 705. Substantial doubt. 17 L.R.A. 707.

Doubt growing out of the evidence. L.R.A. 708.

Doubt for which reason can be given. 17 L.R.A. 710.

Equivalents. 17 L.R.A. 710.

Approved definitions. 17 L.R.A. 711.

As to defendant's insanity. 39 L.R.A. 745; 44 L.R.A.(N.S.) 119.

Propriety of instruction as the effect that a reasonable doubt is one for which a reason can be assigned. 16 L.R.A. (N.S.) 260.

§ 325. — as to alibi.

Proof by defendant beyond reasonable doubt as to. 41 L.R.A. 530.

Proof of alibi to raise a reasonable doubt. 41 L.R.A. 533.

Proof by prosecution beyond reasonable doubt as to alibi. 41 L.R.A. 534.

## 2. Various particular crimes.

326. Homicide.

Presumption and burden of proof as to, see supra, § 116.

Relevancy of evidence as to, see supra, § 286.

May finding of premeditation and deliberation essential to murder in first degree rest upon evidence that at the time defendant was fleeing from the scene of another crime. L.R.A.1918C, 566. In prosecution for homicide in commission

of an unlawful act. 63 L.R.A. 398.

In prosecution for homicide in commission of, or attempt to commit, an abortion. 63 L.R.A. 918.

Sufficiency of proof of motive or malice in homicide in resisting arrest. 66 L.R.A. 385.

case of homicide by misadventure. 3 L.R.A. (N.S.) 1161.

Burden of proving self-defense by preponderance of evidence on prosecution for homicide. 19 L.R.A.(N.S.) 492.

Proof of corpus delicti in. 68 L.R.A. 73, 75-78.

Sufficiency of circumstantial evidence to identify remains found as those of persons charged to have been killed. L.R.A.(N.S.) 181.

EVIDENCE, XIII. i, 2—cont'd Necessity of instruction as to law on circumstantial evidence on prosecution for. 69 L.R.A. 193, 201, 205.

Applicability of rule of to self-defense in homicide. 19 L.R.A.(N.S.) 483; 31 L.R.A. (N.S.) 1166.

327. Sales of liquor.

Presumption and burden of proof as to, see supra, § 117.

To prove defendant's responsibility for sale of intoxicating liquor by his servant. 41 L.R.A. 673

Is allegation or proof of the sale of "beer" or "lager beer", sufficient to sustain a conviction under statutes prohibiting the sale of spirituous, vinous, distilled, malt, fermented, or intoxicating liquor. 7 L.R.A. (N.S.) 195; 25 L.R.A. (N.S.) 446; 48 L.R.A. (N.S.) 308.

Conviction of keeping a common liquor nuisance upon proof of a single sale. L.R.A.1917F, 1110.

#### § 328. Miscellaneous.

In prosecution for inciting or abetting suicide. 66 L.R.A. 307.

In prosecution for receiving deposit in insolvent bank. 31 L.R.A. 125.

In prosecution for carrying out unlawful conspiracy. 68 L.R.A. 217.

In prosecution for violation of act regulating speed of automobiles. L.R.A.1918D, 147.

Conviction of perjury upon proof that accused made contradictory statements. L.R.A.1917C, 58.

Sufficiency of proof of mere failure to pay over money to sustain conviction of embezzlement. L.R.A.1917B, 1266.

Degree of proof of knowledge necessary to convict one of receiving stolen goods. 22 L.R.A.(N.S.) -841.

In prosecution for counterfeiting union label. 39 L.R.A.(N.S.) 1202.

Sufficiency of proof of failure to provide child with medical attendance and remedies. 1 B. R. C. 749.

In prosecution under congressional "white slave traffic act." L.R.A.1915A, 867; L.R.A.1917E, 1137.

#### XIV. Admissibility under pleadings; variance.

§ 329. Admissibility under pleadings. Necessity of making allegations, see Plead-ING, § 37.

Admissibility under pleadings of parol evidence to show that written instrument importing an absolute transfer was intended to operate as a mortgage. L.R.A.1916B, 556.

Right to prove partial failure of consideration for note given for purchase money under plea of total failure. 39 L.R.A. (N.S.) 951.

Admissibility of evidence in mitigation or aggravation of punishment under plea of nolo contendere. 41 L.R.A.(N.S.) 72.

EVIDENCE, XIV.—cont'd

Right to show disability of adult on issue of contributory negligence without allegation thereof. L.R.A.1917D, 558.

Defenses available under general denial or a plea of the general issue in action of ejectment. L.R.A.1918F, 247.

Admissibility of proof that money or prop-erty was obtained by fraud, under the common-law count for money had and received. L.R.A.1918F, 439.

#### 330. Variance.

Variance between proof and theory of the case set forth in pleading. 50 L.R.A. (N.S.) 14.

Variance between pleading and proof in action for damages through horse becoming frightened by automobile on highway. 48 L.R.A.(N.S.) 966.

ariance between pleading and proof in action to enforce subscription to charity.

48 L.R.A.(N.S.) 807.

Necessity and sufficiency of allegation or proof as to time of injury to persons or property on railroad track. L.R.A. 1915A, 781.

Necessity for agreement between allegations and proof as to master's liaiblity to injured servant. 41 L.R.A. 149.

Allegata and probata in action against carrier for wilful tort of servant to passenger. 40 L.R.A.(N.S.) 1085.

Variance between allegation and proof as to time in action against railroad company for setting out fires. 41 L.R.A. (N.S.) 635.

8 381. --criminal cases, generally.

Variance in signatures attached to forged instruments set out in indictments and the instruments themselves. 31 L.R.A. (N.S.) 226.

Between indictment and bail bond or recognizance in description of offense. 38 L.R.A.(N.S.) 325.

# § 332. — in homicide.

Correspondence between allegation and proof of time of committing homicide. 3 L.R.A. (N.S.) 1024.

Variance as to name of deceased as ground for reversal in homicide. 38 L.R.A. (N.S.) 187.

### § 333. — in prosecution for keeping disorderly house.

Proof of offense during any part of time alleged. 49 L.R.A.(N.S.) 798.

Proof of offense at a time prior to that alleged. 49 L.R.A.(N.S.) 798.

Proof of offense at a time between that alleged and the time of finding the indictment. 49 L.R.A.(N.S.) 800.

Maine and Massachusetts cases. 49 L.R.A. (N.S.) 800.

#### EVIDENTIARY ARTICLES.

Right of officer in executing criminal process to take possession of. 18 L.R.A. (N.S.) 253; L.R.A.1916C, 1017.

Begin with this book on every law question,

#### EVII.

Implied sanction of statutory regulations. 14 L.R.A. 846.

### EXACT SCIENCES.

Books of, as evidence. 40 L.R.A. 553.

# EXAMINATION.

Post mortem examination, see AUTOPSY; POST MORTEM.

Of insured, see INSURANCE, § 150.

Of juror, see Juny, § 8a.

Of witnesses, generally, see WITNESSES, III.

Order to enter premises for. 31 L.R.A. 169. Requiring examinations as conditions of admission or promotion of school pupils. L.R.A.1917C. 997.

### EXAMINING MAGISTRATE.

Discharge by as evidence of want of probable cause for prosecution. 64 L.R.A. 481.

# EXAMINING PHYSICIAN.

Admissibility of statements or letters by, as to physical condition of insured. 38 L.R.A. (N.S.) 343.

# EXCAVATION.

1. Generally.

Injury to lateral support by, see LATERAL SUPPORT.

Loss of profits as element of damages for breach of contract for making. 53 L.R.A. 70.

Violation of police ordinance as to excavation in or near street as ground for private action. 5 L.R.A. (N.S.) 259.

2. Injuries in.

Municipal liability for injury by excavations in street, see HIGHWAYS, §§ 70, 75. 81.

Sufficiency of general allegations of negligence as to. 59 L.R.A. 252.

Doctrine of "attractive nuisance" as applied to. 19 L.R.A.(N.S.) 1152.

Liability for damage to service mains by excavating in street. L.R.A.1917E, 1094.

Liability for injuries by excavations near highway or frequented path. 26 L.R.A. 689, 693; L.R.A.1918A, 850.

Consult also L.R.A. Digests of Cases.

# EXCAVATION—cont'd

Duty to trespasser with respect to excavations maintained on uninclosed land near highway. 5 L.R.A.(N.S.) 733. Liability of landlord to third persons as to.

50 L.R.A.(N.S.) 305.

Forgetfulness of, as contributory negligence. 39 L.R.A. (N.S.) 896.

Contributory negligence of children. L.R.A. 1917F, 105.

# § 3. — to servant.

Servant's assumption of risk as to. L.R.A. (N.S.) 350.

Employer's nonliability for torts of inde-pendent contractor in excavation work. 65 L.R.A. 654.

Nondelegability of duty to protect servants engaged in excavating. 54 L.R.A. 69,

Imputing to master coservant's negligence in respect to dangers in excavation work. 54 L.R.A. 138.

### EXCEPTED PERILS.

See CARRIERS, § 135.

#### EXCEPTIONS.

On appeal, see APPEAL AND ERBOR, §§ 24, 24a.

Bill of, see APPEAL AND ERBOR, § 23.

In deed, see DEEDS, §§ 24-27. Creation of easement by, see EASEMENTS, § 8.

Burden of proving, see EVIDENCE, § 21. Negation of, in indictment, see INDICTMENT, INFORMATION, AND COMPLAINT, § 8. During trial, see TRIAL, § 18.

Liability of tenant for negligent destruction of premises as affected by excep-tion in covenant for return of premises in good condition. L.R.A.1918A,

### EXCESS.

Injunction as proper remedy to protect right of ingress and egress from street to abutting property. 35 L.R.A. (N.S.) 193.

### EXCESSIVE AMOUNT.

Sufficiency of tender of, see TENDER, § 6.

### EXCESSIVE DAMAGES.

For personal injury, see Damages, § 64. For death, see DAMAGES, § 65a.

#### EXCESSIVE FORCE.

Liability of employer for excessive force used by servant sent to commit trespass. 70 L.R.A. 735.

### EXCESSIVE HEAT.

Master's liability for vice principal's negligence in exposing servant to. 54 L.R.A. Ĭ33.

### EXCESSIVE LIEN.

Effect of filing, see MECHANICS' LIENS, § 27.

### EXCESSIVE LOCATION.

Effect of excessive location of mining claim. 28 L.R.A.(N.S.) 1029.

#### EXCESSIVE PAYMENTS.

Depositor's right to recover against one to whom bank has made excessive pay-

ment. 42 L.R.A. (N.S.) 1135.

Recovery back of excessive payments to public service corporation. 18 L.R.A. (N.S.) 124.

### EXCESSIVE PUNISHMENT.

Homicide by, see HOMICIDE, § 9. Of pupil by teacher. 1 B. R. C. 720.

### EXCESSIVE SENTENCE.

· Effect of, see CRIMINAL LAW, § 79.

# EXCHANGE.

Provision for, as affecting negotiability, 27 L.R.A. 222.

### EXCHANGE OF PROPERTY.

Measure of damages for fraud in. 38 L.R.A. (N.S.) 465.

Performance by real estate broker of contract to effect exchange of principal's property. 44 L.R.A. 593.

Begin with this book on every law question.

EXCHANGE OF PROPERTY—cont'd
Effect on pledgee's rights of delivery of
pledged property for exchange. 39
L.R.A.(N.S.) 891.

Effect of taking possession on exchange of lands without writing to satisfy statute of frauds. 3 L.R.A.(N.S.) 804.

Express provision by statute or charter for payment of subscription to stock in cash or money as excluding payment in services or property. 27 L.R.A.(N.S.)

### EXCHANGES.

§ 1. Generally.

Transactions in bucket shops, see BUCKET SHOP.

Membership in exchange as subject of tax-ation. 50 L.R.A.(N.S.) 255. Review of decisions of, against members, 49 L.R.A. 358, 361, 364. Validity of rule of board of trade requiring submission of disputes to arbitration. 2 L.R.A.(N.S.) 672.

Property right in market quotation. L.R.A.(N.S.) 889.

§ 2. Seats in.

Seat on stock exchange as asset in bankruptcy. 27 L.R.A.(N.S.) 613.

Resulting trust in favor of one who purchases stock exchange seat in name of another. 4 L.R.A. (N.S.) 435.

# EXCISE.

Validity of excise tax on automobiles. 37 L.R.A. (N.S.) 440; 52 L.R.A. (N.S.) 949. Effect of violation of excise laws on validity of fire insurance. 40 L.R.A. 845.

Injunction against enforcement of excise laws as affected by other remedies. 8 L.R.A. (N.S.) 125.

# EXCISE OFFICERS.

Mandamus to, see Mandamus, § 6.

### EXCITEMENT.

As affecting testamentary capacity. 27 L.R.A.(N.S.) 66; L.R.A.1915A, 458. Of accused, as affecting voluntariness of confession. 18 L.R.A.(N.S.) 790; 50 L.R.A. (N.S.) 1087.

### EXCLUSION.

§§ 139-140.

#### EXCLUSIVENESS.

Exclusiveness of jurisdiction first acquired, see Courts, §§ 49, 50.

Of statutory remedy, see Election of Rem-EDIES, § 12.

Of franchise, see FRANCHISES, § 3.

Of possession to obtain title by adverse possession. 15 L.R.A.(N.S.) 1196.

### EXCLUSIVE PATRONAGE.

Validity of agreement to patronize particular concern exclusively. 42 L.R.A. (N.S.) 842.

#### EXCLUSIVE POSSESSION.

Of recently stolen property as evidence of burglary. 12 L.R.A.(N.S.) 217.

### EXCLUSIVE PRIVILEGE.

Grant of, by carriers, see Carriers, V. b. As to monopolistic privileges generally, see Monopolies and Combinations.

Contract for exclusive service by telephone company, see Telephones, § 2.

In use of trademark, see TRADEMARK, § 9.

Right of riparian owner on tidal or navigable waters to exclusive fishery. 31 L.R.A.(N.S.) 396.

Exclusive right to establish and operate ferry. 59 L.R.A. 538; L.R.A.1916D, 834.

Exclusiveness of franchise of water company. 61 L.R.A. 80.

Breach of agreement in contract of sale to give the purchaser the exclusive right of sale as affecting the remedies of the parties. L.R.A.1918C, 1027.

# EXCLUSIVE REMEDY.

See Election of Remedies, § 12.

# EXCLUSIVE RIGHT.

Loss of profits of sale or purchase of, as damages. 52 L.R.A. 238.

# EXCOMMUNICATION.

See Religious Societies, § 13. Consult also L.R.A. Digests of Cases.

### EXCURSIONISTS.

Imputing negligence of carrier to. L.R.A.(N.S.) 626; L.R.A.1915A, 762.

Duty of carrier to passenger on train or boat chartered to third person for excursion. 15 L.R.A.(N.S.) 425; 52 L.R.A (N.S.) 260.

### EXCUSABLE HOMICIDE.

By unlawful act aimed at another than one killed. 63 L.R.A. 667.

In commission of, or attempt to commit, an abortion. 63 L.R.A. 909; 49 L.R.A. (N.S.) 582.

#### EXCUSABLE NEGLECT.

As ground for relief from judgment, see JUDGMENT, § 94.

#### EXCUSE.

For assault and battery, see ASSAULT AND BATTERY, §§ 3-6.

For committing crime, see CRIMINAL LAW, III.

For nonperformance of contract, see Con-TRACTS, §§ 123-126, 135a.

For failure to give notice of claim to municipality, see MUNICIPAL CORPORATION, § 107.

Excuse for delay in enforcing liability of maker of note so as to prevent release of indorser. 18 L.R.A.(N.S.) 553.

Excuse for teacher's failure to obtain certificate of qualification. 42 L.R.A. (N.S.) 415.

### EXECUTION.

I. In general, §§ 1-14.

II. Supplementary proceedings, §§ 15, 16.

III. Equitable remedy in aid of, § 17. IV. Body execution, \$ 18.

### I. In general.

§ 1. Generally.

Of chattel mortgage, see CHATTEL MORT-GAGE, § 3.

Of deeds, see DEEDS, §§ 3-5. Of will, see WILLS, §§ 18-32. For crime, see CRIMINAL LAW, § 75.

As condition precedent to equitable remedy of creditors, see CREDITORS' BILL.

Exemption from, see EXEMPTION. Sale on, see JUDICIAL SALE.

Levy of, see LEVY AND SEIZURE.

EXECUTION, I .- cont'd

Property subject to, see LEVY AND SEIZURE, §§ 2-7.

Right to sue upon domestic judgment upon which execution may be issued. L.R.A. 1917A, 189.

Injunction against. 30 L.R.A. 98.

Constitutionality of imprisonment on. L.R.A.1915B, 646.

Territorial extent of lien of execution. 45 L.R.A.(N.S.) 267.

When statute begins to run against action by private person based on breach of duty in execution by public officer. 52 L.R.A.(N.S.) 704.

What entry or record of judgment is necessary for purpose of enforcement by execution. 28 L.R.A. 633.

Irregularities in; as ground for injunction against sale under. 30 L.R.A. 136.

Notice sufficient to put purchaser pending, on inquiry as to vendor's fraudulent intent. 32 L.R.A. 61.

Right to mandamus to compel inferior court to execute or enforce its judgment or decree by issuing execution. 24 L.R.A. (N.S.) 891.

Liability of officer for larceny while acting under writ of. 3 L.R.A.(N.S.) 508.

Liability of officer's bond for failure to return money deposited to avoid execution of writ. 39 L.R.A.(N.S.) 577.

Effect of judgment establishing title to property seized under execution, as against officer making seizure who was not a party thereto. 14 L.R.A.(N.S.) 530.

Federal courts following state decisions as to matters relating to. 40 L.R.A.(N.S.) 436.

### § 2. Right to.

Effect of bar of statute of limitations against action to enforce judgment upon right to issue execution thereon. 23 L.R.A. (N.S.) 1096.

### § 3. Against whom.

Against both partners for debt of one partner. 46 L.R.A. 495.

# § 4. Against what.

On corporate stock; effect of pledge or other transfer not made in books of company. 67 L.R.A. 656.

Purchase of real estate of partnership under. 28 L.R.A. 173.

# § 5. Time of issuing.

First and last days in computing time for. 49 L.R.A. 233; 15 L.R.A.(N.S.) 690.

Effect of resolution to pay judgment against city to excuse creditor's failure to issue execution during statutory period. 2 L.R.A.(N.S.) 855.

### § 6. — extension of.

Extension of time for levying execution as discharge of surety. 5 L.R.A.(N.S.) 764.

Begin with this book on every law question.

EXECUTION, I.-cont'd

§ 7. Effect of issuing.

Loss of lien by, see LIENS, § 19.

Effect of issuance of execution against one joint tort feasor upon liability of other. 58 L.R.A. 419.

Right of possession as between receiver and creditor levying an execution on property. 20 L.R.A. 392.

Waiver of lien of chattel mortgage by execution. 24 L.R.A. (N.S.) 490; 51 L.R.A. (N.S.) 1068.

### § 8. Necessity for.

Execution as condition precedent to equitable remedies of creditors. 23 L.R.A. (N.S.) 26.

# § 9. Failure to issue or execute.

Release of indorser of note from liability by failure to issue or levy, against maker. 18 L.R.A.(N.S.) 546.

Burden of proof in action to recover for failure to execute process. 3 L.R.A. (N.S.) 420.

# § 10. Return.

Officer's return upon an execution or order of sale as a memorandum satisfying the Statute of Frauds. L.R.A.1917E, 899.

Release of indorser of note by improper return to execution against maker. 18 L.R.A.(N.S.) 548.

Variance between execution and judgment as affecting amercement of officer for failure to return execution. 42 L.R.A. (N.S.) 895.

# § 11. Payment; satisfaction.

On original judgment after payment by surety. 68 L.R.A. 567.

Acceptance of commercial paper as payment or satisfaction of. 35 L.R.A. (N.S.) 83.

# § 12. Stay.

Stay of execution of sentence for crime, see CRIMINAL LAW, § 84.

Priority of judgment with stay of, over conveyance made after beginning of term. 38 L.R.A. 250.

Release of indorser of note by stay of execution against maker. 18 L.R.A. (N.S.) 549.

# § 13. Loss of priority.

Loss of priority of execution by consent of creditor to delay or postponement of sale. 27 L.R.A. 374.

Priority as between true owner and execution creditors of one in whose name he has placed stock on the books of the corporation. 49 L.R.A. (N.S.) 1159.

May priority between judgments, the liens of which have attached simultaneously, be obtained by priority of execution proceedings. L.R.A.1916D, 669.

EXECUTION, I.—cont'd

§ 14. Death of one party after judgment as affecting remedy by. Death of sole judgment creditor. 61 L.R.A.

353.

Death of sole judgment debtor. 61 L.R.A.

Civil death of debtor. 61 L.R.A. 386. Death of one of several judgment creditors before issuance. 61 L.R.A. 386.

Death of one of several judgment debtors. 61 L.R.A. 387.

# II. Supplementary proceedings.

15. Generally.

Right of receiver in supplementary proceedings to contest will. L.R.A.1918A, 462. Exemption of officer's salary. 54 L.R.A.

566. Necessity of return of, as a condition of right of judgment creditor to procure

a receivership. 33 L.R.A. 546. Exhausting remedies at law as a condition of right of. 33 L.R.A. 550.

Effect of bankruptcy on. 45 L.R.A. 193.

§ 16. Lien acquired by service of notice in.

Generally. 3 L.R.A. (N.S.) 123.

New York cases under the Codes. 3 L.R.A. (N.S.) 123,

# III. Equitable remedy in aid of.

§ 17. Generally.

To subject choses in action to judgment after return of no property found. 63 L.R.A. 673; 15 L.R.A. (N.S.) 976.

# IV. Body execution.

§ 18. Generally.

Power of attorney to bind client by release of defendant taken in execution. L.R.A. 1918D, 808. -

Constitutionality of imprisonment on. 34 L.R.A. 634.

Arrest under civil process for breach of warranty. 20 L.R.A.(N.S.) 844.

Release of indorser of note by failure to take out capias ad satisfaciendum against maker. 18 L.R.A.(N.S.) 549. Order of arrest or capias ad respondendum

as condition of right to body execution. L.R.A.1915A, 706.

Right to bail pending attempt to avoid body execution. L.R.A.1915E, 340,

Right to break and enter dwelling to serve writ of, L.R.A.1916D, 284.

# EXECUTIVE COMMITTEE.

Authority of agent of, to contract for services of other persons. L.R.A.1918F, 70.

### EXECUTIVE DEPARTMENTS.

See Courts, § 17: Governor. Consult also L.R.A. Digests of Cases.

### EXECUTIVE OFFICERS.

Mandamus to, see Mandamus, § 5.

#### EXECUTOR DE SON TORT.

Waiver or tolling of statute of limitations by, as to an indebtedness of the estate. L.Ŕ.A.1915B, 1040.

### EXECUTORS AND ADMINISTRA-TORS.

I. In general, 🖇 1, 2.

II. Appointment, resignation; moval; bond, \$\$ 3-11.

III. Powers, duties, and liabilities; claims due estate; assets, §§ 12-32.

a. Rights and powers, §§ 12-18.

b. Duties, § 19.

c. Liabilities, §§ 20-27.

1. In general, §§ 20-21.

2. For what liable, §\$ 22-25.

3. Liability on bond, §§ 26, 27. d. Claims due estate, §§ 28,

29.

e. Assets, §§ 29a-32.

IV. Indebtedness; distribution; accounting and settlement; allowances, §§ 33-55a.

a. Debts and obligations of es-

tate, §§ 33-46.
b. Distribution of estate, §§ 47-49.

c. Accounting; commissions: reimbursement, §§ 50-53.

d. Allowances, \$\$ 54-55a. V. Suits affecting estate, §§ 56-58.
VI. Sale of property of estate, § 59. VII. Foreign and ancillary administra-

### 1. In general.

tion, \$\$ 60, 61.

§ 1. Generally.

Effect of insolvency of, see Insolvency, § 14.

Who are legal representatives within insurance policy, see Insurance, § 188. Conclusiveness of foreign judgment against,

see JUDGMENT, § 70. Assessment of property of decedent's estate, see Taxes, § 54.

to succession or inheritance taxes, see

Taxes, §§ 90-105. Probate of will, see WILLS, §§ 47-56.

Competency of witnesses in action by or against, see WITNESSES, §§ 22-24.

Competency as an attesting witness of officer or stockholder of a corporation named as executor. L.R.A.1916D, 185.

EXECUTORS AND ADMINISTRATORS, I. | EXECUTORS AND ADMINISTRATORS, –cont'd

Situs for property taxation as between different states or countries, of personal property held by executor or administrator. L.R.A.1915C, 949.

Notice to personal representative of de-ceased owner to redeem from tax sale. 44 L.R.A.(N.S.) 668.

Who are "legal representatives" within life

insurance policy. 30 L.R.A. 609.
First and last days in computing time in matters of. 49 L.R.A. 239.

Gift by will as affected by executor's promise to testator. 20 L.R.A. 469.

Revaluation or reassignment of homestead for appreciation or depreciation of value. 44 L.R.A. 402; 16 L.R.A. (N.S.) 728.

Enforcing orders and decrees of courts by imprisonment for debt. 34 L.R.A. 663. Assessment against personal representative omitted during lifetime of owner. 40

L.R.A. (N.S.) 927. Proof of execution of attested instrument where subscribing witness is executor or administrator. 35 L.R.A. 336.

Admissibility of declarations of executor to show lack of testamentary capacity or undue influence. 38 L.R.A.(N.S.) 731.

Direction to executors in bequest of stocks, bonds, or notes as determining whether bequest is general or specific. L.R.A.(N.S.) 83.

Validity of contract for unauthorized administration of estates. 12 L.R.A. (N.S.) 613.

Constitutionality of statutes providing for administration of estate of absentee. 4 L.R.A.(N.S.) 944.

Remedy of pretermitted heirs by intervening in administration. 37 L.R.A.(N.S.) 1147.

Preliminary injunction which would have effect of transferring possession of property from defendant in possession to

administrator. 39 L.R.A.(N.S.) 34. Interests covered by particular designation of insured on property belonging to a decedent's estate. 42 L.R.A.(N.S.) 79.

Adverse possession of executor or administrator as continuation of that of ancester. L.R.A.1917C, 147.

# § 2. Necessity of administration in devolution of personalty.

In general. 15 L.R.A. 491.

to husband or wife of decedent. L.R.A. 495.

When decedent a minor. 15 L.R.A. 496. Rights of administrator appointed subsequent to assumption of ownership by

those entitled. 15 L.R.A. 496.
Effect of statutes barring administration, and of lapse of time. 15 L.R.A. 497.

### II. Appointment; resignation; removal; bond.

§ 3. Generally.

Effect of misnaming estate in granting letters. 46 L.R.A.(N.S.) 274.

II.—cont'd

Validity of grant of administration where will is subsequently discovered. 7 B. R. C. 498.

Right of domiciliary executors and administrators, or their nominees, to ancillary letters. 48 L.R.A.(N.S.) 858.

Jurisdiction of estate of inmate of Federal home or institution. 39 L.R.A.(N.S.) 586.

# § 4. What assets will give jurisdiction to appoint administrator.

Generally. 24 L.R.A. 684; L.R.A.1915D, 856.

Necessity for assets. L.R.A.1915D, 856. What value necessary. 24 L.R.A. 684; L.R.A.1915D, 857.

Where assets are regarded as located. 24 L.R.A. 685.

Personal property generally. L.R.A.1915D,

Debts due decedent, generally. 24 L.R.A. 685; L.R.A.1915D, 858.

Interest in pending suit. 24 L.R.A. 686.

Action for death or personal injury. L.R.A. 686; L.R.A.1915D, 860. Specialties. 24 L.R.A. 687.

Judgments. 24 L.R.A. 687; L.R.A.1915D, 859.

Corporate stock. 24 L.R.A. 687; L.R.A. 1915D, 859.

Insurance policy. 24 L.R.A. 687; L.R.A. 1915D, 864.

Claims against government. 24 L.R.A. 687; L.R.A.1915D, 864.

Assets brought within jurisdiction after death of intestate. 24 L.R.A. 688; L.R.A.1915D, 865.

Real estate. 24 L.R.A. 688; L.R.A.1915D, 864.

Deposits. 24 L.R.A. 689; L.R.A.1915D, 858. Doubtful claims. 24 L.R.A. 689.

Contingent claim. L.R.A.1915D, 859. Equitable claim. L.R.A.1915D, 859.

Claim against estate of another. L.R.A. 1915D, 860.

Claim against personal representatives. 24 L.R.A. 689.

Bills and notes. 24 L.R.A. 689.

Community property. L.R.A.1915D, 860. Interest in partnership. L.R.A.1915D, 860. Appointment of administrator for sole pur-

pose of bringing action under Federal employers' liability act. 47 L.R.A. (N.S.) 78.

# § 5. Who may be appointed.

Requisite moral qualifications. 16 L.R.A. 538.

Foreign corporation as. 24 L.R.A. 291. Jurisdiction and power of consuls to administer on estates. 45 L.R.A. 496; 37 L.R.A.(N.S.) 549.

Right of one first entitled to administration to nominate a third person, to exclusion of those next entitled thereto. 22 L.R.A. (N.S.) 1161.

Begin with this book on every law question.

EXECUTORS II.—cont'd

Payment or tender of debt due from estate as affecting creditor's right to letters of administration. 45 L.R.A.(N.S.) 237.

Right of committee of lunatic or guardian of an infant to appointment as administrator or executor. L.R.A. 1915C, 581.

### § 6. — nonresidents.

Nonresidents as executors. 1 L.R.A. (N.S.) 341.

Nonresidents as adminstrators. 1 L.R.A. (N.S.) 346.

§ 7. Effect of appointment of debtor.

Effect of appointment of debtor as executor or administrator to discharge debt, or charge personal representative and his sureties. 26 L.R.A. (N.S.) 411.

### 8. Resignation or removal.

Power to permit executor who has qualified to resign. 13 L.R.A.(N.S.) 438.

Effect of removal or resignation of personal representative on liability of estate to attorney employed by him. 25 L.R.A. (N.S.) 74.

Effect of insanity or mental incompetency of executor or administrator. 45 L.R.A. (N.S.) 1073.

#### § 9. Termination of appointment; revocation of letters or probate.

Validity of act done under letters afterwards revoked, see infra, § 16.

Revocation of letters of administration upon discovery of will. 49 L.R.A. (N.S.)

Revocation of probate as termination of appointment of administrator c. t. a. 29 L.R.A.(N.S.) 975.

Jurisdiction in case of acts by executor or administrator under letters testamentary or of administration subsequently revoked or set aside. 21 L.R.A. 151; 43 L.R.A. (N.S.) 634.

### § 10. Impeachment of jurisdictional facts.

Collateral impeachability of findings as to jurisdictional facts on which administration of a decedent's estate is based. 18 L.R.A. 242.

### 11. Bond.

Liability on, see infra, §§ 26, 27.

Execution of bond on condition that others shall sign. 45 L.R.A. 340.

Effect of delivery of bond unsigned by principal obligor. 12 LaR.A. (N.S.) 1118.

Validity of sale to surety on executor's bond. 4 L.R.A.(N.S.) 820.

Raising question of executor's or administrator's collusion in establishing claim L.R.A.1915C, 738.

Consult also L.R.A. Digests of Cases.

AND ADMINISTRATORS, EXECUTORS AND ADMINISTRATORS, -cont'd

> III. Powers, duties, and liabilities; claims due estate; assets.

#### a. Rights and powers.

#### § 12. Generally.

Authority to enter judgment on warrant of attorney. 13 L.R.A. 798.

Rights of representative of deceased depositor of money in trust for third person. 32 L.R.A. 375.

Right of personal representative of lessee to possession of leased premises under a lease to commence in futuro. 22 L.R.A. (N.S.) 301.

Circumstances sufficient to put one taking paper from executor or administrator on inquiry. 29 L.R.A.(N.S.) 365; 44 L.R.A.(N.S.) 403; L.R.A.1918F, 1153.

Estoppel of one who executes a deed as executor or administrator to set up an existing title in himself. 21 L.R.A. (N.S.) 60.

Right of court to control discretion vested by will in executor to determine fitness of legatee to receive legacy. 25 L.R.A. (N.S.) 421.

Settlement of cause of action for death by beneficiaries without assent of executor or administrator. 35 L.R.A.(N.S.) 207.

Bequest to executor to divide as he thinks best. 37 L.R.A. (N.S.) 403.

Power of executor to contest right of trustee in bankruptcy to proceeds of life insurance of deceased. 41 L.R.A. (N.S.) 125.

Right of personal representative to indem-nity from estate for debts contracted. 40 L.R.A. (N.S.) 232.

Right of creditors to subrogation to personal representative's right of indemnity. 40 L.R.A.(N.S.) 233.

Doctrine of equitable conversion as affecting executor's right to sign consent or remonstrance as land owner. 50 L.R.A. (N.S.) 32.

Power of executor or administrator to enter into contract for material or labor so as to subject estate to mechanics' lien therefor. 52 L.R.A.(N.S.) 870.

Power to waive or toll statute of limitations or nonclaim as to an indebtedness of the estate. L.R.A.1915B, 1016.

Liability of corporation transferring stockon books at request of personal representative of deceased owner. 45 L.R.A. (N.S.) 1079.

Right of continuing or surviving executor or administrator against former coexecutor or coadministrator or latter's representatives. 47 L.R.A.(N.S.) 995.

Ornamental articles as fixtures as between legatees, devisees, heirs, personal representatives, and life tenants. B. R. C. 162.

against estate by an action on his bond. Right of executor to contest will. L.R.A. 1918A, 467.

EXECUTORS AND ADMINISTRATORS, EXECUTORS AND ADMINISTRATORS. III. a-cont'd

Bequest to executor to divide as he thinks best. L.R.A.1917D, 821.

§ 13. Powers of administrator with the will annexed.

Will special power, other than power of sale, conferred on executor by will, pass to an administrator with the will annexed. 29 L.R.A.(N.S.) 264.

Right to carry on business under testamentary power. 40 L.R.A.(N.S.) 208. Right of administrator c. t. a. to exercise power of sale of real estate. 50 L.R.A.

§ 14. Executor or administrator of deceased partner.

Power of personal representative to carry on business. 40 L.R.A.(N.S.) 201.

When partnership in land continues after death of partner. 28 L.R.A. 106.

Respective powers of surviving partner and personal representative of deceased partner. 28 L.R.A. 136.

§ 14a. — as to real estate.

(N.S.) 609.

Rights of executor or administrator as to partnership real estate. 27 L.R.A. 340; 28 L.R.A. 99, 105, 136.

Powers as to partnership real estate vested in executors or administrators of deceased partner. 27 L.R.A. 352.

Rights of heirs of deceased partner in partnership real estate as against personal representatives of deceased partner. 27 L.R.A. 352.

§ 15. Right to rents on lease of intestate's property.

Classification by states. 40 L.R.A. 321. English cases. 40 L.R.A. 339.

Summary as to rents accruing during owner's life. 40 L.R.A. 342.

Summary as to rents accruing after owner's death. 40 L.R.A. 343.

§ 16. Validity of acts done under letters afterwards revoked or held invalid.

Validity of act done by an executor or administrator under letters testamentary or of administration afterward revoked or held invalid. 21 L.R.A. 147; 43 L.R.A. (N.S.) 634.

§ 17. Power to sell property of estate. Right of executor or administrator to employ broker or auctioneer. 64 L.R.A. 556.

Implied power of executor or trustee to sell real 32 L.R.A. property. (N.S.) 676.

Duty of executor with power of sale, az to land held adversely. 35 L.R.A. (N.S.) 749.

May executor or administrator of grantec named exercise power of sale. L.R.A.(N.S.) 621.

III. a-cont'd

May less than all the executors named exercise power of sale. 50 L.R.A.(N.S.) 622.

When power of sale deemed to be coupled with an interest. 50 L.R.A.(N.S.) 632. When power of sale deemed annexed to the

office, or given ratione officii. 50 L.R.A.(N.S.) 643.

§ 17a. Power to carry on business in behalf of estate.

To wind up business. 40 L.R.A.(N.S.) 205. Testamentary power. 40 L.R.A.(N.S.) 206. Under express power in articles of partner-ship. 40 L.R.A.(N.S.) 207. Under parol power. 40 L.R.A.(N.S.) 208.

Right of administrator c t. a. or d. b. n. to carry on business under testamentary power. 40 L.R.A. (N.S.) 208.

Statutory power to carry on business. L.R.A.(N.S.) 209.

Power of court to permit carrying on business. 40 L.R.A.(N.S.) 210.

§ 18. Power to elect between dower and provision of will.

Right of personal representatives to make or control election for or against a will, or between different provisions of a will or statute. 11 L.R.A. (N.S.) 379.

Right of executor or administrator of widow to elect between dower and provisions in her husband's will where she died before the expiration of the time limited for election. 2 L.R.A.(N.S.) 959.

b. Duties.

§ 19. Generally.

Duty of executor with power of sale as to land held adversely. 35 L.R.A.(N.S.) 749.

Duty of executor to inform legatee of terms of legacy. 6 B. R. C. 104.

### c. Liabilities.

# 1. In general.

20. Generally.

Effect of negligence on, see Negligence, § 4.

Liability of infants as. 57 L.R.A. 688. Expression of opinion by, as a fraud. 35

L.R.A. 421. Effect of the qualifying words "as executor" and "as administrator." 15 L.R.A. 850.

Personal liability on contract to which words indicating representative capacity are added to signature. 42 L.R.A. (N.S.) 56.

Effect of appointment of debtor as executor or administrator to discharge debt or charge personal representative and his sureties. 26 L.R.A.(N.S.) 411.

Personal liability of representative who waives or tolls statute of limitations or nonclaim as to an indebtedness of the estate. L.R.A.1915B, 1051.

Begin with this book on every law question.

EXECUTORS AND ADMINISTRATORS, | EXECUTORS AND ADMINISTRATORS, III. c, 1—cont'd

Manner of raising question to charge executor or administrator personally, of collusion in establishing claim against estate. L.R.A.1915C, 737.

### § 20a. Liability of administrator de bonis non.

Liability for debts contracted while carrybusiness under testamentary power. 40 L.R.A.(N.S.) 216.

# § 21. In what capacity may be sued for personal tort.

Generally. 51 L.R.A. 261.

Fraud or misrepresentation in sale of property of estate. 51 L.R.A. 262.

Torts in care or management of property of estate. 51 L.R.A. 263.

Actions arising from conversion. 51 L.R.A. 263.

Malicious prosecution; abuse of process. 51 L.R.A. 266.

Replevin, detinue, etc. 51 L.R.A. 266.

# 2. For what liable.

# § 22. Generally. On bond, see infra. § 27.

Personal liability for succession L.R.A.1915C, 615.

Personal liability of executor, administrator or trustee on covenant in deed executed by him. 43 L.R.A. (N.S.) 377. For costs. 14 L.R.A. 696.

For funeral expenses. 33 L.R.A. 663; 52 L.R.A. (N.S.) 1152.

For torts or negligence of servants. L.R.A. 227.

For losses to estate from investments. L.R.A.(N.S.) 873.

For rents of intestate's property. 40 L.R.A.

Liability to estate, of representative compromising or releasing claims due estate. 14 L.R.A. 416.

Liability of personal representative of heir or devisee for debts of the latter's ancestor. 39 L.R.A.(N.S.) 690.

Contingent liability of executors and administrators for misconduct as affecting time for presentation of claim against his estate. 58 L.R.A. 86.

Liability of personal representatives of devisee for amount charged on devise. 30 L.R.A.(N.S.) 818.

Personal liability of executor or administrator on corporate stock belonging to estate or trust standing in his name. 30 L.R.A.(N.S.) 1092.

Liability of executor or adminstrator for personal injury resulting from negligence in care or management of property of estate. 38 L.R.A. (N.S.) 379.

Executor or administrator of lessee as an assignee of the lease liable for rent. 52 L.R.A.(N.S.) 987.

Consult also L.R.A. Digests of Cases.

III. c, 2—cont'd

🔁 22a. While carrying on business in behalf of estate.

When done under testamentary power. 40 L.R.A.(N.S.) 211.

Liability of administrator c, t. a. or d. b. n. for debts contracted while carrying on business under testamentary power. 40 L.R.A. (N.S.) 216.

Estoppel of beneficiaries of estate to charge personal representative with losses sustained in carrying on business. 40 L.R.A.(N.S.) 234.

# § 23. Deposits in bank.

Liability of executor or administrator for loss of bank deposit. 14 L.R.A. 103; 7

L.R.A. (N.S.) 617; 45 L.R.A. (N.S.) 1.
Liability of representative of deceased depositor of money in trust for third person. 32 L.R.A. 375.

### § 24. For interest. See Interest, §§ 12, 13.

# 25. For default of coexecutor.

Liability of coexecutor for default of one permitted to manage estate. 11 L.R.A.(N.S.) 296.

Exception as to duties imposed by law. 11 L.R.A.(N.S.) 327.

Liability of executor not participating in management of business for debts contracted by coexecutor in carrying on business in behalf of estate. 40 L.R.A. (N.S.) 215.

# 3. Liability on bond.

### § 26. Generally.

Effect of unauthorized provisions in bond. L.R.A.1917B, 990.

Liability of sureties on general bond of administrator as affected by a special bond. 43 L.R.A.(N.S.) 308.

Right to sue executor or administrator, on his bond, in a state other than that of his appointment. 35 L.R.A.(N.S.) 334.

Remedy of pretermitted heirs by action on executor's bond. 37 L.R.A.(N.S.) 1147. Penalty as limit of liability on bond. 55 L.R.A. 392.

Decree directing transfer of fund by execu-tor or administrator to himself in another fiduciary capacity as affecting liability of his sureties. 40 L.R.A. (N.S.) 1136.

Effect on surety of judgment against principal. 52 L.R.A. 187; 40 L.R.A. (N.S.) 408; L.R.A.1918E, 816.

Validity of sale to surety on executor's bond. 4 L.R.A.(N.S.) 820.

### § 27. For what liable.

Liability of administrator and his sureties for debt owing by the former to the estate of his intestate where administrator is hopelessly insolvent. 61 L.R.A.

EXECUTORS AND ADMINISTRATORS, | EXECUTORS AND ADMINISTRATORS, III. c, 3—cont'd

Liability of surety on bond of executor or administrator for debt contracted in 22 L.R.A. (N.S.) interest of estate. 1094.

Liability on bond for default of coexecutor permitted to manage estate. 11 L.R.A. (N.S.) 306.

#### d. Claims due estate.

§ 28. Generally.

Payment to administrator as discharge of debt when will is subsequently discovered and probated. 17 L.R.A. (N.S.) 878.

29. Compromise or release of. Compromise or release by personal representatives of claims due estate. 14

L.R.A. 414.

Distinction between executors and administrators. 14 L.R.A. 414.

14 L.R.A. Effect of statutory provisions.

Binding effect of release or compromise. 14 L.R.A. 415.

Liability of representative to estate. L.R.A. 416. 14

Controversies relating to real estate. L.R.A. 417.

Suits for damages for causing death. L.R.A. 417.

Binding effect upon administrator of settlement by sole heir or distributee of claim belonging to estate. 11 L.R.A. (N.S.) 148.

Compromise by personal representative of action for death as affecting right of action therefor by representatives appointed in another state. L.R.A.1918D, 670.

# e. Assets.

§ 29a. Generally.

What assets will give jurisdiction to appoint executor, see supra, § 4. Right of action for causing decedent's death,

see DEATH, II.

Payment of money deposited with bank to credit of more than one executor. L.R.A.1915D, 923.

Liability to estate of bank which receives deposit from one assuming without authority to act as executor or administrator. L.R.A.1915E, 309.

Right of executor or administrator to avoid conveyance or transfer by decedent in fraud of creditors. 50 L.R.A. (N.S.)

# § 30. What are assets.

Under testamentary trust for payment of debts. 5 L.R.A.(N.S.) 358.

Liquor license as asset. 4 L.R.A. (N.S.) 828

III. e-cont'd

Debt as asset on appointment of debtor as executor or administrator. 26 L.R.A. (N.S.) 413.

Administration based on right of action for

negligent killing of a person as an asset. 1 L.R.A. (N.S.) 885.

Right of personal representatives to compensation that was being paid to depend the compensation that pendents or employees under Work-men's Compensation Acts. L.R.A.1917D, 166; L.R.A.1918F, 563.

Heating apparatus as part of realty, where rights of heir or devisee are involved.

1 B. R. C. 982.

Right of children as against executor or administrator in homestead of deceased parent. 56 L.R.A. 63.

Is surplus realized on foreclosure sale of real estate after mortgagor's death to be deemed real or personal property. 19 L.R.A. (N.S.) 723.

Is purchase of standing timber to be removed within a specified time, a purchase of realty or of personalty. 13 L.R.A.(N.S.) 278.

Right of estate of one entitled by will or statute to an allowance for support and maintenance to accumulations undrawn and unexpended at the time of her death. 9 L.R.A. (N.S.) 997.

Validity of provision that money shall be payable to obligee only and not to his estate. 17 L.R.A.(N.S.) 1239.

Property covered by power of appointment as assets of donee's estate. L.R.A. 1918D, 346.

# § 31. Right to assets.

When personal representative not entitled to possession of personal assets of estate. 3 L.R.A. (N.S.) 704.

Widow's right to proceeds of insurance on deceased husband's life payable to himself or his executors or administra-

tors. 35 L.R.A.(N.S.) 964.
Right of beneficiary as against estate of insured to proceeds of endowment insurance. 52 L.R.A.(N.S.) 689.

§ 32. What assets pass to administrator de bonis non.

Generally. 40 L.R.A. 33.

The rule in the different states. 40 L.R.A. 33.

Summary. 40 L.R.A. 71.

- distribution; IV. Indebtedness; accounting and settlement; allowances.
- a. Debts and obligations of estate.

§ 33. Generally.

Sale of property of estate to pay debts, see infra, § 59.

Conflict of laws as to claims against estate, see Conflict of Laws, § 34.

Begin with this book on every law question.

IV. a-cont'd

Liability of heirs for obligations of ancestor, see DESCENT AND DISTRIBU-TION, § 12.

Manner of raising question to charge executor or administrator personally, of collusion in establishing claim against estate. L.R.A.1915C, 737.

Position of creditor as against administrator on sale of expectancy by prospective heir. 33 L.R.A. 276.

Liability of estate of deceased servant for uncarned portion of prepaid remunera-tion. 21 L.R.A. (N.S.) 929.

Right of devisee or heir to completion of improvements at the expense of the estate. 36 L.R.A.(N.S.) 303.

Is an administrator or executor in such privity with a legatee, distributee, or creditor that he may assert a personal defense of the latter to a claim against the estate. 8 L.R.A. (N.S.)

Claim against decedent's estate as remedy for breach of agreement to assume debts on dissolution of partnership. 9 L.R.A. (N.S.) 114.

Power of Federal court to enforce its own judgment against a decedent's estate. 12 L.R.A.(N.S.) 154.

Remedy for enforcement against decedent's estate of alimony which had accrued prior to his death. 18 L.R.A. (N.S.) 257.

Liability of estate of alleged pauper to pay for support or gifts obtained on ground of poverty. 55 L.R.A. 570.

Power of state to make estate of person committed to insane asylum or his relatives liable for cost of his maintenance therein. 24 L.R.A.(N.S.) 295.

Equitable rights of creditors where personal representative carries on business. 40 L.R.A.(N.S.) 233.

Right of creditors to subrogation to personal representative's right of indemnity from estate for debts contracted in carrying on business. (N.S.) 233. 40 L.R.A.

Right to recover against estate of incompetent for legal services in attempting to secure his freedom or in resisting lunacy proceedings. 45 L.R.A.(N.S.) 67.

Liability for libel in will. 49 L.R.A.(N.S.) 897.

Mechanics' lien for material or labor furnished under contract with executor or administrator. 52 L.R.A. (N.S.) 870.

§ 34. Liability of estate to attorney employed by personal representative. Doctrine that personal representative cannot bind estate. 25 L.R.A. (N.S.)

Doctrine that probate court may make allowance directly to attorney. 25 L.R.A. (N.S.) 75.

Doctrine that personal representative may bind estate. 25 L.R.A. (N.S.) 75. Consult also L.R.A. Digests of Cases.

EXECUTORS AND ADMINISTRATORS, EXECUTORS AND ADMINISTRATORS, IV. a—cont'd

34a. Liability of estate for debts contracted and expenses incurred by personal representative in carrying on business.

When business carried on under testamentary power or that in articles of partnership. 40 L.R.A.(N.S.) 224.

When personal representative or guardian not empowered to carry on business. 40 L.R.A. (N.S.) 227.

When business carried on under statute.
40 L.R.A.(N.S.) 228.

When business carried on under order of court. 40 L.R.A.(N.S.) 229.

When business carried on by guardian. 40 L.R.A.(N.S.) 229.

Allowance of expenses of business as costs of administration. 40 L.R.A.(N.S.)

§ 35. Liability of estate for broker's commissions.

When employment of broker or agent is permitted by the will. 64 L.R.A. 554. Statutes. 64 L.R.A. 555.

Right at common law to employ broker. 64 L.R.A. 556.

Right at common law to employ auctioneer. 64 L.R.A. 557.

36. Liability for funeral expenses.

Ultimate liability. 33 L.R.A. 660; 52 L.R.A. (N.S.) 1153.

Primary liability as between executor or administrator and the estate. 33 L.R.A. 663; 52 L.R.A.(N.S.) 1156.

Remedies. 33 L.R.A. 664; 52 L.R.A. (N.S.) 1156.

Preference. 33 L.R.A. 665; 52 L.R.A. (N.S.) 1157.

Liability of wife's separate estate for her funeral expenses. 6 L.R.A.(N.S.) 917; 37 L.R.A.(N.S.) 754.

§ 37. — items and amounts.

In general. 33 L.R.A. 665; 28 L.R.A. (N.S.) 572; 52 L.R.A.(N.S.) 1158.

Grave clothes. 33 L.R.A. 665.

Mourning apparel. 33 L.R.A. 665; 28 L.R.A. (N.S.) 572.

Burial lot. 33 L.R.A. 666; 28 L.R.A. (N.S.)

Monument or tombstone. 33 L.R.A. 666; 28 L.R.A.(N.S.) 572; 52 L.R.A.(N.S.) 1158.

Amount allowable. 33 L.R.A. 668; 28 L.R.A.(N.S.) 573; 52 L.R.A.(N.S.) 1158.

Miscellaneous. 33 L.R.A. 667; 28 L.R.A. (N.S.) 574; 52 L.R.A.(N.S.) 1158. Insolvent estates. 33 L.R.A. 669; 28 L.R.A.

(N.S.) 575.

38. Set-off of claim against estate. Set-off in bankruptcy cases. 55 L.R.A. 46, 52.

Right to set off, against insolvent estate, claims purchased after decedent's death. 21 L.R.A. 282. EXECUTORS AND ADMINISTRATORS, EXECUTORS AND ADMINISTRATORS. IV. a—cont'd

Right of bank to set off unmatured claim against deposit of deceased debtor. 27 L.R.A.(N.S.) 812.

Set-off as between debt due from decedent and claim arising after decedent's death, out of transaction with executor or administrator. L.R.A. 1915A, 299.

# 39. Presentation of claims.

Presentation of claims in ancillary proceedings, see infra, § 60.

Effect of failure to present claim against estate of deceased principal to release surety. 25 L.R.A.(N.S.) 139.

### \$ 40. - time for.

Running of limitations in case of claims against decedent's estates generally, see LIMITATION OF ACTIONS, §§ 44, 58.

Waiver or tolling of statute of nonclaims by personal 1915B, 1042. representative.

Right of ward to file claim against estate of guardian after termination of guardianship, but before settlement of account. 26 L.R.A.(N.S.) 793.

Effect on running of limitations of appointment of temporary administrator. 38 L.R.A. (N.S.) 824.

Do proceedings for sale of decedent's real property fall within "omnibus" provision of statute of limitations. 25 L.R.A.(N.S.) 1304.

Statute of nonclaim as equivalent of limitation within rule that running of the latter against debt secured will bar remedy on the mortgage. 31 L.R.A. (N.S.) 1013.

Is statute of limitations suspended during period allowed administrator to bring action. 13 L.R.A. (N.S.) 1200.

When limitations begin to run in action against representatives of deceased stockholder in insolvent corporations for unpaid stock subscription. 1 L.R.A. (N.S.) 913.

Effect of failure to present claim within the time allowed by the administration statute of the domicil as a bar to its allowance in the state of the ancillary administration, or vice versa. 19 L.R.A.(N.S.) 553.

Claim barred by failure to file it in administration proceedings within prescribed time as consideration for note of third person. L.R.A.1917C, 844.

### § 41. — contingency of claim as affecting time.

Generally. 58 L.R.A. 82.

Statutory construction. 58 L.R.A. 82, Nature of contingency in general. 58 L.R.A.

Liability of stockholders. 58 L.R.A. 85. Liability of executors, administrators, and guardians for misconduct. 58 L.R.A.

IV. a—cont'd Liability of sureties and guarantors. L.R.A. 86.

Liability of indorsers. 58 L.R.A. 87. Reimbursement of sureties and indorsers. 58 L.R.A. 87.

Contribution. 58 L.R.A. 88.

Liability under contracts of indemnity. 58 L.R.A. 88.

Liability for breach of warranty. 58 L.R.A. 88.

Liability of grantee assuming mortgage. 58 L.R.A. 89.

Liability of partner. 58 L.R.A. 89. Miscellaneous claims. 58 L.R.A. 89.

### § 42. Effect of retention of account by personal representative.

Retention of account by executor or administrator as rendering it an account stated. 29 L.R.A.(N.S.) 340.

### 43. Remedies with respect to claims. Rights of creditors to rents of intestate's property. 40 L.R.A. 345.

Effect of foreign judgments against executor or administrator. 27 L.R.A. 101.

Injunction as to claims in foreign jurisdiction. 21 L.R.A. 73.

Injunction in favor of, or against, executor or administrator to prevent execution sales. 30 L.R.A. 120.

Injunction against judgment entered against executors or administrators on confession. 30 L.R.A. 241.

Right of executor or administrator to have judgment against decedent set aside. 54 L.R.A. 761.

Statutory exemptions of proceeds or avails of life insurance as inuring to benefitof estate where policy is payable to executors or administrators, or estate. L.R.A.1917F, 1143.

### § 44. — garnishment. See GARNISHMENT, § 7.

# 45. Payment of.

Effect of payment by stranger or volunteer to give claim against estate. 23 L.R.A 129.

Commercial paper given by representative as payment of debt. 35 L.R.A.(N.S.)

Order of abatement to pay debts, as be-tween demonstrative legacies and spe-cific legacies or devises. 4 L.R.A.(N.S.)

Right of creditors of business carried on by executor to preference over creditors of testator. 7 B. R. C. 518.

### § 46. Recovery back of overpayment made.

Right of executor or administrator to re-cover back from creditor excessive payments made under the mistaken belief that estate was solvent. 28 L.R.A. (N.S.) 440.

Begin with this book on every law question.

EXECUTORS AND ADMINISTRATORS, EXECUTORS AND ADMINISTRATORS, IV.—cont'd

### b. Distribution of estate.

§ 47. Generally.

As to descent and distribution generally, see DESCENT AND DISTRIBUTION.

Property subject to distribution, see DE-SCENT AND DISTRIBUTION, § 9.

Liability of heirs for obligations of ancestor, see DESCENT AND DISTRIBUTION, § 12.

Who entitled to, see DESCENT AND DISTRI-BUTION, II.

Who entitled to take under will, see WILLS, §§ 69, 70.

Remedy where estate has been distributed before claim accrued. L.R.A.1916A, 1185.

Distribution of assets to next of kin or beneficiary under will in jurisdiction of ancillary administration. L.R.A.1915A,

Time as of which valuation of decedent's estate is to be taken for assignment share of surviving spouse. B. R. C. 973.

Of estates in which persons not in being may have an interest. 8 L.R.A.(N.S.) 69.

Law governing distribution of fund collected or recovered for negligent killing of a person. 4 L.R.A.(N.S.) 814.

Controversies over estates of decedents as subject of valid compromise. 25 L.R.A. (N.S.) 305.

Effect of provision in will for equitable conversion on wife's distributive share where the will makes no provision for her or she renounces such provision. 22 L.R.A.(N.S.) 285.

Right to probate will after distribution of property as intestate. 36 L.R.A.(N.S.)

Voluntary distribution of chattels to life tenant as inuring to benefit of remainderman. 14 L.R.A.(N.S.) 798.

Notice of distribution in probate proceedings as jurisdictional. 37 L.R.A. (N.S.) 368.

Effect of decree of distribution following a testamentary disposition of property void under the rule against perpetuities or as unlawfully suspending the power of alienation. 15 L.R.A. (N.S.) 900.

§ 48. Payment of legacies. See WILLS, § 108.

49. Set-off against distributive share. Duty of debtor to account for statute-barred debt before participating in estate of creditor. 4 B. R. C. 718; L.R.A.1918C, 619.

Indebtedness of heir or devisee to estate as counterclaim or set-off against distributive share in proceeds of real es-1179.

Consult also L.R.A. Digests of Cascs. 35

IV.-cont'd

Deduction of indebtedness owing to remote ancestor by predeceased immediate ancestors. 47 L.R.A. (N.S.) 1026.

### o. Accounting; commissions; reimbursement.

§ 50. Generally.

Effect of discharging executor or administrator before inheritance tax is paid. L.R.A.1917E, 1162.

Duty to account for gold or silver. L.R.A. 523.

Accounting by administrator for rents of intestate's property. 40 L.R.A. 344.

Right of administrator de bonis non to require predecessor to account. 40 L.R.A. 73.

Right of executor or administrator or his representatives to object to account of coexecutor or coadministrator. L.R.A.(N.S.) 1119.

Right of court to surcharge account of executor, administrator, guardian, or receiver in the absence of any objection to the account, or upon an objection by amious curiæ. 18 L.R.A.(N.S.) 284.

Effect of accounting on personal liability for losses to estate through investments. 44 L.R.A.(N.S.) 984.

Raising question to charge executor or administrator personally, of collusion in establishing claim against estate by objection to his account. L.R.A.1915C. 737.

# § 51. Notice of accounting.

Remedy of distributee as to accounting of which he had no notice and on which he did not appear. 63 L.R.A. 95.

# § 52. Commissions.

Effect of allowance of brokerage upon. 64 L.R.A. 555.

Right of surviving copartner acting as executor to compensation for services. 17 L.R.A. (N.S.) 406.

### § 53. Reimbursement.

Allowance to executor de son tort of disbursements or payments. L.R.A. 1915D, 948.

Expenditure of administrator for the protection of decedent's character. 16 L.R.A. 743.

Right to credit for amount paid to surety company for bond. 48 L.R.A. 591.

Right of executor to allowance for attorneys' fees for services in attempt to establish or resist attack upon will. 26 L.R.A. (N.S.) 757; L.R.A.1917A, **4**50.

# d. Allowances.

§ 54. Generally.

tate. 4 L.R.A. (N.S.) 189; L.R.A.1915A, Succession tax on allowances. 29 L.R.A. (N.S.) 428.

EXECUTORS AND ADMINISTRATORS, | EXECUTORS AND ADMINISTRATORS, IV. d-cont'd

55. Widow's allowance.

Waiver of right to widow's allowance by antenuptial agreement. 25 L.R.A. (N.S.) 751.

Widow's right to year's support or allowance out of fund recovered for the negligent killing of husband. 42 L.R.A. (N.S.) 725.

Widow's right to year's support or allowance out of insurance money. 46 L.R.A. (N.S.) 788.

55a. — effect of nonresidence.

Right of nonresident widow to statutory allowance. 21 L.R.A. 241.

Widow's right to exemption or allowance for support out of personal assets of estate of deceased husband, who was a nonresident. 11 L,R.A.(N.S.) 361.

### V. Suits affecting estate.

§ 56. Generally.

Costs and fees of suit, see Costs and Fees, § 3.

Probate of will, see WILLS, §§ 47-56.

Pendency of proceedings in both state and Federal courts. 42 L.R.A. 460.

Removal of actions relating to decedents' estates because of separable controversy. 5 L.R.A.(N.S.) 81.

Conflict of laws as to limitations of actions affecting decedent's estate. L.R.A. 634.

Admissions and waivers by executor or administrator in actions. 32 L.R.A. 687.

§ 57. On behalf of estate.

By foreign or ancillary representative, see infra, § 61.

Survival of action in favor of decedent, see ABATEMENT AND REVIVAL, §§ 2, 3.

Right of personal representative to sue for causing death of decedent, see DEATH, § 10.

Compromise of right of action for death of decedent, see DEATH, § 14.

Limitation of actions, see LIMITATION OF ACTIONS, §§ 44, 58.

Executor or administrator as real party in interest by whom action must be brought. 64 L.R.A. 611.

Who may sue or take other proceedings to set aside judgment affecting decedent's estate. 54 L.R.A. 761.

Right to sue for injury from damming back water of stream. 59 L.R.A. 903.

Ejectment by executor or administrator. 18 L.R.A. 789.

Is an administrator or executor in such privity with a legatee, distributee, or creditor, that he may assert a personal defense of the latter to a claim against the estate. 8 L.R.A.(N.S.) 212.

Right of next of kin to maintain action in interest of estate.

Begin with this book on every law question.

V.—cont'd

Contributory negligence of parent as bar to action by administrator for death of child non sui juris. 18 L.R.A.(N.S.)

Recovery by administrator in action for benefit of estate of probable accumulations of deceased as damages for his death. 15 L.R.A.(N.S.) 451.

Injunction to prevent execution sales. 30 L.R.A. 120.

Right of executor or administrator to appeal as party aggrieved. 13 L.R.A. 745. Right to accept favorable part of decree

of distribution and appeal from the rest. 29 L.R.A.(N.S.) 13.

Action for mutilation of corpse. L.R.A. 1915B, 521.

Waiver by legal representatives or heirs of privilege as to communications between physician and patient. 48 L.R.A. (N.S.) 42Ò.

§ 58. Suits against.

Against foreign or ancillary representative, see infra, § 61.

Survival of action against decedent, see ABATEMENT AND REVIVAL, §§ 2, 3.

Representative's right to interplead claimants, see Interpleader, § 2.

Garnishment of executor or administrator, see supra, § 44.

Waiver or tolling of statute of limitations by personal representative, see Limi-TATION OF ACTIONS, § 62a.

Remedy of distributee who had no notice of accounting and did not appear thereon, by proceeding against executor or administrator. 63 L.R.A. 101.

Foreign judgment against executor or administrator. 27 L.R.A. 101.

Injunction against suit against estate in other jurisdiction. 21 L.R.A. 73.

Injunction against judgment entered against personal representatives on confession. 30 L.R.A. 241.

Injunction to prevent execution sales. L.R.A. 120.

Necessity of exhausting remedy at law against deceased debtor as condition precedent to creditor's bill. 23 L.R.A. (N.S.) 92–96, 111, 112.

Right of widow to recover from estate the value of her dower interest in land conveyed by her husband during his lifetime. 8 L.R.A. (N.S.) 1101.

Right of surety of personal representative to intervene in action against principal or vice versa. 68 L.R.A. 744.

Right of representative of decedent's estate to interplead claimants. 37 L.R.A. (N.S.) 986.

Necessity of consistency in complaint with respect to representative or individual capacity of party. 1 L.R.A.(N.S.) 161.

### VI. Sale of property of estatc.

§ 59. Generally.

22 L.R.A.(N.S.) | Power of representative to make sale, see supra, § 17.

EXECUTORS AND ADMINISTRATORS, I VI.—cont'd

Constitutionality of private act authorizing sale of decedent's estates. 16 L.R.A.

Validity of sale to surety on executor's bond. 4 L.R.A.(N.S.) 820.

Injunction against judgments on sales of real property by. 31 L.R.A. 754.

Right of one claiming through heir or devisee to protection against unrecorded conveyance by ancestor or his personal representative. 34 L.R.A.(N.S.) 328. Executing power of sale under will after

discharge. 2 L.R.A.(N.S.) 623.

Reimbursement or subrogation of purchaser on annulling sale. 69 L.R.A. 45.

Liability of purchaser from executor or administrator of property charged with the payment of a legacy. 30 L.R.A. (N.S.) 821.

Effect of subsequent revocation of letters testamentary or of administration under which sale had. 21 L.R.A. 155; 43 L.R.A. (N.S.) 634.

Conveyance by administrator of cotenant as basis of adverse possession against others. 32 L.R.A.(N.S.) 710.

Sale by, as violation of covenant in lease against assignment or sale. 14 L.R.A. (N.S.) 1204.

Dower in land subject to purchase money mortgage sold by executor or administrator after husband's death. 52 L.R.A. (N.S.) .550.

Estoppel of executor or administrator to deny that he received the amount stated in his report of sale. L.R.A.1916A,

Sale of real estate in state other than decedent's domicil to pay debts. L.R.A.1915D, 754.

Right of executor or administrator to purchase at his own sale. L.R.A.1918B,

Purchase at executor's sale by judge who ordered the sale. L.R.A.1918C, 157.

### VII. Foreign and ancillary administration.

§ 60. Generally.

Right of domiciliary executors and admin-istrators, or their nominees, to ancillary letters. 48 L.R.A. (N.S.) 858.

Effect of probate of will in another state.
48 L.R.A. 130.

Appointment of receiver to preserve status quo pending administration proceedings in another tribunal. 38 L.R.A. (N.S.) 231.

Effect of failure to present claim within time allowed by administration statute of domicil as bar to its allowance in state of ancillary administration or vice versa. 19 L.R.A.(N.S.) 553.

Ancillary probate at testator's domicil after probate in other jurisdiction. 1 L.R.A. (N.S.) 996.

Consult also L.R.A. Digests of Cases.

EXECUTORS AND ADMINISTRATORS, VII.—cont'd

Rights of foreign creditors under ancillary administration. L.R.A.1915F, 1041.

Sale of real estate in state other than decedent's domicil to pay debts. L.R.A. 1915D, 754.

Distribution of assets to next of kin or beneficiary under will in jurisdiction of ancillary administration. L.R.A.1915A, 431.

Effect of qualification of personal representatives within state, other than the domicil of the deceased, to give court jurisdiction as to assets in another state. L.R.A.1918E, 718.

61. Suits by or against.

Right of domiciliary administrator to sue on judgment in another state. L.R.A. (N.S.) 430.

Right of foreign representative to maintain action for death of decedent under statute of another state which provides that the action shall be brought by the personal representative. 18 L.R.A. (N.S.) 1252; L.R.A.1917A, 37.

Settlement or compromise by personal representatives of cause of action for death as affecting right of action therefor by representative appointed in another state. L.R.A.1918D, 670.

Injunction as to claims in foreign jurisdiction. 21 L.R.A. 73.

Injunction in favor of or against, to prevent execution sales. 30 L.R.A. 121.

Right to revive suit and continue same against foreign representative of deceased defendant over whom jurisdiction was obtained in his lifetime. L.R.A. (N.S.) 632.

Effect of ancillary appointment after commencement of action by foreign executor or administrator. 4 L.R.A. (N.S.) 657.

Effect of foreign judgments against executor or administrator. 27 L.R.A. 101.

# EXECUTORY DEVISE.

In general, see WILLS, § 94.

Levy on. 23 L.R.A. 643.

### EXECUTORY JUDGMENT.

Effect of subsequent statute on. L.R.A. 1918D, 253.

# EXECUTORY TRUSTS.

Under rule in Shelley's Case, see DEEDS, § 30; WILLS, § 82.

### EXEMPLARY DAMAGES.

See Damages, §§ 13-19.

#### EXEMPTION.

I. In general, § 1.

II. Of property from claims of creditors, §§ 2-10.

a. In general, §§ 2, 3.

b. What property and rights are exempt, §§ 4-8.

c. Who may claim, \$\$ 9, 10.

### I. In general.

§ 1. Generally.

From jury duty, see JURY, § 10.

From assessments, see Public IMPROVE-MENTS, IV.

From taxation, see Taxes, §§ 14-39, 95-

From service of process, see WRIT AND PROC-ESS, §§ 30-37.

Under Selective Service Act of May 18, 1917. L.R.A.1918E, 1020.

Contract exemptions from power of legislature to fix tolls, rates, and prices. 33 L.R.A. 186.

Statutory exemption of municipal corporations from liability for defects or obstruction in street. 20 L.R.A.(N.S.)

Of grand juror. 28 L.R.A. 199. Right conferred by statutory exemption of firemen from jury or militia duty. L.R.A. (N.S.) 498.

From payment of compulsory pilotage fees. 39 L.R.A. 179.

### II. Of property from claims of creditors.

### a. In general.

2. Generally.

In bankruptcy, see BANKBUPTCY.

Conflict of laws as to exemption matters, see CONFLICT OF LAWS, §§ 41, 44.
Impairment of obligation of contracts as

to, see Constitutional Law, § 31.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 90.

Homestead exemption, see Homestead. Validity of, against claim for rent, see LANDLORD AND TENANT, § 85.

Right of one who purchases property and agrees to assume the debts of the vendor to claim exemption as to property purchased. L.R.A.1918D, 885.

Amount of wages exempt upon successive garnishments. L.R.A.1917D, 899.

Self-executing effect of constitutional exemption. 16 L.R.A. 284.

Law governing validity of exemptions in foreign assignment for creditors. 65 L.R.A. 362.

Law governing exemption of wages from garnishment. 67 L.R.A. 222.

Evasion by garnishment in other state. 19 L.R.A. 577.

Liability for evasion of exemption laws of domicil by action in other state. 36 L.R.A. 582.

Begin with this book on every law question.

EXEMPTION, II. a-cont'd

Debtor's right of action against his creditor for collecting debt in another jurisdiction in evasion of exemption laws of

their domicil. 47 L.R.A.(N.S.) 689. Action for loss of exemption by garnishment in another state. 19 L.R.A. 580;

36 L.R.A. 582.

Application to existing judgments of stat-ute abolishing or diminishing exemp-tions. 25 L.R.A.(N.S.) 189.

Right to set off one judgment against another which is exempt or is based on a wrongful taking of exempt property. 16 L.R.A.(N.S.) 494.

Judgment on antecedent debt as lien on property to which exemption law has attached in meantime. 37 L.R.A. (N.S.) 156.

Effect in state where debt is garnished of statutory exemption at domicil of principal defendant. 19 L.R.A. 578.

Recovery of judgment for exempt claim pending garnishment proceedings in another state. 35 L.R.A.(N.S.) 1154.

Duty of garnishee to set up exemption of principal debtor. 19 L.R.A. 580.

Set-off and counterclaim against exempt claim. 42 L.R.A.(N.S.) 575.

Effect of discharge in bankruptcy on liens on exempt property. 42 L.R.A.(N.S.) 296.

Federal courts following state decisions as to debtor's exemptions. 40 L.R.A. (N.S.) 437.

Applicability of bulk sales law to exempt property. 45 L.R.A.(N.S.) 497.

Marshalling assets for benefit of mortgagor where mortgage covers both exempt and nonexempt property. 47 L.R.A. (N.S.) 303.

Enforcement of claim for alimony against exemptions. 50 L.R.A.(N.S.) 697.

§ 2a. Selection of exempt property. Selection in general. L.R.A.1915D, 381. Necessity of tendering other property.

L.R.A.1915D, 394.

Time for selection. L.R.A.1915D, 395.
As against fines and penalties. L.R.A. 1915A, 1214.

§ 8. Protection of exemption.

Enforcing exemption laws of other state. 1 L.R.A.(N.S.) 195.

Injunction to protect in case of execution sale. 30 L.R.A. 99.

Injunction against repeated garnishment of exempt wages. 10 L.R.A.(N.S.) 983. Jurisdiction of courts to enjoin execution

sales in protection of. 30 L.R.A. 132.

Amount in dispute in case of injunction against sale of exempt property. 61 L.R.A. 781.

Creditor's right to have satisfaction of judgment canceled where the property levied on, or its proceeds, is returned to the debtor as exempt, or to a third person who establishes a claim thereto. 11 L.R.A. (N.S.) 396.

EXEMPTION, II. a-cont'd

Injunction against suit in another state to evade local exemption laws. 15 L.R.A. (N.S.) 1008.

A debtor's right of action against his creditor for collecting debt in another jurisdiction in evasion of exemption laws of their domicil. 47 L.R.A.(N.S.) 689.

Assault in resisting seizure of property under process. L.R.A.1916B, 957.

### b. What property and rights are exempt.

4. Generally.

Property subject to garnishment, see GAR-NISHMENT, §§ 10-11a.

Property subject to attachment or execution, see LEVY AND SEIZURE, §§ 2-7. Homestead, see HOMESTEAD, II.

Seat on stock exchange. 27 L.R.A. (N.S.) 615.

Availability of exemptions against claim for rent. 24 L.R.A. 812.

From husband's debts of property conveyed to wife. 69 L.R.A. 366.

Liability of claim or interest in public lands for debts contracted before issuance of patent. 34 L.R.A.(N.S.) 405.

Right of creditors in personal services of debtor. 21 L.R.A. 623.

Exemption of piano from seizure under execution. 44 L.R.A.(N.S.) 77.

Exemption of safe from execution. 46 L.R.A. (N.S.) 287.

Exemption of automobile from seizure for debt. 49 L.R.A.(N.S.) 691.

Cab, or other vehicle used for transporta-tion of passengers for hire, as exempt property. 4 B. R. C. 478.

What is included within exemption of provisions and food. L.R.A.1916B, 788.

# 🖁 4a. Horses.

Purpose for which horses are used as affecting exemption under statute specifically exempting horses. 3 L.R.A. (N.S.) 693.

# § 5. Wages; salary.

Law governing. 67 L.R.A. 222.

Of debtor's wages after payment by employer. 18 L.R.A. 586.

Laborers whose earnings are exempt from attachment or garnishment. 18 L.R.A. 309.

Exemption of teacher's salary from claims of creditors. 54 L.R.A. 572.

Amount of wages exempt from successive garnishments. L.R.A.1917D, 899.

### 5a. — of officer.

Creditors' bills and supplementary proceed-ings. 54 L.R.A. 566.

On the ground of public policy. 54 L.R.A. 568.

Statutory provisions. 54 L.R.A. 570. School teacher's salary. 54 L.R.A. 572. Consult also L.R.A. Digests of Cases. EXEMPTION, II. b-cont'd

Officers of municipal corporations in Kentucky. 54 L.R.A. 573.

Right to garnish fees or salary of public officer after expiration of term of office. L.R.A.1917F, 1119.

6. Insurance money.

Exemption of proceeds of life insurance after loss from beneficiary's debts. L.R.A.1915A, 1201.

Right of creditors in endowment or tontine policies of insurance. 4 L.R.A. (N.S.) 456.

Are paid-up or endowment policies within statutes exempting life insurance polices. 25 L.R.A.(N.S.) 722.

Right of creditors to reach option of insured to receive cash surrender value. 16 L.R.A. (N.S.) 316.

Exempt character of proceeds of insurance. 19 L.R.A. 34.

Does exemption of proceeds of insurance extend to property purchased therewith. 24 L.R.A.(N.S.) 1018.

Life insurance policy exempt under state laws as assets of bankrupt. 26 L.R.A. (N.S.) 454; 46 L.R.A.(N.S.) 148.

Statutory exemptions of proceeds or avails of life insurance as inuring to benefit of estate where policy is payable to executors or administrators, or estate. L.R.A.1917F, 1143.

### 7. Pension money.

Exemption of property purchased with pension money. 19 L.R.A. 34.

How far pension money is exempt in another form. 19 L.R.A. 35.

§ 8. How far proceeds of exempt property retain exempt character.

As to judgments affecting exempt property. 19 L.R.A. 33.

As to setting off judgments affecting exempt property. 19 L.R.A. 33. As to proceeds of insurance. 19 L.R.A. 34.

As to exemption of property purchased with pension money. 19 L.R.A. 34. As to exemption of pension money when in another form. 19 L.R.A. 35.

As to exemption in homestead sold for reinvestment. 19 L.R.A. 36. Property obtained by exchange. 19 L.R.A.

38.

As to exemption of products or profits of exemption. 19 L.R.A. 38.

As to exemption in case of mortgage, sale, or transfer. 19 L.R.A. 39.

Does exemption of proceeds of insurance extend to property purchased therewith. 24 L.R.A. (N.S.) 1018.

Crops grown on homestead, or proceeds thereof, as exempt. 32 L.R.A.(N.S.) 577.

Does a statute exempting money "due, or to become due," or "to be paid," or employing similar expressions, protect money after it has been paid. 5 L.R.A. (N.S.) 472. EXEMPTION, II.—cont'd

# c. Who may claim.

§ 9. Generally.

Right of debtor to assign exemptions, or delegate to another the right to select

exempt property. 30 L.R.A. (N.S.) 982. What constitutes a "family" under exemption laws. 4 L.R.A. (N.S.) 365; L.R.A. 1917C, 361.

Wife as head of family within exemption statute. 51 L.R.A. (N.S.) 1121.
What is a "trade" or "profession" within exemption laws. L.R.A.1915F, 916.

Engaging in other business as affecting exemption of farmer from involuntary proceedings in bankruptcy. 20 L.R.A. (N.S.) 148.

Statutory exemption of proceeds or avails of life insurance as inuring to benefit of estate where policy is payable to executors or administrators, or estate. L.R.A.1917F, 1143.

§ 10. In case of nonresidence.

What is nonresidence for the purpose of debtor's exemptions. L.R.A.1915A,

When does nonresidence of person intending to leave permanently begin. L.R.A.(N.S.) 778.

Widow's right to, out of personal assets of estate of deceased husband, who was a nonresident. 11 L.R.A.(N.S.) 361.

Right of nonresident debtor to benefit of local exemption law. L.R.A.1915A,

### EXERTION.

Right to recover on insurance policy for injury from, see INSURANCE, § 163.

# EXHAUSTION.

As a personal injury within the meaning of the Workmen's Compensation Act. L.R.A.1917D, 106, 109.

# EXHIBITIONS.

Exhibitions generally, see AMUSEMENTS. Physical examination, see Discovery and INSPECTION, § 5.

Effect of exhibition of books of account offered in evidence to, and admissibility of correctness by, person charged. 52 L.R.A. 598.

Of person to show resemblance. 52 L.R.A. 502.

Of child for purpose of determining paternity in bastardy proceedings. L.R.A.1017B, 1148.

EXHIBITIONS—cont'd

Of anatomical subjects as nuisance.

L.R.A.(N.S.) 23.
Carrier's liability for preventing, by breach of contract of carriage. 49 L.R.A. (N.S.) 491.

Liability for loss of, or injury to, property on exhibition. L.R.A.1915A. L.R.A.1915B, 305.

#### EXHORTATION.

Voluntariness of confession induced by exhortation. 18 L.R.A.(N.S.) 812; 50 L.R.A.(N.S.) 1077.

### EXISTING OBLIGATION.

Performance of, as consideration for new promise. 34 L.R.A. 33. New promise by a stranger to the contract. L.R.A.1917D, 1104; L.R.A.1918E, 1008.

### EX MALEFICIO.

Trust en maleficio, see TRUSTS, § 15.

# EXORBITANT RATES.

Charging one with exacting excess as libel. 40 L.R.A.(N.S.) 79.

# EX PARTE AFFIDAVIT.

Admissibility in evidence in proceedings to punish criminal contempt. 1917B. 119.

### EX PARTE JUDGMENT.

Collateral attack on, for fraud not affecting jurisdiction. 36 L.R.A. (N.S.) 985.

# EXPECTANCY.

§ 1. Generally.
Rights of heirs and distributees in decedent's estate, generally, see Descent AND DISTRIBUTION, §§ 2-8.

Garnishment of, see GARNISHMENT, § 11a. Liability to levy, see LEVY AND SEIZURE. § 4.

Effect of quitclaim deed upon after-acquired title. 35 L.R.A. (N.S.) 1182.

Tables of expectancy of life as evidence.

40 L.R.A. 553.

Begin with this book on every law question.

EXPECTANCY-cont'd

§ 2. Transactions between heir and ancestor as to.

Validity of transactions between an heir and his ancestor relating to the former's expectancy. 32 L.R.A. 595.

§ 3. Conveyance of. Validity of. 33 L.R.A. 266; 25 L.R.A. (N.S.) 436.

Specific performance of contract as to. L.R.A.1918E, 628.

Effect upon sale, assignment, or release of expectancy of assignor's predecease of ancestor. L.R.A.1917C, 267.

# EXPENDITURES.

Estoppel by permitting, see ESTOPPEL, § 25. By municipality, see MUNICIPAL CORPORATIONS, §§ 61-67.

#### EXPENSES.

As element of damages for injuries caused by damming back waters of stream. 59 L.R.A. 898.

Priority of claims against property in hands of receiver for. 2 L.R.A.(N.S.) 1051, 1067.

Requisites of appropriation for expenses of officers. 16 L.R.A.(N.S.) 631; 27 L.R.A.(N.S.) 537; 49 L.R.A.(N.S.) 67. Treatment of operating expenses in esti-

mating the return of a public service corporation for rate-making purposes. 52 L.R.A.(N.S.) 15.

### EXPERIENCE.

Of servant as factor bearing\_on master's duty of inspection. 44 L.R.A. 57.

Right of jurors to waive evidence by application of general experience. 37 L.R.A. (N.S.) 803.

Capitalization of, in determining going concerp value in public service property valuations. 48 L.R.A. (N.S.) 1133.

### EXPERIMENTS.

Admissibility of, see EVIDENCE, §§ 158, 158a.

Treatment of expense of experiments in estimating the return of a public service corporation for rate-making purposes. 52 L.R.A. (N.S.) 54.

# EXPERTS.

Expert accountant, see Accountants. Opinions of, see EVIDENCE, VIII. Fees of, see WITNESSES, § 51. Consult also L.R.A. Digests of Cases. EXPERTS-cont'd

Stockholder's right to assistance of, for inspection of corporate books. 45 L.R.A. 449.

### EXPIRATION.

Of corporate charter, see CORPORATIONS, § 132. Of patent, rights after, see PATENT, § 3.

# EXPLANATION.

Parol evidence to explain, see EVIDENCE,

Of alteration in written instrument. L.R.A.(N.S.) 100.

Conductor's refusal to listen to passenger's explanation as to his contract, as justification for punitive damages for passenger's expulsion. 17 L.R.A. (N.S.) 344.

# EXPLOSIONS AND EXPLOSIVES.

I. In general, § 1, 1a.

II. Regulation of explosives, \$ 2.

III. Injuries from explosions, §§ 8-10.

### I. In general.

§ 1. Generally.

As to blasting, see BLASTING.

Presumption and burden of proof as to injury by, see EVIDENCE, § 64.

Explosives as nuisances, see NUISANCES, § 6.

Keeping of explosives on insured premises. L.R.A.1917C, 278.

Action on contractor's bond for cost of explosive. 43 L.R.A. (N.S.) 167; L.R.A. 1915F, 951.

§ 1a. Lien for explosives.

Mechanics' lien for explosives consumed in process of work. 2 L.R.A.(N.S.) 288; 36 L.R.A.(N.S.) 866; 51 L.R.A.(N.S.) 1040; L.R.A.1915E, 987.

# II. Regulation of explosives.

3. Generally.

Municipal regulation of explosives, as a nuisance. 38 L.R.A. 306.

Regulating keeping or storing of explosives. 41 L.R.A.(N.S.) 460.

### III. Injuries from explosions.

# 8. Generally.

Injury by explosion of gas, see Gas, §§ 11-14.

Proximate cause of injury, see PROXIMATE CAUSE, §§ 6, 7.

Presumption of negligence in case of. 15 L.R.A. 35, 38.

Applicability of rule res ipsa loquitur to explosion of bottle. L.R.A.1916E, 1078. EXPLOSIONS AND EXPLOSIVES, III.— | EXPLOSION AND EXPLOSIVES, III. cont'd

Violation by servant of rule adopted by railway company as evidence of negligence toward one other than servant in case of injuries from explosives. L.R.A. 1917C, 804.

Violation of statute or ordinance relating to explosives as ground of private action. 5 L.R.A. (N.S.) 261; 48 L.R.A. (N.S.) 876. Liability for injury to business of other person by. 64 L.R.A. 95.

Measure of damages for destruction of, or damage to, building by explosion. L.R.A.1917A, 371.

Allowance of interest on damages to property caused by explosion. 18 L.R.A. 455.

Negligence in the manufacture and storage of explosives. 29 L.R.A. 718.

Liability for injury to children from explosives left accessible to them. 14 L.R.A. (N.S.) 586; 24 L.R.A.(N.S.) 1257; 42 L.R.A. (N.S.) 840; L.R.A.1917A, 1295.

May intervening act of child break causal connection between negligence and injury. 23 L.R.A.(N.S.) 249.

Explosives as attractive nuisance. L.R.A.(N.S.) 1127. 19

Storage of explosives as a nuisance. L.R.A. (N.S.) 691; L.R.A.1915A, 615. 16

Evidence as to condition prior to accident. 32 L.R.A. (N.S.) 1094,

Liability for injury by explosives during shipment. L.R.A.1916B, 725.

# § 4. Explosion in street.

Res ipsa loquitur in action for injury on highway by explosion. 43 L.R.A. (N.S.) 599.

Liability for injury caused by placing or exploding bombs, etc., in highways. 3 L.R.A.(N.S.) 759.

Municipal liability for failure to prevent use of explosives in street. 23 L.R.A. (N.S.) 643; 42 L.R.A.(N.S.) 863.

Liability of railway company generally for personal injury to one on surface of street by bursting of cylinder. 42 L.R.A.(N.S.) 94.

Liability of elevated railway company for personal injury to one on surface of street by explosion. 42 L.R.A.(N.S.)

# § 5. Injury to passenger.

Presumption of negligence from injury to passenger by. 15 L.R.A. 38; 13 L.R.A. (N.S.) 615; 29 L.R.A. (N.S.) 815; L.R.A.1916C, 377.

# § 6. Injury to employee. In general, see MASTER AND SERVANT, § 63.

§ 7. — servant's assumption of risk. Servant's assumption of risk of unexpected explosion. 19 L.R.A.(N.S.) 360.

8. Employer's liability for servant's negligence.

cont'd Employer's liability for explosion from gas

escaping through negligence of independent contractor. 65 L.R.A. 852. Dynamite as dangerous agency for injury by which, when used by servant, master

is liable. 10 L.R.A.(N.S.) 372, 376, 397.

Powder as dangerous agency for injury by which, when used by servant, master is liable. ·10 L.R.A.(N.S.) 380.

§ 9. Liability of insurer. See INSURANCE, § 156.

# § 10. Contributory negligence.

Of person injured by escape and explosion of gas. 29 L.R.A. 352; 32 L.R.A. (N.S.) 821; L.R.A.1915E, 1027.

Contributory negligence as defense in case of explosion of oil below statutory standard. 38 L.R.A.(N.S.) 412.

# EXPLOSIVES.

See Explosions and Explosives.

### EXPORTS.

Forbidding exportation from state, see COMMERCE, § 13.

### EXPOSITION.

See AMUSEMENTS.

### EX POST FACTO LAWS.

See Constitutional Law, § 7.

### EXPOSURE.

By insured to danger, see INSURANCE, §§ 158, 164.

# EXPRESS AGENT.

Rights of, as passenger. 22 L.R.A. 796. Delivery by express agent to addresses and collection of price of intoxicating liquor sent C.O.D. as a sale thereof by the agent. 2 B.R.C. 467.

Authority of route agent to contract for services of other persons. L.R.A.

1918F, 68. Begin with this book on every law question.

#### EXPRESS CAR.

Passengers riding in, as contributory negligence. 16 L.R.A. 631.

# EXPRESS COMPANIES.

§ 1. Generally.

As to common carriers generally, see CAR-RIERS.

Matters as to interstate commerce, see Com-MERCE, § 12.

Title to money deposited with express company for transmission. L.R.A.1918A, 534.

Transportation by, between points in same state over a route part of which is in another state, as interstate commerce. L.R.A.1918A, 807.

tract exempting railroad company from liability for negligent injuries to Contract express messenger on train. 50 L.R.A. (N.S.) 432; L.R.A.1917D, 648. Agents of, as passengers. 22 L.R.A. 796.

Duty as to delivery and collection of pack-

ages. 33 L.R.A. 66.
Right of foreign company to enter state. 24 L.R.A. 313.

Duty of, with respect to property awaiting delivery at destination. (N.S.) 393. 14 L.R.A.

Statute requiring express companies to make free deliveries in certain cities, as interference with interstate commerce. 19 L.R.A.(N.S.) 94.

Regulations as to time of receiving valuables for transportation. 15 L.R.A. (N.S.) 558.

Delivery by express agent to addressee and collection of price of intoxicating liquor sent C. O. D., as a sale thereof by the agent. 2 B. R. C. 467.

Authority of route agent of, to contract for services of other persons. L.R.A.1918F,

§ 2. Discrimination between.

Duty of carrier to give equal facilities to. 18 L.R.A. 393.

Contract for exclusive or preferential facilities on railroads. 5 L.R.A.(N.S.) 783.

Right of carrier to grant exclusive train privilege to baggage or passenger transfer companies. 32 L.R.A.(N.S.) 1181; L.R.A.1917F, 1085.

🖁 3. Taxation of.

Taxation of receipts of. 57 L.R.A. 64. Taxation of; effect of commerce clause of Federal Constitution. 60 L.R.A. 687.

### EXPRESSMEN.

As fellow servants. 50 L.R.A. 456. Liability of landlord of office building for injury to. L.R.A.1916F, 1120. Consult also L.R.A. Digests of Cases.

# EXPRESS MESSENGER.

Contract exempting railroad company from liability for negligent injury to express messenger. 11 L.R.A.(N.S.) 432; 50 L.R.A.(N.S.) 432; L.R.A.1917D, 648.

### EXPRESS TRUSTS.

See TRUSTS, §§ 4-10.

### EXPULSION.

Of passenger, see CARRIERS, §§ 30-35; DAM-AGES, § 45.

Of member of benefit society, see BENEVO-LENT SOCIETIES, § 3a; INSURANCE, § 105.

From religious society, see Religious So-CIETIES, § 13.

Of pupil, see Schools, §§ 9-11.

Conclusiveness of decision of tribunal of association or corporation as to expulsion of member. 49 L.R.A. 353.

### EXTENDED INSURANCE.

See Insurance, § 58.

### EXTENSION.

Generally.

Of city boundaries, see MUNICIPAL CORPO-RATIONS, §§ 11, 12.

Of lien of mortgage before renewal of secured debt. 55 L.R.A. 673.

§ 2. Of time.

For payment of negotiable paper generally, see Bills and Notes, §§ 56, 57.
For issuing execution, see Execution, § 6.

Of lien of mortgage, see Mortgage, § 55.
To file mechanics' lien, see MECHANICS'

LIENS, § 29.
Release of surety by, see Principal and Surety, §§ 15, 16.

Of time to remove timber, see TIMBER, § 5.

To remove standing timber conveyed without conveying title to the land. L.R.A. 530; 34 L.R.A. (N.S.) 615.

For payment of assessment as effecting waiver by officer of subordinate lodge of forfeiture for nonpayment. 38 L.R.A. (N.S.) 575.

Effect on negotiability of note of provision permitting. 16 L.R.A.(N.S.) 878; 33 L.R.A.(N.S.) 738; 49 L.R.A.(N.S.) 132.

By one taking bill or note as collateral security as giving him character of bona fide holder. 31 L.R.A.(N.S.) 298.

EXTENSION—cont'd As additional consideration for mortgage given as security for pre-existing debt. 33 L.R.A.(N.S.) 61.

Validity of payment of insurance premium or assessment during period of extension agreed on, but after death of insured. 2 B. R. C. 191.

Power of judge pro tem to extend time given for preparing or filing bill of exceptions or case made. 42 L.R.A. (N.S.) 623.

#### EXTENT.

First and last days in computing time for recording. 49 L.R.A. 243.

# EXTERNAL, VIOLENT, AND ACCI-DENTAL MEANS.

Death of insured by, see INSURANCE, § 165.

# EXTINGUISHMENT.

Of contract, see Contracts, VI. Of easement, see EASEMENTS, §§ 25-28.

### EXTORTION.

§ 1. Generally.

Indictment for, see Indictment, Informa-tion, and Complaint, § 18.

Charge of blackmailing or extortion as ac-

tionable per se. 6 B. R. C. 481. Efforts to collect debt as extortion. L.R.A.(N.S.) 77; L.R.A.1915B, 1140. Liability of officer who uses criminal process

to collect a debt. 24 L.R.A. (N.S.) 301. Instigation to offense of, as a defense to prosecution. 30 L.R.A.(N.S.) 953.

Extortion as affected by right, or belief in right, to property sought to be secured. 40 L.R.A.(N.S.) 801.

§ 2. By threats.

Threat to injure business unless money is paid as crime of extortion. 15 L.R.A. (N.S.) 718.

As affected by right, or belief in right, to property sought to be secured. 40 L.R.A.(N.S.) 801.

# EXTRA COMPENSATION.

To servant, for extra work, see MASTER AND SERVANT, § 27.
To witness, see WITNESSES, §§ 50, 51.

Begin with this book on every law question.

# EXTRADITION.

I. In general, §§ 1-4. II. Procedure; review, \$\$ 5-7.

### I. In general.

Generally.

Arrest in extradition proceedings, see Ar-

REST, § 10.
Indictment in extradition proceedings, see INDICTMENT, INFORMATION, AND COM-PLAINT, § 2.

From state to state in case of criminal libel. 49 L.R.A.(N.S.) 942.

May a state which has extradited a person from another state or country surrender him to a third state or country. L.R.A.1916C, 1259.

Abduction or wrongful bringing of criminal into jurisdiction as a defense to prosecution. 15 L.R.A. 177.

Nonliability of consul for procuring arrest of fugitive from justice. 45 L.R.A. 588.

Insanity as a ground for refusing extradition. 46 L.R.A.(N.S.) 397.

Extradition of person who is under confinement in asylum state. 24 L.R.A. (N.S.)

§ 2. Who are fugitives.

General rule. 51 L.R.A. (N.S.) 668.

Must have been in demanding state. L.R.A. 289; 51 L.R.A. (N.S.) 669.

No constructive presence. 51 L.R.A. (N.S.) 670. 28 L.R.A. 289;

Setting crime in motion. 28 L.R.A. 289; 51 L.R.A. (N.S.) 670.
The purpose of the flight. 28 L.R.A. 289;

51 L.R.A. (N.S.) 671.

Prisoner in custody. 51 L.R.A. (N.S.) 672; L.R.A.1918D, 680.

Prisoner under parole. 51 L.R.A.(N.S.) 672; L.R.A.1918D, 680.

§ 3. Right to detain fugitives until arrival of papers. Generally. 26 L.R.A. 33.

Arrest without warrant. 26 L.R.A. 34. International extradition. 26 L.R.A. 34. The English decisions. 26 L.R.A. 34. Surrender. 26 L.R.A. 34.

4. Trial on amended charge.

Right to try prisoner extradited from sister state for crime other than that for which he was surrendered. 14 L.R.A. 128; 19 L.R.A. 206; 47 L.R.A. (N.S.) 807.

Effect upon prisoner's rights of necessity of amendment of charge upon which he was extradited. 25 L.R.A. 593.

# II. Procedure; review.

§ 5. Generally.

Service of process on fugitive in custody. 46 L.R.A. 711.

EXTRADITION, II.—cont'd.

Right of court of asylum state to examine, in interstate extradition proceedings, sufficiency of papers charging the offense for which the return of the fugitive is demanded. 11 L.R.A. (N.S.) 424.

§ 6. Papers necessary to obtain surrender of fugitives from another state.

Generally. 28 L.R.A. 801.

Requirements of state statutes. 28 L.R.A. 802.

The requisition. 1 L.R.A. 372:\* 28 L.R.A. **803.** 

The indictment. 28 L.R.A. 803. The affidavit. 28 L.R.A. 803.

Sufficiency of complaint or information. 28 L.R.A. 804; 25 L.R.A.(N.S.) 60.

The authentication. 28 L.R.A. 804.
Necessity of warrant. 28 L.R.A. 804.
The criminal charge. 28 L.R.A. 805.
Proof of flight. 28 L.R.A. 805.
Right to look behind papers, or to make other requirements. 28 L.R.A. 805.

Effect of governor's representations. L.R.A. 805.

§ 7. Review of proceedings. By habeas corpus, see HABEAS CORPUS, § 5.

Right to be heard upon the merits of the charge against accused. 21 L.R.A. (N.S.) 939.

### EXTRA FARE.

See CARRIERS, § 24.

# EXTRAHAZARDOUS EMPLOYMENT.

What constitutes, within meaning of Workmen's Compensation Acts. L.R.A. 1918F, 230.

# EXTRANEOUS AGREEMENT.

That mortgagor of merchandise shall have possession with power of sale. L.R.A. 604.

# EXTRANEOUS PAPER.

Effect of party's ignorance of contents of, on attempt to incorporate it into contract by reference. 70 L.R.A. 106.

### EXTRAORDINARY CASH DIVIDEND.

Right to, as between life tenant and remainderman. 12 L.R.A.(N.S.) 785; 35 L.F.A.(N.S.) 566; 50 L.R.A.(N.S.) 514; L.R.A.1916D, 214.

Consult also L.R.A. Digests of Cases.

### EXTRAORDINARY FLOODS.

Liability of one damming back water of stream for injury by. 59 L.R.A. 876. Extraordinary floods which one obstructing water course need not anticipate. L.R.A. (N.S.) 252.

### EXTRAORDINARY REMEDIES.

Release of indorser of note by failure to extraordinary remedies against maker. 18 L.R.A.(N.S.) 550.

### EXTRAORDINARY RISKS. \*

Master's duty to instruct servant as to. 44 L.R.A. 44.

## EXTRAORDINARY SERVICES.

Rights of seamen to salvage for. 64 L.R.A. 193.

Right of officer, director, or stockholder, in absence of special contract, to compensation for. L.R.A.1917F, 310.

### EXTRAS.

Effect of, to extend time for filing mechanics' lien. 35 L.R.A.(N.S.) 908.

# EXTRA SESSION.

Of legislature. 15 L.R.A. 847.

# EXTRATERRITORIAL EFFECT.

Of divorce decree, see DIVORCE AND SEPARA-TION, § 10.

Of judgment generally, see JUDGMENT, V.

### EXTRA TRANSPORTATION.

Carrier's charges based upon extra transportation of goods rendered necessary by carrier's own fault or mistake. L.R.A.1917D, 920.

# EXTRAVAGANCE.

Rebuttal of husband's liability for necessaries purchased by wife by proof of extravagance of purchases. 65 L.R.A. 547.

### EXTRA WORK.

Recovery for, generally, see CONTRACTS, §§ 122, 134.

Servant's right to recover for. 30 L.R.A. (N.S.) 652.

### EXTRINSIC AGREEMENT.

Reference to, as affecting negotiability of bill or note. 30 L.R.A.(N.S.) 40; L.R.A.1918B, 639.

# EXTRINSIC DOCUMENTS.

Incorporation of, into will, see WILLS, § 8. Effect of reference to, to control or modify character of estate that would otherwise pass. 8 L.R.A.(N.S.) 1039.

### EXTRINSIC EVIDENCE.

See EVIDENCE, VII.

#### EYESIGHT.

Impairment of, as element of damages for negligent injury. 48 L.R.A.(N.S.) 98. Unknown bad eyesight of juror as ground for new trial. 50 L.R.A.(N.S.) 977.

Loss of eyesight of attesting witness preventing his identification of will or signature. L.R.A.1915E, 593.

Care required from one of defective sight in using street. 14 L.R.A.(N.S.) 648; 39 L.R.A.(N.S) 1055.

Right to show nearsightedness on issue of contributory negligence without allegation thereof. L.R.A.1917D, 558.

### EYEWITNESS.

Provision in insurance policy requiring fact or circumstances of loss to be established by eyewitness. L.R.A.1918F, 420.

FABRICS. Sufficiency of delivery of, on sale out of larger lot. 26 L.R.A.(N.S.) 42.

### FABRICATION IN TRANSIT.

See TRANSIT PRIVILEGES.

### FACILITATING CRIME.

Responsibility for, see CRIMINAL LAW, § 19.

# FACILITY OF PAYMENT.

Clause as to, in insurance policy, see In-SURANCE, § 194.

### FACTIONS.

Injunctive relief in case of factional disturbance in religious societies. L.R.A.(N.S.) 872.

### FACTORIES.

§ 1. Generally. Occupancy as incident to contracts for operation of. 4 L.R.A. (N.S.) 703. Character of occupancy of employees in. L.R.A.(N.S.) 715.

F

FACTORIES—cont'd

Power of municipal corporation to prohibit. 41 L.R.A.(N.S.) 177.

§ 2. Injury to employees in. What is, within meaning of workmen's compensation act. L.R.A.1916A, 200;

L.R.A.1917D, 156.

Private action for violation of factory law. 9 L.R.A. (N.S.) 376; L.R.A.1915E, 547. Master's right to rely on the inspection of, by public authorities. 15 L.R.A. (N.S.) 812.

Employment in violation of statute as sustaining child's action for negligence. 1 B. R. C. 629.

Servants in, as fellow servants. 50 L.R.A. 436, 439, 461.

Supervising employees in, as vice principals. 51 L.R.A. 534, 581.

# FACTORS.

🛊 1. Generally.

Construction of contract having some provisions peculiar to consignment and agency contracts and others to sale contracts. L.R.A.1917B, 626.
Stated accounts of. 27 L.R.A. 821.
Set-off in case of bankruptcy. 55 L.R.A.

44, 51, 60.

Who must bear loss where merchandise broker receives purchase price and fails to pay over same to seller. 8 L.R.A. (N.S.) 474.

Authority of consignee of ship to contract for services of other persons. L.R.A.

1918F, 18.

Begin with this book on every law question.

FACTORS-cont'd

Effect of fact that one is entitled to commissions out of fund on his prosecu-tion for embezzlement for retaining entire fund. 13 L.R.A.(N.S.) 511.

Consignments by foreign corporation to, as doing business within state. 18 L.R.A. (N.S.) 138.

Liability of factor to true owner for selling or disposing of property intrusted to him by his principal. 50 L.R.A. (N.S.) 55.

Liability of del credere agent for nonperformance of contract by buyer. 6 B. R. C. 943.

§ 2. Title to goods consigned. Reservation of title in bailments for sale, as against creditors of bailor and

as against creditors of bailor and bailee. 22 L.R.A. 850.

Right of factor to whom goods are consigned to maintain action against carrier. 26 L.R.A.(N.S.) 437; 36 L.R.A.(N.S.) 72.

When title passes under consignment of goods for sale, with provision in effect that consignee purchase balance of consignment. 39 L.R.A. (N.S.) 620.

**3.** Advances by.

To what extent advances by a factor create a debt against the principal. 5 L.R.A. (N.S.) 1147.

Right of customer who has advanced purchase money to factor to preference in case of insolvency before making of purchase. 42 L.R.A.(N.S.) 95.

### FACTS.

Review of, on appeal, see AFFEAL AND ERROR, §§ 31-34.

Misstatement of facts, or statement of facts not in evidence, by counsel in argument to jury as ground for reversal. L.R.A.1918D, 4.

Effect of stating the facts upon which a libelous or slanderous charge is made to limit the ordinary meaning of the words used. L.R.A.1918F, 152.

# FAILURE OF CONSIDERATION.

As defense to action on a purchase price note, see BILLS AND NOTES, § 66. In general, see CONTRACTS, § 15.

# FAIR.

In general, see AMUSEMENTS.

Liability for loss of property on exhibi-tion under special terms of contract for its care or return. L.R.A.1915B, 305.

### FAIR COMMENT.

See LIBEL AND SLANDER. Consult also L.R.A. Digests of Cases.

#### FAIR TRIAL.

Right of accused to, see CRIMINAL LAW,

### FAITH CURE.

Application of statute regulating practice of medicine. 24 L.R.A. (N.S.) 103; L.R.A.1917C, 827.

#### FAKE BET.

Illegal intent of prosecutor as affecting guilt of obtaining property by means of. 17 L.R.A.(N.S.) 276.

### FAKE RACE.

Relief to party defrauded by, although he went into the scheme with intent to defraud others. 5 L.R.A. (N.S.) 906. Illegal intent of prosecutor as affecting guilt of obtaining property by means of. 17 L.R.A.(N.S.) 276.

### FALL.

Of buildings, see FALLING BUILDINGS. Falling objects generally, see FALLING OB-JECTS.

### FALLEN TIMBER.

Life tenant's rights as to. 37 L.R.A. (N.S.)

# FALLEN WIRES.

See ELECTRICITY, III.

### FALLING BUILDINGS.

Individual liability for injury by, see Buildings, § 10.

Fall of building clause in fire insurance policies. 32 L.R.A.(N.S.) 604; L.R.A. 1917F, 1064.

# FALLING OBJECTS.

1. Liability for injury by. Liability for injury by falling building, see Buildings, § 10.

FALLING OBJECTS—cont'd Injury to person in street, see Highways, §§ 68, 83, 88. See also MISSILE.

Permitting articles to roll down hillside or decline. L.R.A.1915B, 426.

Liability for injuries from matter precipitated on adjoining property. 36 L.R.A. (N.S.) 1171.

Liability of occupant of building for injury caused by article falling or thrown from window or other opening. 14 L.R.A. (N.S.) 426.

Individual liability for falling walls. L.R.A. 557.

Liability of landowner for fall of wall or building left standing after fire. L.R.A. 1915C, 704.

Liability of railroad company for personal injuries to persons on highway or adjoining property by objects falling from train. 31 L.R.A.(N.S.) 981.

Liability of elevated railway company for personal injury to one on surface of street by fall of iron, wood, etc. 42 L.R.A.(N.S.) 94.

Liability of one maintaining place of amusement for injury by. 42 L.R.A. (N.S.) 1072; L.R.A.1915F; 690.

Landlord's liability to third persons for injury by. 26 L.R.A. 200; 50 L.R.A.

(N.S.) 312.

Liability of storekeeper to customer for injury by. 21 L.R.A.(N.S.) 463.

Contributory negligence of child injured by. L.R.A.1917F, 106.

Injury by object falling from train. L.R.A.1917F, 150.

Admissibility of evidence of condition before and after accident. 32 L.R.A.(N. 8.) 1097.

§ 2. — injury to passenger.

Presumption of negligence from injury to passenger by. 15 L.R.A. 38; 13 L.R.A. (N.S.) 616; L.R.A.1916C, 377.

Injury by article falling from passing train. 44 L.R.A.(N.S.) 148.

§ 8. — injury to employee.

Applicability of res ipsa loquitur in case of injury to servant by fall of object. L.R.A.1917E, 201.

Master's liability for vice principal's negligence in causing or allowing heavy objects to fall. 54 L.R.A. 132.

Nondelegability of duty to protect servant from injury by. 54 L.R.A. 78.

Delegability of master's duty to warn servants as to danger from. 26 L.R.A.(N. S.) 645.

Servant's assumption of risk of danger of falling of piles or stacks of material. 47 L.R.A. (N.S.) 266.

Duty of master to protect servant from material rolling down hillside. L.R.A. (N.S.) 629.

FALLING OBJECTS-cont'd

§ 4. - contributory negligence of employee.

Notwithstanding master's promise of protection. 29 L.R.A. (N.S.) 602.

### FALSE ASSUMPTION.

Of authority in signing another's name as agent for him as forgery. 31 L.R.A. 831.

#### FALSE CHARACTER.

Liability for giving or procuring a false character of a servant. 4 L.R.A.(N.S.) 1125.

### FALSEHOOD.

Libel or slander by charge of, against public . officer or candidate. L.R.A.1918E, 40.

#### FALSE IMPRISONMENT.

I. In general, § 1. II. Who liable, §§ 2-8.

III. Evidence; damages, §§ 9, 10.

### I. In general.

🖁 1. Generally.

As to legality of arrest generally, see As-REST.

Measure of recovery for, see Damages, § 53. As to malicious prosecution, see MALICIOUS PROSECUTION.

Right of action for, as asset in bankruptcy. 43 L.R.A. (N.S.) 942.

Survival of cause of action and abatement and revival of action for false imprisonment upon death of party. L.R.A.(N.S.) 1215.

Arrest upon suspicion of insanity. L.R.A. 1916C, 230.

Lack of jurisdiction, or of legal grounds of criminal prosecution, as affecting the liability for false imprisonment of a complainant who acts in good faith. 18 L.R.A. 356.

Abandonment of suit before entry as affecting justification under writ in defense of action for false imprisonment. L.R.A. (N.S.) 451.

Plea of guilty as affecting action for. 20 L.R.A.(N.S.) 295.

Words as effecting false imprisonment, where plaintiff did not accompany the person using them. 7 L.R.A.(N.S.) 576.

May false imprisonment be predicated of a partial or conditional restraint. 20 L.R.A.(N.S.) 968.

Detention of one as witness as false imprisonment. 39 L.R.A.(N.S.) 503.

Begin with this book on every law question.

# FALSE IMPRISONMENT-cont'd

### II. Who liable.

§ 2. Generally.

Liability of carrier, see Carriers, § 15, 15a.

Liability for assisting in unlawful arrest or subsequent detention. 14 L.R.A. (N.S.) 1123.

Right of private persons to make or cause arrest without warrant. 7 B. R. C.

Liability of private complainant or informer for an arrest by an officer without a warrant. L.R.A.1915E, 883.

Liability of principal for false arrest or false imprisonment by agent authorized to collect a debt. 51 L.R.A. (N.S.) 471.

§ 3. Master.

See MASTER AND SERVANT, § 173.

8 4. Partner.

Liability of partner for act of copartner. 3 L.R.A.(N.S.) 221.

§ 5. Municipality. See MUNICIPAL CORPORATIONS, § 79.

§ 6. Officer.

Liability of an officer making arrest. 51 L.R.A. 193; 42 L.R.A. (N.S.) 69; L.R.A. 1915B, 505.

Liability of officer for arresting wrong person bearing name appearing in warrant. 7 L.R.A.(N.S.) 268.

Liability of sheriff, marshal, or constable, for his deputy's tort in making arrest. 12 L.R.A.(N.S.) 1019; L.R.A.1915E, 172.

Liability of officer who uses criminal process to collect a debt. 24 L.R.A.(N.S.) 301.

§ 7. — judicial officer.

Liability of judicial officer for issuing warrant of arrest. 14 L.R.A. 142; 44 L.R.A. (N.S.) 172.

Liability of justice of the peace to action for, on commitment of witness for contempt. 1 L.R.A. (N.S.) 1143.

Liability of magistrate for failing to have prisoner brought before him. L.R.A. 1917F, .429.

7a. — prosecuting officer.

Liability of prosecuting officer for false ar-rest or imprisonment. L.R.A.1916F, 403.

§ 8.—'liability on bond.

Liability on official bond. 51 L.R.A. 222. Liability of sureties on bond of officer for an illegal arrest. 33 L.R.A.(N.S.) 275.

# III. Evidence; damages.

9. Evidence.

Evidence of character in action for. L.R.A. (N.S.) 755.

Consult also L.R.A. Digests of Cases.

FALSE IMPRISONMENT, III.—cont'd Burden of proof as to authority for arrest in action for. 10 L.R.A.(N.S.) 303.

10. Damages.

Inadequacy of damages as ground for setting aside verdict. 47 L.R.A. 43.

Release upon defendant's own recognizance or on bail as affecting damages recoverable in action for. 22 L.R.A. (N.S.) 1196.

Condition of place of imprisonment and treatment while in custody as ele-ments of damages in action of malicious prosecution or false imprisonment. 33 L.R.A.(N.S.) 291.

Probable cause of suspicion as mitigating damages for false imprisonment. 45 L.R.A.(N.S.) 64.

Condition of place of imprisonment and treatment while in custody as element of damages. L.R.A.1915D, 622.

### FALSE INSTRUMENTS.

Making of false instruments as violation of criminal statute against "false making" of an instrument. 5 L.R.A.(N.S.) 375.

### FALSE OPINION.

As a fraud. 35 L.R.A. 425.

# FALSE PRETENSES.

§ 1. Generally.

Indictment for, see Indictment, BTC., § 19.

Criminal liability of infant for. 36 L.R.A. 203.

Obtaining dog by. 40 L.R.A. 514.

Instigation or consent to. 25 L.R.A. 345; 51 L.R.A.(N.S.) 829.

Corpus delicti in. 19 L.R.A. (N.S.) 448. Cruel and unusual punishment of crime of. 35 L.R.A. 571.

Necessity and sufficiency of description of affense in bail bond or recognizance. 38 L.R.A.(N.S.) 316.

2. What constitutes; elements of offense.

Promise of marriage. L.R.A.1917E, 808. Misrepresenting the quality, condition, or status of the subject of a sale or trade. 49 L.R.A.(N.S.) 574.

Necessity of actual deception of the person from whom money or property is ob-tained where such person is not the owner, but an agent or officer of the owner, of the property. 11 L.R.A. (N.S.) 938.

14 Reliance on false pretenses as an element of the offense. 6 L.R.A.(N.S.) 365.

FALSE PRETENSES-cont'd

Illegal intent of prosecutor as affecting guilt. 17 L.R.A. (N.S.) 276; 39 L.R.A. (N.S.) 423.

Offense as affected by the absurdity or improbability of representations, or by the prosecutor's failure to investigate the same. 6 L.R.A. (N.S.) 369; L.R.A. 1916C, 1104.

Effect of coupling future promise with false pretenses. 7 L.R.A.(N.S.) 278.

Mere drawing of check on a bank in which the drawer has no funds or credit, and passing the same. 17 L.R.A.(N.S.) 244; 27 L.R.A.(N.S.) 1032; 52 L.R.A. (N.S.) 919.

Obtaining property by check with intent to stop payment. 41 L.R.A. (N.S.) 170. Giving post-dated check as false pretense. 41 L.R.A. (N.S.) 173.

Effecting a sale of property through false representation of value. 14 L.R.A. (N.S.) 1197.

Infant inducing another to enter into con-tract with him by representing that he is of age. 24 L.R.A.(N.S.) 1101.

Obtaining money as a charity by false representations. 24 L.R.A.(N.S.) 575.

Purpose of applying property on debt as af-fecting larceny or substantive offense of obtaining property by false pre-tenses. 32 L.R.A.(N.S.) 420. Necessity of making the false pretenses to

the defrauded party or of intending to defraud a particular person. L.R.A.1916D, 270.

Committing forgery as affecting the offense of obtaining money or goods by false pretenses or confidence game. L.R.A. 1918F, 242.

3. Evidence; witnesses.

Evidence of other crimes in prosecution for. 62 L.R.A. 222, 240, 323; 43 L.R.A. (N.S.) 667.

Competency of prosecuting witness to testify that he was induced to part with his property by defendant's statements. 34 L.R.A.(N.S.) 642.

Admissibility of statements or communications between the prosecutor and a third person. L.R.A.1915B, 1125.

4. Venue.

Venue of offense of obtaining property by. 49 L.R.A.(N.S.) 834.

### FALSE RECORDS.

Power of equity to cancel. 14 L.R.A. (N.S.) 304.

### FALSE REPRESENTATIONS.

See False Pretenses; Fraud and Deceit; INSURANCE, V. h.

Begin with this book on every law question.

#### FALSE RETURN.

Recognition of return or of decree rendered thereon as affecting hability for making. 38 L.R.A.(N.S.) 292.

#### FALSE STATEMENT.

As to property or business, injunction against. 16 L.R.A. 243.

Character of false statement by bankrupt which will prevent a discharge. 20 L.R.A.(N.S.) 1023.

### FALSE SWEARING.

In general, see PERJURY.

Effect of false swearing in proofs of loss. 32 L.R.A.(N.S.) 453.

### FALSE TESTIMONY.

See PERJURY.

# FALSITY.

Is evidence of falsity of alleged statement admissible in criminal case to corroborate or disprove fact that the statement was made. 10 L.R.A.(N.S.) 335.

### FAMILY.

Head of, see HOMESTEAD, §§ 3, 4.

What constitutes a "family" under homestead and exemption laws. 4 L.R.A. (N.S.) 365; L.R.A.1917C, 361.

Who is a member of the "family" within contract of benefit society. 3 L.R.A. (N.S.) 334.

Using lunatic's property to carry out his presumed wishes or fulfil his obligations to support. 34 L.R.A. 297.

Homicide in defense of. 67 L.R.A. 546; 45 L.R.A. (N.S.) 145.

Right of one member of, to maintain ac-tion for libel or slander based on charges against family. 23 L.R.A.(N.S.) 731.

Entries in family Bible or other religious book as evidence. 41 L.R.A. 449.

Expression of intention to make provisions for family upon estate taken by beneficiaries of trust, in absence of an express definition thereof. 17 L.R.A. (N.S.) 1215.

### FAMILY ARRANGEMENT.

Grantee's oral promise to grantor to hold in trust as giving rise to constructive In general, see AGRICULTURE. trust, where conveyance was in nature of family arrangement. 39 L.R.A. (N.S.) 917.

### FAMILY BIBLE.

Admissibility of entries in, in evidence, see EVIDENCE, § 145.

### FAMILY EXPENSES.

Wife's liability for, see HUSBAND AND WIFE, § 22.

### FAMILY HISTORY.

Statements by insured respecting family history. L.R.A.1917C, 866.

# FAMILY NECESSARIES.

Liability of husband for, see HUSBAND AND Wife, §§ 7, 8.

### FAMILY PORTRAITS.

Sentimental value as measure of damages for loss or conversion of or injury to. L.R.A.1917D, 503.

# FAMILY RELATIONS.

Admissibility of evidence of family relations of plaintiff on action for damages for libel or slander. 23 L.R.A. (N.S.) 362.

# . FARE.

Of passenger, see CARRIERS, §§ 16-29, 154-160.

### FARM.

See also AGRICULTURE; FARM LANDS.

Insurable interest in fluctuating property on. 52 L.R.A. 340.

Employees supervising as vice principals. 51 L.R.A. 534.

Consult also L.R.A. Digests of Cases. 36

#### FARMER.

## FARMING CONTRACTS.

Effect of statute of frauds on parol contracts relating to, which may but are not intended to be performed within a year.

15 L.R.A.(N.S.) 318.

### FARMING UTENSILS.

Property covered by insurance policy on "Farming Utensils." L.R.A.1917B, 937.

# FARM LABORER.

Who is, within the statute giving lien. 19 L.R.A.(N.S.) 1039; L.R.A.1917D, 382. Who is, within meaning of Workmen's Compensation Acts. L.R.A.1918F, 202.

# FARM LANDS.

Organization of, into municipal corporation. L.R.A.1918B, 1086. Municipal taxation of farm lands within corporate limits. 34 L.R.A. 193.

# FARM MACHINERY.

Location of, as affecting insurance on. 26 L.R.A. 241.

# FAST DRIVING.

Violation of ordinance against, as ground for private action. 5 L.R.A.(N.S.) 254.

### FAST FREIGHT LINES.

Character of, as common carriers. 42 L.R.A. (N.S.) 902.

### FATHER.

In general, see PARENT AND CHILD.

Father as sole next of kin to unmarried child to exclusion of mother. 1 B. R. C. 566.

### FATHER-IN-LAW AND SON-IN-LAW.

Implied agreement to pay for services ren- Jurisdiction of estate of inmate of. 39

dered to. 11 L.R.A.(N.S.) 886.
Oral promise to father-in-law conveying land to hold in trust as giving rise to constructive trust. 39 L.R.A.(N.S.) 926.

Son-in-law as member of family of insured. 3 L.R.A. (N.S.) 336.

Authority to bind father-in-law by contracts other than those for necessaries. 39 L.R.A.(N.S.) 885.

Gratuitous conveyance to son-in-law as raising implied resulting or construc-tive trust in favor of the natural ob-jects of the bounty of the grantor or donor. L.R.A.1915E, 651.

# FAULTY CONSTRUCTION.

Liability of landlord to tenant for damage by water due to. L.R.A.1917B, 236.

### FAVORITISM.

See DISCRIMINATION.

# FEAR.

Voluntariness of confessions induced by. L.R.A. (N.S.) 804; 50 L.R.A. (N.S.) 1087.

Fear of accused as reason for not contradicting statement made in his presence. 25 L.Ř.A.(N.S.) 553.

### FEDERAL AGENCIES.

Franchise tax as interference with. 57 L.R.A. 55.

### FEDERAL CORPORATIONS.

Locality of jurisdiction of state court over. 70 L.R.A. 702.

# FEDERAL COURTS.

See Courts, VII. d; IX. b; REMOVAL OF CAUSES.

### FEDERAL ELECTIONS.

# FEDERAL HOME.

L.R.A.(N.S.) 586.

### FEDERAL QUESTIONS.

Federal jurisdiction in case of, see Courts, §§ 39, 39a.

Adjudications on, by state courts reviewable by the Supreme Court of the United States. 62 L.R.A. 513.

How and when Federal question may be raised and decided in Federal court to make case for writ of error to United States Supreme Court. 63 L.R.A. 33.

# \*\*\* FEDERAL SAFETY APPLIANCE ACT.

See Master and Servant, § 96.

#### FEES.

Attorney's fees, see ATTORNEY'S FEES. In general, see Costs and FEES. For inspection, see Inspection. For liquor license see Intoxicating Li-QUORS, § 10. For license generally, see LICENSE, II. Of pilot, see PILOT, § 2. When fee passes by deed, see DEEDS, § 29. When fee passes by will, see WILLS, §§ 79-82.

Effect of failure to pay registration fee. 42 L.R.A.(N.S.) 146. Validity of fee exacted for filing nominations. L.R.A.1915B, 197.

# FEIGNED INSANITY.

Right of prosecution to show. 31 L.R.A. (N.S.) 113.

# FEIGNED SUBSCRIPTIONS.

To corporation, liability on. 25 L.R.A. 101.

# FELLOW PASSENGER.

Assault by, see CARRIERS, § 13. Liability of carrier for acts of, see Car-RIERS, § 52.

# FELLOW SERVANTS.

Federal control of elections. 53 L.R.A. 660. See MASTER AND SERVANT, III. d. Begin with this book on every law question.

#### FELON.

Liability under accident policy for injury resulting in. 47 L.R.A.(N.S.) 924.

#### FELONY.

Arrest for, see ARREST.
Compounding of, see Compounding FELONY.

Homicide in commission of. 63 L.R.A. 354. Effect of statutory declaration that murder in the commission of felony shall be murder in first degree upon right of jury to pass upon degree. L.R.A. 1916D, 610.

#### FEMALES.

See Women.

### FEMALE SUFFRAGE.

Right of woman to vote. 21 L.R.A. 662; L.R.A.1915B, 247.

# FEMALE TROUBLES.

As element of damages for negligent injury. 48 L.R.A.(N.S.) 99.

### FENCES.

§ 1. Generally.

Oral agreement as to, see Contracts, § 45. Gates in, see Gates.

Injunction as to, see INJUNCTON, §§ 76, 77.
Tenant's right to cut wood for, see LAND-LORD AND TENANT, § 54.

On public lands, see PUBLIC LANDS, § 2. Duty and liability of railroads with respect to, see RAILROADS, §§ 37-40, 75.

Right of one having easement of way to fence it. L.R.A.1918A, 595; 7 B. R. C. 261.

Mechanic's lien for fencing. L.R.A.1917D, 353.

Doctrine of attractive nuisance as applied to. L.R.A.1915D, 161.

Liability for consequential injuries from removal of. 53 L.R.A. 629.

Right of life tenant to timber for. 37

L.R.A.(N.S.) 765. Fencing materials, not actually attached to

land, as fixtures. 69 L.R.A. 901.

Prescriptive right to maintain. 53 L.R.A. 901.

§ 2. Division or line fences.

Validity of oral agreement as to erection or maintenance of fences. 27 L.R.A. (N.S.) 226.

Consult also L.R.A. Digests of Cases.

FENCES-cont'd

Applicability of statutory provision for joint construction of line or division fence, where lands of one of adjoining owners are otherwise uninclosed. 20 L.R.A.(N.S.) 1092.

Effect of joint building of line fence on adverse possession. 33 L.R.A.(N.S.) 937.

Effect of agreement to move line fence on adverse possession. 33 L.R.A.(N.S.)

Injunction to compel or prevent erection, maintenance, or removal of. 7 L.R.A. (N.S.) 55.

§ 3. — sufficiency; lack of.

Sufficiency of. 22 L.R.A. 105.

Lack of division fence as affecting liability for damages by trespassing cattle. 22 L.R.A. 60.

Liability of one in possession of unfenced land for injuries to live stock which strays thereon from public range. 52 L.R.A.(N.S.) 133.

Liability of one who neglects to repair division fence for death or injury of live stock after straying through the fence. 52 L.R.A.(N.S.) 99.

Extent of liability for permitting another's live stock to escape from pasture by failure to keep proper division fence. 20 L.R.A. 479.

§ 4. Along highway.

Obstruction of highway by, see Highways, § 38.

Liability for trespass on unfenced-land by live stock being driven along the highway. 12 L.R.A.(N.S.) 912.

Liability of property owner for injuries to persons or property in highway due to condition of fence. L.R.A.1917E, 812.

§ 5. As nuisances.

Municipal regulation of, as nuisances. 39 L.R.A. 662.

Injunction by municipality against maintenance of, as nuisance. 42 L.R.A. 822. Doctrine of attractive nuisance as applied

to. L.R.A.1915D, 161.

6. Liability for malicious erection of.
 Injunction against spite fence, see Injunction, § 77.

Generally. 40 L.R.A. 177; 25 L.R.A. (N.S.) 831; 52 L.R.A. (N.S.) 736.

Malice gives no ground of action. 40 L.R.A. 177.

Contrary doctrine. 40 L.R.A. 180. State statutes and decisions thereunder. 40

State statutes and decisions thereunder. 40 L.R.A. 181; 25 L.R.A.(N.S.) 832.

§ 7. Interference with easement by.

Erection of, so as to interfere with ingress
and eggress to and from public lands

and egress to and from public lands.
3 L.R.A.(N.S.) 733.

Abandonment or loss of private way by obstruction of way with fences. 22 L.R.A. (N.S.) 885, 886, 888, 891.

FENCES-cont'd

Right of owner of servient tenement to fence side of right of way as against owner of the dominant tenement. 7 B. R. C. 261.

### FENDER.

Liability of carrier to passenger who falls over fender. 26 L.R.A.(N.S.) 406.

Duty of street railway company to equip cars with. L.R.A.1915A, 748. Violation of police ordinance requiring fenders on street cars as ground for private action. 5 L.R.A.(N.S.) 252.

### FERÆ NATURÆ.

See ANIMALS.

### FERMENTED LIQUORS.

As intoxicating liquors. 20 L.R.A. 647. Sufficiency of delivery of fermented liquors sold out of larger lot. 26 L.R.A. (N.S.) 36.

# FERRIES.

§ 1. Generally.

Employer's nonliability for torts of independent contractor in operation of. 65 L.R.A. 654.

Interference by, with wharf rights in navi-gable waters. 34 L.R.A.(N.S.) 431. Right of taxpayer, in absence of statute,

to enjoin unlawful expenditures by municipality for. 36 L.R.A. (N.S.) 24. Taking of land for, as a public purpose. 22 L.R.A.(N.S.) 135.

§ 2. Franchise. See also infra, § 4.

Necessity of franchise for. 37 L.R.A. 712.

§ 3. - interference with. See also infra, § 4.

What amounts to interference with ferry franchise. 30 L.R.A.(N.S.) 462. Bridge as disturbance of ferry franchise. 1 B. R. C. 341.

§ 4. Establishment, regulation, and protection of.

License of, see LICENSE, § 27.

Power of municipality over, see Municipal Corporation, § 31.

Definition. 59 L.R.A. 513; L.R.A.1916D, 832

Establishment. 59 L.R.A. 515.

Necessity of license. 59 L.R.A. 515; L.R.A.1916D, 832.

Begin with this book on every law question.

FERRIES-cont'd

Authority to establish. 59 L.R.A. 518; L.R.A.1916D, 832.

Practice. 59 L.R.A. 526. Who entitled to. 59 L.R.A. 528.

Riparian owner. 59 L.R.A. 528; L.R.A.1916D, 833.

Landings. 59 L.R.A. 535; L.R.A.1916D, **834**.

Exclusiveness of right. 59 L.R.A. 538; L.R.A.1916D, 834.

Regulation and supervision. 59 L.R.A. 542; L.R.A.1916D, 834.

Transfers and contracts. 59 L.R.A. 543; L.R.A.1916D, 834.

Rights and duties of ferryman. 59 L.R.A.

546; L.R.A.1916D, 834. Extinguishment. 59 L.R.A. 554; L.R.A. 1916D, 835.

Power of state or municipality as to international or interstate ferries. L.R.A. (N.S.) 575.

§ 5. Ferryman as common carrier.

Generally. 68 L.R.A. 153.
Obligation of owner of private ferry. 68 L.R.A. 154.

Obligation of public corporation. 68 L.R.A. 155.

Liability for failure to run boat. 68 L.R.A. 155.

Measure of care required. 68 L.R.A. 156. What is within duty of ferryman. L.R.A. 157.

Effect of defect in property. 68 L.R.A. 160. Bond. 68 L.R.A. 160.

Liability for acts of lessee, etc. 68 L.R.A. 160.

§ 6. Injury to passenger. Imputing carrier's negligence to passenger. 8 L.R.A.(N.S.) 622.

§ 7. Rates; tolls. Regulation of rates of toll for ferriage. 33

L.R.A. 180; 59 L.R.A. 543; 6 L.R.A. (N.S.) 835; L.R.A.1916D, 834.

Power of judiciary to fix rates to be charged. 8 L.R.A.(N.S.) 529.

Right of ferryman to tolls. 59 L.R.A. 546. Right to take tolls without franchise. 37 L.R.A. 712.

### FERTILIZERS.

Municipal regulation of manufacture of, as nuisance. 38 L.R.A. 653.

As fixtures. 69 L.R.A. 902.

Express warranty as to, as excluding implied warranty. 33 L.R.A.(N.S.) 505. Invalidity of sale of fertilizer in violation of law. 12 L.R.A. (N.S.) 596.

Validity of contract for sale of, where statutory regulations had not been com-plied with. 43 L.R.A.(N.S.) 1109.

Evidence as to results of use of, upon issue as to breach of warranty as to ingredients. L.R.A.1915D, 875.

#### FETTERS.

On prisoner at trial, see CRIMINAL LAW, § 54.

#### FIANCEE.

Insurable interest in life of, see INSURANCE, 8 30.

Right to maintain action for seduction of. 50 L.R.A.(N.S.) 142.

As "dependent" within statute or rules de-

As "dependent" within statute or rules defining beneficiaries of mutual benefit societies. 51 L.R.A.(N.S.) 726.

### FICTIONS OF LAW.

Of incorporation to evade law. 1 L.R.A. (N.S.) 176.

### FICTITIOUS NAME.

See NAME, § 8.

### FICTITIOUS PERSON.

Payment of check to, see Banks, § 25.
Use of name of, in negotiable paper, see
RILLS AND NOTES, §§ 13, 14.

Validity of sale by one conducting business under fictitious name. 12 L.R.A. (N.S.) 600.

# FICTITIOUS RESIDENCE.

Of children, effect on right to privileges of public schools. 26 L.R.A. 581; 51 L.R.A. (N.S.) 234.

### FICTITIOUS SUIT.

Bringing or inciting the bringing of a false or fictitious suit as contempt. L.R.A. 1915B, 689.

Power of court to decline jurisdiction of. 6 B. R. C. 336.

# FIDELITY BOND.

See BONDS, § 11.

### FIDELITY INSURANCE.

See BONDS, § 11.

Consult also L.R.A. Digests of Cases.

# FIDUCIARY RELATION.

Application to debt due bank of deposit in fiduciary character, see Banks, § 18.

Gifts between persons in, see GIFT, § 6.

Receiver's right to deal with receivership for his own benefit, see RECEIVERS,

for his own benefit, see RECEIVERS, § 14.

Between attorney and client, see ATTORNEYS, § 10.

Between principal and agent, see PRINCIPAL AND AGENT, §§ 33-35.

Between trustee and cestui que trust, see TRUSTS, § 30.

See also Attorneys; Brokers; Executors and Administrators; Factors; Guardian and Ward; Husband and Wife; Principal and Agent; Trusts.

Fraud in expression of opinion in case of. 35 L.R.A. 429.

Effect of, on right to rely on representations. 37 L.R.A. 613.

False representations as to cost of property where confidential relations exist. 35 L.R.A.(N.S.) 182.

Presumption and burden of proof as to undue influence respecting gifts intervivos between persons in. 35 L.R.A. (N.S.) 950.

Independent advice as condition of valid gift inter vivos between parties occupying confidential relations. 16 L.R.A. (N.S.) 1087.

Right of person standing in fiduciary relation to relocate mining claim for his own benefit. 50 L.R.A. 184.

Effect of retaining statement of account between persons in, to render it an account stated. 29 L.R.A.(N.S.) 341.

Effect of public records as notice or evidence of notice which will set limitations running against action based on fraud when fiduciary relation exists. 22 L.R.A.(N.S.) 215.

Rights of employer and employee with respect to things produced by labor of employee. 5 L.R.A.(N.S.) 1154.

Existence of, as grounds of enforcement in equity of grantee's oral promise to grantor to hold in trust. 39 L.R.A. (N.S.) 906.

What relations are fiduciary within provision as to discharge in bankruptcy. 42 L.R.A.(N.S.) 1093.

Duty of municipal officer to account for profits made in transaction with municipality. 48 L.R.A.(N.S.) 842.

Effect of secret advantage to one member of joint adventure. 50 L.R.A. (N.S.) 1046.

Right of principal or employer to earnings by agent or servant who undertakes extraneous work. L.R.A.1916D, 782.

Weight and sufficiency of evidence to prove knowledge by testator of contents of his will written by one occupying a confidential relation. L.R.A.1918D, 776.

### FIERI FACIAS.

Right to break and enter dwelling to serve writ of. L.R.A.1916D, 283.

# FIGHT.

Effect of fact that combat was by agreement or mutual consent of parties up-on civil liability for assault. 20 L.R.A. (N.S.) 907.

#### FILING.

Of chattel mortgage, see CHATTEL MORT-GAGE, §§ 16-22.

Of mechanics' lien, see MECHANICS' LIENS, VIII.

Failure to file tax list, see TAXES, § 52.

First and last days in computing time for. 49 L.R.A. 242.

Delay in filing indictment as ground for discharge of accused. 56 L.R.A. 515.

Of initiative or referendum petition. 50 L.R.A. (N.S.) 220; L.R.A. 1917B, 34.

Validity of fee exacted for filing nomina-

tions. L.R.A.1915B, 197.

# FILLING LANDS.

Power to fill low lands at expense of owner. 30 L.R.A. (N.S.) 709.

# FILTER.

Duty of water supply company to filter water. 24 L.R.A. (N.S.) 304.

### FILMS.

Motion picture films, see Moving Pictures.

### FILTH.

Municipal regulation of nuisance of. 38 L.R.A. 314.

### FINAL PROCESS.

Exemption of nonresident from service of, while in state in connection with case. Fining attorney during trial as prejudicing 42 L.R.A.(N.S.) 1105.

### FINANCIAL CONDITION.

Actionability of charges affecting, see LIBEL AND SLANDER, §§ 16, 17, 26.

Right of witness to express opinion as to. \_ L.R.A.1918A, 739.

Duty of purchaser of corporate stock to verify statements made as to financial condition of corporation. 14 L.R.A. (N.S.) 1176.

### FINDER.

Rights and liabilities of finder of property. 7 L.R.A. 116; 1 L.R.A. (N.S.) 477; 8 L.R.A. (N.S.) 95; 35 L.R.A. (N.S.) 979; L.R.A.1916A, 660; 6 B. R. C. 264.

What property is lost. 37 L.R.A. 120. Larceny. 37 L.R.A. 121; 30 L.R.A.(N.S.) 339; L.R.A.1916A, 468.

Rights inter se of joint finders of lost property. 19 L.R.A. (N.S.) 1201.

#### FINDINGS.

Reversible error as to, see APPEAL AND ERROR, § 40.

Admissibility of, in evidence, see EVIDENCE, § 133.

In general, see TRIAL, § 69.

Requisites of special verdict. 24 L.R.A. (N.S.) 2.

# FINES.

§ 1. In general. By building and loan association, see BUILDING AND LOAN ASSOCIATIONS, § 7.

To enforce orders of Public Service Commissions. L.R.A.1918E, 311.

Exemptions as against fines. L.R.A.1915A, 1214.

Right of agent to be reimbursed for fines paid for violation of law in principal's interest. 45 L.R.A.(N.S.) 788.

Relief of member of labor union from unlawful fine. 45 L.R.A.(N.S.) 353. Right of labor union to impose fine on mem-

bers as means of inducing them to join in strike. 23 L.R.A.(N.S.) 1236.

§ 2. As punishment for crime. Effect of pardon on, see CRIMINAL LAW, § 89.

Exemption of homestead from liability to. 24 L.R.A. 790.

As cruel or unusual punishment. 35 L.R.A.

567; L.R.A.1915C, 563.
Imprisonment for, as imprisonment for debt. 34 L.R.A. 651; L.R.A.1915B, 647.

rights of party. 42 L.R.A. (N.S.) 428. Begin with this book on every law question.

### FINGER PRINTS.

43 L.R.A.(N.S.) 1206; 3 B. As evidence. R. C. 70.

#### FIREARMS.

Carrying of, see CARRYING WEAPONS. Weapons generally, see Weapons.

Opinion as to caliber or kind of weapon fired based upon its sound. L.R.A. 1918A, 729.

Opinion evidence as to whether firearm has been recently fired. L.R.A.1918A, 670. Forfeiture of guns used in violation of the game laws. L.R.A.1916F, 919.

What constitutes attempt to discharge firearms. 3 B. R. C. 243.

Negligence in respect to guns and similar dangerous agencies. 14 L.R.A. 675.

Civil liability for injury by negligent discharge of firearms. 4 L.R.A. (N.S.) 119; 26 L.R.A. (N.S.) 134; L.R.A. 1915E, 267.

Liability for injury to trespasser by discharge of. 3 L.R.A. (N.S.) 1038. Liability of person leaving loaded gun where

it is found and accidentally discharged by another. 2 B. R. C. 181.

Pointing unloaded firearm as assault. 15 L.R.A. (N.S.) 1272; 41 L.R.A. (N.S.)

Burden of proving that weapon was not loaded in prosecution for assault with

firearms. 42 L.R.A. (N.S.) 975.

Carrier's liability for injury resulting from accidental discharge of firearms by fellow passenger. 37 L.R.A. (N.S.) 724;
49 L.R.A. (N.S.) 810.

Applicability of doctrine of res ipsa loquitur where passenger is injured by firearms in hands of another passenger.
3 B. R. C. 431.

Negligence of parent in permitting child to have firearms, or keeping them within his reach. 10 L.R.A.(N.S.) 942.

Master's liability for wrongful shooting with guns. 27 L.R.A. 197, 201.

Master's liability for injury done by serv-ant to third person in use of firearms placed in his custody. 10 L.R.A. (N.S.) 375, 396.

Guns as deadly weapons. 21 L.R.A.(N.S.) 500.

# FIRE DEPARTMENT.

§ 1. Generally.

Constitutionality of statutes as to firemen, see Constitutional Law, § 91.

Giving of free transportation to members of city fire department as an unlawful discrimination. L.R.A.1918D, 908.

Right of state to control municipal fire de- Liability of firemen for fall of wall. 34 partment. 15 L.R.A.(N.S.) 575. L.R.A. 562.

Consult also L.R.A. Digests of Cases.

FIRE DEPARTMENT-cont'd

Right of municipality to require theater to pay for services of firemen performed at the theater or place of exhibition. 11 L.R.A.(N.S.) 700.

Firemen as servants or agents of owner of burning property. 39 L.R.A.(N.S.) burning property.

Firemen as public officers. 36 L.R.A. (N.S.) 881.

§ 2. Exemption of firemen from jury or militia duty.

Right conferred by statutory exemption of firemen from jury or militia duty. 8 L.R.A.(N.S.) 498.

3. Fund or pension for firemen.

Validity of law imposing tax on insurance companies for the benefit of firemen. 13 L.R.A.(N.S.) 1147.

Power of legislature to require municipality to pension employees. 34 L.R.A. (N.S.) 608.

Nature and circumstance of injury as affecting right to share in pension or insurance fund. 20 L.R.A. (N.S.) 1176.

Requiring agent of foreign insurance company to contribute to maintenance of firemen's fund. 24 L.R.A. 299.

Vested right in pension. 50 L.R.A. (N.S.) 1019.

4. Municipal liability for acts of. See MUNICIPAL CORPORATIONS, § 83.

§ 5. Liability of fire insurance patrol. Liability of fire insurance patrol for injuries. 21 L.R.A.(N.S.) 810.

6. Liability for injury to firemen.

Liability for injury to fireman through defects in premises, see NEGLIGENCE, § 18. Collision between street car and fire apparatus, see Street Railways, § 19.

Applicability to firemen of Workmen's Compensation Acts. L.R.A.1918F, 191.

Liability of street railway company for in juries caused by collision with fire apparatus. 19 L.R.A. (N.S.) 623; L.R.A. 1917E, 415.

§ 7. Imputing negligence of one fireman to another.

Imputing negligence of one fireman to another. 8 L.R.A. (N.S.) 632; L.R.A. 1915A, 762.

Imputing negligence of driver of fire apparatus to fireman. 19 L.R.A. (N.S.) 629; L.R.A.1917E, 422.

§ 8. Contributory negligence of firemen.

Degree of care required of firemen in use of defective or obstructed street. 21 L.R.A. (N.S.) 630; 48 L.R.A. (N.S.) 628.

§ 9. Liability of firemen.

### FIRE ESCAPES.

In general, see Buildings, § 5.

Doctrine of attractive nuisance as applied to. L.R.A.1915D, 170.

### FIRE INSURANCE.

See INSURANCE.

#### FIRE INSURANCE PATROL.

Liability of fire insurance patrol for injuries. 21 L.R.A.(N.S.) 810.

### FIRE LIMITS.

See Buildings, § 4.

#### FIREMEN.

See also FIRE DEPARTMENT. As fellow servants. 52 L.R.A.(N.S.) 1089.

### FIREMEN'S FUND.

See FIRE DEPARTMENT, § 3.

### FIRES.

I. In general, \$\$ 1, 2. II. Liability for loss by, \$\$ 8-11.

### I. In general,

§ 1. Generally.

Arson, see Arson.

As to fire limits and fire escapes, see BUILD-INGS, §§ 4, 5.

Explosions, see Explosions and Explo-SIVES.

Tenant's right to cut wood for, see LAND-LORD AND TENANT, § 54.

Proximate cause of, see Proximate Cause, § 5.

Appropriation for protection against. 14 L.R.A. 476.

Effect of destruction of building to terminate adjoining owner's easement of support. 19 L.R.A.(N.S.) 883; 46 L.R.A.(N.S.) 1021.

Regulating keeping or storing of combusti-bles. 41 L.R.A.(N.S.) 456. Validity of regulations for fire protection

other than building regulations. 41 L.R.A.(N.S.) 456.

Begin with this book on every law question.

FIRES, I.—cont'd

Right of taxpayer, in absence of statute, to enjoin fire contracts. 36 L.R.A. (N.S.) 20.

Admissibility of evidence of other fires. 32 L.R.A.(N.S.) 1146.

§ 2. Liability for injury in stopping spread of.

Liability of city for destroying building to stop spread of fire. 19 L.R.A. 197.

### II. Liability for loss by.

§ 8. Generally.

Measure of damages for injury by, see Dam-AGES, §§ 68, 732-75.

Insurance against, see INSURANCE.

Proximate cause of loss by, see Proximate CAUSE, § 5.

Who must bear loss from fire before execution of deed to land sold, see VENDOR

AND PURCHASER, § 6.
Liability of railroad for, see RAILROADS, §§ 77, 78, 86.

Contributory negligence in case of fire set by railroad engine, see RAILBOADS, § 86.

Construction and effect of statute giving one who is responsible for the destruction of property by fire, the benefit of insurance effected by owners. 52 L.R.A.(N.S.) 203.

Tenant's implied obligation as to damages by. 64 L.R.A. 651, 657.

Landlord's liability for loss of tenant's property by fire. 42 L.R.A.(N.S.) 363.

Diligence of carrier in saving property from. 39 L.R.A.(N.S.) 645.

Liability where fire results from fall of

walls or buildings. 34 L.R.A. 563.

Violating ordinance as to, as ground for private action. 5 L.R.A. (N.S.) 261.

Duty to cut off electric connection in case of fire. 31 L.R.A.(N.S.) 1099.

Liability for fire set by sparks from chimney. 32 L.R.A.(N.S.) 1003.

Provision exempting carrier from hiability

for loss occasioned by fire as extending to loss caused by negligence. 6 B. R. C. 127.

Presumption and burden of proof as to carrier's negligence or lack of negligence causing loss of goods by fire in case of contract limiting its liability.

L.R.A.1915D, 647, 656.

Carrier's liability for injury by fire resulting from negligent or meddlesome act of

fellow passenger. 37 L.R.A. (N.S.) 725.

Duty of steam railroad, or street railroad. company to avoid interference with extinguishment of. 12 L.R.A.(N.S.) 382; 20 L.R.A.(N.S.) 1110; 39 L.R.A.(N.S.)

Duty to guard against injury to trespassing child by. 39 L.R.A.(N.S.) 1058. Fire as attractive nuisance. L.R.A.1917F,

1036. Contributory negligence of child injured by. L.R.A.1917F, 108. FIRES, II.—cont'd

water supply.

Corporations, WATERS, § 119.

5. Liability of warehouseman.

Liability of warehouseman for goods damaged or destroyed while stored in building other than that called for by contract. 24 L.R.A.(N.S.) 1117.

Effect of stipulation exempting warehousemen from loss by fire. 23 L.R.A.(N.S.)

1205.

§ 6. Fires set by servant or independent contractor.

Liability of master for act of servant in setting out fire while clearing land. 47

L.R.A.(N.S.) 1116. Liability of master for damages by fire started by servant for his own purposes but incident to work. 49 L.R.A. (N.S.) 544.

Employer's liability for injury from independent contractor's negligent demolition of fire ruins. 65 L.R.A. 853.

Employer's liability for injury resulting from independent contractor's allowing fire to escape. 65 L.R.A. 853.

Liability of employer for acts of independent contractor in setting out fire. 65 L.R.A. 654; 17 L.R.A.(N.S.) 788; 38 L.R.A.(N.S.) 175.

§ 7. Fire from threshing engine.

Negligence with respect to spark arresters on threshing machine or similar stationary engines. 1 L.R.A.(N.S.) 530.

§ 8. Fire from steam roller.

Liability of municipal corporation for fire set by sparks from steam roller engaged in repairing a street. 6 L.R.A.(N.S.) 1094; 20 L.R.A.(N.S.) 654.

§ 9. Spread of fire.

Spreading by wind of fires negligently set. 20 L.R.A. (N.S.) 92.

Duty of one not responsible for kindling of fire to prevent its spread from his premises. 6 L.R.A.(N.S.) 882; 45 L.R.A. (N.S.) 215.

§ 10. — liability for setting fires which spread to property of others.

Liability of railroad for, see RAILROADS, §§ 77, 78, 86.

Generally. 21 L.R.A. 255; 36 L.R.A. (N.S.)

The statutory limitation of liability. 21 L.R.A. 256.

Negligence or misconduct essential to liabil-

ity. 21 L.R.A. 256.
What is negligence. 21 L.R.A. 258.
Liability for acts of others. 21 L.R.A. 259.
Extent of liability. 21 L.R.A. 259.
General rules. 21 L.R.A. 259.

Effect of intervening agency. (N.S.) 197.

Consult also L.R.A. Digests of Cases.

FIRES, II .- cont'd

4. Due to failure to furnish adequate | Effect of intervening property. 21 L.R.A. 260.

Intervening building. 21 L.R.A. 260. The effect of distance. 21 L.R.A. 261. The effect of time. 21 L.R.A. 261. Statutes. 21 L.R.A. 261.

Regulating prairie fires. 21 L.R.A. 261. Timber fires. 21 L.R.A. 262.

Railroad fires. 21 L.R.A. 262.

Notice. 21 L.R.A. 262.

Effect of concurring negligence of third person in spreading fire. 17 L.R.A. 36.

Liability of one responsible for a fire for

destruction of property after such fire united with another for which he was not responsible. 48 L.R.A. (N.S.) 700.

§ 11. To whom liable.

May one who destroys property defeat an action by the owner upon the ground that the right of action is in the insurer. 23 L.R.A.(N.S.) 870; L.R.A. 1918F, 145.

#### FIREWORKS.

§ 1. Insurance on.

Validity of insurance on. 40 L.R.A. 847. Keeping of, on insured premises. L.R.A. 1917C, 278.

§ 2. Nuisance or injury by. Negligence in displaying. 3 L.R.A.(N.S.)

330, 759. Liability for injuries caused by discharge of. 16 L.R.A. 395.

Municipal liability for failure to prevent fireworks on street. 23 L.R.A.(N.S.) 643; 42 L.R.A.(N.S.) 863.

Liability for injury to children from fireworks left accessible to them. 14 L.R.A.(N.S.) 586; L.R.A.1917A, 1295.

Display of fireworks in city streets as nui-sance. 16 L.R.A.(N.S.) 621.

#### FIRM.

See PARTNERSHIP.

# FIRST AND LAST DAYS.

In computing time, see TIME, § 17.

#### FISH COMMISSIONER.

Right of woman to be. 38 L.R.A. 211.

# FISHERIES.

Generally. 36 L.R.A. Constitutionality of laws as to, see Consti-TUTIONAL LAW, § 92.

FISHERIES-cont'd Custom as to fishing, see CUSTOM AND Usage, § 10. License as to, see License, § 28. Penalty as to fishing, see PENALTY, § 4. Taking of fish as larceny. L.R.A.1918A, Liability of fish warden. L.R.A.1918A, 839. Exercise of power of eminent domain for purpose of acquiring fishery right. L.R.A.1915E, 443. Discrimination against nonresidents granting license to take fish. 40 L.R.A. (N.S.) 285. Injunction against fishing in navigable waters or against interference therewith. 17 L.R.A.(N.S.) 1236; 38 L.R.A.(N.S.) 286. Fishing as violation of Sunday laws. 30 L.R.A. (N.S.) 470. Taking of property for, as a public purpose. 22 L.R.A.(N.S.) 152. Right to construct fish traps in front of riparian property. L.R.A.1918A, 1076. 8 2. Right to fish.
Public right of fishery. 60 L.R.A. 481. In bays of Great Lakes. L.R.A.1918A, 1147. Grant of exclusive right to individual. 60 L.R.A. 487. 14 L.R.A. 386; 60 Prescriptive rights. L.R.A. 496. Kinds of fishery. 60 L.R.A. 499. Public regulation. 60 L.R.A. 499. How exercised. 60 L.R.A. 507. Rights in lakes and ponds. 60 L.R.A. 512. Other rights. 60 L.R.A. 514. Shell fisheries. 60 L.R.A. 516. Extinction. 60 L.R.A. 522. Protection of. 60 L.R.A. 523. Public right of access to water for purpose of fishing. 41 L.R.A. 268. Navigability for purpose of right to fish. 42 L.R.A. 324. Prescriptive rights of fishery in 'navigable waters. 14 L.R.A. 386. Public right of access to water for fishing. 41 L.R.A. 268. Right to fish as dependent on navigability of waters. 42 L.R.A. 324. Separated from upland. 40 L.R.A. 393. Right of way on shore as fishery right. L.R.A. (N.S.) 879. Right to free fishing in great ponds. 31 L.R.A.(N.S.) 434. Right of riparian owner on tidal or navigable waters to exclusive fishery. L.R.A.(N.S.) 396. Nature and extent of right created by private grant of fishing privilege.

L.R.A. (N.S.) 302.

§ 3. Injury to fishing right.

In improving navigability of stream. 67
L.R.A. 846.

By attempted exercise of rights of navigation. 64 L.R.A. 982.

As damages from pollution. 38 L.R.A. (N.S.) 74.

Begin with this book on every law question.

FISHERIES—cont'd § 4. Governmental control over right Generally. 39 L.R.A. 581. As between governments. 39 L.R.A. 582. As between governments and their subdivisions. 39 L.R.A. 582. Power to grant rights to individual. L.R.A. 583. Right of individual. 39 L.R.A. 584. Power to interfere with private right. L.R.A. 584; L.R.A.1916E, 523. Close time. 39 L.R.A. 585. Method of taking fish. 39 L.R.A. 585. Regulation of stream because of fish. L.R.A. 587. Right to prevent obstruction of stream. L.R.A. 587. Preservation of fish in public waters. L.R.A. 588. Statutes which have been passed. L.R.A. 589. Powers of local authorities. 39 L.R.A. 589. Powers of fish officers. 39 L.R.A. 589. Pollution of water. 39 L.R.A. 589. Regulation of lobster fishing. 590. Regulation of oyster fishing. 11 L.R.A. 583. Extension of regulations as to shell fishing to private beds. L.R.A.1918E, 111. Penalty and its infliction. 39 L.R.A. 590. Joint offense. 39 L.R.A. 590.

Intent. 39 L.R.A. 591.
Constitutional provisions. 39 L.R.A. 591.
What discrimination as to persons is permissible. 26 L.R.A. (N.S.) 794.

Discrimination as to waters in legislation restricting or regulating fishing rights.
41 L.R.A.(N.S.) 469.

Statutory prohibition of pollution of water to protect fishery. 1 L.R.A.(N.S.) 752; 34 L.R.A.(N.S.) 286.

Serving fish with meal as violation of game law. L.R.A.1917F, 769.

Cruel and unusual punishment of offenses against laws relating to. 35 L.R.A. 572; L.R.A.1915C, 566.

Forfeiture of personal property used in violation of fish laws. L.R.A.1916F, 913.

#### § 5. Shell fish; oysters.

Injunction against trespass on oyster beds, see INJUNCTIONS, § 22.

License as to, see LICENSE, § 28.

Taking of shell fish as larceny. L.R.A. 1918A, 547.

Exercise of power of eminent domain for purpose of acquiring oyster beds, etc. L.R.A.1915E, 443.

Public and private rights to take. 60 L.R.A. 516.

Effect of license to plant shell fish. 6
L.R.A.(N.S.) 247.

Extension of regulations concerning, to private bed. 12 L.R.A.(N.S.) 869; L.R.A.1918E, 111.

Injunction to restrain trespass upon, or interference with, oyster beds. 3 L.R.A. (N.S.) 205.

FISHERIES-cont'd

Injury to rights in, in improving navigability in stream. 67 L.R.A. 846.

Right to compensation for damages to oyster beds by improvement of navigation. 34 L.R.A. (N.S.) 1084.

6. Nets.

Prohibition of fishing with nets over private land. L.R.A.1916E, 523.

Right to compensation for destruction of

fish nets. 19 L.R.A. 197. Confiscation of nets found in illegal use. 39 L.R.A. 590; 3 L.R.A.(N.S.) 997; L.R.A.1916F, 918.

#### FISH NETS.

See FISHERIES, § 6.

#### FISH TRAPS.

Right to construct, in front of riparian property. L.R.A.1918A, 1076.

#### FITNESS.

Implied covenant in lease as to fitness of premises, see LANDLORD AND TENANT, § 22.

Master's duty as to fitness of servants employed, see MASTER AND SERVANT, §§ 104, 105.

Warranty as to, see SALE, §§ 31, 32.

Right to compel public employee to submit to physical examination to determine fitness. 33 L.R.A.(N.S.) 259.

Right of court by mandamus to control decision of licensing officers as to fit-ness of applicant for license to sell intoxicating liquors. 27 L.R.A.(N.S.)

Implied covenant in lease as to fitness of property for purpose intended. L.R.A. 449.

# FIXED LIABILITY.

By bankrupt, what constitutes. 54 L.R.A.

# FIXTURES.

I. In general, § 1. II. What are, §§ 2-9.

#### I. In general.

§ 1. Generally.
As subject of larceny. 49 L.R.A. (N.S.) 967, 971. As appurtenances. 15 L.R.A. 653. Consult also L.R.A. Digests of Cases.

FIXTURES, I.—cont'd

Right to compensation for fixtures in build-

Right to compensation for fixtures in building taken by condemnation proceedings. L.R.A.1915D, 492.

Effect of constitutional or statutory provision exempting "fixtures and erections" for trade, etc. from condemnation proceedings. L.R.A.1916A, 1099.

Agreement between landlord and tenant as to removal of fixtures and improvements by latter as affecting third person claiming a mechanic's lien. L.R.A.(N.S.) 100.

Right of third person to remove fixtures as breach of covenant in a deed of real

property. 35 L.R.A.(N.S.) 976. Ejectment as proper remedy to recover. 18 L.R.A. 787.

Loss of, as special damages from breach of warranty by existence of unexpired lease. 35 L.R.A.(N.S.) 781.

Who is liable for taxes on improvements removable by tenant at end of term. 32 L.R.A.(N.S.) 368.

# II. What are.

§ 2. Generally.

Are things placed on land with the inten-tion of annexing them fixtures, where they are never actually attached. 69 L.R.A. 892.
Effect upon the rights of the owner of a

building, or of an interest in or a lien thereon, of its wrongful removal and attachment to the land of a third person without the former's consent. 14 L.R.A. (N.S.) 435.

What are, within meaning of bulk sale law. 34 L.R.A.(N.S.) 218.

Window fronts as fixtures. 41 L.R.A. (N.S.) 1022.

§ 3. As between landlord and tenant. Rights of landlord and tenant as to, see LANDLORD AND TENANT, §§ 48-51.

Effect of agreement to prevent erections by tenant from becoming part of realty. 19 L.R.A. 443.

Removal of fixtures by tenant as violation of covenant to leave premises in good condition. 64 L.R.A. 662.

Mortgage on building on leased premises. 21 L.R.A. 347.

Heating apparatus as part of realty, as between landlord and tenant. 1 B. R. C. 980.

Show cases, shelving, etc. 43 L.R.A.(N.S.) 677.

Ornamental articles as fixtures as between landlord and tenant, or tenant and vendee. 6 B. R. C. 167

§ 4. As between vendor and purchaser.

Effect of agreement to prevent fixtures from becoming part of realty as to purchasers. 19 L.R.A. 443.

Effect of agreement between landlord and tenant for removal of fixtures by latter. L.R.A.1915E, 822.

FIXTURES, II.—cont'd

Power of agent employed to sell real property to bind his principal as to fixtures. L.R.A.1915F, 631.

Show cases, shelving, etc. 43 L.R.A. (N.S.) 675.

Ornamental articles. 6 B. R. C. 164.

Effect of chattel mortgage on fixtures as against subsequent purchaser or encumbrancer. 15 L.R.A. 61.

Heating apparatus as part of realty as between grantor and grantee. 1 B. R. C. 972.

§ 5. As between mortgagor and mort-

As between seller of chattel and mortgagee of realty, see infra, § 7.

Heating apparatus as part of realty, as between mortgagor and mortgagee and their privies. 1 B. R. C. 974.

Effect of agreement to prevent fixtures from becoming a part of realty prior mortgagees. against L.R.A. 444.

Effect of agreement between landlord and tenant for removal of fixtures by latter on rights of mortgagee of premises. L.R.A.1915E, 826.

Ornamental articles. 6 B. R. C. 165. Show cases, shelving, etc. 43 L.R.A. (N.S.)

What articles are included in term fixtures

as employed in chattel mortgage. 46 L.R.A. (N.S.) 206.

§ 6. Effect of retention of title to, or lien on, chattel sold.

Efficacy of chattel mortgage, see CHATTEL MORTGAGE, § 24.

Reservation of title to, or lien upon, chattel sold to contractor or materialman, who attaches it as a fixture to realty of a third person. 52 L.R.A.(N.S.) 561.

Rights of seller of fixtures, retaining title thereto or a lien thereon, as against purchasers or encumbrancers of the realty. 1 B. R. C. 664; 7 B. R. C. 207; 49 L.R.A. (N.S.) 396.

Heating apparatus as part of realty, as be-tween owner of realty and conditional vendor of apparatus. 1 B. R. C. 977.

7. — as against mortgagee of realty. Effect of agreement to prevent fixtures from becoming part of realty as to mortgages. 19 L.R.A. 444. Rights of seller of chattel, retaining title

thereto or a lien thereon, as against existing mortgagees of the realty to which it is affixed by the owner. 37 L.R.A.(N.S.) 119; 1 B. R. C. 664.

As against subsequent mortgagee of realty.
1 B. R. C. 686.

Recordation of lien on fixtures as personalty, as notice to mortgaged of realty. B. R. C. 691; 49 L.R.A. (N.S.) 400.

FIXTURES, II.—cont'd

§ 8. Machinery.

Machinery placed on land with intention of annexing it, as a fixture when never actually attached. 69 L.R.A. 894.

§ 9. Miscellaneous.

Railroad as. 66 L.R.A. 33.

Railroad superstructure as real or personal property. 66 L.R.A. 41.

stoves as fixtures. 17 L.R.A. (N.S.) 699.

Heating apparatus as part of realty. 1 B. R. C. 972.

Ornamental articles. 6 B. R. C. 161.

Show cases, shelving, etc., as fixtures. 43 L.R.A.(N.S.) 675.

Storm doors and windows and screens as. 30 L.R.A.(N.S.) 1189.

Wharf or dock as fixture. L.R.A.1916A,

Cold-storage plant as. 30 L.R.A.(N.S.) 576.

Engine as fixtures when placed upon the land by the owner of the realty. L.R.A. (N.S.) 376.

Building materials placed on land with the intention of annexing them, but never in fact annexed, as fixtures. 15 L.R.A. (N.S.) 727.

Character of building placed by consent on another's land as real or personal property, in the absence of an agreement as to its character. 14 L.R.A. (N.S.) 439.

# FLAG.

Statutes against desecration of. 7 L.R.A.

(N.S.) 1079. Validity of statutory or other regulation forbidding display of red flag or other symbol tending to incite disorder. L.R.A.1915B, 706.

#### FLAGGING.

Mechanics' lien for flagging sidewalks, yards, etc. L.R.A.1917D, 353.

# FLAGMAN.

At railroad crossing, see Railroads, §§ 33,

As fellow servant. 52 L.R.A.(N.S.) 1104. Liability of railroad company for injury to, by passing trains. 48 L.R.A. (N.S.) 150.

# FLAGSTAFF.

1 Municipal liability for injury by flagstaff in street. 20 L.R.A. (N.S.) 607. Begin with this book on every law question.

#### FLAG STATION.

What is, within meaning of fence laws. 7 L.R.A.(N.S.) 207.

Duty of carrier as to condition of. 39 L.R.A. (N.S.) 558.

Passenger's duty to give notice of desire to stop at. 16 L.R.A.(N.S.) 1132; 52 L.R.A.(N.S.) 668.

#### FLAG TRAIN.

Injury to intending passenger attempting to flag train at flag station. 24 L.R.A. (N.S.) 741.

#### FLASH LIGHT POWDER.

-Mability for injury to employee by explosion of. L.R.A.1918B, 863.

#### FLAT HOUSES.

As violation of restrictive covenant. 1 B. R. C. 993; 45 L.R.A. (N.S.) 726; L.R.A. 1918C, 873.

# FLATS.

Low land, see WATERS, § 45.

# FLAXSEED OIL.

Right to require that oil offered for sale shall answer a designated standard of purity. 41 L.R.A.(N.S.) 150.

# FLIGHT.

Homicide in checking of. 67 L.R.A. 299. Presumption of guilt from. 39 L.R.A. (N.S.) 58.

# FLOATABLE STREAM.

See Logs and Logging.

# FLOATING LOGS.

Right to use stream for, see Logs AND Logging, §§ 4-10.

#### FLOGGING.

As cruel punishment. 35 L.R.A. 565.

Consult also L.R.A. Digests of Cases.

#### FLOODING.

In general, see WATERS, §§ 46-50, 63, 69.

Defenses to municipal liability for flooding through insufficiency of sewers. 61 L.R.A. 708.

Duty of owner to protect his premises from flooding through drain or sewer. L.R.A.1918D, 371.

#### FLOODS.

Liability for injury caused by, generally, see WATERS, § 69.

Contractor's liability to replace bridge destroyed by unprecedented flood against which he does not contract. 15 L.R.A. (N.S.) 833.

Destruction of boom or dam by unprecedented flood as affecting liability of one under contract to build and maintain it. 35 L.R.A.(N.S.) 1109.

Injury by, to property bailed; presumption and burden of proof as to care or negligence. 43 L.R.A.(N.S.) 1187.
Liability of railroad company to employees

Liability of railroad company to employees for injuries caused by defects in road-bed caused or accompanied by rainfall. 49 L.R.A.(N.S.) 198.

#### FLOOD WATER.

See WATERS, §§ 68-71.

#### FLOOR.

Master's liability for injury sustained by servant from falling over nail or bolt projecting from floor. 19 L.R.A. (N.S.) 242.

#### FLOORING.

Employee's right of action for employer's violation of building laws relating to flooring. 9 L.R.A. (N.S.) 378; L.R.A. 1915E, 541.

#### FLOUR.

Sufficiency of selection or designation of part sold out of a larger lot. 26 L.R.A.(N.S.) 35.

Carrier's right to make discriminating rate for wheat to be converted into flour to be shipped over its road. 6 L.R.A. (N.S.) 225.

#### FLOUR DUST.

#### FLOWAGE.

See WATERS, §§ 46-50, 61.

#### FLUMES.

Conveyance of right in, by grant of water power. 67 L.R.A. 386.

# FLYING SPLINTERS.

Master's liability for injury by, see MASTER AND SERVANT, § 82.

#### FLYING SWITCH.

Negligence in making. 18 L.R.A. 63; L.R.A. 1916C, 1033.

Violation of police ordinance as to, as ground for private action. 5 L.R.A. (N.S.) 242.

Violation by servant of rule adopted by railway company as evidence of negligence toward one other than servant injured from flying switch. L.R.A. 1917C, 805.

# FOAL.

Title to foal of mare sold conditionally. 17

# F. O. B.

Effect of contract to ship goods F. O. B., see SALE, § 42.

Which party is to furnish cars under contract to ship goods F. O. B. 6 L.R.A. (N.S.) 928; L.R.A.1917A, 1163.

# FODDER.

Sufficiency of delivery of, on sale out of a larger lot. 26 L.R.A. (N.S.) 31.

Liability of vendor in cases of tort for sale of unwholesome fodder for cattle. 21 L.R.A. 140.

Fodder furnished contractor for teams as material, giving lien on railroad. 15 L.R.A.(N.S.) 509.

# FOG.

Keeping of, on insured premises. L.R.A. Effect of, on question of negligence in running train at speed preventing stopning train at speed preventing stop-page within distance disclosed by headlight. 39 L.R.A. (N.S.) 980.

#### FOLLOWING DECISIONS.

Of other courts, see Courts, X.

# FOLLOWING TRUST PROPERTY.

See TRUSTS, § 37.

### FOLLOWING VEIN.

In mine, see MINES, § 8.

#### FOOD.

I. In general, §§ 1-5. II. Particular articles of food, \$\$ 6-9.

# I. In general.

§ 1. Generally.

Constitutionality of statutes regulating, see Constitutional Law, §§ 94, 95.

Implied warranty on sale of. 22 L.R.A. 195.

Of fitness. 15 L,R.A.(N.S.) 884; L.R.A.1917F, 472.

Of fitness of animals sold for slaughter. L.R.A.1917D, 823.

Husband's liability for food furnished wife. 65 L.R.A. 530; 47 L.R.A. (N.S.) 279.

As a family expense or necessary within statute rendering wife or har property liable therefor. L.R.A.1917F, 861.

Municipal regulation as to nuisance affecting. 38 L.R.A. 335.

Validity of statute or ordinance for destruction of food products below prescribed standard or unfit for use. 29 L.R.A.(N.S.) 260.

Right to regulate time of payment therefor as incident to authority to make rules and regulations as to testing foods. 39 L.R.A.(N.S.) 686.

Regulation of price of food as valid exercise of the war power. 7 B. R. C. 663.

Injunction against acts of food commission-

er which affects sale of foods. 15 L.R.A.(N.S.) 331.

Validity of sale of, in violation of law. 12 L.R.A.(N.S.) 597.

Applicability of Sunday laws to sale of

food and refreshments. L.R.A.1917C,

Sale and delivery of food stuffs on Sunday as a work of necessity. 18 L.R.A. (N.S.) 617.

FOOD, I.—cont'd

Constitutionality of discriminations statutory regulations concerning food products. 34 L.R.A.(N.S.) 650.

Combination among produce buyers as monopoly. 12 L.R.A.(N.S.) 150.

Validity of state inspection laws as applied to commodities in interstate commerce. L.R.A.1916D, 196.

Agent's criminal responsibility for sale of articles of food that do not comply with statutory requirements. L.R.A.1918D, 726.

Modification of food products as manufacturing within tax exemption provisions. L.R.A.1917A, 53.

What is included within exemption of provisions and food. L.R.A.1916B, 788.

Mechanics' lien for food for men and teams consumed in process of work. 15 L.R.A. (N.S.) 509; L.R.A.1915E, 989.

Action on contractor's bond for cost of food

supplies. 43 L.R.A.(N.S.) 169.
Action on contractor's bond for cost of food for teams. L.R.A.1915F, 953.

Disparaging quality of food sold or manufactured as libel. 48 L.R.A.(N.S.) 1216.

# § 2. Adulteration of.

Criminal liability for adulteration of, by servant, agent, or partner. 41 L.R.A.

State regulations as affected by Federal pure food law. 47 L.R.A.(N.S.) 985.

Statutes as to adulteration of vinegar. 49 L.R.A.(N.S.) 1209.

What constitutes adulteration within the food and drugs act. L.R.A.1915B,

25 L.R.A.(N.S.) 1234; Color or flavor. L.R.A.1915B, 780.

Prohibition of adulteration of milk. L.R.A.(N.S.) 928; L.R.A.1917C, 248.

Right to require that articles offered for sale shall answer a designated standard of purity. 41 L.R.A.(N.S.) 149.

Agent's criminal responsibility for sale of adulterated food products. L.R.A. 1918D, 726.

# 3. Labeling of.

Validity of police regulation requiring labeling of food. 1 L.R.A.(N.S.) 184; 40 L.R.A.(N.S.) 875.

Does requirement of pure food laws as to labeling apply to small retail packages taken from original package of the manufacturer. 25 L.R.A.(N.S.) 616.

Statutes as to misbranding of vinegar. 49 L.R.A. (N.S.) 1210.

# 4. Misbranding.

Validity of police regulations as to branding articles of food. 1 L.R.A.(N.S.) 184; 40 L.R.A.(N.S.) 875.

Instigation of offense of misbranded food as defense prosecution. 30 L.R.A. to (N.S.) 953.

State regulations as affected by Federal pure food law. 47 L.R.A.(N.S.) 985. Consult also L.R.A. Digests of Cases.

FOOD, I.—cont'd

Statute as to misbranding of vinegar. L.R.A.(N.S.) 1210.

What constitutes misbranding within pure food and drugs laws. L.R.A.1916D,

§ 5. Liability for injury by unwholesomeness of, or defects in.

Liability of packer or vendor to person not in privity for injury from defects in articles of food. 19 L.R.A.(N.S.) 923; 48 L.R.A. (N.S.) 219; L.R.A. 1916B, 880.

Liability of vendor in cases of tort for sale of unwholesome food or drug. 21 L.R.A. 139.

Liability for serving unfit food. 40 L.R.A. (N.S.) 480; L.R.A.1915B, 481.

Liability of seller for damage to live stock by improper food. L.R.A.1916B, 1108.

# II. Particular articles of food.

#### § 6. Bread.

Legislative power to fix price of bread. 33 L.R.A. 182.

Power to regulate location or condition of bakeries. 26 L.R.A (N.S.) 842.

Validity of regulations as to weight of loaf of bread. 44 L.R.A. (N.S.) 632.

#### 6a. Ice cream.

Regulations affecting ice cream. 41 L.R.A. (N.S.) 150; L.K.A.1917B, 207.

#### § 7. Meat.

Validity of state statute regulating in-spection of meat which is subject of interstate commerce. 27 L.R.A. (N.S.) 677.

Agent's criminal responsibility for sale of meat that does not comply with statutory requirements. L.R.A.1918D, 726.

# 8 8. Milk.

Constitutionality of statutes regulating, see CONSTITUTIONAL LAW, § 95.

License of peddler, see LICENSE, § 34.

Validity of regulations as to milk. L.R.A. 1917C, 243.

Validity and construction of regulations as to infected milch cattle. 43 L.R.A. (N.S.) 1072.

Agent's criminal responsibility for sale of milk not complying with statutory requirements. L.R.A.1918D, 726.

# § 9. Oleomargarin.

Use of coloring matter in, as adulteration. 25 L.R.A.(N.S.) 1234.

Constitutionality of discrimination in statutory regulations concerning. L.R.A. (N.S.) 651.

Ignorance that article furnished as butter is oleomargarin as a defense. L.R.A. (N.S.) 746.

FOOD, II.—cont'd

Applicability of oleomargarin statutes where resemblance to butter results from choice of ingredients, and not from the introduction of foreign coloring .matter. • 14 L.R.A. (N.S.) 1062; L.R.A.1915A, 757.

Validity of police regulations as to branding or labeling. 40 L.R.A.(N.S.) 879. Agent's criminal responsibility for sale of

oleomargarin in violation of statute. L.R.A.1918D, 726.

§ 10. Vinegar.

Constitutionality and construction of stat-utes in relation to vinegar. 49 L.R.A.(N.S.) 1206.

# FOOD COMMISSIONER.

Injunction against acts of food commissioner which affect sale of foods. 15 L.R.A.(N.S.) 331.

# FOOT AND MOUTH DISEASE.

Liability of carrier for loss of livestock by, contracted during transit. 26 L.R.A. (N.S.) 712.

# FOOTPATH.

Liability for dangerous condition of premises across which footpath is allowed. 26 L.R.A. 688.

Use of, by bicyclists. 47 L.R.A. 296.

Nondelegability of duty to protect servant from defects in. 54 L.R.A. 77.

Employer's liability for injuries due to acts of independent contractor in delivering goods through openings in. 65 L.R.A. 844.

#### FOOTPRINTS.

Right of witness to express opinion as to. L.R.A.1918A, 732.

#### FORAGE.

Validity of sale of, in violation of law. 12 L.Ř.A.(N.S.) 597.

# FORBEARANCE.

Release of surety by, see PRINCIPAL AND SURETY, §8 14-16. Begin with this book on every law question.

#### FORCE.

As element of assault and battery, see As-SAULT AND BATTERY, § 2.

In recapture of property, see Assault and BATTERY, § 5.

What force sufficient to constitute robbery, see ROBBERY, § 5.

Right of witness to express opinion as to. L.R.A.1918A, 696.

Homicide by use of undue force in making arrest. 67 L.R.A. 297.

Effect of fact that intercourse was accomplished by force to defeat action for seduction. 18 L.R.A.(N.S.) 587.

Bailee's right to assert against bailor hostile, adverse, paramount title of third person where property is taken from him by force. 33 L.R.A.(N.S.) 688.

#### FORCED MARRIAGE.

Cohabitation as ratification of. 27 L.R.A. (N.S.) 805.

# FORCIBLE DISPOSSESSION.

Liability of landlord for damages for forcibly dispossessing tenant after expira-tion of term. 11 L.R.A.(N.S.) 468.

# FORCIBLE ENTRY AND DETAINER.

1. Generally.

Recovery of possession from tenant, see LANDLORD AND TENANT, §§ 94, 95.

Availability of defense of equitable estop-pel in action of. 49 L.R.A. (N.S.) 778. Injunction against dispossession in case of. 30 L.R.A. 129.

Judgment against plaintiff in forcible entry and detainer involving boundary as establishing boundary claimed by defendant. 38 L.R.A.(N.S.) 1024.

Denial of tenancy as waiver of notice to quit, or of demand of possession. 25 L.R.A.(N.S.) 104.

Right to prove fraud in title in proceedings of summary nature to recover possession of property demised. 11 L.R.A. (N.S.) 260.

# § 2. What constitutes.

Mere display of invalid process without actual force or threats, as ground of action of forcible entry and detainer. 37 L.R.A. (N.S.) 600. FORCIBLE ENTRY AND DETAINER—cont'd

3. Who may maintain.

Right of one who was in peaceable possession to maintain forcible entry and detainer against another entitled to possession, who forcibly dispossessed him. 8 L.R.A.(N.S.) 426; 32 L.R.A.(N.S.) 51; L.R.A.1918B, 670.

Right of tenant to maintain action to secure possession. L.R.A.1918A, 56.

§ 4. Liability for,

Liability of landlord who brings an unfounded action to dispossess tenant. L.R.A.1918C. 323.

L.R.A.1918C, 323.

Kandlord's liability to tenant for forcible expulsion after termination of tenancy.
16 L.R.A. 798.

Civil liability for assault in regaining possession of land by one entitled to possession. 17 L.R.A.(N.S.) 455.

#### FORCIBLE EXPULSION.

Of tenant after termination of tenancy, landlord's liability for. 16 L.R.A. 798.

#### · FORD.

Liability for loss of life or property at ford. 46 L.R.A. (N.S.) 229.

#### FORECLOSURE.

Of mortgage, see MORTGAGE, VII.

# FOREIGN ATTACHMENT.

Attachment generally, see ATTACHMENT.

Against executor or administrator. 4'
L.R.A. 356.

# FOREIGN CARS.

Master's duty as to inspection of. 41 L.R.A.

Attachment or garnishment of. 64 L.R.A. 501; 16 L.R.A. (N.S.) 1026; L.R.A. 1915D, 838.

# FOREIGN CHARITIES.

Validity of bequest for. 37 L.R.A.(N.S.) 999.

# FOREIGN CORPORATIONS.

See Corporations, XI.

Consult also L.R.A. Digests of Cases. 37

# FOREIGN COUNTRY.

Admiralty jurisdiction of things done in. 66 L.R.A. 197.

#### FOREIGNER.

As to aliens, see Aliens.

As to nonresidents, see NONRESIDENTS.

Duty of master as to instructing and warning servant unable to understand English. 23 L.R.A.(N.S.) 296.

Liability of master as affected by inability of fellow servant to understand English. 20 L.R.A.(N.S.) 39.

Admiralty jurisdiction of contracts between. 66 L.R.A. 238.

#### FOREIGN EXECUTORS AND ADMIN-ISTRATORS.

See EXECUTORS AND ADMINISTRATORS, §§ 60, 61.

#### FOREIGN GUARDIAN.

Necessity of bond to make acts of, valid. 33 L.R.A. 760.

# FOREIGN INSURANCE COMPANY.

See INSURANCE, §§ 6-8.

# FOREIGN JUDGMENT.

See JUDGMENT, §§ 66-73.

# FOREIGN JURISDICTION.

Malicious prosecution in bringing civil action in. L.R.A.1917B, 752.

#### FOREIGN LANGUAGE.

Publication of official notices in. 14 L.R.A. 64.

Sufficiency of indictment for forging instrument written in a foreign language, 31 L.R.A.(N.S.) 226.

Unfair competition by adoption of descriptive word from. 32 L.R.A. (N.S.) 443.

#### FOREIGN LAWS.

Application of, see Conflict of Laws. Judicial notice of, see Evidence, § 3.

FOREIGN LAWS-cont'd

Presumption and burden of proof as to, see Evidence, § 20.

Oral proof of, see EVIDENCE, § 119.

Mistake as to law of another state or country as one of law or of fact. 46 L.R.A. (N.S.) 174.

False representation of, as basis for fraud action. L.R.A.1915A, 675.

#### FOREIGN MARRIAGES.

Presumption as to. 16 L.R.A.(N.S.) 101.

#### FOREIGN MONEY.

As medium of payment, see PAYMENT, § 10. Negotiability of note payable in. 20 L.R.A. 481.

#### FOREIGN PORT.

Maritime lien for supplies furnished in. 70 L.R.A. 399. What ports are foreign for purposes of mar-

itime lien. 70 L.R.A. 412.

# FOREIGN RECEIVERS.

See RECEIVERS, § 27.

### FOREIGN REPRESENTATIVES.

See EXECUTORS AND ADMINISTRATORS, §§ 60. 61.

# FOREIGN SOVEREIGN.

Jugisdiction of suit against. 16 L.R.A.(N. S.) 276.

#### FOREIGN WILLS.

Probate of, see WILLS. \$ 56.

# FOREIGN WORD.

As trademark, see TRADEMARKS, § 2a.

# FOREMAN.

ANT. III. d. 3.

FOREMAN—cont'd

Necessity that return of indictment be made by foreman of grand jury. 26 L.R.A. (N.S.) 684.

Authority of, to contract for services of other persons. L.R.A.1918F, 58.

Duty of foreman to warn track employees of approach of train or car. L.R.A. 1916F, 560.

Grounds or justification for discharge of. L.R.A.1918C, 1030.

# FORESTER.

Right of woman to be. 38 L.R.A. 211.

#### FOREST RESERVATION.

See Public Lands, § 6.

#### FORFEITURE.

1. Generally.

Of bail bond, see BAIL AND RECOGNIZANCE. § 10.

Of charter or franchise of corporations, see CORPORATIONS, IX.

For breach of condition subsequent, see Con-

DITIONS, §§ 7, 11.

For breach of covenant, see COVENANTS,

§§ 20, 24.

Effect of pardon on, see CRIMINAL LAW, § 89.

Effect of the use of the word "forfeiture" upon penalty or liquidated damages. 50 L.R.A. (N.S.) 890.

As cruel and unusual punishment. L.R.A. 569; L.R.A.1915C, 565.

Compulsory evidence against one's self in case of. 29 L.R.A. 813.
Garnishment of claims subject to. 59

L.R.A. 365.

Effect of pardon on. 15 L.R.A. 395.

Validity of promissory note given as for-feit to an invalid oral agreement within statute of frauds. 18 L.R.A. 142.

Judgment in criminal action as bar to civil action to enforce. 11 L.R.A. (N.S.) 667.

Jurisdiction of equity when only relief sought is injunction or receiver to preserve status quo pending action before other tribunal to enforce a forfeiture. 38 L.R.A.(N.S.) 231.

# § 2. In what cases.

In case of partly performed contract for services. 24 L.R.A. 231.

For taking or reserving of illegal interest by national bank. 56 L.R.A. 673. On conditional sale. 32 L.R.A. 469.

As fellow servant, see MASTER AND SERV. For violation of revenue laws. 2 L.R.A. (N.S.) 185.

FORFEITURE—cont'd

Forfeiture of rights or interests of innocent persons in property used in violation of law. L.R.A.1916E, 343.

Forfeiture of personal property used in violation of the game or fish laws.

L.R.A.1916F, 913.

For nonpayment of taxes, necessity and sufficiency of notice. L.R.A.1916E, 39.

§ 3. Of particular rights, privilege, or property.

Of charter or franchise of corporations, see Corporations, IX.

Of franchise generally, see FRANCHISES, § 5. Of corporate stock, see Corporations, § 72. Equitable relief against forfeiture of es-

tate, see EQUITY, § 18. Of gift, see GIFT, § 16.

Of insurance policy, see Insurance, § 106-108.

Of liquor license, see Intoxicating Li-QUORS, § 15.

Of lease generally, see LANDLORD AND TEN-ANT, §§ 34, 35.

Of license of private person, see LICENSE, §§ 10, 11.

Of mining location, see MINES, §§ 23, 26.

Of oil and gas lease, see MINES, § 38.

Provision in will for forfeiture by contesting same, see WILLS, § 86.

Relief against forfeiture for noncompliance with condition in will, see WILLS, § 90.

Of right to standing timber conveyed without conveying title to the land. 55 L.R.A. 525.

Of rights in water by nonuser. 41 L.R.A. 758.

Of railway grant for cutting of timber. 70 L.R.A. 882.

Of corporate stock. 27 L.R.A. 305.

Of gifts made to secure location of public buildings, etc. 13 L.R.A. 698.

Of copartner's right to compensation for services. 17 L.R.A.(N.S.) 415.

Of master's right to earnings of employee by failure to assert. 5 L.R.A. (N.S.)

Of license by aiding infringement of, or attempt to defeat patent. 37 L.R.A.(N. S.) 821.

property found in bawdyhouse. 52 L.R.A.(N.S.) 932.

Validity of statute or ordinance providing for forfeiture of liquor liceuse upon conviction for violation of law irrespective of appeal. 29 L.R.A.(N.S.) 417.

Of payment to building and loan associations. 29 L.R.A. 131.

Effect of default in payment followed by rescission, as forfeiture of payments already made. 3 L.R.A. (N.S.) 785.

Conviction as a condition of forfeiture of weapons. 4 L.R.A.(N.S.) 358.

Necessity of calling accused and entering his default in order to sustain forfeiture of recognizance. 5 L.R.A.(N.S.)

Consult also L.R.A. Digests of Cases.

#### FORGERY.

I. Forgery as a crime, §§ 1-9.

a. In general, \$\$ 1-4. b. What constitutes, \$\$ 5, 6. c. What subject of, §§ 7-9.

II. Civil rights arising from forgery, \$\$ 10,. 11.

#### I. Forgery as a crime.

# a. In general.

§ 1. Generally.

Indictment for, see Indictment, Information, and Complaint, § 20.

Committing forgery as affecting the offense of obtaining money or goods by false pretenses or confidence game. L.R.A. 1918F, 242.

What connection with or participation in forgery is sufficient to render one guilty

of forgery. L.R.A.1916F, 1254. Criminal liability for agent's act in.

L.R.A. 652. Instigation to put away forged instru-ments. 25 L.R.A. 345.

Necessity and sufficiency of description of offense in bail bond or recognizance.

38 L.R.A.(N.S.) 321.

Necessity of setting out copy of forged instrument in indictment. 31 L.R.A.(N. S.) 215.

Necessity of naming person to whom instrument was passed. 31 L.R.A. (N.S.) 10**46**.

Illegal intent of prosecutor as affecting guilt of obtaining property by arrest for. 17 L.R.A.(N.S.) 277.

Effect of misspelling name of person whose signature is charged to have been forged. 27 L.R.A. (N.S.) 1003.

Acquittal of larceny as bar to prosecution for forgery in same transaction. 4 L.R.A.(N.S.) 402.

What intoxication will excuse. 36 L.R.A. 470.

Presumption as to time of alteration in written instrument. 39 L.R.A.(N.S.)

8 2. Several offenses from one act.

Several offenses growing out of same facts. 31 L.R.A.(N.S.) 725, 730.

Conviction and punishment of both forging and uttering in one prosecution. L.R.A.(N.S.) 561.

§ 3. - forgery of different instruments at one time as one or more crimes. Uttering. 61 L.R.A. 819.

Possession of forged instruments. 61 L.R.A. 820.

Forging, and uttering ments. 61 L.R.A. 821. uttering forged, instru-

Forgery. 61 L.R.A. 822.

§ 4. Evidence.

Proof of corpus delicti in prosecution for. 68 L.R.A. 56, 70, 71, 72.

Evidence of other crimes in prosecution for. 62 L.R.A. 224, 249, 289, 319, 324; 43 L.R.A. (N.S.) 754.

FORGERY, I. a-cont'd

Admissibility, upon issue of forgery, of declarations out of court by person whose name is charged to have been forged. 28 L.R.A.(N.S.) 240.

Necessity of instruction as to law on circumstantial evidence. 69 L.R.A. 204.

# b. What constitutes.

5. Generally.

Necessity and degree of similitude essential to forgery. L.R.A.1918B, 1192.

What constitutes uttering or publishing. 8 L.R.A.(N.S.) 1175.

By raising amount of negotiable paper. 22 L.R.A. 686.

By false assumption of authority in signing another's name as agent for him. 31 L.R.A. 831.

Fraudulently procuring genuine signature as forgery. 26 L.R.A.(N.S.) 138.

Is the making of a false instrument within

a criminal statute directed against the false making of an instrument. 5 L.R.A. (N.S.) 375; L.R.A. 1918C, 1195.

Deed signed under false impression induced by fraud as to its contents or character as a forgery. 36 L.R.A.(N.S.) 540. Of recommendations or letters of introduction. 1 L.R.A.(N.S.) 730.

# § 6. Making or altering mere memorandum.

The general rule. 54 L.R.A. 794, Application to particular kinds of memoranda. 54 L.R.A. 795.

# c. What subject of.

§ 7. Generally.

Order for goods in carrier's possession as subject of forgery. 32 L.R.A.(N.S.) 338.

Testimonial as to character. 4 L.R.A.(N. 8.) 1126.

# § 8. Worthless instruments.

The general rule. 24 L.R.A. 33.

What constitutes legal efficacy. 24 L.R.A. 34.

Instruments void on their face. 24 L.R.A.

Efficacy which is apparent only. 24 L.R.A.

Real efficacy not apparent. 24 L.R.A. 42. Instruments requiring further steps to perfect them. 24 L.R.A. 43.

Naked and conditional promises. 24 L.R.A.

Instruments not in statutory form. 24 L.R.A. 44.

Prohibited instruments. 24 L.R.A. 44. Unstamped instruments. 24 L.R.A. 44. Instruments executed in fictitious name. 24 L.R.A. 45.

# § 9. Order or request for goods. Distinction between "order" and "request." 32 L.R.A.(N.S.) 327.

Defective instruments. 32 L.R.A. (N.S.)

Begin with this book on every law question.

FORGERY—cont'd

# II. Civil rights arising from forgery.

§ 10. Generally.

Alteration of instruments generally, see AL-TERATION OF INSTRUMENTS.

Payment by bank of forged check or indorsement thereof, see BANKS, §§ 24. 25, 29.

Use of fictitious name in commercial paper,

see Bills and Notes, § 13.

Note payable to impostor, see Bills and NOTES, § 14.

Liability on forged paper, see BILLS AND Notes, § 16.

Indorsement of forged paper, see BILLS AND Notes, § 32a.
Forgery of check generally, see Checks,

§ 12.

Forged issue of corporate stock, see COR-PORATIONS, § 69.

Of receipt, see RECEIPT, § 2.

Liability for transmitting or delivering

forged telegram, see TELEGRAPHS, § 16.

Forgery as ground for injunction against judgment. 31 L.R.A. 756.

Liability of corporation for forgery by its officers in issue of stock. 19 L.R.A.

Liability as between corporation and one acting in good faith to whom it issues new certificate of stock on forged authority. 2 B. R. C. 528. Liability of telegraph company for trans-

mission or delivery of forged message. 65 L.R.A. 805.

Right of alleged fraudulent grantee to show that judgment against grantor was based on forged instrument. 67 L.R.A. 601.

As affecting question whether commercial paper operates as payment of debt. 35 L.R.A.(N.S.) 72.

Transfer of stock in reliance on forged certificate. 45 L.R.A.(N.S.) 1077.

Effect of forgery on registration of title under the Torrens Law. L.R.A.1916D,

§ 11. Ratification of forged instrument.

Conflict of authority. 36 L.R.A.(N.S.) 1007.

Receiving proceeds of forgery. 36 L.R.A. (N.S.) 1017.

Of forgery of signature on commercial paper. 36 L.R.A. 539.

Paying interest on forged mortgage as estoppel to question the mortgage. 41 L.R.A. (N.S.) 740.

# FORGETFULNESS.

Right to recover back overpayment made in forgetfulness of previous payments. 24 L.R.A.(N.S.) 519.

As excuse for contributory negligence of person injured by defect in street. 21 L.R.A. (N.S.) 651; 48 L.R.A. (N.S.) 637.

FORGETFULNESS—cont'd

Of obstacle or defect as contributory negligence. 39 L.R.A.(N.S.) 896.

Contributory negligence in failing to remember dangerous conditions. 41 L.R.A.(N.S.) 79.

As ground for setting aside default judgment. 43 L.R.A. (N.S.) 930.

By trainman, of danger of injury from overhead structures. 47 L.R.A.(N.S.) 494. Proof of will where attesting witnesses have forgotten circumstances attend-

have forgotten circumstances attending its execution. 51 L.R.A. (N.S.) 927.

#### FORKS.

Master's liability for injury by defect in. 13 L.R.A. (N.S.) 678.

# FORMAL REQUISITES.

Of contract, see Contracts, §§ 25-59.
Of indictment, see Indictment, Information, and Complaint, §§ 10-12.

#### FORMA PAUPERIS.

Right to sue in forma pauperis at common law or in the absence of a statute. L.R.A.1918B, 319.

Right of executor or administrator to sue, defend, or appeal in forma pauperis. 68 L.R.A. 418.

# FORMER CONVICTION.

See Previous Conviction.

# FORMER JEOPARDY.

See Criminal Law, §§ 59-64.

# FORMER OWNER.

Admissibility of declarations of, see Evi-DENCE, § 233.

# FORMER SUIT PENDING.

As ground of abatement, see ABATEMENT AND REVIVAL, §§ 5-7.

# FORMER TESTIMONY.

See EVIDENCE, §§ 243-245.

Consult also L.R.A. Digests of Cases.

# FORM OF ACTION.

See ACTION OR SUIT, §§ 5, 6.

#### FORMULA.

Payment for corporate stock with unpatented formula. 16 L.R.A. (N.S.) 520.

#### FORNICATION.

Actionability of words charging, see Libel and Slander, § 12. See also Adultery.

Evidence of other crimes in prosecution for. 62 L.R.A. 329.

Truth of charge of, as a defense to a civil action for libel or slander. 31 L.R.A. (N.S.) 146.

Cruel and unusual punishment of. 35 L.R.A. 572.

Former jeopardy in case of. L.R.A.1915A, 256.

Acquittal of one of the parties, as bar to prosecution of the other. 49 L.R.A. (N.S.) 479.

# FORTHCOMING BOND.

See LEVY AND SEIZURE, § 16.

# FORTUNE TELLING.

Prohibition of fortune telling and kindred superstitions. 43 L.R.A. (N.S.) 203.

#### FORUM NON CONVENIENS.

Right of court to decline jurisdiction of suit on ground that another forum is more appropriate or convenient 6 B. R. C. 345.

# FORWARDING COMPANIES.

Character of, as common carriers. 42 L.R.A. (N.S.) 902.

Provision exempting carrier from liability except as "forwarder" as extending to loss caused by negligence. 6 B. R. C. 131.

#### FOSTER CHILD.

Insurable interest in life of. 46 L.R.A. (N.S.) 779.

As beneficiary under contract of benefit association. L.R.A.1916B, 905.

#### FOSTER PARENT.

46 L.R.A. Insurable interest in life of. (N.S.) 779.

# FOUL AIR.

Driving against neighbor's windows as nuisance. 9 L.R.A. (N.S.) 695.

# FOUNDATION.

Laying foundation for impeachment of own witness. 21 L.R.A. 428. Sufficiency of for opinion of witness to handwriting. 63 L.R.A. 966.

#### FOWLS.

Duty of railroad as to fowls upon tracks. 47 L.R.A.(N.S.) 1125.

Injunction to prevent trespass of. 48 L.R.A. (N.S.) 179.

Right to kill dogs killing or worrying fowls. 19 L.R.A. (N.S.) 838; L.R.A. 1915C, 361.

# FOX.

Liability for injury by. 52 L.R.A. (N.S.) 379.

# FRACTION OF DAY.

See TIME, § 14.

# FRACTURE.

Duty of physician called to reduce. L.R.A.(N.S.) 752.

Liability of physician or surgeon for failure to diagnose. 28 L.R.A. (N.S.) 136.

# FRAME BUILDINGS.

Municipal power over, as nuisances. L.R.A. 170.

# FRANCHISE.

§ 1. Generally. Of corporations, generally, see Corpora-TIONS, § 7. Elective franchise, see ELECTIONS, I. Of electric companies, see Electricity, § 9. To operate ferry, see FERRIES, §§ 2, 3. Begin with this book on every law question.

FRANCHISE-cont'd

Street franchise, see Highways, §§ 21-32. Of railroad company, see RAILROADS, § 3.

Of street railway company, see STREET RAILWAYS, §§ 3, 4.

Taxation of, generally, see Taxes, § 35. Right to take tolls without, see Tolls, § 2.

Treatment of, in public service property valuations. 47 L.R.A.(N.S.) 781, 793, 799; 48 L.R.A.(N.S.) 1063.

Treatment of depreciation by expiration of franchise in estimating the feturn of a public service corporation for rate-making purposes. 52 L.R.A.(N.S.) 38.

Amortization of, in estimating return of a public service corporation for rate-making purposes. 52 L.R.A.(N.S.) 49.

Lack of, or invalidity of franchise as a defense to an action by a public service corporation for service rentals. 52 L.R.A. (N.S.) 713.

Tax on, as within covenants in lease, sublease or assignment of lease as to pay-ment of taxes and assessments. L.R.A. 1915A, 342.

Power of legislature in respect to municipal franchises. 48 L.R.A. 485. Grant of franchise to electrical subway com-

pany. 34 L.R.A. 360.

Liability for work of independent contractor performed under franchise. 14
L.R.A. 834.

Injunction against prosecutions under city ordinances affecting. 21 L.R.A. 888.

Duties incident to exercise of franchise by independent contractor. 66 L.R.A. 136. Effect of provisions in franchise on power of municipality to compel change of grade of railway in street. 70 L.R.A. 854.

Validity of contract making public service corporations' liability to municipality dependent upon the continuance of its

franchise without competition. L.R.A.(N.S.) 214. Creation of partnership by provision for

taking profits from a use of, as compensation. 18 L.R.A. (N.S.) 1046. Of railroad company, whether real or per sonal property. 66 L.R.A. 36.

Necessity of, for taking tolls. 37 L.R.A.

37 L.R.A.

Measure of damages for taking of, in eminent domain. 51 L.R.A. 325.

### 2. What is.

Distinction between franchise and monopoly. 4 L.R.A. 616.\*

Right to collect wharfage as. 1 L.R.A. 133.\*

Right to construct street railroad as. 2 L.R.A. 255.\*

§ 3. Exclusiveness of; interference with.

Interference with ferry franchise, see FERRIES, § 3.

Exclusiveness of franchise of toll road or turnpike. L.R.A.1917D, 239. Exclusiveness of franchise of water com-

pany. 61 L.R.A. 80.

FRANCHISE-cont'd

Right of owner of franchise for public ben-efit which is not exclusive to injunc-a. Of fraud generally, \$\$ 15tion against its invasion without right. 29 L.R.A. (N.S.) 77.

§ 4. Transfer of.

Judicial sale of. 20 L.R.A. 737.
Assignability of franchise of water company. 61 L.R.A. 98.

Right to transfer or mortgage privilege to use streets for telegraph, telephone, or other quasi-public purposes. 47 L.R.A. 87; L.R.A.1917D, 707.

Right to transfer ferry franchise. 59 L.R.A. 543; L.R.A.1916D, 834.

Duty of purchaser of public utility franchise to carry out franchise obligations as to service. L.R.A.1918A, 266.

§ 5. Termination; forfeiture.

Abandonment of, see ABANDONMENT, § 9. Of corporate franchises, generally, CORPORATIONS, IX.

Termination of franchise for toll bridge. 58 L.R.A. 169; 30 L.R.A.(N.S.) 364.

Rights of water company after expiration of franchise. 61 L.R.A. 107.

Forfeiture of franchise of water company for failure to comply with contract. 61 L.R.A. 93.

#### FRATERNAL SOCIETIES.

See also Benevolent Societies; Clubs; In-SURANCE.

Conclusiveness of decision of tribunals of. 49 L.R.A. 353.

Liability of property of, to assessment for local improvements. 35 L.R.A. 38.

Forbidding students' affiliation with secret 7 L.R.A. (N.S.) 352; L.R.A. society. 7 1915D, 588.

Use of public school building for meeting of fraternal organizations. 31 L.Ř.A. (N.S.) 595.

Right of, to protection against use of name, insignia, ritual, etc. by another organ-

ization. L.R.A.1915B, 1074.
Liability of, for injury to person during initiation or expulsion. L.R.A.1917C, 476.

#### FRATERNITY HOUSE.

Exemption from taxation. 52 L.R.A.(N.S.) 995.

#### FRAUD AND DECEIT.

I. In general, §§ 1-3. II. What constitutes, §§ 4-12. III. Reliance on representations, 13, 14. Consult also L.R.A. Digests of Cases.

FRAUD AND DECEIT-cont'd

28a.

b. Of concealment, §§ 29-31. V. Liability for; punishment of, 1 § §

32-35. VI. Remedies; relief from; set-off, \$\$ 36-41.

VII. Waiver of fraud, \$ 42.

# I. In general.

\$ 1. Generally.

Statute of frauds generally, see CONTRACTS §§ 25-59.

Misrepresentations as to age, see Age, § 2. Relations between attorney and client, see

ATTORNEYS, § 10.
Fraudulent issue of corporate stock, see COR-PORATIONS, § 69.

Measure of damages for, see Damages, § 49. Election frauds, see Elections, § 24.

Presumption and burden of proof as to, see EVIDENCE, §§ 47-53.

Parol evidence as to, see EVIDENCE, §§ 177,

Relevancy of evidence as to, see EVIDENCE, § 259.

Sufficiency of evidence as to, see EVIDENCE, § 301.

As to false pretenses, see False Pretenses. 🗡 Transfers in fraud of creditors, see FRAUD-ULENT CONVEYANCES.

Against husband or wife, see HUSBAND AND Wife, §§ 43, 43a.

Representations in insurance application, see INSURANCE, V. h.

As to mistake, see MISTAKE.

Allegations as to, see Pleading, § 31.

Use of mails to defraud, see Postoffice, § 9. X Liability on guaranty or surety obligation obtained by fraud, see PRINCIPAL AND SURETY, § 9.

Question for jury as to, see TRIAL, §§ 31, 32.

Misstatement as to title to land, see VENDOR

AND PURCHASER, § 17.
Fiduciary relations of corporate officers, see CORPORATIONS, §§ 50, 51.

Of insurance agent, see Insurance, § 143.

Of agent generally, see PRINCIPAL AND AGENT, § 22.

As to undue influence, see Undue In-FLUENCE.

Constitutionality of Blue Sky Laws. L.R.A. 1917F. 524.

In appearance by nonresident in divorce

case. 23 L.R.A. 288.
In contract between corporations having common directors or officers. 33 L.R.A. 794.

Of officer issuing obligations of government or other public body. 39 L.R.A.(N.S.) 445.

Rule of proximate cause in case of wilful misrepresentations. 45 L.R.A. 90.

Effect of discharge on claim for services procured by bankrupt's fraud. 34 L.R.A.(N.S.) 894.

FRAUD AND DECEIT, I.—cont'd

Receiver's right to be indemnified for costs of defending action charging him with fraud. 2 B. R. C. 423.

Reimbursement or subrogation of purchaser on annulling fraudulent judicial sale. 69 L.R.A. 53.

Fraud in joining resident as codefendant with nonresident for purpose of preventing removal to Federal court on ground of diverse citizenship. 22 L.R.A.(N.S.) 1235.

Evidence of other crimes in prosecution for

Evidence of other crimes in prosecution for fraud. 62 L.R.A. 222, 240; 43 L.R.A. (N.S.) 667.

Right of surety to show fraud or collusion in judgment against principal. 40 L.R.A.(N.S.) 749.

Prohibition of fortune telling and kindred superstitions. 43 L.R.A. (N.S.) 203.

§ 2. Use of statute of frauds as protection to fraud.

In general. 25 L.R.A. 569.

Rule of construction. 25 L.R.A. 570. Prevention of reduction to writing.

L.R.A. 570. Fraudulent omission of part of agreement.

25 L.R.A. 570. Preventing will. 25 L.R.A. 571. The rule at law. 25 L.R.A. 571.

§ 3. As element of crime.

Fraudulently procuring genuine signature as forgery. 26 L.R.A.(N.S.) 138.

Forgery by appending signature to commercial paper by fraud. 1 L.R.A. (N.S.) 1075.

Intent to defraud as element of publishing of forged instrument. 8 L.R.A.(N.S.) 1176.

Larceny by obtaining money by fraudulent race or game. 1 L.R.A.(N.S.) 862; 20 L.R.A.(N.S.) 1164.

Larceny by making or procuring fraudulent orders on public funds. 32 L.R.A. (N.S.) 234.

#### II. What constitutes.

§ 4. Generally.

Retention of possession by mortgagor as evidence of fraud, see CHATTEL MOBTGAGE, § 14.

Effect of representing things sold to be "good." 15 L.R.A. 795.

Relief from contract of sale because of over or under estimate of quantity by seller.
45 L.R.A.(N.S.) 243.

How far use of mails by healers is fraudulent. 70 L.R.A. 989.

Receiving deposit when bank insolvent, as a fraud. 34 L.R.A. 533.

In contract requiring servant to elect between acceptance of benefits out of relief fund and a prosecution of his claims in an action for damages. 11 L.R.A.(N.S.) 192.

Fraud in joining resident as codefendant with nonresident defendant for purpose of preventing removal to Federal court on ground of diverse citizenship. 22 L.R.A. (N.S.) 1235

FRAUD AND DECEIT, II.—cont'd § 5. Lack of knowledge of falsity. Some American views of the case of Derry

v. Peek. 49 L.R.A. (N.S.) 1219.

Statements made without knowledge of falsity as ground for action for fraud. 18 L.R.A.(N.S.) 379.

§ 6. Silence; concealment. Effect of concealment, see infra, IV. b.

May fraud be predicated of concealment of defects in title to real property. 28 L.R.A.(N.S.) 207.

Obligee's concealment of facts on obtaining guaranty or surety. 21 L.R.A. 411.

Landlord's concealment of defects in

Landlord's concealment of defects in premises. 34 L.R.A. 827; L.R.A.1916D, 1225.

Of facts by insured in case of Lloyd's policies. 55 L.R.A. 202.

Fraud in expression of opinion in case of concealment. 35 L.R.A. 426.

Duty of seller to disclose defect in animal. L.R.A.1917C, 619.

§ 7. Expression of opinion. Statement of opinion generally not fraudulent 35 L.R.A. 417

lent. 35 L.R.A. 417.

Reasons for the rule. 35 L.R.A. 424.

Exceptions to the rule. 35 L.R.A. 425.

Effect of form of relief sought. 35 L.R.A.

433.

What statements are fact and what opinion. 35 L.R.A. 435.

Misstatement as to title to real property sold, as matter of opinion. 28 L.R.A. (N.S.) 206; 39 L.R.A.(N.S.) 1143.

Right to rely on expressions of opinion. 37 L.R.A. 604.

Recommendation of another as proper subject for credit as ground of liability. L.R.A.1915A, 100.

False representations of foreign law as basis for fraud action. L.R.A.1915A, 675.

Representations by vendor as to quality or condition of soil. L.R.A.1917C, 273.

Representation or estimate by insurance company as to accumulation, dividends, surplus, etc. L.R.A.1918F, 348.

8 8. Future promise.

Statements regarding future as a fraud. 35 L.R.A. 420, 437.

Future promise as fraud. 10 L.R.A.(N.S.) 640; 24 L.R.A.(N.S.) 735.

§ 9. Misstatement as to title to real property.

Executed contracts. 28 L.R.A.(N.S.) 202; 39 L.R.A.(N.S.) 1142. Executory contracts. 28 L.R.A.(N.S.) 208;

xecutory contracts. 28 L.R.A.(N.S.) 208; 39 L.R.A.(N.S.) 1141.

Necessity of exercising diligence to discover truth of representation. 28 L.R.A. (N.S.) 209.

As affected by the nature of the conveyance. 28 L.R.A.(N.S.) 211.

on ground of diverse citizenship. 22 Necessity that injury result. 28. L.R.A. L.R.A. (N.S.) 1235. (N.S.) 212.

2

FRAUD AND DECEIT, II.—cont'd Effect of vendee retaining possession. L.R.A.(N.S.) 212.

§ 10. False statement as to cost, selling, or market price of property, or as to offers therefor.

Misrepresentation as to value, see VALUE,

In general. 35 L.R.A.(N.S.) 174; L.R.A. 1916F, 782.

Applicability of doctrine of negligence. 35 L.R.A.(N.S.) 175.

Applicability of doctrine that representa-tion must relate to a material matter. 35 L.R.A.(N.S.) 176.

Representations as to costs. 35 L.R.A. (N.S.) 177.

Representations as to offers for property. 35 L.R.A.(N.S.) 186.

Representations as to what property had been sold or offered for sale. L.R.A.(N.S.) 187.

Representations of the market price. 35 L.R.A.(N.S.) 188.

Necessity of showing damage. 35 L.R.A. (N.S.) 189.

Liability of real-estate broker who overstates to purchaser the owner's minimum price. 21 L.R.A.(N.S.) 305.

11. In obtaining credit. In general. 14 L.R.A, 264.

Representations to commercial agencies. 2 L.R.A. 154;\* 14 L.R.A. 264.

Intent; concealment of insolvency. L.R.A. 154; \* 14 L.R.A. 264.

Statements as to credit as a fraud. 35 L.R.A. 421.

Right to rely on representations as to credit of third person. 37 L.R.A. 607. Continuing representation of financial

standing as basis of credit. 10 L.R.A. (N.S.) 245.

Whether lack of reasonable expectation of being able to pay is equivalent, as a matter of law, to an intention not to pay. 6 L.R.A.(N.S.) 556.

Title secured by one purchasing goods with knowledge that he cannot pay for them. 44 L.R.A. (N.S.) 1.

# 12. Corporate matters. Effect of fraud, see infra, § 26. Liability in regard to, see infra, § 33.

What constitutes false representations by promoter of corporation. 18 L.R.A. (N.S.) 1109.

False statement in reports required to be filed with public officers as fraud which will sustain an action against corporation. 35 L.R.A.(N.S.) 858.

Duty of director toward one from whom he purchases stock. L.R.A.1916B, 708.

# III. Reliance on representations.

13. Generally.

Effect of suspicion of falsity of statement made on right of action for deceit by As person injured. 7 L.R.A.(N.S.) 646. Consult also L.R.A. Digests of Cases.

FRAUD AND DECEIT, III.—cont'd

§ 14. Right to rely on representations. General rules. 37 L.R.A. 593.

Person guilty of fraud cannot urge negligence of defrauded party. 37 L.R.A. 594.

Obvious facts, or facts of which the defrauded party has knowledge. 37 L.R.A. **595**.

Indefinite or suspicious statements. L.R.A. 596.

Rule where defrauded party has means of knowing truth. 37 L.R.A. 597.

What diligence is required of one to whom statement is made. 37 L.R.A. 601. Statements not regarded as of fact. 37

L.R.A. 604.

Positive assurance and express reliance. 37 L.R.A. 608.

Statements not easily tested. 37 L.R.A. 609.

Fiduciary relations. 37 L.R.A. 613. Statements of third persons. 37 L.R.A. 613. Active fraud or concealment. 37 L.R.A. 614.

Statutes. 37 L.R.A. 615.

Question for jury. 37 L.R.A. 615. Purchaser's right to rely on representations as to title to real property. 39 L.R.A. (N.S.) 1143.

Right of purchaser of personalty to rely on seller's computation of price or estimate of quantity. 17 L.R.A.(N.S.) 419.

Right of purchaser of land to rely upon representations of seller as to boundaries. 14 L.R.A.(N.S.) 1210.

Right to rely on representations by vendor as to quality or condition of soil. L.R.A.1917C, 273.

Duty of purchaser of corporate stock to verify statements made as to financial condition of corporation. 14 L.R.A. (N.S.) 1176.

In case of fraud in sale of corporate stock by one officer or director to another. L.R.A.1916B, 703.

# IV. Effect of.

# a. Of fraud generally.

§ 15. Generally.

Liability in case of fraud, see infra, V. Remedy or relief in case of fraud, see infra, VÌ.

As ground of attachment, see ATTACHMENT, § 6.

Effect of fraud to prevent discharge in bank-

ruptcy, see BANKRUPTCY, § 34.
Effect of broker's fraud on his right to commissions, see Brokers, § 9.

Effect of principal's fraud on broker's right to commissions, see BROKERS, § 10. Invalidity of contract for fraud, see Con-

TRACTS, §§ 104, 119.

Estoppel by, see ESTOPPEL, §§ 28, 29. Effect on heirs of fraud against ancestor,

see HEIRS, § 5. As ground for injunction against judgment,

see Injunction, § 52. ground for collateral attack on judgment, see JUDGMENT, §§ 55, 72.

FRAUD AND DECEIT, IV. a-cont'd On statute of limitations, see LIMITATION

of Actions, §§ 10, 36, 53. Constructive trust in case of, see TRUSTS, §§ 12, 13.

Validity of contract with intoxicated person procured by fraud. 54 L.R.A. 445. On awarding of public contract to lowest responsible bidder. 38 L.R.A.(N.S.) 656.

Bad faith of bailee as affecting his right to assert the hostile title of a third person against the bailor, 33 L.R.A. (N.S.) 681.

Rights on train of person procuring ticket by fraud or misrepresentation. 6 L.R.A.(N.S.) 1146.

Effect of decision of architect, engineer, or umpire, in case of fraud. (N.S.) 1050.

Of overstatement in claim of mechanic's lien. 29 L.R.A.(N.S.) 317.

Liability of infant for money loaned him through his fraudulent representation. 6 B. R. C. 761.

Master's liability for injury to minor servant who secured employment by mis-representing his age. 20 L.R.A.(N.S.) 500; 25 L.R.A.(N.S.) 708; L.R.A.1915F, 1082.

Liability to bank of one who, without knowledge of the fraud draws out funds fraudulently credited to him by officers or employees of the bank. 31 L.R.A. (N.S.) 1126.

Fraud in proceedings for opening or extending highway as defense to proceedings to acquire property for that purpose. 7 L.R.A. (N.S.) 639.

Validity of obligation given bank as affected by concealment of illegal transactions. 34 L.R.A.(N.S.) 105.

Effect of fraud in procuring discharge of mortgage for deed on merger of mortgage. 39 L.R.A.(N.S.) 841.

Impeachment of certificate of acknowledgment because of. 41 L.R.A. (N.S.)

Effect on presumption of probable cause for prosecution of fact that conviction was procured by. 15 L.R.A.(N.S.) 1143.

Effect of misrepresentation as to character, quantity, or value of goods by shipper on his right to recover for loss. L.R.A.(N.S.) 745; L.R.A.1915A, 502.

As defense to mandamus to compel payment of municipal debt. 14 L.R.A. 779.

On right of volunteer or stranger paying debt to subrogation. 23 L.R.A. 129. Effect of fraudulent assignment of judgment

to defeat set-off. 23 L.R.A. 338.

Effect of principal's fraud on right of surety to intervene in action against principal or vice versa. 68 L.R.A. principal or vice versa.

Impeachment of enrolled bill by showing fraud or improper motive of legislature. 40 L.R.A.(N.S.) 29.

In drawing of grand jury. 27 L.R.A. 785. On privilege of nonresident witness from On passing of title by delivery to carriers suit. 25 L.R.A. 733. 22 L.R.A. 418.

FRAUD AND DECEIT, IV. a-cont'd

Voluntariness of confession procured by. 18 L.R.A.(N.S.) 840; 50 L.R.A.(N.S.) 1088.

What misrepresentations as to the contents of an instrument will render it void in law. 4 B. R. C. 663.

Effect of fraud on registration of title under the Torrens Law. L.R.A.1916D,

Fraud as entitling surety to equitable setoff of obligation as against assignee of a debt due from him to principal. 46 L.R.A.(N.S.) 65.

Fraud as defense to liability on subscription for charity. 48 L.R.A. (N.S.) 811.

Effect of false representations on liability of manufacturer, packer, or vendor to persons not in privity of contract for injury from defects in articles sold. 48 L.R.A.(N.S.) 218.

Fraudulent conveyance of narrow strip along front of property to escape assessment for public improvement. L.R.A. 1916B, 1033.

Effect of secret advantage to one member of joint adventure. 50 L.R.A. (N.S.) 1046

Fraud regarding legal effect of wife's signing contract with husband. L.R.A.

1918A, 496. Fraudulent deed as color of title. L.R.A. 1918E, 1049.

16. On marriage.

Effect of concealment, see infra, § 30.

Mental incapacity combined with fraud as affecting validity of marriage. L.R.A. 740.

Misrepresentation as to disposition or general character as ground for annulment of marriage. 30 L.R.A.(N.S.) 301.

Misrepresentations as to one's physical or mental condition as ground for annul-13 L.R.A. (N.S.) ment of marriage. 996.

§ 17. On compromise or release. As affecting compromise. 25 L.R.A. (N.S.) 308.

Effect of false representations by physician to avoid release. 5 L.R.A. (N.S.) 663.

In inducing execution of release causing loss of remedy. L.R.A.1917F, 719.

In securing release from servant accepting benefits of relief fund. 11 L.R.A. (N.S.) 200; 48 L.R.A.(N.S.) 448.

Effect of representation or undue influence by physician to avoid release. L.R.A. (N.S.) 1091.

On compromise or release by personal representatives of claims due estate. L.R.A. 415.

Right, in an action at law, to attack release for fraud. 20 L.R.A.(N.S.) 915.

§ 18. In sale of chattels.

As ground for rescission of sale of personalty, see SALE, § 67.

FRAUD AND DECEIT, IV. a—cont'd

Right of vendor under conditional sale as affected by purchaser's bankruptcy where contract is tainted with fraud. 38 L.R.A.(N.S.) 557.

Transferee of chattels in satisfaction of preexisting debt, as a bona fide purchaser as against original vendor from whom they were fraudulently obtained by transferrer. 35 L.R.A.(N.S.) 1174.

Effect of fraud by seller on exclusiveness of remedy for breach of warranty provided in contract for sale of machinery. 50 L.R.A.(N.S.) 773.

# § 19. In sale of land.

- As ground for rescission of sale of real property, see VENDOR AND PURCHASER, § 24.
- Fraud by partner in relation to partnership real estate. 28 L.R.A. 104.
- In sale of expectancy by prospective heir.
  33 L.R.A. 283.
- Doctrine of caveat emptor in sales for partition as affected by fraud. 33 L.R.A. (N.S.) 409.
- Effect of purchaser's misrepresentation of fact affecting value of real estate. 30 L.R.A.(N.S.) 748.
- Effect of misrepresentation as to the health of life tenant upon a sale of the remainder interest. 17 L.R.A. (N.S.) 284.
- Of vendor's fraud in respect to sanitary condition of premises. 34 L.R.A. (N.S.) 1035.
- On right of grantee in possession to question grantor's right to collect purchase money. 21 L.R.A.(N.S.) 395.
- Is fraudulent representation by vendor as to area within boundaries correctly pointed out, actionable. 23 L.R.A. (N.S.) 487.
- Is fraudulent representation by vendor of extent or proportion of land of particular kind included within tract sold, actionable where purchaser inspects the land. 30 L.R.A.(N.S.) 55.

# § 20. At execution sale.

- Effect of misrepresentation to purchasers by sheriff at judicial sale. 18 L.R.A. 88. Effect of fraud on execution creditor's liability for return of purchase price on
- bility for return of purchase price on failure of title to property sold on execution. 36 L.R.A.(N.S.) 1220.
- § 21. On right to specific performance. See Specific Performance, §§ 18, 25.
- § 22. In respect to trademark or tradename.
- Trademarks calculated to deceive, not protected. 17 L.R.A. 130; 19 L.R.A. 53.
- Effect of false representations extrinsic to tradename or trademark on the right to protection against infringement of same. 12 L.R.A.(N.S.) 1201; 23 L.R.A. (N.S.) 1151.
- Rights resulting from sale of trademark as affected by fraud. 1 L.R.A. (N.S.) 723.

  Consult also L.R.A. Digests of Cases.

- FRAUD AND DECEIT, IV. a-cont'd
- § 23. Matters as to commercial paper. Rights and protection of bona fide holder, generally, see BILLS AND NOTES, §§ 38– 42.
- Payment by commercial paper as affected by fraud. 35 L.R.A.(N.S.) 74.
- Effect of fraudulent reissue of bill or note which has been paid. 28 L.R.A. (N.S.) 1066.
- Of creditor's fraud towards surety in management and collection of collateral. 37 L.R.A. (N.S.) 716.
- Effect of fraud on right of accommodation party who has been obliged to pay bill or note to recover from accommodated party. 37 L.R.A.(N.S.) 784.
- Validity of obligation given bank as affected by concealment of illegal transactions from bank examiner. 26 L.R.A. (N.S.). 993; L.R.A.1916A, 1218.
- What misrepresentations as to the contents of an instrument will render it void in law. 4 B. R. C. 663.
- Action for damages for fraud in securing execution of bill or note not yet due. 52 L.R.A.(N.S.) 945.
- What constitutes violation of criminal statute against issuing checks or drafts without funds. L.R.A.1918F, 982.
- § 24. paper assigned or transferred. Effect of fraud on rights of bona fide holder of commercial paper, see BILLS AND NOTES, § 38a.
- in inception of negotiable instrument transferred, effect on presumption and burden of proof. 17 L.R.A. 328.
- Effect of fraudulent transfer on right of set-off against assignee's commercial paper. 23 L.R.A. 330.
- Defense of fraud as against holder of negotiable paper transferred after maturity. 46 L.R.A. 768.
- Law governing negotiability of bill or note fraudulently transferred. 61 L.R.A. 205.
- Conflict of laws as to liability on bill or note fraudulently transferred. 19 L.R.A. (N.S.) 668.
- Fraud in obtaining execution of a note as defense against a bona fide holder. 36 L.R.A. 434.
- Deception as to character of paper signed as defense against bona fide holder of negotiable paper. 35 L.R.A.(N.S.) 776.
- Title and right to overdue note as between one induced by fraud to transfer it, and one who in good faith bought of fraudulent transferee. 2 L.R.A.(N.S.) 767.
- § 25. Partnership matters.
- Provability of partnership debts in individual proceedings in case of fraudulent abstraction of partnership funds by bankrupt. 69 L.R.A. 777.
- As affecting assumption of debts on dissolution of partnership. 9 L.R.A. (N.S.) 56; 48 L.R.A. (N.S.) 548.
- Effect of fraud by partner in relation to partnership real estate. 28 L.R.A. 104.

FRAUD AND DECEIT, IV. a-cont'd § 26. Corporate matters.

What constitutes fraud, see supra, § 12. Liability in regard to, see infra, § 33.

On corporations' liability on contracts of promoters. 26 L.R.A. 551; 50 L.R.A. (N.S.) 987.

Effect of promoter's fraud on corporation's right against subscriber. 25 L.R.A.

As affecting rights to specific performance for sale of stock in corporation. 31. L.R.A. (N.S.) 500.

As ground of relief from subscription to stock after insolvency of corporation.
31 L.R.A. (N.S.) 900; L.R.A.1915D,

Validity of subscription induced by false statements that certain other persons were to invest in the enterprise. 29 L.R.A.(N.S.) 477.

Fraud of officers of corporation as ground for appointment of receiver or winding up corporation at instance of stock-holders. 39 L.R.A. (N.S.) 1032; L.R.A. 1915A, 606.

Right of stockholder to attack fraudulent transaction occurring before he acquires his stock, 38 L.R.A.(N.S.) 988.

#### 27. Insurance matters.

Effect of misrepresentations by applicant for insurance, see INSURANCE, V. h.

As defense against action for assessment by mutual fire insurance company. L.R.A. 491.

On rights of vendor and vendee to proceeds of insurance. 37 L.R.A. 152.

Effect of concealment on liability of reinsurer. 8 L.R.A.(N.S.) 852,

Right of insured to return of where policy is void or voidable because of misrepresentations on his part. 32 L.R.A.(N.S.) 299.

Fraud or false swearing by agent of insured in making proofs of loss. 52 L.R.A.(N.S.) 1074.

Effect of fraud by agent ex necessitate in making proofs of loss under fire insurance policy. 9 L.R.A.(N.S.) 485.

§ 28. - forfeiture of policy because of. Cancelation of insurance policy for, see In-SURANCE.

Effect of fraud to cause forfeiture of entire policy. 19 L.R.A. 218; 51 L.R.A. (N.S.) 1063.

Forfeiture of life policy by false representations as to previous applications for insurance. 55 L.R.A. 122.

Validity and application of incontestable clause in case of fraud. 42 L.R.A. 249, 257; L.R.A.1917E, 338.

§ 28a. Effect on judgment.

Injunction against judgment because of fraud, see Injunction, § 52.

FRAUD AND DECEIT, IV. a-cont'd Judgment on collusive appearance as bar to subsequent prosecution. L.R.A. 1918A, 1181.

Effect upon foreign judgment. 20 L.R.A. 679.

Character and kinds of judgments and orders within rule that judgments and orders cannot be collaterally attacked for fraud not affecting the jurisdiction. 36 L.R.A. (N.S.) 980.

Right to resist judgment of sister state on the ground of. 32 L.R.A.(N.S.) 905. Right to question judgment of court of

sister state upon ground that defendant was induced by fraud to go within its jurisdiction. 12 L.R.A.(N.S.) 941. jurisdiction. 12 L.R.A. (N.S.) 941. Fraud as ground for modification of alimo-

ny awarded by decree of absolute divorce without reservation by decree or statute. L.R.A.1917F, 729.

#### b. Of concealment.

§ 29. Generally.

Concealment as fraud, see supra, § 6. Fraudulent concerlment as defense to action for breach of promise, see Breach of PROMISE, § 5.

On right to rely on representations. L.R.A. 611, 614.

Effect of concealment by landlord on liability to tenant's guests and servants from defects in premises. 34 L.R.A. 611; 46 L.R.A. 86; 17 L.R.A.(N.S.) 1165.

Effect on liability of reinsurer. 8 L.R.A. (N.S.) 852.

Forfeiture of dutiable articles in passenger's baggage because of. 56 L.R.A. 131.

Validity of obligation given bank as affected by concealment of illegal transactions from bank examiner. 26 L.R.A. (N.S.) 993; L.R.A.1916A, 1218.

Effect of purchaser's concealment of fact as affecting value of the real estate. 30 L.R.A.(N.S.) 748.

Broker's right to purchase real estate listed with him for sale where broker's interest in purchase is concealed. 20 L.R.A. (N.S.) 1158; L.R.A.1918F, 790.

Effect of suppression of truth as to health of life tenant on sale of remainder interest. 17 L.R.A.(N.S.) 284.

Of interest by juror as ground for new trial.
18 L.R.A. 478.

On right to injunction against collection of purchase money where title to land is defective. 7 L.R.A.(N.S.) 448.
As ground for injunction against judgment.

30 L.R.A. 791.

Of evidence as ground for relief against judgment. 26 L.R.A.(N.S.) 536.

Effect of secret advantage to one of several joint purchasers. 43 L.R.A. (N.S.) 934. Duty of municipal officer to account for profits made in transaction with mu-

nicipality. 48 L.R.A.(N.S.) 842.

30. Effect on marriage.

Relief from judgment because of fraud, see | Effect of concealment as to character on JUDGMENT. § 95. marital relation, see CHARACTER, § 3. Regin with this book on every law question.

FRAUD AND DECEIT, IV. b-cont'd Effect of fraudulent concealment to avoid

promise of marriage. 26 L.R.A. 430. Concealment as to one's physical or mental condition as ground for annulment of marriage. 13 L.R.A. (N.S.) 996.

§ 31. Bankruptcy matters.

Bankrupt's right to discharge as affected by partner's or agent's act in concealment of books or assets. 20 L.R.A. (N.S.) 786.

Admissibility of schedules filed in Federal bankruptcy proceedings in a prosecution against a bankrupt for concealment of property. 18 L.R.A. (N.S.) 1194.

# V. Liability for; punishment of.

§ 32. Generally.

Liability on guaranty or surety obligation obtained by fraud. 21 L.R.A. 409.

In what capacity executor or administrator liable for. 51 L.R.A. 262.

Liability for transferring note to bona fide transferce so as to cut off defenses. 27 L.R.A. 519.

Liability of telegraph company for fraudulent transmission or delivery of forged message by its agent. 65 L.R.A. 807;

L.R.A.1915A, 120.

As to condition of leased premises.
L.R.A. 827; L.R.A.1916D, 1224.

Action by general creditor for damages for fraud in preventing plaintiff from collecting his claim. 47 L.R.A. 433; L.R.A.1917E, 1148.

Fraudulent misrepresentations by infant to induce contract. 57 L.R.A. 675.

Master's liability for fraudulent acts of servant towards person having no claim on master by reason of contract, incipient or perfected. 27 L.R.A. 172.

Liability of agent or servant for fraud against third persons under order of employer. 50 L.R.A. 646.

Liability to bank of one who, without knowledge of fraud, draws out funds fraudulently credited to him by officers or employees of the bank. 31 L.R.A. (N.S.) 1126.

For misrepresentation as to location of property. 38 L.R.A.(N.S.) 301.

Personal liability of arbitrator for. L.R.A.(N.S.) 278.

Liability for fraud in inducing one to marry a third person. 46 L.R.A.(N.S.) 98.

Right of action against third person for fraud inducing one to submit to a judgment less favorable to him than he was entitled to. 46 J..R.A.(N.S.) 110.

**33.** Corporate matters.

What constitutes fraud, see supra, § 12. Effect of fraud, see supra, § 26.

Liability of corporate officers for, see Cor-PORATIONS, §§ 56, 57a.

Liability of corporate promoters for, see | Election of remedies in case of fraudulent CORPORATIONS, § 65.

Consult also L.R.A. Digests of Cases.

FRAUD AND DECEIT, V.—cont'd

Liability for fraud or misrepresentations inducing purchase of stock, see Cor-PORATIONS, § 83.

Liability of corporation for fraud of officer in issue of stock. 19 L.R.A. 331; 41 L.R.A. (N.S.) 181.

Partnership liability of stockholders in case of fraudulent corporations. 17 L.R.A. 550; L.R.A.1916C, 196.

#### § 34. Responsibility for another's fraud.

Fraud of officer as ground of liability on official bond. 21 L.R.A. 741.

Liability of corporation for fraud of its officers in issue of stock. 19 L.R.A. 331.

Liability of corporation officers for com-pany's fraud. 28 L.R.A. 421.

Liability of partnership for fraud of member of firm. 51 L.R.A. 479.

Liability of one who introduces or identifies an impostor, for fraud perpetrated by him. 51 L.R.A. (N.S.) 707.

Liability of principal for fraud perpetrated by agent acting within apparent scope of his authority, but for his own benefit. 5 B. R. C. 526.

Implied or ostensible authority of agent for the sale of land as to representations. L.R.A.1917F, 962.

#### § 35. Punishment of.

Imprisonment for debt in case of. 34 L.R.A. 642; L.R.A.1915B, 646.

Cruel and unusual punishment of. L.R.A. 571.

# VI. Remedies; relief from.

§ \$6. Generally.

As ground for cancelation of instrument, see Cancelation of Instruments, §

Jurisdiction of equity to cancel instrument because of fraud, see EQUITY, § 15a.

Relief from contract generally, on ground of fraud, see CONTRACTS, § 119.

ground for rescission of contract generally, see Contracts, § 153.

As ground for rescission of stock subscription, see CORPORATIONS, § 79. As ground for rescission of deed, see DEEDS,

§ 33a.

As ground for rescission of sale of personalty, see SALE, § 67.

As ground for rescission of sale of real property, see VENDOR AND PURCHASER, § 24.

Jurisdiction in equity in case of, see EQUITY, § 7.

Injunction in case of fraud, see INJUNC-TION, §§ 6, 52.

Injunction against judgment because of fraud, see Injunction, § 52.

Relief from judgment because of fraud, see JUDGMENT, § 95.

purchase. 15 L.R.A. 89.

FRAUD AND DECEIT, VI.—cont'd

Fraud as a ground for relief from a voluntary trust. 19 L.R.A. 767.

Relief from mistake of law accompanied by fraud as to effect of instrument. 28 L.R.A. (N.S.) 853.

Applicability of statute requiring that representations as to another's credit must be in writing in order to sustain an action. 13 L.R.A. (N.S.) 212.

Failure to read contract as affecting right to relief on ground of. 6 L.R.A.(N.S.) 463; L.R.A.1917F, 637.

Relief to party defrauded by fraudulent scheme, although he went into it with the intention of defrauding others. 5 L.R.A.(N.S.) 906.

Remedy of one who fails to record a deed, against his grantor who subsequently conveys to an innocent third person. 26 L.R.A.(N.S.) 284.

Relief from deed prepared by grantee, which does not protect the grantor's rights. 13 L.R.A. (N.S.) 1089.

Fraud as ground for admitting parol evidence that a written instrument importing absolute conveyance was intended as a mortgage. L.R.A.1916B, 178.

Rights and remedies of prior beneficiary where change of beneficiary is accomplished by fraud or undue influence. L.R.A.1916C, 1133.

Liability of one party to a contract or transaction to the other because of bonus or commission allowed by the former to the latter's agent. L.R.A. (N.S.) 101.

Right of purchaser at sale by mortgage under power to relief in case of mortgagee's fraud. 49 L.R.A.(N.S.) 515.

Right of trustee to redress fraud practised on the beneficiary of the trust. L.R.A. 1915E, 451.

Right of executor or administrator to avoid conveyance or transfer by decedent in fraud of creditors. 50 L.R.A. (N.S.) 320.

Power to amend decree of divorce by adding provision for alimony omitted from original decree by fraud. L.R.A.1917D, 326.

# § 37. Action at law for damages.

Waiver of right of action for damages. L.R.A.1918A, 106.

Right of action for fraud or deceit causing loss of remedy. L.R.A.1917F, 719. Right of action for inducing breach of con-

tract by. 16 L.R.A.(N.S.) 746.

Right of guardian of mentally incompetent person to maintain action for damages against one to whom ward has transferred property. 34 L.R.A.(N.S.) 1058.

May purchaser recover damages for fraud as to both articles where one article is substituted for another at his request and both are defective. 37 L.R.A. (N.S.) 298.

FRAUD AND DECEIT, VI.—cont'd

Right of one partner of dissolved firm to maintain action at law against another for fraud practised on dissolution with respect to assets. 6 L.R.A.(N.S.) 263.

False statements in reports required by statute to be made to public officers, as basis of action by individuals at common law for deceit against officers or directors of corporation personally. 6 L.R.A.(N.S.) 872. Action for price as bar to action for dam-

ages for. 8 L.R.A.(N.S.) 582.

Proof of claim in bankruptcy as bar to action for deceit in securing credit. 43 L.R.A.(N.S.) 649.

Right of action for fraud in entering into partnership contract with intent of not going on with business. 51 L.R.A. (N.S.) 94.

Action for damages for fraud in securing execution of bill or note not yet duc. 52 L.R.A.(N.S.) 945.

Survival of cause of action, and abatement and revival of action, for deceit or false representations, upon death of party. 52 L.R.A. (N.S.) 885.

Knowledge of plaintiff's agent as defense in action for false and fraudulent misrepresentation, where his knowledge was not disclosed to plaintiff. C. 952.

# 38. Recovery back of property.

Recovery of nonexempt property conveyed to avoid nonexistent or unfounded demand on false representations by grantee. 1 L.R.A. (N.S.) 1012; L.R.A.1918E, 367.

Replevin by seller of property from fraudulent purchaser. 1 L.R.A.(N.S.) 474.

Right of seller to reclaim goods as against assignee for creditors or trustee in bankruptcy of buyer who procured them by false representations. 17 L.R.A. (N.S.) 1032.

# 39. Recovery back of money.

Return of assessment on benefit certificate proving void for fraud. 3 L.R.A. (N.S.) 114.

Right of holder of policy to recover premiums paid upon the faith of the agent's false representation, notwithstanding part performance. 3 B. R. C. 852.

Right to recover from agent money paid him for his principal where payment was induced by agent's fraud. 23 L.R.A.(N.S.) 560.

Equity jurisdiction of suit by trustee in bankruptcy to recover sum of money from one who has received a fraudulent transaction or unlawful preference. 16 L.R.A.(N.S.) 414.

Right to recover back money paid on subscription to corporate stock in case of fraud. 33 L.R.A. 722.

Action for money had and received as proper remedy to recover money secured by a fraudulent contract. 36 L.R.A. (N.S.) 602.

FRAUD AND DECEIT, VI.—cont'd Recovery back of nonexempt property conveyed to avoid nonexistent or unfounded demand. 1 L.R.A.(N.S.) 1007.

§ 40. Prerequisites to relief. Exhausting remedy at law as condition precedent to equitable remedies of creditors on ground of fraud. 23 L.R.A. (N.S.) 104.

Necessity of returning consideration before bringing replevin for property obtained by fraudulent purchase. 21 L.R.A. 206.

Return or tender of consideration for release of claim for personal injuries set aside on ground of fraud. 35 L.R.A. (N.S.) 660; L.R.A.1918F, 1073.

Compliance with contract for the purchase of real estate as condition precedent to the right of the vender to maintain an action against his vender for fraud and deceit. L.R.A.1915F, 962.

41. Set-off based on fraud.

Set-off on account of, in mortgage fore-closure. 21 L.R.A. 324.

Effect of fraudulent assignment of judgment to defeat set-off. 23 L.R.A. 338.

# VII. Waiver of fraud.

§ 42. Generally.

Waiver of. 67 L.R.A. 705.

Waiver of right of action for damages for fraud or deceit. L.R.A.1918A, 106.

Retention of policy of insurance as waiver of fraud of insurer or its agent. 67 L.R.A. 705; 38 L.R.A.(N.S.) 787.

Waiver of fraud by completing executory contract for sale of personal property after discovering the fraud. 8 L.R.A. (N.S.) 452.

Of right to rescind contract for purchase of real property because of misstatement as to title. 39 L.R.A.(N.S.) 114.

# FRAUDS, STATUTE OF.

See Contracts, §§ 25-59.

#### FRAUDULENT CONVEYANCES.

I. In general, §§ 1-5.

Consideration; voluntary transfers, §§ 6, 7.

III. Preferences; mortgages; purchase by creditor from debtor, §§ 8-

IV. Notice; participation in fraud;
 rights of purchaser, \$\$ 12-17.
 V. Reservation of interest; retention

of possession, \$\$ 18-20.

VI. Transactions between husband and wife and other relatives, §§ 21, 21a.

VII. Who may assail transfer, § 22. VIII. Subsequent creditors, § 23.

IX. Remcdies, §§ 24-26. Consult also L.R.A. Digests of Cases.

# FRAUDULENT CONVEYANCES-cont'd

# I. In general.

§ 1. Generally.

By bankrupt, see BANKRUPTCY, §§ 13-17. Presumptions and burden of proof as to,

see EVIDENCE, §§ 48-50.

Sufficiency of proof as to, see EVIDENCE, § 30ž.

Conveyances in fraud of marital rights, see HUSBAND AND WIFE, §§ 43, 43a.

Conclusiveness of judgment on which action to set aside conveyance is based, see JUDGMENT, § 38.

As to fraud, generally, see FRAUD AND DECEIT.

Conflict of laws as to. L.R.A.1916A, 1041 Conveyance or transfer by one secondarily liable. 47 L.R.A.(N.S.) 320.

Fraudulent sale of trademark. 1 L.R.A. (N.S.) 727.

Validity of pledge or other transfer of stock of corporation when not made in books of company as against attachments, executions, or subsequent transfers. 20 L.R.A. (N.S.) 996.

Conveyance or transfer to indemnify sureties or indorsers as a voluntary assignment for creditors. 31 L.R.A.

(N.S.) 332.

Right of insolvent debtor to transfer his assets to a third person, who is to apply the proceeds to the claims of such creditors as he sees fit. 21 L.R.A. (N.S.) 513.

Right to dower upon avoidance of conveyance as against creditors. 32 L.R.A.

(N.S.) 103.

Admissibility of declarations by vendor made out of court as to his purpose in making a conveyance or transfer attacked as fraudulent as against creditors. 41 L.R.A.(N.S.) 1.

Federal courts following state decisions as to questions in relation to fraudulent transfers. 40 L.R.A.(N.S.) 420.

§ 1a. Sales in bulk.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 55.

Statutory requirements on sale of stock of goods in bulk. 2 L.R.A.(N.S.) 331.

Notice to creditors under Bulk Sales Law. L.R.A.1917F, 230.

Effect of misrepresentations in statement seller is required to make as a condition of a valid sale in bulk. 45 L.R.A. (N.S.) 492.

Applicability of Bulk Sales Law to transfer to corporation or partnership organized to take over the business L.R.A.1918C, 932.

Applicability of Bulk Sales Law to sale of an undivided interest. L.R.A.1917D.

623.

Applicability of statutes relating to sales of stocks of goods in bulk to transfer in payment of a creditor. 12 L.R.A. (N.S.) 174. chattel mortgage within meaning of sales in Bulk Law. 12 L.R.A. (N.S.)

FRAUDULENT CONVEYANCES, cont'd

What kind or classes of property are with-in the operation of bulk-sale statutes. 25 L.R.A.(N.S.) 758; 45 L.R.A.(N.S.) 495.

Applicability of bulk sales law to exempt

property. 45 L.R.A.(N.S.) 497.
What are "fixtures" within meaning of
Bulk Sales Law. 34 L.R.A.(N.S.) 218. Sale of stock of liquors. L.R.A.1916D, 1010. Remedy of creditors where sale is made in violation of Bulk Sales Law. 39 L.R.A.(N.S.) 374; L.R.A.1916B, 974.

Validity as against purchaser of stock of goods in bulk of conditional sale contract permitting purchaser to resell in the ordinary course of business. L.R.A. 1917B, 659.

Right of purchaser in violation of Bulk Sales Law, where price has been applied to payment of creditors of seller. 51 L.R.A. (N.S.) 343.

Right of purchaser to indemnity for expense of defending suit or proceeding based on Bulk Sales Act. L.R.A.1916F, 551.

§ 2. As between parties or privies.

Recovery of nonexempt property conveyed to avoid nonexistent or unfounded demand. 1 L.R.A. (N.S.) 1007; L.R.A. 1918E, 367.

Is a judgment in a suit to set aside a fraudulent conveyance, which purports to devest entirely the title of the grante, res judicata, as between grantor and grantee or their privies. 21 L.R.A. (N.S.) 481.

Right of client to recover property placed in name of his attorney in order to defraud creditors. 37 L.R.A.(N.S.) 161.

Applicability of statutory provision for re-storation of property in case of divorce to conveyances in fraud of creditors. 39 L.R.A.(N.S.) 193.

§ 3. Effect of grantor's intent.

What intent to defraud by sale of property will sustain an attachment. 30 L.R.A. 476.

Grantor's purpose to avoid his obligations as affecting delivery of deed to third person. 54 L.R.A. 884.

Purchaser's ignorance of debtor's fraudulent intent in conveyance to him. 36 L.R.A. 338.

Effect of intent to avoid liability on recovery of nonexempt property conveyed to avoid nonexistent or unfounded demand. 1 L.R.A. (N.S.) 1008.

Right of insolvent to testify as to his intent. 23 L.R.A. (N.S.) 395.

§ 4. Effect on legal title. As to creditors. 67 L.R.A. 865.

Title of fraudulent grantee as to parties not creditors. 67 L.R.A. 889.

Title of bona fide purchaser from fraudu-lent grantee. 67 L.R.A. 891.

Begin with this book on every law question.

I.— | FRAUDULENT CONVEYANCES. cont'd

> Title conveyed by bona fide purchaser toone having knowledge of the fraud. 67 L.R.A. 898.

> When title is in fraudulent grantee as tohis creditors. 67 L.R.A. 899.

> Rights of purchaser other than judgment creditor at execution sale. 67 L.R.A.

> Validity of title or lien acquired by creditor of fraudulent transferrer through fraudulent transferee. 5 B. R. C. 277.

> § 5. Rights of creditors in personal services of debtor. See DEBTOR AND CREDITOR, § 2.

# II. Consideration; voluntary transfers.

6. Generally.

Pre-existing debt as consideration for bona fide purchase of property not negotiable. 36 L.R.A. 161.

Consideration for conveyance from debtor to creditor in satisfaction of debt. 36-L.R.A. 346.

When will a purchaser of property for less than its value, without fraudulent in-

tent, be regarded as a trustee for creditors. 5 L.R.A.(N.S.) 395.

Participation by purchaser in vendor's fraud which will invalidate transfer

for good consideration. 32 L.R.A. 33. May one be a "purchaser" for a valuable consideration where nothing capable of money measurement is given. 4 B. R. C. 782.

Right of creditors to attack conveyance made in pursuance of previous oral agreement unenforceable because of statute of frauds. L.R.A.1916D, 1213.

7. Voluntary conveyances.

Voluntary conveyance; validity of. L.R.A. 353.

Validity of gift of husband's services to wife as against creditors. 21 L.R.A. 623.

Gift as a fraud on contract to will property. 20 L.R.A. (N.S.) 1154.

Voluntary release of debt as fraud upon creditors of releasor. L.R.A.1918A, 404.

# III. Preferences; mortgages; purchase by creditor from debtor.

§ 8. Preferences.

In assignment for creditors, see Assign-MENT FOR CREDITORS, §§ 15, 16.

By bankrupt, see BANKRUPTCY, §§ 18-17. By insolvent bank, see BANKS, § 40.

Вy insolvent corporation generally, see CORPORATIONS. § 137.

By insolvent debtor generally, see Insol-VENCY, § 3.

§ 8a. — by mortgage.

Instrument of transfer absolute in form but intended as a mortgage. L.R.A.1916B,. FRAUDULENT CONVEYANCES, III.- | FRAUDULENT cont'à

Preference by mortgage or sale as an assignment for creditors. 37 L.R.A. 337. Effect of insolvency statutes on mortgage preferring creditors. 37 L.R.A. 465.

§ 9. Mortgages.

Preference by, see supra, § 8a.

Rights and remedies of creditors of chattel mortgagor, see Chattel Mortgage, §§ 13–15.

Governing law of sale or mortgages of personal property, as affected by fraud against creditors. 11 L.R.A. (N.S.) against creditors.

May a mortgage for an actual contemporaneous loan be set aside as fraudulent as against creditors. 26 L.R.A.(N.S.) 1068

May a chattel mortgage fraudulent as to a portion of the property be upheld as to the remainder. 13 L.R.A. (N.S.) 921.

§ 10. Purchase bv creditor from debtor.

Participation in debtor's fraudulent intent, see infra, § 14.

Effect of taking an excessive amount of property from debtor in payment of a claim as a fraud against other creditors. 21 L.R.A. (N.S.) 222.

right to purchase.

Generally. 36 L.R.A. 335. Purchaser's ignorance of the debtor's intent. 36 L.R.A. 338.

Purchaser's knowledge of the intent or effect. 36 L.R.A. 339.

As to parties preferred. 36 L.R.A. 341. As to the consideration. 36 L.R.A. 346.

Where the conveyance was held partly void, but a lien was allowed. 36 L.R.A. 354. Where there was a trust reserved for the debtor. 36 L.R.A. 356.

Participation by the preferred creditor in the fraud of the debtor. 36 L.R.A. 360. Burden of proof. 36 L.R.A. 361. Fraudulent intent a question of fact. 36

L.R.A. 363. Louisiana cases. 36 L.R.A. 364.

# IV. Notice; participation in fraud; rights of purchaser.

12. Notice to purchaser. Necessity of actual notice to purchaser of seller's fraud. 9 L.R.A. 419.

§ 13. Participation in debtor's fraud. Participation by preferred creditor in debt-or's fraud in conveying property in payment of debt. 36 L.R.A. 306.

§ 14. — participation in fraudulent intent.

Participation by creditor in fraudulent in-tent of debtor which will make a invalid as to other creditors. 31 L.R.A. 600.

Participation by agent. 81 L.R.A. 642. Consult also L.R.A. Digests of Cases. 38

CONVEYANCES, IV. cont'd

15. - invalidation by, of transfer for good consideration.

Necessity of participation; general doctrine. 32 L.R.A. 33.

What constitutes participation. 32 L.R.A. 36.

Effect of payment of full consideration. 32 L.R.A. 40.

The intent necessary to constitute fraud. 32 L.R.A. 41.

To what conveyances the rule applies. 32 L.R.A. 43.

Necessity of injury to creditors. 32 L.R.A. 44.

Knowledge or notice sufficient to put purchaser upon inquiry. 32 L.R.A.

Payment after notice. 32 L.R.A. 63.

Application of purchase price to debts. L.R.A. 65.

Effect of assumption of vendor's debts. L.R.A. 66.

Effect of relationship or intimacy of parties. 32 L.R.A. 67.

Effect of fraud in other transactions. L.R.A. 69.

Registration and failure to record. 32 L.R.A. 69.

Purchases from fraudulent grantees. 32

L.R.A. 69. Presumptions and burden of proof. L.R.A. 71.

Effect of participation. 32 L.R.A. 72.

16. Rights of purchaser.

Right to attack judgment, see JUDGMENT. § 53.

Attack by alleged fraudulent grantee on judgment on which action to set aside his conveyance is based. 67 L.R.A. 590.

May one who takes a contract or bond for the conveyance of property from a third person to defraud the creditors of another who had the legal title to the property, but represented it to be in such third person, invoke the doctrine of estoppel against him. 13 L.R.A. (N.S.) 1118.

§ 17.—from fraudulent grantee. Protection of bona fide purchaser from fraudulent grantee. 3 L.R.A. 822.\*

V. Reservation of interest; retention of possession.

§ 18. Reservation of interest by grantor.

Reservation of surplus upon assignment of chose in action as security, as a fraud upon other creditors. 36 L.R.A.(N.S.) 370.

Effect of contemporaneous agreement to give debtor employment or retain him in a position, to render attempted preference invalid as to other creditors. 17 L.R.A.(N.S.) 310.

transfer to pay or secure his debt 8 19. Retention of possession: failure to file.

> Permitting chattel mortgagor to retain possession, see Chattel Mortgage, § 14.

FRAUDULENT CONVEYANCES, V.-cont'd

Retention by grantor as showing fraudulent intent. 31 L.R.A. 635.

Sufficiency of change of, as regards creditors by delivery to carrier. 22 L.R.A. 425.

Estoppel of one who permits title to real property to stand in another's name to assert title as against latter's creditors. 30 L.R.A. (N.S.) 1; 46 L.R.A. (N.S.) 1097.

Rights of purchaser of personal property who temporarily leaves it in possession of vendor, because of inconvenience of taking immediate possession, as against subsequent purchasers from, or attaching creditors of, the vendor. 25 L.R.A. (N.S.) 604.

Is failure to take immediate possession upon sale of chattels cured by taking possession before attachment of the particular right or lien of the person attacking the sale. 28 L.R.A.(N.S.) 214.

Necessity of delivery to protect purchaser against creditors of seller of an undivided interest in personalty not in his possession. 31 L.R.A.(N.S.) 1162.

§ 20. Overcoming presumption of fraud flowing from retention.

The English rule. 24 L.R.A.(N.S.) 1131.

Rule that presumption is conclusive. L.R.A.(N.S.) 1133.

Rule that presumption is prima facie. 24 L.R.A. (N.S.) 1143.

# VI. Transactions between husband and wife and other relatives.

§ 21. Generally.

Transactions between, as fraud on creditors. 32 L.R.A. 67.

Preference of relative by transfer of property in satisfaction of debt. 36 L.R.A. 341.

Effect of relationship to show participation by creditors in debtor's fraudulent intent. 31 L.R.A. 645.

g 21a. Husband and wife.

Validity of marriage settlement as against creditors. 32 L.R.A. 43.

Wife's right to insure husband's life with reference to husband's creditors. 53 L.R.A. 820.

Policy of life insurance payable to wife as assets of bankrupt or insolvent husband. 50 L.R.A. 33; 46 L.R.A. (N.S.) 148.

Right of husband's creditors to reach fruits of his management of, or services in connection with, wife's separate estate or business. 21 L.R.A. 623; 23 L.R.A. (N.S.) 1124.

Invalidity of contract between husband and wife to compromise pending or contemplated divorce suit as against creditors of insolvent husband. 60 L.R.A. 413.

Burden of proof as to fraud against creditors in transfer from husband to wife. 56 L.R.A. 823.

V.— FRAUDULENT CONVEYANCES, VI.—

Validity of arrangement for household finances as against husband's creditors. 43 L.R.A.(N.S.) 685.

"Butter money," etc. 48 L.R.A.(N.S.)

# VII. Who may assail transfer.

§ 22. Generally.

Subsequent creditors, see infra, § 23.

Right of purchaser on execution to set aside fraudulent conveyance. 15 L.R.A. 784. Right of creditor to attack judgment against debtor in favor of another creditor on ground of accident or mistake. 29

L.R.A. (N.S.) 1190.

Law determining right of foreign assigned for creditors to avoid fraudulent conveyance. 65 L.R.A. 365.

Right of administrator de bonis non to avoid fraudulent transfers by predecessors. 40 L.R.A. 72.

Right of devisee or legatee to attack conveyance or transfer by testator. 30 L.R.A.(N.S.) 194.

# VIII. Subsequent creditors.

§ 23. Generally,

Right as against subsequent creditors to create trust to pay the income to settlor for life and after his death to his heirs or devisees. 12 L.R.A.(N.S.) 369.

Right of subsequent creditor to question corporate mortgages in favor of, or for the benefit of, directors, in absence of fraud. 12 L.R.A.(N.S.) 825.

#### IX. Remedies.

§ 24. Generally.

Who may assail transfers, see supra, §§ 22, 23.

Creditors' bill to set aside, see CREDITORS' BILL.

As to real property in another state or country. 69 L.R.A. 688; 27 L.R.A. (N.S.) 420.

Action by general creditor for damages against third party on account of fraud in disposing of debtor's property, or preventing plaintiff from collecting his claim. 47 L.R.A. 433; L.R.A.1917E, 1148.

Recovery of nonexempt property conveyed to avoid nonexistent or unfounded demand. L.R.A.1918E, 367.

May creditor of fraudulent vendor, without lien, maintain an action ew delicto or ew contractu against a fraudulent vendee who has converted or disposed of the property. 26 L.R.A.(N.S.) 545.

Right of creditor of bankrupt to set aside transfer in fraud of creditors. 10

L.R.A. (N.S.) 305.

Equity jurisdiction of suit by trustee in bankruptcy to recover sum of money from one who has received fraudulent transfer on unlawful preference. 16 L.R.A.(N.S.) 414.

FRAUDULENT CONVEYANCES, IX-

Right to attach property after fraudulent transfer on unlawful preference. 16 L.R.A. (N.S.) 414.

Right to attach property after fraudulent assignment for creditors. 26 L.R.A. 595.

Remedy of creditors where sale is made in violation of bulk sales law. 39 L.R.A. (N.S.) 374; L.R.A.1916B, 974.

Right to accept favorable part of decree and appeal from the rest. 29 L.R.A. (N.S.) 14.

25. Injunction.

Surety's right prior to obtaining a judgment or lien to enjoin principal's transfer of property to defraud him. 15 L.R.A.(N.S.) 484.

Injunction against execution sales of fraudulent purchasers. 30 L.R.A. 114.

§ 26. Conditions precedent.

Conditions precedent to equitable remedies of creditors in case of fraudulent assignments. 23 L.R.A.(N.S.) 118.

#### FRAUDULENT ENLISTMENT.

Right of minor unlawfully enlisted in Army or Navy to discharge on habeas corpus from custody of court-martial under charge of. 18 L.R.A. (N.S.) 956; L.R.A. 1917D, 1059.

# FRAUDULENT INTENT.

See INTENT, § 11.

#### FREE CHURCH.

Rights in pews in. 22 L.R.A. 215.

#### FREE DELIVERY.

Statute requiring express companies to make in certain cities as interference with interstate commerce. 19 L.R.A. (N.S.) 94.

# FREEDOM.

Unconstitutional restraint on, see Consti-TUTIONAL LAW, IX.

Discrimination against women in restrictions of. 49 L.R.A. 111.

# FREEDOM OF SPEECH, PRESS AND WORSHIP.

See Constitutional Law, § 29a.

Consult also L.R.A. Digests of Cases.

#### FREEHOLDERS.

Necessity that grand juror be. 28 L.R.A. 197.

#### FREEHOLD ESTATE.

Applicability of rule in Shelley's Case to. 29 L.R.A.(N.S.) 1031.

# FREE MARKET.

Diversion of trade by labor union from one with whom it is in controversy as violation of right to. 1 B. R. C. 274.

# FREE MASONS.

Power of courts to review decisions of tribunals of. 49 L.R.A. 353.

#### FREE PASS.

See CARRIERS, §§ 23, 29.

# FREE PASSENGERS.

See CABRIERS, §§ 7, 23, 29, 57.

# FREE SCHOOLS.

See SCHOOLS.

#### FREE SERVICE.

By physician or surgeon. 37 L.R.A. 837.

# FREE SPEECH.

See Constitutional Law, § 29b.

# FREE TRANSPORTATION.

Of passenger, see CARRIERS. §§ 7. 23, 29, 57.

Duty of public to furnish free transportation to pupils. 37 L.R.A.(N.S.) 1110.

# FREEZING.

Duty of carrier to protect goods in transit from. 39 L.R.A.(N.S.) 640, 645.

FREEZING—cont'd

Duty of building contractor to protect work from freezing. 16 L.R.A.(N.S.) 801.

Liability of landlord to tenant for loss due to bursting water pipes caused by freez-ing. L.R.A.1917B, 244. Recovery under Workmen's Compensation

Act for injury caused by. L.R.A.1918F, 936.

#### FREIGHT.

Carriers of, see CARRIERS, IV. Hypothecation of. 70 L.R.A. 431. Lien for. 70 L.R.A. 358, 368. Right of mortgagee of ship as to freight. 4 B. R. C. 538.

# FREIGHT AGENCIES.

Character of, as common carriers. 42 L.R.A.(N.S.) 902.

# FREIGHT AGENT.

Authority of, to contract for services of

other persons. L.R.A.1918F, 63.

Authority of freight agent of initial carrier to extend carrier's undertaking beyond its own line. 31 L.R.A. (N.S.) 33.

Carrier's liability for malicious acts of, towards patron. 4 L.R.A.(N.S.) 494. Carrier's liability for malicious refusal of, to deliver freight. 7 L.R.A. (N.S.) 926.

# FREIGHT CARS.

Carrier's duty as to, see CARRIERS, §§ 136-140. Liability for failure to furnish, see CAR-

# FREIGHT CHARGES.

See CARRIERS, IV. g.

RIERS, §§ 139, 140.

# FREIGHT ELEVATORS.

See Elevators, §§ 2-8.

# FREIGHT TRAINS.

Passengers on, see Carriers, §§ 61, 85, 95.

#### FRESHET.

Liability of one damming back water of stream for injury by. 59 L.R.A. 876. Begin with this book on every law question.

# FRICTION MATCHES.

Keeping of, on insured premises. L.R.A. 1917C, 278.

#### FRIEND.

Voluntariness of confession to. 18 L.R.A. (N.S.) 855; 50 L.R.A. (N.S.) 1077. Killing or assaulting of, as sufficient provocation to reduce homicide to manslaughter. 17 L.R.A.(N.S.) 795.

# FRIEND OF COURT.

See AMICUS CURLE.

#### FRIGHT.

§ 1. Of animal.

Of horse, see Horses, §§ 7-14.

Of animals on railroad track, see RAILBOADS.

Right of witness to express opinion as to. L.R.A.1918A, 725. Liability for injuries in consequence of fright of animals not on highway because of an improper use of highway. L.R.A.1918D, 571.

Liability for injury to animal from fright caused by wrongful act. L.R.A.1917C, 991.

Liability for frightening animal to death. 23 L.R.A. (N.S.) 183.

Sufficiency of general allegations as to negligence by frightening of animals. 59 L.R.A. 233.

Duty of carrier to guard against results of fright of live stock. 39 L.R.A.(N.S.) 642.

#### § 2. Of human being.

Proximate cause of injury by, see Proxi-mate Cause, §\$ 18-20.

Right of witness to express opinion as to. L.R.A.1918A, 725.

As a basis for cause of action. 14 L.R.A. 888.

Consequential injuries in case of. 53 L.R.A. 633.

As element of damages for injury by dog. 37 L.R.A. (N.S.) 866.
Liability for frightening passenger.
L.R.A. (N.S.) 433.

As proximate result of discharging passenger at improper place or one not hisdestination. 7 L.R.A.(N.S.) 1182.

Is one causing fright by unlawful act guilty of homicide because death follows fright. 16 L.R.A.(N.S.) 327.

Liability of carrier for injury to pregnant woman by seeing lunatic on train. 39-L.R.A.(N.S.) 647.

FRIGHT-cont'd

§ 3. — liability for physical injury resulting from.

Right to recover for physical injury resulting from fright caused by a wrong-ful act. 3 L.R.A.(N.S.) 49; 22 L.R.A.(N.S.) 1073; 24 L.R.A. (N.S.) 1159; L.R.A.1915D, 830.

Liability for physical injury to passenger resulting from fright. 45 L.R.A.(N.S.)

#### FRIVOLOUS SUITS.

Right of court to decline jurisdiction of. 6 B. R. C. 334.

#### FROGS.

See Unblocked Switches.

# FRONTAGE TAX.

See Public Improvements, § 25.

# FRONT-FOOT RULE.

Assessments for public improvements by the front-foot rule, see PUBLIC IMPROVE-MENTS, § 25.

# FROST.

Provision exempting carrier from liability for loss by frost as extending to loss caused by negligence. 6 B. R. C. 130.

# FROST BITES.

Injury from, as within protection of Workmen's Compensation Act. L.R.A.1917D, 108, 129.

# FROSTY.

Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 316.

#### FRUCTUS INDUSTRIALES.

See Crops. Consult also L.R.A. Digests of Cases.

# FRUIT.

Fruit trees, see FRUIT TREES.

As subject of larceny. 49 L.R.A. (N.S.) 966, 969.

Title to, when wrongfully severed. 32 L.R.A. 422.

Classification of growing fruit as real or personal property. 16 L.R.A. 103. Right to fruit and clippings from trees near boundary line. 21 L.R.A. 730; L.R.A. 1915E, 307.

#### FRUIT STAND.

Power of municipality to grant permit for, on street or sidewalk. 25 L.R.A.(N.S.) 402.

#### FRUIT TREES.

Measure of damages for injury to, or destruction of. 19 L.R.A. 658; 11 L.R.A. (N.S.) 930; 28 L.R.A.(N.S.) 757; 37 L.R.A.(N.S.) 1115.

Right as between owner of land and owner of trees to annual product of trees. L.R.A.1915E, 397.

#### FUEL.

Validity of sale of, in violation of law. 12 L.R.A.(N.S.) 597. Right of life tenant to timber for. 37 L.R.A.(N.S.) 764.

Action on contractor's bond for cost of. 43

I.R.A.(N.S.) 167; L.R.A.1915F, 953. Mechanics' lien for fuel consumed in process of work. L.R.A.1915E, 987.

# FUGITIVES FROM JUSTICE.

In general, see Extradition.

As nonresidents for purpose of attachment. 19 L.R.A. 668.

# FULL AGE.

See MAJORITY, § 1.

# FULL CREW ACT.

Constitutionality and application of. 49 L.R.A. (N.S.) 977.

As interference with interstate commerce. 29 L.R.A.(N.S.) 240; 52 L.R.A.(N.S.) 268.

# FULL DISCLOSURE.

Duty of accomplice testifying for prosecution to make. 24 L.R.A.(N.S.) 443.

#### FULL FAITH AND CREDIT.

To statute of other state, see Conflict of As part of realty. 1 B. R. C. 972.

To judgment of other state, see JUDGMENT, V. b.

#### FULL OWNERSHIP.

Of insured property, see INSURANCE, § 67.

#### FULL PAID STOCK.

Effect of creditor's knowledge that stock was improperly issued as full paid on his right to resort to holder. 8 L.R.A. (N.S.) 271.

#### FUMES.

Liability of master for injury to servant by fumes arising from materials handled by him. 35 L.R.A. (N.S.) 679.

# FUND.

Recovery of costs out of, see Costs and Passing of, by deed, see Deeds, § 22. FEES, § 4.

# FUNERAL.

Allowance for mental anguish resulting from negligence in transmission of telegram relating to, see DAMAGES, § 102.

# FUNERAL BENEFITS.

See Insurance, § 219.

#### FUNERAL EXPENSES.

Liability of estate for, see EXECUTORS AND Administrators, §§ 36, 37.

Right to recover funeral expenses of person negligently killed. 2 B. R. C. 711. Husband's right at common law to recover funeral expenses caused by negligent killing of wife. 9 L.R.A.(N.S.) 1193. Liability of husband for funeral expenses of

wife. 47 L.R.A.(N.S.) 283. Begin with this book on every law question.

#### FUNERAL SERVICES.

Lack of, as a criminal offense. 42 L.R.A. (N.S.) 211.

#### FURNACES.

#### FURNISHED HOUSES.

Implied covenant of fitness for purpose intended. 33 L.R.A. 455.

#### FUTURE.

Promises as to future as fraud, see FRAUD AND DECEIT, § 8.

Effect of provision that term of lease shall commence in future. 15 L.R.A. (N.S.) 1078.

# FUTURE ACCOUNTS.

Mortgage or assignment of. 14 L.R.A. 126.

# **FUTURE ACQUIRED PROPERTY.**

# FUTURE ADVANCES.

Security for, as participation by creditors in debtor's fraudulent intent. 31 L.R.A. 631.

Keeping equitable mortgage alive after payment as security for. 1 L.R.A.(N.S.)

Effect of recording within four months period prescribed in bankruptcy act of 1898 of mortgage given for. 25 L.R.A. (N.S.) 144.

Estoppel to set up original obligee's breach of condition to make future advances, as against assignee of contract for payment of money, not protected by the law merchant. 23 L.R.A.(N.S.) 178.

# FUTURE CROPS.

Chattel mortgage on, see CHATTEL MORT-**GAGE, § 11.** 

Sale of. 23 L.R.A. 449; L.R.A.1917C, 8

#### FUTURE DAMAGES.

See DAMAGES, § 119.

#### FUTURE DELIVERY.

Right to dividends on sale of corporate stock for. 45 L.R.A. 394; L.R.A. 1917B, 326.

# FUTURE EARNINGS.

Assignability of, see Assignment, § 6. Mortgage of, see Chattel Mortgage, § 10. Rights and liabilities of parties to mortgage as to, see MORTGAGE, § 33.
Remedy for recovery of, see MASTER AND

SERVANT, § 43a.

Garnishment of unearned salary. 20 L.R.A. (N.S.) 912.

Equitable remedy to subject to judgment after return of no property found. 63 L.R.A. 704.

#### FUTURE ESTATES.

general, see DEEDS, § 31; WILLS, §§ 99-102.

Adverse possession against owners of. 19 L.R.A. 839.

#### FUTURE PROFITS.

Loss of, as element of damages, see DAM-AGES, §§ 107-118.

# FUTURES.

Validity of dealings in, see CONTRACTS, §§ 106, 116. Relief from contracts as to futures, see

CONTRACTS, § 116.

Power of legislature to enact prima facie rule of evidence in prosecution for dealing in. L.R.A.1915C, 728.

# FUTURE WAGES.

See FUTURE EARNINGS.

See GAMING.

# GAMBLING DEVICE.

GAMBLING.

See GAMING, § 6.

# GAME.

Game laws, see GAME LAWS, Game warden, see GAME WARDEN.

Taking of game as larceny. L.R.A.1918A,

#### GAME LAWS.

Constitutionality of, see CONSTITUTIONAL LAW, § 98.

As to fish, see FISHERIES.

Validity of contract in violation of. L.R.A.(N.S.) 612.

Discrimination against nonresidents in granting license to take fish or game. 40 L.R.A.(N.S.) 285.

Consult also L.R.A. Digests of Cases.

GAME LAWS—cont'd Regulation of sale or transportation of game raised in captivity. 10 L.R.A. (N.S.) 1155.

Applicability of game laws to domesticated

animals. L.R.A.1916C, 343.

Forfeiture of personal property used in violation of. L.R.A.1916F, 913.

Constitutionality of the migratory birds provision in the act of Congress of March 4, 1913. L.R.A.1915F, 1031. Nature and extent of right created by private grant of hunting or fish-

ing privilege. 40 L.R.A. (N.S.)

Cruel and unusual punishment for violation of. 35 L.R.A. 572; L.R.A.1915C, 566

Serving game or fish with meal as violation of game law. L.R.A.1917F, 769.

#### GAMES.

Fake game, see FAKE RACE. Criminal liability for engaging in, see GAMING. See also AMUSEMENTS.

Prohibition of Sunday sports or games. 17 L.R.A. 830.

GAMES-cont'd

1 Larceny by fraudulent race or game. 1 L.R.A.(N.S.) 862; 20 L.R.A.(N.S.) 1164; 42 L.R.A.(N.S.) 735.

Homicide while engaged in. 63 L.R.A. 383.

#### GAMING.

# I. In general, § 1. II. Criminal liability, §§ 2-8.

# I. In general.

§ 1. Generally.

As to betting, see BETTING.

Conflict of laws as to gambling and lottery contracts, see Conflict of Laws, § 4. Validity of wagering contract, see Con-

TRACTS, §§ 105, 106, 115, 116.
Enforcement of gaming contract, see Con-TRACTS, §§ 115, 116.

Recovery for goods sold to aid business of. 15 L.R.A. 836.

Effect of landlord's knowledge that tenant intends to use premises for purposes of gaming. 19 L.R.A. (N.S.) 662.

Liability on liquor dealer's bond for gaming on premises. L.R.A.1916E, 274.

Pool selling as a nuisance. 44 L.R.A. (N.S.) 161.

Estoppel to set up defense that commercial paper was given in gambling transaction by representations to prospective purchaser. 50 L.R.A.(N.S.) 1032.

Forbearance to sue or disclose defendant's default as new consideration for gam-

bling debt. 6 B. R. C. 995.

Property kept for gambling purposes as subject of larceny. L.R.A.1918D, 691.

#### II. Criminal liability.

2. Generally.

Who is accomplice in gambling within rule requiring corroboration of testimony. 43 L.R.A.(N.S.) 546.

Necessity and sufficiency of description of offense in bail bond or recognizance. 38 L.R.A. (N.S.) 317, 321.

Several offenses growing out of the same facts. 31 L.R.A.(N.S.) 706.

As violation of Sunday laws. 30 L.R.A. (N.S.) 469.

3. Regulation or prohibition of.

Municipal regulation of, as a nuisance. 39 L.R.A. 523.

Power of state to prohibit or regulate horse 25 L.R.A.(N.S.) 905. racing.

Offense of keeping a gaming house as affected by restrictions on admission. 33 L.R.A. (N.S.) 549.

Effect of understanding that the loser is to pay for game to bring it within stat-913.

GAMING, II.—cont'd

§ 4. - games and devices prohibited. Oral betting as a violation of statute against bookmaking. 25 L.R.A. (N.S.)

Horse racing as a game within gambling statutes. 7 L.R.A.(N.S.) 899; 33 L.R.A.(N.S.) 828.

Operation of slot machine as gambling. 20 L.R.A.(N.S.) 239; 34 L.R.A.(N.S.) 573; 42 L.R.A.(N.S.) 720.

Bucket shop as "place for gaming." 20
L.R.A.(N.S.) 347.

Applicability to bucket shops of penal statutes in relation to "games of hazard," "gambling devices," etc. 25 L.R.A. (N.S.) 158.

Shaking dice or playing game, for drinks, cigars, or other trivial stakes, as gambling or gaming. L.R.A.1918A, 1068.

§ 5. Persons liable.

Criminal liability of children for. L.R.A. 207.

Liability of one party to an arrangement to share profits from gambling for money lost by a third person to the other party. 23 L.R.A.(N.S.) 522.

Criminal liability for act of servant, agent, or partner. 41 L.R.A. 659. or partner.

Criminal responsibility of lessor of gambling house. 44 L.R.A.(N.S.) 863.

§ 6. Gambling devices or apparatus. Devices prohibited, see supra, § 4.

Right to compensation for destruction of gaming apparatus. 19 L.R.A. 197.

Gambling device as property within constitutional protection. 12 L.R.A. (N.S.)

Card-game paraphernalia as a gambling device, within a statute against gaming. 17 L.R.A.(N.S.) 1210.

Damage to, or conversion of, gambling device as ground of action. 45 L.R.A. (N.S.) 334.

Forfeiture of rights or interests of innocent persons in. L.R.A.1916E, 354.

Power to seize gambling devices in absence of charge of violation of laws against gambling. L.R.A.1915A, 232.

7. Evidence.

Power of legislature to enact prima facie rule of evidence. L.R.A.1915C, 727. Evidence of other crimes in prosecution for.

62 L.R.A. 328.

Necessity of instruction as to law on circumstantial evidence from possession of **69** L.R.A. 198. stolen property.

§ 8. Punishment.

Cruel and unusual punishment of. 35 L.R.A. 572; L.R.A.1915C, 570.

Power of municipality as well as state to punish for. 17 L.R.A. (N.S.) 52.

# GAME WARDEN.

utes against gambling. 19 L.R.A.(N.S.) | Liability of game warden. L.R.A.1918A, 839.

#### GANGRENE.

Liability of physician called to reduce fracture for causing. 12 L.R.A. (N.S.) 752.

#### GARAGE.

See AUTOMOBILES, § 9.

#### GARB.

Validity of rule forbidding religious garb in school. 7 L.R.A. (N.S.) 402.

#### GARBAGE.

Municipal liability as to, see MUNICIPAL CORPORATIONS, § 78.

Throwing garbage on surface as nuisance. 43 L.R.A.(N.S.) 1037; L.R.A.1915C, 747.

Municipal power over nuisance of, in street. 39 L.R.A. 653.

Injunction by municipality against nuisance of. 41 L.R.A. 324.

Monopoly in contract for removal of. 27 L.R.A. 540.

Power of municipal corporation to grant exclusive right or create monopoly for removal of. 21 L.R.A. (N.S.) 830; L.R.A.

1915D, 209. Validity of contract with unlicensed scavenger. 12 L.R.A.(N.S.) 617.

Scavengers as independent contractors. 65 L.R.A. 469, 488.

Employer's nonliability for torta of inde-pendent contractor in scavenging work. 65 L.R.A. 653.

# GARDENS.

Effect of constitutional or statutory exemption of, from condemnation proceedings. L.R.A.1916A, 1103.

#### GARNISHMENT.

I. In general, §§ 1, 2. II. When Hes, \$\$ 3-12.

a. In general, § 3.

b. Against whom, \$\$ 4-9.

c. What claims or property subject to, §§ 10-11a.

d. Where deft garnishable, \$ 12.

III. Effect; rights and duties of garnishee; priorities, §§ 13-18.

IV. Procedure; judgment; abatement; As to debts and ordinary bailments. injunction against, §§ 19-21. Consult also L.R.A. Digests of Cases.

# GARNISHMENT-cont'd

# I. In general.

§ 1. Generally.

Conflict of laws as to, see CONFLICT OF

LAWS, § 40, 41.

As condition precedent to equitable remedy of creditors, see CREDITORS' BILL, § 2. Injunction against, see Injunction, §§ 44a, 60.

Against state officer, as suit against the state. 44 L.R.A.(N.S.) 218.

Release of indorser of note by failure to take out garnishment against maker. 18 L.R.A.(N.S.) 550.

Right of one who has recovered judgment in garnishment proceedings against corporation to recover dividends paid to stockholders out of capital. L.R.A. 1917C, 406.

2. Availability of defense of.

Availability of defense of, to maker against transferee after maturity. 46 L.R.A.

May one who procures a judgment garnishing an indebtedness from a corporation to his debtor avail himself of the rights of the latter as against stockholders. 11 L.R.A. (N.S.) 230.

#### II. When lies.

#### a. In general.

§ 3. Generally. Right of garnishment as affected by appointment of foreign receiver. 23 L.R.A.

#### b. Against whom.

§ 4. Generally.

Against foreign corporation, see Corpora-TIONS, § 150. Garnishment against receiver, see RE-

CEIVERS, § 25.

Right of plaintiff to summon or charge himself as garnishee. 55 L.R.A. 353; 34 L.R.A.(N.S.) 510.

Right to garnish fund in the hands of officer to court after he has been ordered to pay same to party. 13 L.R.A. (N.S.) 759; 30 L.R.A. (N.S.) 720.

Against state officer, as suit against the state. 44 L.R.A.(N.S.) 218.

Against stakeholder or depositary of funds to be held in connection with an illegal transaction. L.R.A.1918F, 972.

Liability of Soldiers' Home to garnishment in state courts. 46 L.R.A. (N.S.) 301.

§ 5. Corporate officer or agent for corporate debt.

Differentiation. 36 L.R.A. 561. Basic principles. 36 L.R.A. 561. Application to agents. 36 L.R.A. 561. Application to officers. 36 L.R.A. 563.

§ 6. Carriers.

28 L.R.A. 600; L.R.A.1916E, 452.

GARNISHMENT, II. b-cont'd As to property held for transportation. 28 L.R.A. 601; L.R.A.1916E, 452.

§ 7. Executors or administrators. Application of statutes to executors and administrators. 47 L.R.A. 346.

Interest and possession necessary to sustain. 47 L.R.A. 358.

Garnishment of husband's interest in wife's legacy or distributive share. 47 L.R.A. 360.

Rule when the representative is the debtor. 47 L.R.A. 360.

Effect of trust conferred upon representative. 47 L.R.A. 361.

Set-off. 47 L.R.A. 363. The judgment. 47 L.R.A. 364.

Exclusiveness of the remedy. 47 L.R.A. 365.

Right to garnish executor or administrator for sum due from the estate to himself in his own right. 5 L.R.A.(N.S.) 1072. Right to attach or garnish fund in hands of

personal representative, after direction to pay same to party. 13 L.R.A.(N.S.) 759; 30 L.R.A.(N.S.) 720.

Garnishment of distributive shares and residuary legacies before settlement. 59 L.R.A. 387.

# 8. Guardians.

Garnishment of guardian for debt of ward. 11 L.R.A.(N.S.) 706.

#### 9. Counties.

Generally. 37 L.R.A. 207; L.R.A.1916E, 1163.

Cases holding the county liable. 37 L.R.A. 208.

Equitable relief. 37 L.R.A. 208. Not subject if principal defendant could not sue. 37 L.R.A. 208,

# c. What claims or property subject to.

§ 10. Generally.

Of bank deposit, see BANKS, § 14.

Of interest of heir, see DESCENT AND DIS-TRIBUTION, § 13.

Of expectancy, see EXPECTANCY, § 4.

Of money in court, see Money IN COURT, § 2. Of legacy, see WILLS, § 109.

As to exemptions, see EXEMPTION, §§ 4-8.

Shares of stock in foreign corporation. 55 L.R.A. 797.

18 Stockholder's interest in corporation. L.R.A. (N.S.) 1158.

Foreign railroad cars. 64 L.R.A. 501; 16 L.R.A.(N.S.) 1026; L.R.A.1915D, 838. Money due from receiver. 26 L.R.A. 218.

Garnishment of debt evidenced by negotiable paper. L.R.A.1918C. 731.

Debt after delivery of check in payment.

19 L.R.A. 475; L.R.A.1917F, 396.

Contents of sealed package or locked receptacle. 41 L.R.A. (N.S.) 764.

Claim of creditor in estate created by voluntary assignment of debtor. L.R.A. 1918F, 443.

Funds of bankrupt's estate after order of distribution. 14 L.R.A.(N.S.) 1220.

GARNISHMENT, II. c-cont'd

Liability of alimony for debts. 32 L.R.A. (N.S.) 270.

Injured employee's right to reach fund under employers' liability policy. 7 L.R.A. (N.S.) 958.

Liability of fund held by mutual benefit association to claims of creditors. 6 L.R.A.(N.S.) 235.

Right of creditors to garnish insurance policy or its cash surrender value. 16 L.R.A.(N.S.) 318.

Verdict before judgment. 4 L.R.A. (N.S.) 624.

Proceeds of execution sale in the hands of the sheriff. 43 L.R.A.(N.S.) 571.

Injured employee's right to reach fund under employers' liability policy.

L.R.A.(N.S.) 191. Garnishment of money due or to become due on a contract the proceeds of which have been assigned by the debtor prior to the garnishment. L.R.A.1916D, 365.

10a. Salary or wages.

Exemption of, see Exemptions, § 5.

Injunction against, see Injunction, § 44a.

Unearned salary. 20 L.R.A.(N.S.) 912. Garnishment of wages or salary due or to

become due which have been assigned by the debtor prior to the garnishment. L.R.A.1916D, 367.

Effect of assignment of unearned salary or fees of public officer to put the same when earned beyond the reach of creditors. 31 L.R.A.(N.S.) 374.

Right to garnish fees or salary of public officer after expiration of term of office.

L.R.A.1917F, 1119.

# § 11. Unliquidated claims.

Generally. 59 L.R.A. 353.

Claims in tort. 59 L.R.A. 355.

Claims on contract. 59 L.R.A. 359. Claims on unadjusted insurance losses. L.R.A.1918B, 972.

Unliquidated claims in equity. 59 L.R.A. 384.

Distributive shares and residuary legacies, before settlement. 59 L.R.A. 387.

Set off or recoupment of unliquidated claims. 59 L.R.A. 389.

# 11a. Future interests.

Garnishment of distributive shares in decedent's estate before settlement. L.R.A. 387.

Garnishment of husband's interest in wife's legacy or distributive share in decedent's estate. 47 L.R.A. 360.

# d. Where debt garnishable.

# 12. Generally.

Domicil of debtor (garnishee). 19 L.R.A. 577; 67 L.R.A. 209; L.R.A.1915F, 883.

State other than his domicil where debtor (garnishee) temporarily present. 67 L.R.A. 213; L.R.A.1915F, 884.

GARNISHMENT, II. d-cont'd

State where foreign corporation (garnishee) engaged in business. 67 L.R.A. 214; L.Ř.Ă.1915F, 884.

As affected by place of payment. 3 L.R.A. (N.S.) 264; 20 L.R.A. (N.S.) 264; L.R.A.1915F, 880.

Law governing exemptions. 19 L.R.A. 578; 67 L.R.A. 885; 1 L.R.A. (N.S.) 195; L.R.A.1915F, 885.

Injunction against garnishmenut in another state to evade local exemption laws. 15 L.R.A. (N.S.) 1008.

Debtor's right of action against his creditor for garnishing debt in another jurisdic-tion in evasion of exemption laws of their domicil. 47 L.R.A. (N.S.) 689.

Garnishment of judgment in another court of the state in which it was rendered. L.R.A.1917D, 1139.

Garnishment of judgment rendered in another state. 43 L.R.A. (N.S.) 531.

Effect of garnishment proceeding to sustain plea in bar or abatement, in action to recover the debt pending in other state or country. L.R.A.1917F, 1016.

# III. Effect; rights and duties of garnishee; priorities.

13. Effect of garnishment.

Garnishment proceedings as a change of position within law of estoppel. L.R.A.(N.S.) 1188.

On suit in other court. 42 L.R.A. 455.

Garnishment not prosecuted to judgment as a conclusive election of remedies. 34 L.R.A.(N.S.) 309.

Recovery of judgment for exempt claim pending garnishment proceedings in another state. 35 L.R.A.(N.S.) 1154.

14. Effect of judgment.

Effect of judgment against garnishee to merge or satisfy liability of principal debtor. 47 L.R.A. 131.

Discharge of principal in garnishment as relief of surety on bond filed on dissolution of process. 28 L.R.A.(N.S.) 234.

Judgment in favor of garnishee, as res judicata. 19 L.R.A. (N.S.) 604.

§ 15. Effect of payment. Payment by bank under garnishment of deposit, to party other than depositor, but of same name. 11 L.R.A.(N.S.) 248.

16. Rights of garnishee.

Right of garnishee to question validity of attachment. 35 L.R.A. 769.

Right of one garnished in respect of property wrongfully taken from the debtor, to set off his own claim against the latter. 30 L.R.A.(N.S.) 1185.

Right of garnishee to attack judgment against principal defendant for lack of jurisdiction. 51 L.R.A.(N.S.) 597.

In case of garnishment of debt evidenced by negotiable paper. L.R.A.1918C, 757. Consult also L.R.A. Digests of Cases.

GARNISHMENT, III.—cont'd

§ 17. Duty of garnishee In case of garnishment of debt evidenced by

negotiable paper. L.R.A.1918C, 758. Appearance of claimant in garnishment proceedings as relieving garnished of duty to protect his rights. L.R.A.1918B,

1068. Possibility of appeal from dismissal of garnishment or attachment as affecting right to withhold property from debtor. L.R.A.1917B, 591.

§ 18. Priorities.

Priority in relation to foreign assignment by insolvent. 23 L.R.A. 35; 65 L.R.A. 353.

Priority of garnishment over prior assignment as affected by notice or lack of notice. L.R.A.1916E, 81.

Right of bank as against garnishing creditor to set off unmatured claim against deposit of debtor. 27 L.R.A.(N.S.) 811; 46 L.R.A.(N.S.) 1059.

Effect of assignment of surplus of garnished fund, to defeat a subsequent garnishment. 5 B. R. C. 450.

Priority between one garnishing money due or to become due under a contract and an assignee of the proceeds of the contract assigned prior to the garnishment. L.R.A.1916D, 365.

# IV. Procedure; judgment; abatement; injunction against.

§ 19. Generally.

Injunction against judgment, see Injunc-TION, § 60.

Legal presumptions in garnishment of debt evidenced by negotiable paper. L.R.A. 1918C, 764.

Service on foreign corporation in garnishment cases. 23 L.R.A. 500.

Filing bond to secure release of property as

an appearance. L.R.A.1916F, 587.

Jurisdiction of actions, aided by garnishment, against a resident of the state. 49 L.R.A. (N.S.) 548.

§ 20. Judgment.

Effect of, see supra, § 14.

Injunction against judgments in. 30 L.R.A. 360.

Right of garnishee to have judgment, not against him, set aside. 54 L.R.A. 763. Right of garnishee to attack judgment against principal defendant for lack of jurisdiction. 51 L.R.A.(N.S.) 597.

Possibility of appeal from dismissal of garnishment as affecting right to withhold property from debtor. L.R.A.1917B, 591.

§ 21. Abatement of proceedings.

By dissolution or expiration of charter of corporation. 32 L.R.A.(N.S.) 449.

By action to recover the debt pending in other state or country. L.R.A.1917F,

1 GAS-cont'd

I. In general, §§ 1-4.
II. Compulsory service; shutting off supply, §§ 5, 6.

III. Rates; payment of rentals; meters, \$\$ 7-10.

IV. Liability for negligence in escape and explosion of gas, §§ 11-14.

# I. In general.

1. Generally.

Constitutionality of statutes as to, see CONSTITUTIONAL LAW, § 100.

Gas pipes in street, see Highways, § 22. Death of insured from inhaling, see Insur-ANCE, § 161a.

Natural gas, see MINES, §§ 33-38.

Power of municipality as to, see MUNICIPAL Corporations, § 32.

As dangerous agency, see Negligence, § 14. Valuation of property of gas company, see PUBLIC SERVICE CORPORATIONS, § 5.

Keeping of, on insured premises. L.R.A. 1917C, 278.

Gas as subject of larceny. L.R.A.1918C, 580.

Storage of, as nuisance. 52 L.R.A. (N.S.) 930.

Corporation supplying, as a manufacturing company. 64 L.R.A. 59.

Liability for damage to service mains by excavating in street. L.R.A.1917E, 1094.

Duty and right of municipality to reimburse gas company for expenses entailed in connection with laying or repairing of gas pipes. 6 L.R.A.(N.S.) 1027.

Regulating keeping or storing of. 41 L.R.A. (N.S.) 461.

Right of municipality to make profit from its lighting plant. 24 L.R.A. (N.S.)

# § 2. Municipal contract with respect

Period covered by contract to supply municipality with. 16 L.R.A. 258.

Delegation of municipal power as to contracting for gas. 20 L.R.A. 726.

# § 3. Nuisance by.

Gas plant as a nuisance. 20 L.R.A.(N.S.)

Injunction by municipality against gas company for maintaining nuisance. 42 L.R.A. 821.

# § 4. Taxation of property.

Property of gas company as real estate for purposes of taxation. 15 L.R.A. 299.

Location of franchise of gas company for purposes of taxation. 5 L.R.A.(N.S.) 174.

Exemption of municipal light plant from | Effect of contract with patron to preclude taxation. 16 L.R.A. (N.S.) 867.

II. Compulsory service; shutting off supply.

§ 5. Compulsory service.

Compulsory service by gas company. L.R.A. 322.

Right of lighting company furnishing two kinds of service to refuse to furnish one kind of light without the other. 33 L.R.A.(N.S.) 1078.

§ 6. Shutting off supply.

Right to stop supply of gas for default in payment. 14 L.R.A. 669.

Liability for damages caused by shutting off water or gas from premises. 21 L.R.A.(N.S.) 468.

Loss of profits as element of damages for cutting off supply of gas from prem-ises. 22 L.R.A.(N.S.) 588.

# III. Rates; payment of rentals; meters.

#### 7. Rates.

Right of gas company whose rates are fixed by public authorities to establish a 26 L.R.A. (N.S.) minimum charge. 1109.

Right to exact charge in addition to maximum rental for delay in payment. 31 L.R.A.(N.S.) 329; 43 L.R.A.(N.S.) 63.

Right to discriminate between consumers as to rates. 27 L.R.A. (N.S.) 674; L.R.A.

1915D, 1086. Giving of free service or reduced rates to governmental agencies, cities, schools, charities, and the like as an unlawful discrimination. L.R.A.1918D, 904.

Incorporation of territory into municipality as affecting existing contract as to gas rates in that territory. L.R.A. 1916A, 1071.

Consumer's right to compel gas company to respect rates stipulated in contract with municipality. L.R.A.1915D, 918.

# § 8. - regulating and fixing rates.

Valuation of property of, for purpose of fixing rates, see Public Service Corpo-RATIONS, § 5.

Legislative regulation of rates charged for. 33 L.R.A. 181; 6 L.R.A. (N.S.) 835.

Allowance for depreciation in plant in fixing rates. 38 L.R.A.(N.S.) 1209.

Power of municipality to fix gas rates as an incident of its power to authorize the laying of gas mains. 18 L.R.A. (N.S.) 1197.

Power of municipality apart from contract to regulate rates to be charged by gas company. 33 L.R.A. (N.S.) 759; 43 L.R.A(N.S.) 759; 43 L.R.A.(N.S.) 994.

Right to question reasonableness of statutory rate for gas. 15 L.R.A. (N.S.)

Right to reduce rates fixed by franchise or charter. L.R.A.1915C, 261.

regulation of rates. L.R.A.1915C, 282.

GAS, III .- cont'd

§ 9. Payment of rentals.

Discrimination by gas company by requiring payment of rental in advance. 31 L.R.A.(N.S.) 315.

Right of gas company to exact security of consumer or require payment rentals in advance. 19 L.R.A.(N.S.) 693; 31 L.R.A.(N.S.) 319.

Recovery back of excessive payments made to company. 18 L.R.A. (N.S.) 126.

Validity of statute or ordinance making property or property owner liable for light furnished tenant. L.R.A.1918D, 364.

# § 10. Meters.

Rules of gas company respecting meters. 30 L.R.A.(N.S.) 492.

IV. Liability for negligence in escape and explosion of gas.

§ 11. Generally.

Measure of damages for destruction of standing timber by. 18 L.R.A.(N.S.) 246; 52 L.R.A.(N.S.) 92.

§ 12. Liability of gas company.

Liability of gas company for negligence in escape or explosion of gas. 29 L.R.A. 337; 32 L.R.A. (N.S.) 809; L.R.A. 1915E, 1022.

Liability for turning, into sewer. 15 L.R.A. (N.S.) 957.

Liability for injury caused by escape of gas stored on one's premises. 15 L.R.A. (N.S.) 537.

Liability for injury to trees by gas escaping from pipes or mains. 10 L.R.A. (N.S.) 590.

13. Liability of employer.

Liability of master for injury to servant from gas arising from substances handled by him. 35 L.R.A.(N.S.) 679. Employer's liability for explosion from gas escaping through independent contract-

or's negligence. 65 L.R.A. 852.

§ 14. Liability of insurer.

Liability of insurer for loss caused by. 19 L.R.A. 594; 38 L.R.A.(N.S.) 474.

Effect of escape and explosion of gas on insurer's liability. 29 L.R.A. 359.

# GASOLENE.

Gasolene stations. L.R.A.1917F, 1005.
Restrictions as to transportation of gasolene carried by automobiles. 1 L.R.A. (N.S.) 223.

Storage of, as nuisance. 52 L.R.A.(N.S.)

Keeping of, on insured premises. L.R.A. 1917C, 278.

Consult also L.R.A. Digests of Cases.

#### GAS STOVES.

As fixtures. 17 L.R.A.(N.S.) 699.

#### GAS TANK.

Power to make use of property for purpose of, conditional upon consent of neighbors. 8 L.R.A.(N.S.) 978.

### GASTRITIS.

As element of damages for negligent injury. 48 L.R.A. (N.S.) 100.

# GATEMEN.

As fellow servants. 52 L.R.A.(N.S.) 1104.

#### GATES.

§ 1. Generally.

Injunction as to, see Injunction, §§ 76, 77. In railroad fence, see RAILBOADS, § 41. Safety gate at railroad crossing, see RAILBOADS, §§ 33, 70.

Injunction to compel or prevent the erection, maintenance, or removal of. 7 L.R.A.(N.S.) 49.

Violation of police ordinance as to, as ground for private action. 5 L.R.A. (N.S.) 246.

Duty to keep gates in railroad fence closed. 49 L.R.A. 625.

Enjoining interference with fences or gates as waste. 7 L.R.A. (N.S.) 86.

Doctrine of attractive nuisance as applied to. L.R.A.1915D, 162.

2. On cars.

Duty to, and negligence of, passenger attempting to board car when gate is closed. 7 L.R.A.(N.S.) 603.

Duty to provide gates on street cars or interurban cars and keep them closed. 32 L.R.A.(N.S.) 346.

§ 8. Effect of, on easement.

Right to maintain, across easement of way.
48 L.R.A.(N.S.) 87.

Leaving bars or gates for convenience of neighbor as affecting acquisition of easement of way by prescription. 35 L.R.A.(N.S.) 941.

Abandonment or loss of private way by obstruction thereof by gates. 22 L.R.A. (N.S.) 886, 888, 891.

# GENERAL AGENT.

Authority of general agent to receive payment where security is not in his possession. 23 L.R.A. (N.S.) 415; L.R.A. 1916B, 861.

#### GENERAL AVERAGE.

Admiralty jurisdiction of. 66 L.R.A. 234.

#### GENERAL CREDITORS.

See also DEBTOR AND CREDITOR; FRAUDU-LENT CONVEYANCES.

Right to question validity of attachment. 35 L.R.A. 769.

#### GENERAL DAMAGES.

Set-off of, against damages in eminent domain proceedings, see DAMAGES, § 93.

#### GENERAL DENIAL.

See PLEADING, § 38.

# GENERAL ISSUE.

See PLEADING, § 38.

# GENERAL LEGACIES.

See Wills, §§ 123, 127, 128.

# GENERAL LEGISLATION.

See STATUTES, §§ 15-18.

# GENERAL MANAGER.

As vice principal. 51 L.R.A. 550, 555. Authority of, to contract for services of Authority of, to contract for services of other persons, L.R.A.1918F, 39-57.

Time for which contract of employment may be made for corporation by. 49

Warranty of germinating power on sale of seeds. 37 L.R.A. (N.S.) 81; L.R.A. 1916C, 1012. L.R.A. 473.

# GENERAL WELFARE.

Power of municipality to punish under general welfare clause what is also an offense under state law. 17 L.R.A. (N.S.) 63.

# GENERIC NAME.

Right to use generic name substantially similar to that used by another as a trademark or tradename as affected by difference in appearance in other respects. 12 L.R.A.(N.S.) 734.

Begin with this book on every law question.

#### GENEVA AWARD.

See ALABAMA CLAIMS.

#### GENUINENESS.

Of handwriting or typewriting, evidence as to, see EVIDENCE, VIII. h.

Guaranty by surety of genuineness of other signatures, see PRINCIPAL AND SURETY, . § 7.

Implied warranty of, by one transferring without indorsement check or note of third person. 10 L.R.A.(N.S.) 542.

Necessity of proof of genuineness of reply letter. 17 L.R.A.(N.S.) 229.

#### GEOGRAPHICAL FACTS.

Judicial notice of, see EVIDENCE, § 10.

#### GEOGRAPHICAL NAME.

Right to protection in use of, as tradename, etc. 26 L.R.A.(N.S.) 73.

Unfair competition in use of combination of geographical name with numeral. 34 L.R.A.(N.S.) 1040.

Right to use geographical name as a trade-mark or tradename when already used by another as affected by difference in appearance in other respects. L.R.A. (N.S.) 733.

# ---GERMAN LANGUAGE.

Publication in. 14 L.R.A. 64.

# GERMINATING POWER.

Measure of damages where seed sold does not contain germinating power. 37 L.R.A.(N.S.) 87.

#### GERRYMANDER.

Validity of apportionment of representatives. 15 L.R.A. 561.

# GESTATION.

Necessity that increase of animals be in gestation at time of execution of chattel mortgage in order to be covered thereby. 17 L.R.A.(N.S.) 203.

# GESTURES.

- As provocation for homicide. 4 L.R.A. (N.S.) 154.

### GHOSTS.

Effect of belief in, on capacity to make will or deed. 16 L.R.A. 678.

# GIFT.

I. In general, §§ 1-9.

II. Causa mortis, \$ 10.

III. Validity generally; incomplete gift; delivery; effect, \$\$ 11-15. IV. Revocability and forfeiture of, \$ 16.

# I. In general.

§ 1. Generally.

Adverse possession between donor and donee, see Adverse Possession, § 5.

Of bank deposit, see Banks, §§ 12, 12a. Between husband and wife, see HUSBAND AND WIFE, §§ 49-51.

Improvements under oral contract of, see Improvements, § 13.

Of public money, see Public Money. Succession tax on, see Taxes, VI. By will, see WILLS, V.

Liability of alleged pauper or his estate to pay for gifts obtained on ground of poverty. 55 L.R.A. 570.

Articles intended for gifts as baggage for which carrier is responsible. 21 L.R.A. (N.S.) 850.

Diversion of property donated for public library to other uses. 45 L.R.A. (N.S.) 368.

# § 2. Of corporate stock. See Corporations, § 84.

§ 3. By promissory note.

Note as subject of gift by maker. 27 L.R.A. (N.S.) 308; L.R.A.1918C, 340.

By parent to child. 7 L.R.A. (N.S.) 156.

Gift inter vivos. 26 L.R.A. 305. Gift causa mortis. 26 L.R.A. 305.

Cases recognizing the validity of the gift. 26 L.R.A. 305.

Consideration. 26 L.R.A. 306. Subscriptions. 26 L.R.A. 307.

In other jurisdictions. 26 L.R.A. 308.

Sealed note. 26 L.R.A. 308.

Right of one who makes a gift of commercial paper and is compelled to pay the same to a bona fide indorser, to recover from donee. 37 L.R.A.(N.S.) 286.

§ 4. Of check.

Check as subject of gift by maker. 18 L.R.A. 855; 27 L.R.A.(N.S.) 308; L.R.A.1918C, 340.

Consult also L.R.A. Digests of Cases.

GIFT, I.—cont'd

Check or draft on person other than bankcr. 18 L.R.A. 856.

Gift of third person's check. 18 L.R.A. 856. Gifts inter vivos. 18 L.R.A. 856.

§ 5. Of real property.

As basis of adverse possession. 35 L.R.A. 835.

Parol gift as conveyance. 67 L.R.A. 461.

Degree of proof necessary to establish parol gift of real estate. 9 L.R.A. (N.S.) 508.

# § 6. Between persons in confidential relations.

Between husband and wife, see HUSBAND AND WIFE, §§ 49-51.

Independent advice as a condition of a valid gift inter vivos between parties occupying confidential relations. 16 L.R.A.(N.S.) 1087.

May a promissory note executed by a parent to a child be the subject of a valid gift by the former to the latter. 7 L.R.A.(N.S.) 156.

Presumption and burden of proof as to undue influence respecting gifts intervives from parent to child. 35 L.R.A. (N.S.) 944.

§ 7. By or in fraud of married woman. Between husband and wife, see HUSBAND AND WIFE, §§ 49-51.

Right of married woman to make gift of personal property without consent of husband. 3 LR.A.(N.S.) 769.

Of husband's personal property in fraud of wife. 3 L.R.A. (N.S.) 774; 21 L.R.A. (N.S.) 533.

# § 8. To mistress.

Character of presumption as to undue influence in gift or bequest to. 11 L.R.A. (N.S.) 554; 17 L.R.A. (N.S.) 477.

#### § 9. Who takes under.

Who takes under gift to "husband," "wife," or "widow." 33 L.R.A. (N.S.) 816.

#### II. Causa mortis.

§ 10. Generally.

Gift of promissory note causa mortis. 26 L.R.A. 305.

Sufficiency of constructive delivery to sustain. 18 L.R.A. 170.

Effect of depositing funds belonging to the depositor in a bank account in the name of himself and another. L.R.A.1917C. 553.

# III. Validity generally; incomplete gift; delivery; effect.

§ 11. Validity generally.

Delivery as essential to gift, see infra, §§ 13, 14.

Gift enterprise, see GIFT ENTERPRISE.

GIFT, III.—cont'd

Effect of invalidity of gift because of violation of rule against perpetuities, see PERPETUITIES, § 3.

Validity of gift to unincorporated charity. 32 L.R.A. 625.

Gift as a fraud on contract to will property. 20 L.R.A.(N.S.) 1154.

Validity of provision that money shall be payable only to obligee and not to his estate. 17 L.R.A. (N.S.) 1239.

Bribery by gift to public. 14 L.R.A. 62.

§ 12. Incomplete gift.

Delivery as essential to gift, see infra, §§ 13, 14.

Subsequent lunacy of donor as affecting incomplete gift. 34 L.R.A. 297.

§ 13. Delivery.

In case of gift of bank deposit, see BANKS, § 12a.

In case of gift of corporate stock, see Corpo-RATIONS, § 84.

May proof of delivery essential to gift rest upon subsequent declarations of donor alone. L.R.A.1916E, 288.

Necessity of actual delivery of certificate to complete gift of shares of stock. 29 L.R.A.(N.S.) 166.

Sufficiency of constructive delivery to sustain gift causa mortis. 18 L.R.A. 170. Transfer of key to receptacle as delivery of possession sustaining gift of contents. 40 L.R.A.(N.S.) 901.

Retention or resumption of possession by donor as affecting gift. (N.S.) 219. 32 L.R.A.

§ 14. Undelivered written transfer or assignment as.

Unsealed instruments. 21 L.R.A. 693. Sealed instruments. 21 L.R.A. 694. Delivery sufficient. 21 L.R.A. 695. Delivery insufficient. 21 L.R.A. 695. Effect of recording. 21 L.R.A. 696. English decisions. 21 L.R.A. 696.

§ 15. Effect.

Effect of receipt of gratuity to mitigate damages for personal injury. 67 L.R.A.

Gift by testator as ademption of general legacy to donee. 38 L.R.A.(N.S.) 588; L.R.A.1916C, 618.

As ground for attachment. 30 L.R.A. 476. Does donor's expectation that donee will allow him to share in the benefit of the property raise an implied trust to that effect. 24 L.R.A.(N.S.) 1043. Right of donor or his heirs to enforce prop-

er administration of charitable trust. 3 L.R.A.(N.S.) 227.

IV. Revocability and forfeiture of.

§ 16. Generally. Revocability of. 11 L.R.A. 687;\* 2 L.R.A. Retention or resumption of possession by donor as affecting gift. 32 L.R.A. (N.S.) 219.

Begin with this book on every law question.

# GIFT ENTERPRISE.

Guessing contest as lottery. (N.S.) 609.

#### GIN.

Cotton gin, see Cotton Ginning.

As intoxicating liquor. 20 L.R.A. 649. Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 305.

#### GOING CONCERN.

Treatment of going concern value in public service property valuations. 48 L.R.A. (N.S.) 1092.

Amortization of going value in estimating return of a public service corporation for rate-making purposes. 52 L.R.A. (N.S.) 50.

#### GOLD.

Validity of contract to pay in, see Cox-TRACTS, § 89.

Entry of judgment for. 29 L.R.A. 593. Production of, as a public purpose for which the right of eminent domain may be exercised. 15 L.R.A.(N.S.) 616.

# GOLF.

As proper subject for exerise of police power. L.R.A.1917E, 318.

#### GONG.

Frightening of horse by street car gong. 21 L.R.A. 286; 34 L.R.A. 485; 48 L.R.A. (N.S.) 823.

Violation of police ordinances requiring sounding of gongs on street cars as ground for private action. 5 L.R.A. (N.S.) 252.

# GOOD BEHAVIOR.

See also Good Conduct. Reduction of punishment for, see CRIMINAL LAW, § 81.

What is "good behavior" within condition of suspended sentence. L.R.A.1918D, 697.

# GOOD CHARACTER.

See CHARACTER.

# GOOD CONDUCT.

See also GOOD BEHAVIOR.

Right of court to control discretion vested by will in one person to determine whether or when another is fit to re-25 L.R.A. ceive legacy or devise. (N.S.) 421.

Will court determine whether condition in devise or bequest as to conduct of beneficiary has been satisfied where that duty has been imposed on no one else. 25 L.R.A. (N.S.) 424.

### GOOD FAITH.

1. Generally.

Of transferee of negotiable paper, see BILLS AND NOTES, §§ 38-42.

As defense to criminal prosecution, see CRIMINAL LAW, § 12.

Presumption and burden of proof as to, see EVIDENCE, §§ 47, 51.

Lack of jurisdiction or of legal grounds of criminal prosecution as affecting lia-bility for false imprisonment of a complainant who acts in good faith. 18 L.R.A. 356.

Of creditor with respect to management and collection of collateral. 37 L.R.A. (N.S.) 716.

As essential element of adverse possession of land. 15 L.R.A.(N.S.) 1248.

2. In contractual matters. In corporate matters, see infra, § 5. Of transferee of note, see BILLS AND NOTES, IV. b.

Effect of good faith of attorney on right of client to maintain summary proceeding against his attorney to compel surrender of money or property. L.R.A. 1918D, 835.

Necessity of good faith on part of broker to entitle him to commissions where purchaser procured by him is financially unable to perform. 20 L.R.A.(N.S.) 1174.

Effect of evidence of, on mortgage of merchandise giving mortgagor possession

with power of sale. 18 L.R.A. 609. Right to maintain action to recover property in specie against one who has parted with it in good faith. 18 L.R.A. (N.S.) 1268, 1272.

Validity of agreement to marry between parties, one of whom is already married, where other party acts in good faith. 1 B. R. C. 917.

Right to compensation for improvement on land made in good faith under oral contract or gift. 53 L.R.A. 337.

Good faith as affecting liability for interference with contract relations. L.R.A.(N.S.) 749; 1 B. R. C. 18.

Of contractor in attempting to comply with requirements of building contract. L.Ř.A. (N.S.) 337.

Consult also L.B.A. Digests of Cases. 39

GOOD FAITH-cont'd

parties to arbitration agreement. Of L.R.A.(N.S.) 421.

Of mortgagee in possession in making repairs or improvements on property. 49 L.R.A. (N.S.) 126.

Good faith of discharge under contract of employment which requires work to be satisfactory. L.R.A.1916F, 892.

Admissibility of declarations of insured tending to show good faith regarding statements in his application. L.R.A. 1918F, 271.

3.,—in respect to compromise. Compromise of controversy submitted in good faith. 15 L.R.A. 439.

Effect of, on validity of compromise of void, invalid, or unfounded claim. 25 L.R.A. (N.S.) 280.

4. ,- of vendor.

Effect of vendor's good faith on right to rescind contract for sale of land for misrepresentations as to its location. 38 L.R.A.(N.S.) 305.

Exercising of, on resale of goods to fix damages for purchaser's refusal to accept. 42 L.R.A.(N.S.) 682.

Measure of damages for breach of contract to convey real estate as affected by good faith of vendor. 16 L.R.A.(N.S.) 771.

§ 5. In corporate matters. Of foreign corporation. 24 L.R.A. 291.

Necessity for, between members of syndicate. 40 L.R.A. 218.

In transfer of stock to relieve from liability for unpaid subscriptions. 47 L.R.A. 262.

Liability as between corporation and one acting in good faith to whom it issues new certificate of stock on forged authority. 2 B. R. C. 528.

### GOOD HEALTH.

Condition for delivery of insurance policy during, see INSURANCE, § 91.

#### GOOD ORDER.

Municipal control over nuisance affecting, see MUNICIPAL CORPORATIONS, § 40.

Injunction against nuisances affecting. 41 L.R.A. 321.

#### GOODS.

See PERSONAL PROPERTY.

#### GOOD WILL.

§ 1. Generally.

As to express contracts, ancillary to sale of business, restricting right to engage in similar business, see CONTRACTS, CONTRACTS, §§ 107-109, 117, 118.

Loss of profits of sale or purchase of, as damages. 52 L.R.A. 238.

Taxation of, as part of capital stock. 58 L.R.A. 566.

As element of compensation to be paid public utility company upon taking its

plant. 47 L.R.A.(N.S.) 781.

Treatment of, in public service property valuations. 48 L.R.A.(N.S.) 1146.

§ 2. Transfer of, and its effect. Specific performance of contract as to. L.R.A.1918E, 619.

Right of one selling good will of professional practice to solicit patronage of former clients. 10 L.R.A. (N.S.) 1200.

Sale of business and good will as a limitation upon vendor's right to engage in competing business. 19 L.R.A. (N.S.) 762; L.R.A.1918F, 1179.

Effect on right of individual partners of sale by firm of good will of business with or without an agreement not to engage in the same business. 19 L.R.A. (N.S.) 769.

§ 3. Effect of transfer of business. What articles will pass as appurtenances on sale of business plant. 8 L.R.A. (N.S.)

Does good will pass with transfer of business without specific mention. 5 L.R.A. (N.S.) 1077.

Devise or bequest of property as passing good will with business conducted in connection therewith. 16 L.R.A.(N.S.)

§ 4. Dissolution of firm.

Powers of partners as to, after dissolution, see Partnership, § 33.

§ 5. Name of business establishment as part of.

In general. 15 L.R.A. 462.

On dissolution of partnership. 15 L.R.A. 463.

# GOOD WORDS.

As an intangible value to be considered in public service property valuations. 48 L.R.A. (N.S.) 1084.

# GOVERNMENT.

Bonds of, see Bonds, III. Governmental control over carriers, see CARRIERS, V.

Governmental control and regulation of

GOVERNMENT—cont'd Governmental control over right of fishery, see Fisheries, § 4.

Republican form of government, see Con-STITUTIONAL LAW, § 21.

Commission form of, see MUNICIPAL CORPO-

RATIONS, § 8.

Priority of claims by or against, see PRIORITY, § 3.

Diversion of water by, see WATERS, § 52. Political bodies and divisions, see Coun-TIES; MUNICIPAL CORPORATIONS: STATE; TOWNS; UNITED STATES.

Interference by, as excuse for nonperformance of contract. 14 L.R.A. 215.

Situs of claims against, for purposes of administration. 24 L.R.A. 687.

Implication from use of patented article, of promise to pay royalty. 44 L.R.A. (N.S.) 334.

Applicability of presumption of payment from lapse of time as against govern-ment. L.R.A.1916B, 739.

Applicability to government of statutes limiting liability of ship owner. L.R.A. 1917C, 1110.

# GOVERNMENTAL AGENCIES.

Giving of free service or reduced rates to, by public service corporation as an unlawful discrimination. L.R.A.1918D, 904.

# GOVERNMENT POST.

Right of occupant of, to acquire residence as voter. 23 L.R.A. 215; 40 L.R.A. (N.S.) 168.

# GOVERNMENT PROPERTY.

Municipal assessment of. 23 L.R.A. 810.

# GOVERNOR.

1. Generally.

Mandamus to, see Mandamus, § 5.

Suit against, as action against the state. 44 L.R.A.(N.S.) 193.

Power of court to inquire into the motives

of the governor in exercising the par-doning power. 52 L.R.A.(N.S.) 113. Power of court to review action of, in removing officer. 39 L.R.A.(N.S.) 788. Mandamus to compel restoration to office

of one who has been illegally removed. 19 L.R.A.(N.S.) 52.

corporations generally, see CORPORA- Certification of copies of records by, for TIONS, § 12.

Use in other state. 5 L.R.A.(N.S.) 959.

Begin with this book on every law question.

GOVERNOR-cont'd

§ 2. Powers.

In enactment of statutes, see STATUTES, §§ 5, 6.

To employ counsel for the state. 55 L.R.A. 493.

To adjourn legislature. 22 L.R.A. 716. To veto initiative measure. 50 L.R.A. (N.S.) 208; L.R.A.1917B, 24.

To proclaim and maintain martial law. 65 L.R.A. 195.

To disband militia. 23 L.R.A. 510.

Power of, in exercise of power to suppress insurrection, to authorize arrest and detention of persons without turning them over to the civil authorities. 12 L.R.A.(N.S.) 979.

Right of governor to make an ad interim appointment to an office whose fixed term expires before the senate's adjournment, where the incumbent is authorized to hold over until his successor is appointed. 46 L.R.A. (N.S.) 1202.

Pardon by lieutenant governor or governor pro ten. 47 L.R.A. (N.S.) 1036.

Constitutionality of restrictions upon governor's pardoning power. L.R.A.1915F,

3. Vacancy in office of.

How far sickness constitutes a vacancy in office authorizing performance of the duties of the office by another. 25 L.R.A. 613.

§ 4. Liability. Personal liability of governor. L.R.A. 1915A, 175.

Days of, see DAYS OF GRACE,

# GRADE.

Change of, see Highways, §§ 52, 53.

Mechanic's lien for grading grounds. L.R.A. 1917D, 353.

Right of witness to express opinion as to. L.R.A.1918A, 697.

#### GRADE CROSSINGS.

Abolishing of, see RAILBOADS, § 32.

#### GRADUATION.

Of license fee, see LICENSE, § 49. Consult also L.R.A. Digests of Cases.

#### GRAFT.

Charge of "graft" as libel per sc. L.R.A. (N.S.) 497.

Libel or slander by charge of, against public officer or candidate. L.R.A.1918E,

Libel in charging public official with graft in public contracts. 5 L.R.A.(N.S.) 498.

#### GRAIN.

Warehousemen generally, see WAREHOUSE-

Liability of grain to taxation while in elevator in course of interstate transpor-

tation. 44 L.R.A.(N.S.) 586. Liability of warehouseman for injury to, by weevil. 26 L.R.A.(N.S.) 1114.

Sufficiency of selection of part out of larger lot sold. 26 L.R.A.(N.S.) 33.

Express warranty as to quality as excluding implied warranty. 33 L.R.A. (N.S.) 505.

Right to grain growing in highway. L.R.A. (N.S.) 1053.

Delegation by legislature to railroad commission of power as to inspection of. 32 L.R.A.(N.S.) 652.

Effect of Illinois grain regulations on duty of carrier to deliver car at consignee's place of business. 41 L.R.A.(N.S.) **680.** 

# GRAIN ELEVATOR.

See ELEVATORS, § 1.

# GRAMMATICAL DEFECT.

Effect of, in certificate of acknowledgment, 11 L.R.A. (N.S.) 643.

#### GRANDCHILDREN.

See also GRANDPARENTS.

Implied agreement to pay for services rendered to. 11 L.R.A.(N.S.) 882.

Rights of surviving grandchildren under homestead and exemption laws. 4
L.R.A.(N.S.) 396.

Oral promise by, to grandparents conveying to them in trust as giving rise to constructive trust. 39 L.R.A.(N.S.) 926.

Statutory right of action for death of grandparents. L.R.A.1916E, 130.

# GRANDFATHER.

See GRANDPARENTS.

#### GRAND JURY.

§ 1. Generally. Constitutionality of statutes as to, see Constitutional Law, § 185. Continuance of, see CONTINUANCE, § 4. As to indictment by, generally, see INDICT-Oath to, see OATH, § 2.

Oath to officers in charge of, see OATH, § 2. Witnesses before, see WITNESSES, § 2.

Misconduct toward, as contempt. 46 L.R.A. (N.S.) 521; L.R.A.1916D, 1193.

What is an infamous crime within constitutional requirement as to grand jury. 17 L.R.A. 764.

Fact that trial juror was member of the grand jury as ground for new trial. 18 L.R.A. 478; 50 L.R.A. (N.S.) 970.

Right of indicted person to inspect min-utes of grand jury. 27 L.R.A.(N.S.)

Necessity of bringing indictment into open court by. 26 L.R.A.(N.S.) 684.

Admissibility in criminal case of state-

ments or confessions made by accused before. 9 L.R.A.(N.S.) 533.

May perjury be predicated of false testi-

mony before grand jury on matters immaterial to the issue. 22 L.R.A.(N.S.) 1192.

Disclosure by grand juror of evidence given before grand jury as a contempt. L.R.A.(N.S.) 1049.

Absence of foreman or juryman from grand jury room. 44 L.R.A.(N.S.) 1142.

Presence of unauthorized person in grand jury as affecting indictment. L.R.A.1916D, 1123.

§ 2. Organization of. Pleading and practice, generally. 27 L.R.A.

Writ; summons; officer. 27 L.R.A. 778. Excusing and completing panel. 27 L.R.A. 780.

Drawing. 27 L.R.A. 781.

Effect of selection of, by unauthorized person. L.R.A.1917C, 220.

Time and term. 27 L.R.A. 785.

Reconvening. 27 L.R.A. 787. Court. 27 L.R.A. 787. Special term. 27 L.R.A. 787. Special grand jury. 27 L.R.A. 787. Oath. 27 L.R.A. 788.

Who may attack organization of. 34 L.R.A. (N.S.) 255.

§ 3. Qualifications of grand jurors.

Alien. 28 L.R.A. 195. Citizen. 28 L.R.A. 196. Residence. 28 L.R.A. 196. Voter. 28 L.R.A. 196. Freeholders and householders. 28 L.R.A. 197. Taxpayers. 28 L.R.A. 198. Locality. 28 L.R.A. 198. Exemption. 28 L.R.A. 199. Bias. 28 L.R.A. 200. Prior service. 28 L.R.A. 202, Bystanders. 28 L.R.A. 203.

Disqualification for crime. 28 L.R.A. 203.

Begin with this book on every law question.

GRAND JURY-cont'd Negroes. 28 L.R.A. 204. Women. 28 L.R.A. 204.

Pleading and practice generally. 28 L.R.A. 204.

Ignorance. 28 L.R.A. 205. Loyalty. 28 L.R.A. 205.

Right of women to serve on. 38 L.R.A. 214.

§ 4. Number necessary to form. Generally. 27 L.R.A. 783, 846. Power of legislature to change number of grand jurors required at common law. 27 L.R.A. 846.

Rule in various states. 27 L.R.A. 847. English cases. 27 L.R.A. 852.

5. Number necessary to concur in finding indictment.

Effect of indorsement "true bill." L.R.A. 33.

Record of finding. 28 L.R.A. 34.

Concurrence by twelve grand jurors. L.R.A. 34.

Impeaching indictment by showing that twelve did not concur. 28 L.R.A. 35. Concurrence by proper number of grand jurors, as to the parties, crimes, counts, and degree of crime charged. 28 L.R.A. 37.

Concurrence by majority when grand jury exceeds twenty-three. 28 L.R.A. 37.

Provisions for concurrence by less than twelve. 28 L.R.A. 37.

Statutes and Constitutions. 28 L.R.A. 38.

6. Appearance before.

Appearance of special attorney or private counsel before grand jury. 33 L.R.A.(N.S.) 568.

§ 7. Competency of evidence before. Competency of witnesses, see WITNESSES,

§ 2.

Confessions, admissions, and refusal to testi-fy. 28 L.R.A. 318. Evidence of criminals. 28 L.R.A. 319. Depositions and affidavits. 28 L.R.A. 319. Documents. 28 L.R.A. 320. Minutes. 28 L.R.A. 320.

Swearing of witnesses. 28 L.R.A. 320. Witnesses generally. 28 L.R.A. 321. Prosecutor. 28 L.R.A. 322.

Wife as witness. 28 L.R.A. 322. Hearing witnesses in open court. 28 L.R.A. 323.

Indictment on evidence partly incompetent. 28 L.R.A. 323.

Physicians. 28 L.R.A. 323

Evidence, generally. 28 L.R.A. 323. Rumor. 28 L.R.A. 323.

Time. 28 L.R.A. 323,

Evidence of previous consistent statements of witness before. 41 L.R.A.(N.S.)

§ 8. Sufficiency of evidence to sustain indictment.

Sufficiency of evidence to sustain conviction, see EVIDENCE, XIII.

GRAND JURY-cont'd

28 L.R.A. 324.

Evidence on reindictment. 28 L.R.A. 325.

No evidence. 28 L.R.A. 325.

Prosecutor. 28 L.R.A. 326.

Amount of evidence necessary to sustain an indictment in general. 28 L.R.A.

Witnesses for defense. 28 L.R.A. 327.

# § 9. Improper influence or interference with.

By charge to grand jury. 28 L.R.A. 367.
By prosecuting attorneys. 28 L.R.A. 368.
By deputy and assistant prosecutors. 28
L.R.A. 370.

By attorneys, generally. 28 L.R.A. 370.

By bailiff, messenger, and officer. 28 L.R.A. 371.

By clerk. 28 L.R.A. 371.

By stenographer. 28 L.R.A. 371. By interpreter. 28 L.R.A. 372.

By other persons present. 28 L.R.A. 372.

§ 10. Privilege as to proceedings of. Privilege as to proceedings of grand jury. 32 L.R.A. (N.S.) 785; L.R.A.1917F, 765.

Report by grand jurors as privileged com-munication. 5 L.R.A. (N.S.) 164.

#### GRANDMOTHER.

See GRANDPARENTS.

# GRANDPARENTS.

See also GRANDCHILDREN.

Insurable interest in life of grandfather. 54 L.R.A. 232.

Right of grandchildren to take homestead of. 56 L.R.A. 54.

Implied agreement to pay for services rendered to. 11 L.R.A. (N.S.) 882.

Statutory right of action for death of. L.R.A.1916E, 130.

# GRANDSTAND.

Liability of person maintaining, for safety of patrons. 3 L.R.A.(N.S.) 1132; L.R.A.1915F, 693.

Municipal liability for injury from defects in. L.R.A.1917E, 695.

#### GRANT.

Boundary of, see Boundaries, §§ 4-9. As to conveyances generally, see DECUS. Of land to railroad, see PUBLIC LANDS, § 5. Of tide lands, see WATERS, § 15. Of water rights, see WATERS, §§ 74, 96, 98-

Of land for wharf, see WHARVES, § 2. Consult also L.R.A. Digests of Cases. GRANT-cont'd

Indictment on knowledge of grand jury. Grant of exclusive right to fish to individual. 60 L.R.A. 487.

#### GRANTEE.

Delivery of deed to, see DEEDS, § 7.

#### GRASS.

Right to grass growing in highway. L.R.A.(N.S.) 1053. Right of tenant at will to. 41 L.R.A. (N.S.) 406.

#### GRATINGS.

Liability of landlord to third persons for condition of. 26 L.R.A. 199.

#### GRATUITY.

Riding on free pass, see CARRIERS, §§ 23,

Trustee's right to retain gratuity received from third person. 37 L.R.A.(N.S.)

Effect of gratuitous services by physician on liability for malpractice. 14 L.R.A.

Right of action for negligent breach of gratuitous undertaking. 12 L.R.A. (N.S.) 929, 931.

Privilege of gratuitous report on financial responsibility and integrity. 42 L.R.A. (N.S.) 520.

#### GRAVE.

Is money set aside under will or otherwise for purpose of caring for grave, subject to inheritance tax. 23 L.R.A. (N.S.) 474; L.R.A.1918A, 767.

Injunction against obliteration of. 3 L.R.A. (N.S.) 485.

Prescription or adverse possession of. 40 L.R.A. (N.S.) 752.

# GRAVE CLOTHES.

Liability of decedent's estate for. 33 L.R.A. 665.

#### GRAVEL.

Right of municipality to take, from highway to injury of fee. 12 L.R.A. (N.S.) 1164.

#### GRAVEL PITS.

Servant's assumption of risk from changing conditions of excavations in, during progress of work. 19 L.R.A.(N.S.) 357.

# GREAT LAKES.

Jurisdiction over. 46 L.R.A. 277. Illegal intent of prosecutor as affecting guilt of obtaining property by means of. 17 L.R.A. (N.S.) 278.

Public right of fishing in bays of Great Lakes. L.R.A.1918A, 1147.

# GREAT PONDS.

Title to islands in. 35 L.R.A. (N.S.) 230. Right to free fishing in. 31 L.R.A.(N.S.) 434.

#### GRISTMILL.

Right to exercise power of eminent domain for purpose of. 18 L.R.A.(N.S.) 356.

#### GROCERS.

Validity of restrictive agreement ancillary to sale of business of. 24 L.R.A. (N.S.) 929; L.R.A.1916C, 630.

# GROSS NEGLIGENCE.

Liability of corporate directors for. L.R.A. 754.

Of railroad companies towards small children on track. 25 L.R.A. 791.

Risks of negligence assumed by contract with carrier as including gross negligence. 1 L.R.A.(N.S.) 675.

Of railroad company operating trains longitudinally along public street. 49 L.R.A.(N.S.) 688.

# GROSS RECEIPTS.

Power of states, to impose tax on gross receipts of interstate telegraph and telephone companies. 24 L.R.A. 162.

# GROUND FOR REVERSAL.

See APPEAL AND ERROR, §§ 35-40. Begin with this book on every law question.

#### GROUND RENT.

Effect of condemnation upon rights in. 21 L.R.A. 221.

Taxation of land under perpetual lease. 46 L.R.A.(N.S.) 284.

# GROUP.

Right of member of group to maintain action for libel or slander based on charges against the group to which he belongs. 23 L.R.A.(N.S.) 726; 25 L.R.A.(N.S.) 382; 42 L.R.A.(N.S.) 870.

#### GROWING CROPS.

See CROPS.

GUARANTEE AND ACCIDENT LLOYDS.

See LLOYDS.

# GUARANTEED STOCK.

See Corporations, § 74.

#### GUARANTIES OF JUSTICE.

See Constitutional Law, § 29c.

#### GUARANTY.

I. In general, § 1.
II. Promise to answer for debt or default of another, \$\$ 2-10.

a. In general, \$\$ 2-5. b. Nature and extent, continuing guaranty, \$ 6.

c. Notice, \$\$ 7, 8. d. Discharge; effect of death of party, \$\$ 9, 10.

# I. In general.

§ 1. Generally.

Guaranties of justice, see Constitutional Law, § 29b.

Of dividends on corporate stock, see Cor-PORATIONS, § 74.

Of signature to commercial paper, see BILLS AND NOTES, § 9.

Del credere agency, see DEL CREDERE AGENCY.

By surety of genuineness of other sig-natures, see PRINCIPAL AND SURETY,

GUARANTY, I.—cont'd

Warranty of goods sold, see SALE, §§ 26-38, 53-59, 68.

Guaranty and surety companies, see SURETY COMPANIES.

By contractor for repair of pavement. 44 L.R.A. 533.

# II. Promise to answer for debt or default of another.

#### a. In general.

\$ 2. Generally.

By corporation, see Corporations, § 29. Of advances, see ADVANCES, § 4.

Of loan by national bank, see BANKS, § 37. Bank guaranty law, see Banks, § 52. Bond for fidelity of employees, see Bonds,

§ 11. Oral contract of, see Contracts, § 37. As to del credere agency, see DEL CREDERE. In nature of insurance, see Insurance. Of loan, see LOAN, § 3.

Liability on guaranty obligation obtained by fraud, see PRINCIPAL AND SURETY, § 9.

Right of guarantor to have judgment against principal set aside. 54 L.R.A. **765.** 

Liability on guaranty obtained by fraud. 21 L.R.A. 409.

Liability of corporate officers who fail to file report required by statute, to guarantor of corporate paper. 35 L.R.A. (N.S.) 855.

Validity of guaranty partially made on Sunday and perfected on secular day. 4 L.R.A.(N.S.) 1151.

Right of accommodation guarantor who has been obliged to pay bill or note to recover from accommodated party. 37 L.R.A.(N.S.) 786.

Constitutionality of bank guaranty law. 32 L.R.A.(N.S.) 1065.

Of loan, by national bank. 32 L.R.A. (N.S.) 544.

Demand as a condition precedent to an action on a promise to pay on demand the debt of another. 34 L.R.A.(N.S.) 154.

Note of third party for goods sold as payment where purchaser guarantees payment. 35 L.R.A. (N.S.) 46.

Effect upon guarantor of judgment against principal. 40 L.R.A. (N.S.) 734; L.R.A. 1918E, 814.

Presumption as to time of alteration in. 39 L.R.A.(N.S.) 106, 107, 114.

What misrepresentations as to the contents of an instrument will render it void in law. 4 B. R. C. 663.

Necessity of new consideration to bind third person who signs as guarantor after execution and delivery of original contract by principal. 4 481; L.R.A.1918E, 579. 44 L.R.A. (N.S.)

Rights as against principal debtor of one who becomes guarantor without his to bind guarantor. knowledge or consent. L.R.A.1918F, In general. 16 L.R.A.(N.S.) 353; 33 L.R.A.

Consult also L.R.A. Digests of Cases.

GUARANTY, II. a-cont'd

Is conveyance by guarantor within statute as to fraudulent conveyances. L.R.A.(N.S.) 321.

§ 3. What constitutes. Indorser of note as guarantor. 18 L.R.A. (N.S.) 565.

Letter in reply to inquiry as to third par-ty's financial condition. 1 L.R.A. (N.S.) 305.

Request to make advances to another as implied guaranty of payment. 15 L.R.A.(N.S.) 1115; 46 L.R.A.(N.S.)

§ 4. Transfer of title by.

Transfer of title to note by indorsement in form of guaranty. 36 L.R.A. 232; 41 L.R.A.(N.S.) 1009; L.R.A.1915C, 661.

§ 5. Power to enter into contract of. Right of railroad company to guarantee the securities of another railroad company. L.R.A.1918D, 175.

Implied power of railroad company to guarantee enterprise other than transportation of goods or passengers. 2 L.R.A. (N.S.) 887; 38 L.R.A. (N.S.) 830.

Power of corporation organized for the manufacture and sale of liquor to enter into contracts of guaranty or suretyship on behalf of its customers or prospective customers. 27 (N.S.) 186; L.R.A.1918C, 1008. 27 L.R.A.

### b. Nature and extent; continuing guaranty.

§ 6. Generally.

Responsibility of publisher to patrons on guaranty of advertisements. L.R.A. guaranty 1918C, 820.

Guarantor of note as surety for surety maker. 21 L.R.A. 250.

Liability of guaranty members of mutual fire insurance company. 32 L.R.A. 496.

Character of, and rules governing, contracts by corporations engaged for profit in business of guarantying the fidelity or contracts of other persons. 33 L.R.A. (N.S.) 513.

When is a guaranty a continuing one. 39 L.R.A. (N.S.) 724.

When does contract of guaranty of commercial paper cover renewals. L.R.A.(N.S.) 775.

Does guaranty of credit extended for price of goods sold cover sales to successor. 19 L.R.A.(N.S.) 901.

Does liability of guarantor of payment of interest cease at maturity of the obligation. 21 L.R.A. (N.S.) 154.

Liability, under continuing guaranty running to partnership or corporation, for goods sold or credits extended after a change in the firm or corporation. 14 L.R.A.(N.S.) 1231.

# c. Notice.

§ 7. Necessity of notice of acceptance

(N.S.) 960; 48 L.R.A.(N.S.) 198.

GUARANTY, II. c-cont'd Absolute guaranty. 16 L.R.A.(N.S.) 354; 48 L.R.A.(N.S.) 198. Conditional guaranty. 16 367; 48 L.R.A. (N.S.) 199. 16 L.R.A. (N.S.)

Express or formal notice. 16 L.R.A.(N.S.)

377. Waiver. 16 L.R.A. (N.S.) 379.

§ 8. Necessity of notice of default to

bind guarantor. Generally. 20 L.R.A. 257.

Guaranty of agents. 20 L.R.A. 258. Guaranty of bond. 20 L.R.A. 258.

Guaranty of judgment. 20 L.R.A. 259. Guaranty of lessee's contract. 20 L.R.A.

259.

Guaranty of purchases. 20 L.R.A. 259. On guaranty of note. 20 L.R.A. 261.

Injury or prejudice resulting from failure to give notice. 20 L.R.A. 263. Time for notice. 20 L.R.A. 264.

Insolvency as an excuse for failure to give notice. 20 L.R.A. 264.

Waiver of notice. 20 L.R.A. 264.

# d. Discharge; effect of death of party.

§ 9. Discharge generally.

Release of principal after maturity of obligation as affecting guarantor. L.R.A.(N.S.) 875.

Payment voidable under bankruptcy act as discharge of guarantor. 9 L.R.A.(N.S.)

Estoppel to enforce contract of suretyship or guaranty released through mistake. 13 L.R.A. (N.S.) 576.

Does statute of limitations commence to run at the time of breach of contract of, or at the time actual damages are sustained in consequence thereof. 15 L.R.A.(N.S.) 159.

Effect of purchase at tax sale, by or in the interest of guarantor, of mortgage indebtedness. 16 L.R.A.(N.S.) 121; 52 L.R.A.(N.S.) 877.

Effect on guarantor's liability of obligee's insistence upon part payment before expiration of the term of credit. 22 L.R.A. (N.S.) 713.

Effect of voluntary discharge of one of two or more guarantors on liability of co-guarantors. L.R.A.1918E, 95.

§ 10. Effect of death of party on. Effect of death of party on. 23 L.R.A. 709; 45 L.R.A. (N.S.) 350.

Is liability of guarantor or surety deter-mined by his death. 2 B. R. C. 937.

#### GUARANTY COMPANIES.

See SURETY COMPANIES.

# GUARANTY INSURANCE.

See INSURANCE, X.

# GUARDIAN AD LITEM.

For infant. see Infants, § 32.

In action by incompetent person. 2 L.R.A. (N.S.) 961.

# \*\*\* GUARDIAN AND WARD.

I. In general, § 1.

II. Appointment, \$\$ 2-4.
III. Powers, rights, and liabilities of

guardian, \$\$ 5—10a.

IV. Bonds and liability thereon, \$\$ 11-18.

V. Sale or lease by guardian of ward's land, 🖇 14.

VI. Action by ward against guardian, \$ 15.

#### I. In general,

§ 1. Generally.

Guardian of incompetent person, see In-COMPETENT PERSONS, §§ 21-24.

Guardian ad litem, see INFANTS, § 32. Payment of money deposited to credit of minor to person other than guardian.

29 L.R.A.(N.S.) 67.

What constitutes residence of child living with guardian entitling him to privilege of public schools. 36 L.R.A. (N.S.) 343.

Independent advice as condition of valid gift inter vivos between. 16 L.R.A.

(N.S.) 1087.

Liability of ward's estate for debts contracted and expenses incurred by guardian in carrying on business. 40 L.R.A. (N.S.) 224.

Allowance as costs of administration of expenses of business carried on by guardian. 40 L.R.A.(N.S.) 231.

Right of guardian of infant to appointment as administrator or executor. L.R.A. 1915C, 581.

Guardian's consent as affecting infant's contract. L.R.A.1915C, 362.

# II. Appointment.

2. Generally.

Of guardian for incompetent person, see Incompetent Persons, §§ 22, 23.

Right of parent to appoint guardian for minor child by will. 2 L.R.A. (N.S.) 203.

Effect of invalid attempt to appoint testamentary guardian. (N.S.) 446. 45 L.R.A.

§ 3. Effect of father's attempt to appoint guardian as against mother. The common-law rule. 13 L.R.A.(N.S.) 288.

The statute 12 Chas. II. chap. 24, § 8. 13 L.R.A.(N.S.) 288.

Putative father. 13 L.R.A.(N.S.) 294.

Begin with this book on every law question.

GUARDIAN AND WARD, II .-- cont'd § 4. Parent's right to appointment. General rights of father. 33 L.R.A. (N.S.) 889.

General rights of mother. 33 L.R.A. (N.S.) 870.

Rights as between parents. 33 L.R.A. (N.S.) 871.

Welfare of child as affecting parents' rights. 33 L.R.A.(N.S.) 871. Suitableness of parents. 33 L.R.A. (N.S.)

872. Right of mother or reputed father to guardianship of illegitimate child. 65 L.R.A.

# III. Powers, rights, and liabilities of guardian,

§ 5. Powers and rights.

Of incompetent person, see INCOMPETENT PERSONS, § 24.

Of guardian ad litem, see INFANTS, § 32.

To adeem legacy. 28 L.R.A.(N.S.) 401. Right to remove infant from the state. 58 L.R.A. 931.

Power of guardian to carry on business on behalf of estate. 40 L.R.A.(N.S.) 204. Right to mechanics' lien for improvements

made en infant's land by authority of guardian. 15 L.R.A.(N.S.) 1159.

Right of mother or reputed father to custody or control of illegitimate child as against its guardian. 65 L.R.A. 689.

Unauthorized transfer of stock on books of corporation at request of guardian. 45 L.R.A.(N.S.) 1080.

Change of infant's domicil by guardian. 49 L.R.A.(N.S.) 869.

Consent of guardian to a license for the sale of intoxicating liquors. L.R.A. 1916D, 819.

Funds on which guardian is entitled to commissions. / L.R.A.1917C, 193.

6. — as to commercial paper.

Circumstances sufficient to put one taking paper from guardian on inquiry. 29 L.R.A.(N.S.) 365; 44 L.R.A.(N.S.) 403; L.R.A.1918F, 1153.

Guardian's commercial paper as payment of debt. 35 L.R.A.(N.S.) 63.

7. - to dispose of ward's property. Constitutionality of private statute authorizing guardian to dispose of infant's

property. 16 L.R.A. 254.

Power to lease infant's lands beyond his minority or the guardianship. L.R.A. 1916F, 499.

\$ 8. — in insurance matters.

Insurable interest of husband as guardian of wife's property. 66 L.R.A. 659. Right of guardian to surrender insurance

policy in favor of ward. 35 L.R.A. (N.S.) 1123.

684.

Consult also L.R.A. Digests of Cases.

GUARDIAN AND WARD, III.-cont'd Power of general guardian to submit cause of action for arbitration. 70 L.R.A. 175.

Guardian's right to maintain statutory action for death of ward. L.R.A.1916E,

To compromise infant's cause of action for personal injuries. 338; L.R.A.1918C, 58. 21 L.R.A.(N.S.)

To maintain ejectment. 18 L.R.A. 789.

Admissions and waivers by, in actions. 32 L.R.A. 671.

Guardian's right to have judgment set aside. 54 L.R.A. 761.

#### § 10. Liabilities.

Liability on bond, see infra, § 13.

Liability to garnishment, see GARNISH-MENT, § 8.

For misappropriation of ward's funds by attorney. 5 L.R.A.(N.S.) 575.

For loss of ward's money deposited in bank. 21 L.R.A.(N.S.) 399.

Personal liability for losses from investments. 44 L.R.A.(N.S.) 873.

For suit money and alimony in divorce proceedings instituted by or against the ward. 15 L.R.A.(N.S.) 1034.

Right of court to surcharge account of guardian in absence of objection to account, or upon an objection by amicus curiæ. 18 L.R.A.(N.S.) 284.

Necessity of presenting ward's claim against estate of deceased guardian. 58 L.R.A.

Liability of guardian who signs contract adding words indicating representative capacity to his signature. 42 L.R.A. (N.S.) 60.

Liability for carrying on business for ward's benefit. 40 L.R.A.(N.S.) 223.

10a. Accounting; settlement.

Limitation of actions or suits to compel guardian to account. 47 L.R.A. (N.S.) **451.** 

Settlement between guardian and ward out of court. L.R.A.1916E, 863.

# IV. Bonds and liability thereon.

11. Generally.

Power of surety company to act as guardian without bond. 48 L.R.A. 589.

Execution of guardian's bond on condition that others shall sign. 45 L.R.A. 339. Presumption as to time of alteration in

guardian's bond. 39 L.R.A.(N.S.) 115. Liability of judicial officer for failure to take proper guardian's bond. 44 L.R.A. (N.S.) 176.

§ 12. Necessity of bond to make guardian's acts valid.

Natural guardians. 33 L.R.A. 759. § 9. — over actions.
To enter appearance of ward. 32 L.R.A. Guardians appointed by the court. L.R.A. 760.

GUARDIAN AND WARD, IV .-- cont'd

§ 13. Liability on bond. Effect of insertion of unauthorized provisions in bond. L.R.A.1917B, 990.

Penalty as limit of liability on bond. 55 L.R.A. 392.

Effect on surety of judgment against principal. 52 L.R.A. 187; 40 L.R.A. (N.S.) 417; L.R.A.1918E, 818.

Contingency of claim against sureties on guardian's bond. 58 L.R.A. 86.

Decree directing transfer of fund of guardian to himself in another fiduciary capacity as affecting liability of his sureties. 40 L.R.A.(N.S.) 1136.

Liability of sureties on guardian's bond for defalcation prior to the execution there-

of. 39 L.R.A.(N.S.) 961.

Liability of sureties on general bond of guardian, executor, or administrator, as affected by a special bond. 43 L.R.A.(N.S.) 308.

Limitation of actions against sureties to

recover on guardian's bond. 47 L.R.A.(N.S.) 460.

#### V. Sale or lease by guardian of ward's land.

§ 14. Generally.

Power of guardian to dispose of ward's property, see supra, § 7.

Sale of infant's property generally, see In-FANTS, §§ 27-29.

Necessity of bond on sale of infant's land. 33 L.R.A. 761.

Notice of application by guardian for leave to sell infant's real estate as juris-dictional. 8 L.R.A.(N.S.) 1215.

Reimbursement or subrogation of purchaser on annulling sale by guardian. L.R.A. 45.

Power of court to authorize lease of infant's lands beyond his minority or the guardianship. L.R.A.1916F, 500.

Estoppel of guardian to deny that he re-ceived the amount stated in his report of a sale. L.R.A.1916A, 639.

Applicability of rule caveat emptor to sales by guardian of minors as regards ward's title. L.R.A.1915E, 834.

# VI. Action by ward against guardian.

§ 15. Generally.

Right of ward to maintain action at law against guardian for guardianship funds, after termination of guardianship, but before settlement of account. 26 L.R.A.(N.S.) 789.

Limitation of actions or suits to compel guardian to account, or to recover on his bond. 47 L.R.A.(N.S.) 451.

#### GUARDS.

Master's duty as to guarding machinery, Right of court in criminal case to direct see MASTER AND SERVANT, § 90. verdict of. 22 L.R.A.(N.S.) 304. Begin with this book on every law question.

GUARDS-cont'd

At dangerous place in street, see HIGHWAYS.

Master's duty to guard machinery, see Mas-TER AND SERVANT, § 90.

Liability for failure to guard wires from falling electric wires of other owners. 31 L.R.A. 582.

# GUARD WIRES.

1. For electric wires. Police regulation as to. 31 L.R.A. 802. Duty toward traveler in highway to erect guard wires. 22 L.R.A. (N.S.) 1171.

#### GUESSING CONTEST.

As lottery. 11 L.R.A. (N.S.) 609.

#### GUESTS.

Liability for injury to guest in automobile, sce AUTOMOBILES, § 8.

At inn or hotel, see INNKEEPERS.

Liability of landlord for injury to guests of tenant, see LANDLORD AND TENANT,

Liability of keeper of bath house for loss of guest's valuables. 6 L.R.A. (N.S.) 828.

Liability at common law of saloon keeper for personal injury to. 4 L.R.A. (N.S.)

Imputing negligence of driver to. 8 L.R.A. (N.S.) 648; L.R.A.1915A, 763.

Responsibility of guest for injury to third person through negligence of person driving automobile. L.R.A.1915E, 439.

#### GUILT.

Flight as creating presumption of. L.R.A. (N.S.) 58.

Conclusiveness in civil action of judgment in criminal action to establish guilt. 11 L.R.A.(N.S.) 657.

# GUILTY.

Plea of, see Criminal Law, § 56.

#### GUNPOWDER.

See also Explosions and Explosives.

Negligence in the manufacture and storage of. 29 L.R.A. 718.

Keeping of, on insured premises. L.R.A. 1917C, 278.

GUNS.

See FIREARMS.

#### GUTTERS.

Municipal liability for injury by. L.R.A.(N.S.) 627.

Open gutter as defect rendering public liable for injury to traveler. L.R.A.1916F,

# GUY ROPE.

Contributory negligence of one struck by guy rope stretched across street. L.R.A. 1918A, 205.

# H

# HABEAS CORPUS.

§ 1. Generally.

Termination of criminal prosecution by discharge on, so as to support suit for malicious prosecution. 2 L.R.A.(N.S.) 935.

Presumption of innocence in habeas corpus proceedings. 22 L.R.A. 678.

Absence from jurisdiction of person to whom writ of habeas corpus is directed as affecting court's authority to issue writ. 4 B. R. C. 810.

2. Jurisdiction of Federal courts. Jurisdiction of United States courts. L.R.A. 236;\* 10 L.R.A. 616.\*

3. Who may demand.

Right of alien enemy to. 5 B. R. C. 600; L.R.A.1918B, 199; L.R.A.1918E, 811. Right of stranger to writ of habeas corpus. 9 L.R.A.(N.S.) 1173.

Right of person wrongfully brought into jurisdiction to be released on habeas corpus. 12 L.R.A.(N.S.) 225.

Right of minor unlawfully enlisted in Army or Navy to discharge on habeas corpus from custody of court-martial under charge of desertion or fraudulent enlistment. 18 L.R.A. (N.S.) 956; L.R.A. 1917D, 1059.

§ 4. Scope of writ; questions considered.

To test indictment or information. L.R.A. 1918B, 1156.

45 L.R.A. To review excessive sentence. 139; 51 L.R.A. (N.S.) 374.

To release prisoner on account of delay of prosecution. 56 L.R.A. 539.

To release one convicted on perjured evidence. L.R.A.1918F, 1078. To review commitment of witness by magis-

trate for contempt. 1 L.R.A.(N.S.) 1142.

Will habeas corpus lie to release one convicted after wrongful refusal to change venue. 25 L.R.A. (N.S.) 483.

Right to have claim of former jeopardy determined in habeas corpus proceeding. 15 L.R.A.(N.S.) 227.

Consult also L.R.A. Digests of Cases.

HABEAS CORPUS-cont'd

Collateral attack in, upon decision as against constitutional right. 39 L.R.A. **4**50.

Right to, in case of bail, parole, or voluntary surrender. 35 L.R.A.(N.S.) 882.

Right to, of one held under provision of Selective Service Act of May 18, 1917. L.R.A.1918E, 1019.

To procure release of one committed to insane asylum upon acquittal on ground of insanity. 36 L.R.A. (N.S.) 578.

§ 5. - to review extradition proceedings.

Right of person wrongfully brought into jurisdiction to be released on habeas corpus. 12 L.R.A.(N.S.) 225.

To review extradition proceedings; right to be heard on merits of the charge against accused. 21 L.R.A.(N.S.) 939.

Right to review of order in habeas corpus discharging or remanding party held for extradition. 34 L.R.A. (N.S.) 755.

§ 6. Grounds for discharge on.

To secure release of one convicted while insane. L.R.A.1918B, 81.

Discharge on habeas corpus for excessive 45 L.R.A. 144; 51 L.R.A sentence. (N.S.) 373.

Designation of wrong place of imprisonment as ground for discharge upon habeas corpus. 13 L.R.A.(N.S.) 518.

Habeas corpus because of defective verdict. L.R.A.1916F, 967.

Right of one restrained as insane person to discharge upon ground of irregularity or invalidity of commitment. 44 L.R.A. (N.S.) 389.

§ 7. Procedure; judgment. Conclusiveness of judgment as to custody of infant, see JUDGMENT, § 26.

Habeas corpus decree as to custody of infant as res judicata. 67 L.R.A. 783.

Collateral attack on judgment in, for fraud not affecting jurisdiction. 36 L.R.A. (N.S.) 986.

Effect of appeal as stay of judgment in. 2 L.R.A.(N.S.) 244; L.R.A.1918C, 923. HABEAS CORPUS-cont'd

§ 8. Suspension of writ. Extent and effect of. 45 L.R.A. 834.

Power to suspend; who may suspend. 45 L.R.A. 832.

Continuance of constitutional guaranties during war or insurrection. 45 L.R.A. (N.S.) 996.

# HABIT-FORMING DRUGS.

Furnishing or prescribing by physician. L.R.A.1918E, 669.

#### HABITS.

See CUSTOM AND USAGE.

# HABITUAL CARELESSNESS.

Evidence of specific instances to prove habitual carelessness of servant. 14 L.R.A.(N.S.) 768.

#### HABITUAL CRIMINALS.

Punishment of, see CRIMINAL LAW, § 83.

# HABITUAL DISOBEDIENCE.

Evidence of specific instances to prove habitual disobedience of servant. 14 L.R.A.(N.S.) 769.

#### HABITUAL DRUNKARD.

8 1. Generally.

Constitutionality of statutes as to, see Con-

STITUTIONAL LAW, § 106.

Drunkenness as ground for divorce, see DIVORCE AND SEPARATION, § 26.

As to drunkenness, generally, see DRUNK-ENNESS.

Validity of contracts made with. 54 L.R.A. 449.

Power of court or guardian of, to consent to conveyance by trustee under a trust requiring consent by cestui que trust. 39 L.R.A.(N.S.) 39.

2. Sale of liquor to.

Criminal liability for sale of liquor to, by partner, agent, or servant. 41 L.R.A. 669.

Is one who obtains liquor for, and delivers it to, person of intemperate habits guilty of selling same. 24 L.R.A. (N.S.) 273; L.R.A.1917D, 1020.

# **\*\*\*** HABITUAL INSANITY.

Presumption of continuance of. 35 L.R.A. Inheritance by heirs of the half blood, see 117.

#### HABITUAL PRACTICE.

Of employees as legal substitute for rule. 43 L.R.A. 316.

#### HACKS.

Generally.

Cartmen, see Cartmen and Teamsters.

Cab, or other vehicle used for transportation of passengers for hire, as exempt property. 4 B. R. C. 478.

Duty and liability of proprietor of public hack or cab to passengers. 5 L.R.A.

(N.S.) 1069.

May one in charge of a vehicle under a contract importing a bailment or lease be regarded as a servant of the owner as to a third person injured by the vehicle. 6 L.R.A. (N.S.) 544.

Delegation of municipal power as to license of. 20 L.R.A. 724.

Right of state or municipality to forbid solicitation of patronage at railway station. L.R.A.1917D, 690.

§ 2. Use of street for hack stands.

Using street for hack stand. 14 L.R.A. 557. Power of municipal corporation to grant permit for back stand on street or sidewalk. 25 L.R.A.(N.S.) 403.

Power of municipality to establish exclusive hack stands. 33 L.R.A. (N.S.) 471.

Effect of discrimination by municipality in designating standing places for cabs and other similar vehicles. L.R.A. 1915F, 726.

3. Discrimination by carriers as to. Discrimination as to backmen at depots, wharves, etc. 13 L.R.A. 848; 16 L.R.A. (N.S.) 777; L.R.A.1915B, 358.

Exclusion of hackmen from railroad depot. 39 L.R.A.(N.S.) 126.

Remedy by injunction for unlawful dis-crimination by railroad against hack driver. 8 L.R.A.(N.S.) 1027.

Right of carrier to grant exclusive train privilege to baggage or transfer companies. 32 L.R.A. (N.S.) 1181; L.R.A. 1917F, 1085.

### HAIR.

Master's duty to guard against employee's hair being caught in machinery. 27 L.R.A. (N.S.) 972; 48 L.R.A. (N.S.) 834.

#### HALF BLOOD.

DESCENT AND DISTRIBUTION, § 3. Begin with this book on every law question.

#### HALF-BROTHER.

Killing or assaulting of, as sufficient provocation to reduce homicide to manslaughter. 17 L.R.A. (N.S.) 795.

#### HALLUCINATION.

As insane delusion. 37 L.R.A. 283.

#### HALLWAYS.

Responsibility of landlord for injuries from defects in hallway remaining in his possession. 14 L.R.A. 239; L.R.A.1916F, 1145, 1161.

Landlord's duty to light common hall. 1 B. R. C. 107.

# HAMMERS.

As deadly weapons. 21 L.R.A. (N.S.) 506. Master's liability for injury by defect in. 13 L.R.A.(N.S.) 671; 51 L.R.A.(N.S.) 337; L.R.A.1918D, 1141.

# HAND BAGGAGE.

Liability of carrier for injury to passenger from baggage or parcel in aisle of car. 13 L.R.A.(N.S.) 481; 43 L.R.A.(N.S.) 1050.

Right of passenger to carry baggage or packages in street car. 30 L.R.A. (N.S.) 889.

Limitation of carrier's liability for passenger's hand baggage. 19 L.R.A. (N.S.) 1011.

Application to hand baggage of limitation of liability for loss of baggage. 5 L.R.A. (N.S.) 650.

# HAND CARS.

Master's liability for injury to servant by defects in. 54 L.R.A. 172; L.R.A.1918D,

Master's liability for vice principal's negligence in operating. 54 L.R.A. 128. Section foreman as a fellow servant of members of crew with respect to operation of hand car. 20 L.R.A. (N.S.)

434. As railroad hazard within statute changing fellow servant rule. 18 L.R.A.(N.S.)

481; 47 L.R.A.(N.S.) 116. Contributory negligence of employee by venturing with hand car on track over which other train has right of way. 1 L.R.A.(N.S.) 1014.

Consult also L.R.A. Digests of Cases.

HAND CARS-cont'd

Liability of railroad company for injury to person wrongfully riding on hand car by collusion with train employee.

37 L.R.A.(N.S.) 427. Liability of railroad company for frightening horse on highway by hand car on or near crossing. 42 L.R.A.(N.S.) 571. Evidence as to speed of. 34 L.R.A.(N.S.)

790.

Hand car as a car within statute or ordinance. L.R.A.1915A, 817.

Liability of master where servant invites or permits children to ride on. L.R.A. 1915E, 893.

Contributory negligence of child injured by. L.R.A.1917F, 162.

#### HANDCUFFS.

Right of prisoner to appear without at trial. 39 L.R.A. 821.

#### HANDWRITING.

Evidence as to, see Evidence, §§ 198-205. Identification of, see IDENTITY AND IDENTI-FICATION, § 12.

Cross-examination of witness as to, see Witnesses, § 35.

Proof of, where attesting witnesses are dead or cannot remember transaction. L.R.A. 142.

In family Bible, necessity for proof of. 41 L.R.A. 455.

### HARBOR.

As to harbor commissioners, see HARBOR COMMISSIONERS.

As to wharves, see WHARVES.

Liability of owner for cost of removing vessel sunk in. 3 L.R.A.(N.S.) 1120. vessel sunk in. 3 L.R.A.(N.S.) 1120.
Right of municipality to contract with reference to. 31 L.R.A.(N.S.) 121.

Employer's nonliability for torts of inde-pendent contractor in work in. 65 L.R.A. 653.

Establishment of dock lines. 14 L.R.A. 498.

Right to establish harbor lines. 40 L.R.A. 644.

# HARBOR COMMISSIONERS.

As independent contractors. 65 L.R.A. 474.

#### HARBORER.

Who is harborer of dog. 17 L.R.A. (N.S.) 481; L.R.A.1917E, 520.

### HARBORING.

Civil action for harboring child who has left parent. 45 L.R.A. (N.S.) 871.

Provisions of congressional "white slave traffs act" as to harboring female. L.I:.A.1915A, 869.

#### HARD LABOR.

By person convicted of crime, see CRIMINAL LAW. 8 77.

#### HARDSHIP.

Validity of promise to remedy. 53 L.R.A.

#### HARDWARE DEALERS.

7. lidity of restrictive agreement ancillary to sale of business of. 24 L.R.A. (N.S.)

#### HARMLESS ERROR.

See APPEAL AND ERROR, §§ 35-40.

# HARTER ACT.

See SHIPPING, § 20.

# HARVESTING.

As work of necessity. 5 L.R.A.(N.S.) 321. Injunction to prevent interference with land during harvesting time. L.R.A.1918B, 413.

### HATCHET.

Liability of master for injury by defect in. L.R.A.1918D, 1141.

#### HATCHWAYS.

Master's liability for vice principal's negligence in exposing servant to peril from uncovered hatchways. 54 L.R.A. 133. Begin with this book on every law question.

# HATCHWAYS-cont'd

Violating ordinance as to, as ground for private action. 5 L.R.A(N.S.) 260.

Duty of storekeeper toward customer as to condition of. 21 L.R.A.(N.S.) 457;

L.R.A.1915F, 572.

Municipal liability for injury by. 19
L.R.A.(N.S.) 516; 20 L.R.A.(N.S.) 635.

#### HAWKERS.

See PEDDLERS.

#### HAY.

Right of tenant at will to. 41 L.R.A. (N.S.) 406.

Sufficiency of designation of part of larger lot sold. 26 L.R.A.(N.S.) 31.

# \*\*\* HAY SCALES.

Obstruction of street by. 14 L.R.A. 558.

# HAZARD.

What is within statutes abolishing fellow servant rule. 18 L.R.A.(N.S.) 478; 22 L.R.A.(N.S.) 969.

#### HAZARDOUS ARTICLES.

Prohibition of keeping of, on insured premises, see Insurance, § 78a.

# HAZARDOUS EMPLOYMENT.

What constitutes, within meaning of Workmen's Compensation Act. L.R.A.1918F,

# HEADLIGHT OIL.

Keeping of, on insured premises. L.R.A. 1917C, 278.

# HEADLIGHTS.

Necessity of, on street cars. 26 L.R.A. 300. Liability for injuries to one blinded by headlight. 42 L.R.A. (N.S.) 876; 48 L.R.A. (N.S.) 827.

Liability for killing or injuring livestock on track, because of lack of proper headlight. 39 L.R.A.(N.S.) 271.

Private action against railroad for viola-tion of statutory duty as to. L.R.A. 1915E, 538.

# HEADS OF DEPARTMENTS.

Supervising employees as. 51 L.R.A. 577.

# HEADS OF FAMILIES.

Within provision for homestead exemption, see Homestead, §§ 3, 4.

Wife as, where husband is insane. 34 L.R.A. 223.

# HEALERS.

How far use of mails by, is fraudulent. 70 L.R.A. 989.

Application of statutes regulating practice of medicine to. 3 L.R.A.(N.S.) 763; 24 L.R.A.(N.S.) 103; 25 L.R.A.(N.S.) 1297; L.R.A.1917C, 827.

#### HEALTH.

I. In general, §§ 1-4. II. Boards of health, \$ 5. III. Protection of health, §§ 6-10. IV. Nuisances affecting, § 11.

# · I. In general.

Generally.

Of live stock, see ANIMALS, § 17. Constitutionality of statute as CONSTITUTIONAL LAW, § 102.

Of insured, see INSURANCE, §§ 93-98.

Claim against state under public health laws. 42 L.R.A. 65.

Benefit to public health as a condition of power to exercise eminent domain for drainage of private lands. 49 L.R.A. 783.

Apprehension of injury to health as basis of recovery for mental anguish. 20 L.R.A.(N.S.) 458.

Liability of vendor to purchaser on account of unsanitary condition of premises. 34 L.R.A.(N.S.) 1035.

Effect of misrepresentation or suppression of truth as to health of life tenant on the sale of remainder interest. L.R.A.(N.S.) 284.

Change of domicil as affected by removal for benefit of health. 9 L.R.A.(N.S.)

Danger to health from confinement as ground for removal or release on bail. 31 L.R.A.(N.S.) 916; 39 L.R.A.(N.S.) 770.

Validity of policy of health insurance requiring notice of sickness within specified time. 18 L.R.A.(N.S.) 106.

Effect of expenditure of money in reliance upon license from the public, to prevent revocation thereof in the interest of public health. 9 L.R.A.(N.S.) 733. Consult also L.R.A. Digests of Cases.

HEALTH, I.—cont'd

Internal hemorrhage as evidence of statutory wounding. 28 L.R.A. (N.S.) 965. Extent of trespasser's liability for consequential injuries to. 53 L.R.A. 631.

Effect of previous condition of, on recovery

from one negligently causing personal injury. 48 L.R.A.(N.S.) 119.
Admissibility of evidence as to health of members of deceased's family in action for his death. 49 L.R.A. (N.S.) 737.

Admissibility of evidence as to health of deceased to show pecuniary loss in action for his death. L.R.A.1918C, 1111, 1127.

§ 2. Sending to pest house.

Right to injunction against. 23 L.R.A. (N.S.) 1188,

§ 3. Duty and liability of carrier as to.

Carrier's duty to give information as to quarantine. 6 L.R.A.(N.S.) 1009.

Carrier's liability to passenger on account of unsanitary condition of car. 26 L.R.A. (N.S.) 263.

Action of public authorities under police power as defense to carrier for delay or nondelivery of freight. 21 L.R.A. (N.S.) 731; 28 L.R.A.(N.S.) 139.

§ 4. Municipal liability as to.

Municipal liability for failure to enforce health ordinance. 12 L.R.A.(N.S.) health ordinance. 638.

Liability of municipal corporation for death or sickness caused by sewage or drainage. 22 L.R.A.(N.S.) 940.

Liability of municipality for injuries resulting from use of dumping ground. 6 L.R.A.(N.S.) 1013.

Liability for throwing garbage on surface. L.R.A.1915C, 747.

Liability of municipal corporation for destroying infected house. 22 L.R.A. (N.S.) 1128.

# II. Boards of health.

§ 5. Generally.

Right of woman to be member of board of. 38 L.R.A. 211.

Power of board of health as to nuisances. 36 L.R.A. 603.

Contempt by board of health in disobeying injunction. 48 L.R.A. 708.

Liability for damages from enforcement of

quarantine. L.R.A.1918E, 437.

Personal liability of member of board of health, or of health officer. 5, L.R.A. (N.S.) 635.

Authority of legislature to make punishable failure to comply with rule of health board. 6 L.R.A.(N.S.) 143.

# III. Protection of health.

§ 6. Generally.

Power of municipality as to, generally, see MUNICIPAL CORPORATIONS, § 33.

Use of public funds to protect. 14 L.R.A. 476.

HEALTH, III.-cont'd Power to fill lowlands at expense of owner. 30 L.R.A.(N.S.) 709.

§ 7. During epidemics. Municipal power in epidemics. 26 L.R.A. 727.

§ 8. Regulations to protect.

Nuisances injurious to health generally, see MUNICIPAL CORPORATIONS, §§ 39, 41; NUISANCES.

Consideration of extrinsic evidence to show unconstitutionality of health statute. L.R.A.1915D, 458.

Municipal regulation of nuisances relating to. 38 L.R.A. 311.

Municipal regulation of dealing in second-hand clothes. 32 L.R.A. 121. Power of state or health authorities to for-

bid the use of a polluted water supply. 23 L.R.A.(N.S.) 766. Constitutionality of statutory regulations

as to safety and sanitary conditions of tenement, lodging, and boarding houses. 17 L.R.A.(N.S.) 486. boarding

Constitutionality of laws prohibiting carrying on of employments or occupations upon certain premises.
(N.S.) 46. 44

Authority of legislature to make punishable failure to comply with rule of health board. 6 L.R.A.(N.S.) 143.

Power of health authorities to require alteration of private property in a par-ticular manner to abate conditions endangering public health. 24 L.R.A. (N.S.) 241.

Power to regulate location or condition of bakeries. 26 L.R.A. (N.S.) 842.

Power of municipal corporation to grant exclusive right or create monopoly for removing substances inimical to health. 21 L.R.A. (N.S.) 830; L.R.A.1915D, 209.

State legislation for protection of health of live stock as interference with interstate commerce. 26 L.R.A.(N.S.) 279.

Validity and construction of statutory regulations as to infected animals. 26 L.R.A. 638; 43 L.R.A. (N.S.) 1066.

Sanitary regulations as to stables. 45 L.R.A.(N.S.) 575.

Power to prohibit or restrict use of tobacco.

51 L.R.A. (N.S.) 562. Requiring certificate of freedom from venereal disease, as condition to marriage. 52 L.R.A. (N.S.) 778.

Validity of statutes or ordinances for extermination of vermin. L.R.A.1916A, 1239.

9. — quarantine regulations. Duty and liability of carrier as to quarantine, see CARRIERS, § 44.

As to ships. 26 L.R.A. 484.

As to land communication. 26 L.R.A. 488. Responsibility for violation of quarantine by children or others under one's control. 45 L.R.A.(N.S.) 580.

Liability for damages from enforcement of. L.R.A.1918E, 437.

Begin with this book on every law question.

HEALTH, III.-cont'd § 10. — vaccination. Of pupils, see Schools, § 8.

Right to compel vaccination. 25 L.R.A. 152; 26 L.R.A. 728; 17 L.R.A. (N.S.) 709.

Power of municipality to incur expense of. 26 L.R.A. 727.

Liability of public for injuries to health from compulsory vaccination. L.R.A. 1916B, 918.

#### IV. Nuisances affecting.

11. Generally.

Nuisances injurious to, see MUNICIPAL CORPORATIONS, §§ 39, 41; NUISANCES.

Prescriptive right to maintain. 53 L.R.A.

#### HEARING.

Necessity of, to constitute due process, see CONSTITUTIONAL LAW, § 187.

#### HEARSAY EVIDENCE.

See EVIDENCE, XI.

# HEART DISEASE.

As element of damages for negligent injury. 48 L.R.A.(N.S.) 101.

#### HEARTLESS STATEMENTS.

Heartless statement by person causing accident made some time thereafter as res gestæ. 42 L.R.A.(N.S.) 926.

#### HEAT.

§ 1. Generally.

Power of municipality as to, see MUNICIPAL CORPORATIONS, § 32.

Duty of carrier to protect live stock from injury by. 39 L.R.A.(N.S.) 642.

Provision exempting carrier from liability for loss by heat as extending to loss caused by negligence. 6 B. R. C. 130.

Master's liability for vice principal's negli-gence in exposing servant to excessive heat. 54 L.R.A. 133.

Assumption by servant of danger of heat prostration. L.R.A.1915E, 613.

Loss of insured property by excessive heat from heating apparatus without actual ignition. 25 L.R.A.(N.S.) 501.

Taking of property for manufacture of heat by electricity as a public purpose. 22 L.R.A.(N.S.) 137.

HEAT-cont'd

§ 2. Duty and liability as to furnishing.

Carrier's duty as to heating cars, see CAR-RIERS, § 42.

Loss of profits as element of damages for cutting off supply of, from premises. 22 L.R.A.(N.S.) 588.

Eviction of tenant by failure to furnish heat. 37 L.R.A.(N.S.) 1217; L.R.A. 1916E, 742.

Duty and liability of landlord of apartments as to heating. 37 L.R.A.(N.S.)

ments as to heating. 37 L.R.A.(N.S.)

# HEATING APPARATUS.

As part of realty. 1 B. R. C. 972. Loss of insured property by excessive heat from, without actual ignition. 25 L.R.A.(N.S.) 501.

# HEATING CARS.

Duty of carrier as to, see CARRIERS, § 42.

# HEATING SERVICE.

As public utility. 37 L.R.A.(N.S.) 510.

#### HEAT OF PASSION.

Homicide in, see Homicide, § 32.

# HEAT PROSTRATION.

Recovery under Workmen's Compensation Act for injury caused by. L.R.A.1918F, 937.

# \*\*\* HEIGHT.

Restrictions on height of building, see Buildings, § 3.

#### HEIRLOOMS.

Sentimental value as measure of damages for loss or conversion of or injury to. L.R.A.1917D, 503.

# HEIRS.

§ 1. Generally.

Heirs of partner as parties defendant, see PARTIES, § 30.

Beneficiaries and parties plaintiff to action for death under statute providing for action for benefit of heirs. L.R.A. 1916E, 118.

Consult also L.R.A. Digests of Cases. 40

HEIRS—cont'd

Injunction against execution sales to protect. 30 L.R.A. 123.

Insane delusion as to misconduct of. 37 L.R.A. 275.

Effect on marketability of title of failure to make heirs of deceased owner parties to court proceeding. 38 L.R.A. (N.S.) **,22**.

Effect of statute making husband an heir of wife on rule that marriage alone without birth of issue will not revoke woman's will. 34 L.R.A. (N.S.) 1021.

Devolution from heir of vendee's interest under contract for purchase of land.

42 L.R.A.(N.S.) 450.

Interest covered by insurance in name of heirs of a decedent. 42 L.R.A.(N.S.)

§ 2. Who are.

Does widow come within the term "heirs." L.R.A.1918A, 1108.

Meaning of term "natural heirs." L.R.A. (N.S.) 1163.

Extrinsic evidence to identify person intended by testator using term. L.R.A.(N.S.) 533.

Recital in deed as evidence of heirship. 45
L.R.A.(N.S.) 93.

When construed to mean "children." 1 L.R.A. (N.S.) 319.

Within meaning of insurance policy. 30 L.R.A. 593.

Who are legal heirs to whom insurance is payable. 3 L.R.A.(N.S.) 904.
Who are "nearest male heirs" within mean-

ing of devise. 7 B. R. C. 982.

§ 3. Time of determining.

Are "heirs" who take under the possibility of reverter determined as of the time of the ancestor's death, or as of the time of the termination of the fee. 18 L.R.A. (N.S.) 624.

§ 4. Rights and powers of.

Choice of remedy of pretermitted heirs, see Election of Remedies, § 6.

Expectancy of prospective heir, see Ex-PECTANCY.

Right of heirs of deceased partner in partnership real estate, see PARTNER-

SHIP, § 22. Rights of under rule in Shelley's Case, see DEEDS, § 30; WILLS, § 82.

Rights of, in estate of ancestor, see DESCENT AND DISTRIBUTION, §§ 2-8; EXECUTORS AND ADMINISTRATORS; WILLS.

Rights of, in homestead, see HOMESTEAD, §§ 17-20.

Ornamental articles as fixtures as between legatees, devisees, heirs, personal representatives, and life tenants. 6 B. R. C. 162.

Right of, to gift failing for remoteness. 20 L.R.A. 517.

Necessity of ancestor's having been in possession to give heirs benefit of his color of title. 42 L.R.A.(N.S.) 403.

:

HEIRS-cont'd

Right of heirs of deceased partner in partnership real estate. 27 L.R.A. 348.

Right to rents of intestate's property. 40 L.R.A. 343.

Right to have judgment against decedent set aside. 54 L.R.A. 761.

Binding effect of settlement by sole heir or distributee of claim belonging to estate upon administrator. 11 L.R.A. (N.S.) 148.

Right of heirs of donor to enforce proper administration of charitable trust. 3

L.R.A.(N.S.) 227.

Right of heirs to make or control election for or against a will or between different provisions of a will or statute. 11 L.R.A. (N.S.) 382.

Right of heirs to protection of recording acts as against acts or conveyances of ancestor. 43 L.R.A.(N.S.) 1144.

Right of heirs of divorced person to attack divorce decree. L.R.A.1917B, 499.

Right of heir to testify in favor of the estate. L.R.A.1918C, 918.

Right of heirs to contest will. L.R.A.1918A,

Right of heirs apparent of testator's heir to contest will. L.R.A.1918A, 456.

§ 5. - effect on, of fraud against; or promise to, ancestor.

Gift by will as affected by heir's promise to testator. 20 L.R.A. 466.

Impressing share of heir with constructive trust because of his fraud in frustrating decedent's intention to give the property to a third person. 8 L.R.A. (N.S.) 698; 31 L.R.A. (N.S.) 176.

§ 6. Rights of third persons as against. Liability of heirs for debts of ancestor, see DESCENT AND DISTRIBUTION, §§ 12, 13.

Child's right in parents' homestead as against heirs. 56 L.R.A. 65.

Rights of wife under conveyance from husband as against latter's heirs. 69 L.R.A. 377.

Right of dower as against heirs in land subject to purchase money mortgage or vendor's lien. 52 L.R.A. (N.S.) 547, 557.

Ornamental articles as fixtures as between legatees, devisees, heirs, personal representatives, and life tenants. 6 B. R. C. 162.

7. Remedies of or against.

Equity jurisdiction of suit by or against, see Equity, § 17.

Remedy of pretermitted heirs. 37 L.R.A. (N.S.) 1143.

Injunction by, to prevent interment or restrain interference with interment of ancestor's remains, 3 L.R.A.(N.S.) 487. Remedies against heir of devisee for en-

forcement of legacy charged on the devise. 30 L.R.A.(N.S.) 818.

Validity and effect of judgment against heirs designated as unknown. L.R.A. Right of railroad company to herbage on 1918F. 609.

HEIRS-cont'd

Right of heir to avoid sale of decedent's property to executor or administrator. L.R.A.1918B, 30.

§ 8. Liabilities of.

Liabilities of, to creditors of ancestor, see DESCENT AND DISTRIBUTION, §§ 12, 13.

Liability of interest of prospective heirs to attachment or garnishment, see Ex-PECTANCY, § 4.

Assessment on decedent's estate against. 56 L.R.A. 645.

Indebtedness of, to estate as counterclaim or set-off against distributive share in proceeds of real estate. 4 L.R.A. (N.S.) 189.

§ 9. Necessity and effect of using word in will or conveyance.

Under rule, in Shelley's Case, see DEEDS, § 30; WILLS, § 82.

Necessity of use of word "heirs" to pass fee to trustee, see TRUSTS, § 3.

Persons who take under devise to heirs, see Wills, § 69.

Effect of provision in bequest of personalty that upon first taker's death the property shall go to his "heirs" to create an absolute title in him. 4 L.R.A. (N.S.) 470.

# HELPLESS PERSON.

Carrier's duty toward helpless passengers, see Carriers, generally, §§ 39, 40. Care due towards, see Negligence, § 12.

On railroad tracks, injury to, see RAIL-BOADS, § 55.

Duty of street railway company towards, see STREET RAILWAYS, § 16.

#### HEMORRHAGE.

Internal hemorrhage as evidence of statutory wounding. 28 L.R.A.(N.S.) 965.

#### HEPBURN ACT.

Implied contract for through shipment under. 31 L.R.A.(N.S.) 28.

Effect of, on limitation of initial carrier's undertaking to its own line. 31 L.R.A. (N.S.) 52.

As affecting validity of stipulation limiting carrier's liability to agreed valuation. 28 L.R.A.(N.S.) 293.

### HERBAGE.

right of way. 45 L.R.A.(N.S.) 798.

Begin with this book on every law question.

#### HERBALIST.

Application to, of statute regulating practice of medicine. L.R.A.1917C, 829.

#### HERDS.

Validity of regulations as to herds of cat-tle of persons selling milk. L.R.A. 1917C, 253.

# HERNIA.

Recovery for, under workmen's compensa-tion act. L.R.A.1916A, 303; L.R.A. 1917D, 108; L.R.A.1918F, 873.

Hernia as breach of condition or warranty in insurance contract as to health or bodily condition. L.R.A.1917B, 747.

#### HERO.

Voluntarily incurring danger to save another's life. 27 L.R.A. (N.S.) 1069.

# \*\*\* HEROIN.

Furnishing or prescribing by physician. L.R.A.1918E, 669.

#### HIDES.

Municipal power over, as nuisance. 38 L.R.A. 654.

# HIEROGLYPHICS.

Use of, in books of account as affecting their admissibility in evidence. 52 L.R.A. 573.

# HIGH SEAS.

Transfer of ships on, by bankruptcy or insolvency proceedings. 23 L.R.A. 46. Does transportation over, to points in same state by route part of which is in an-

other state constitute interstate commerce. 28 L.R.A.(N.S.) 988.

# HIGH-WATER MARK.

Title to land below, see WATERS, § 16.

# HIGHWAY CONTRACTORS.

Liability of, for injuries to travelers, see HIGHWAYS, § 92. Consult also L.R.A. Digests of Cases.

# HIGHWAY DISTRICTS.

# HIGHWAY OFFICERS.

Liability for injury by defect in highway, see Highways, § 87.

#### HIGHWAYS.

- I. In general, § 1.
  II. Highway districts; what are high-
- ways, §§ 2, 3. III. Establishment; width, §§ 4-8a.
- IV. Title; control; use; obstruction; encroachment, §§ 9-46.

  - a. In general, § 9.b. Title and property rights generally, § 10.
  - c. Rights and title of abutting owner, \$\$ 11-14.
  - d. Uses; what allowed in street
    - generally, §§ 15-25. 1. In general, §§ 15, 16.
    - 2. Use by public generally, \$\$ 17-20. 8. Use by public service
    - corporations generally, street franchises, §§ 21-25.
  - e. Use and obstruction by railroads, §\$ 26-32.
  - Obstructions generally; enoroachments, §§ 33-39.
     Nuisances, §§ 40, 41.
     Rights as to trees and material in street, §§ 42-44.

  - i. Rights and regulations as to
- vehicles, \$\$ 45, 46.

  V. Improvement; repairs; grading; change of grade; lighting; removal of snow and ice, \$\$ 47-56.
  - a. In general, §§ 47-49.
  - b. Grading street, §§ 50, 51.
  - c. Change of grade, \$\$ 52, 53.
  - d. Lighting of streets bridges, §§ 54, 55. and
  - e. Removal of snow, ice, weeds,
- etc., 56. VI. Liability for injuries to travelers, \$\$ 56a-107.

  - a. In general, \$\$ 56a, 56b.b. Liability of municipality, \$\$ 57-77.
    - 1. In general, §§ 57, 58.
    - 2. Who entitled to protection, §§ 59, 59a.
    - 8. For acts and omissions of others, \$\$ 60-64.
    - 4. Defects and obstructions, §§ 65-75a.
  - 5. For permitting or failure to prevent improper use, §§ 76, 77.
    c. Liability of county, § 78.
    d. Liability of township, § 79.

HIGHWAYS, VI.-cont'd

- e. Liability of abutting owners or occupants, §§ 80-84. f. Liability of landlord, \$\$ 85-
- g. Liability of highway officers,
- h. Liability of railroads, \$ 88. i. Liability of street railways, \$\$ 89-91.
- j. Liability of contractors, § 92.
- k. Liability for acts of inde-pendent contractors, \$ 98.
- l. Joint liability of municipality and others; liability over, §§ 94, 95.
- m. Contributory negligence, §§ 96-101.
- n. Notice, §§ 102-107. 1. Of defects, §§ 102-105. 2. Of injuries, §§ 106, 107.
- VII. Municipal liability for injuries to property through defects in street, § 108.
- VIII. Discontinuance; vacation; abandonment; reversion, \$\$ 109-
  - IX. Highway officers, \$ 114.

#### I. In general,

🖁 1. Generally.

Access to, see Access, § 1.

As boundaries of property conveyed, see BOUNDARIES, § 5. As to bridges, see BRIDGES.

Constitutionality of statute as to, see Con-STITUTIONAL LAW, § 103.

Private ways or easements, see EASEMENTS; PRIVATE ROADS.

Private roads, see PRIVATE ROADS.

Fences along, see FENCES, § 4.

Injunction as to, see Injunction, § 64.

Power of municipality with respect to generally, see MUNICIPAL CORPORATIONS, § 27.

Parties plaintiff in actions affecting, see Parties, § 4.

Over public land, see Public Lands, § 8. Crossing of highway by railroad, see RAIL-ROADS, § 31.

Right to take tolls on road within a city. 15 L.R.A. 651.

Damages for breach of contract as to. 53 L.R.A. 33.

Public highway across land at time of conveyance as breach of covenant. L.R.A. (N.S.) 833; 48 L.R.A. (N.S.) 619. On shore. 4 L.R.A.(N.S.) 872.

Effect of street along shore on right to erect wharves. 40 L.R.A. 646.

Liability for injury to, by removal of lateral support. 68 L.R.A. 707.

Interference by, with wharf rights in navigable waters. 34 L.R.A. (N.S.) 431.

Duty to maintain bridge over race way intersecting highway. 31 L.R.A. (N.S.) 243.

Begin with this book on every law question.

HIGHWAYS, I.—cont'd

Right of government to divert water from nontidal stream for highway purposes without compensation to riparian owner. 37 L.R.A.(N.S.) 311.

Condemnation of, for school purposes. L.R.A.(N.S.) 489.

Duty as to highway crossed by ditch constructed by drainage district. 43 L.R.A.(N.S.) 695.

Estoppel of municipality to open or use streets. 46 L.R.A. (N.S.) 1211.

Is ordinance requiring covering of sidewalk where building is in process of construction for benefit of servants. 45 L.R.A. (N.S.) 550.

Tax or assessment for public improvement on. 44 L.R.A.(N.S.) 836.

Use for highway purposes of squares, parks, or commons as a diversion. 50 L.R.A. (N.S.) 465.

Street cleaning as a governmental function. L.R.A.1915C, 741.

Construction of highway as an "internal im-provement" within the meaning of a constitutional prohibition against state engaging in or aiding internal improvements. L.R.A.1917C, 1038.

#### II. Highway districts; what are highways.

§ 2. Highway districts. Right to withdraw names from petition for consolidation of highway district. 35 L.R.A.(N.S.) 1113.

§ 3. What are highways. Floatable streams as. 41 L.R.A. 376. Navigable stream as. 70 L.R.A. 272. Use of canals as highways. 61 L.R.A. 850.

#### III. Establishment; width.

§ 4. Establishment generally.

Amount of damages allowed on laying out highway, see Damages, §§ 91, 92.

Dedication for highway, see Dedication for highway, see Dedication for highway.

Dedication by bounding land on highway,

see Dedication, § 6.
Condemnation of land for, see EMINERT DOMAIN, §§ 13, 14.

Liability of county for injuries to real property from construction of road. L.Ř.A. 68.

Right to withdraw name from petition for. 11 L.R.A.(N.S.) 372.

Right to extend highway into navigable

water. 15 L.R.A.(N.S.) 1170. Fraud in proceedings for opening or extending highway as defense to proceedings to acquire property for that purpose. 7 L.R.A.(N.S.) 639.

Establishment of highways over public lands subsequent to entry thereon by one who has not perfected his title. 24 L.R.A. (N.S.) 764.

Extinguishment of easement for private way by its incorporation into a public way. 21 L.R.A.(N.S.) 1002. HIGHWAYS, III.—cont'd

Use of squares, parks or commons for highways as a diversion. 25 L.R.A.(N.S.) 981; 50 L.R.A.(N.S.) 465.

Injunction or ejectment as proper remedy where public highway is illegally opened over private property. 25 L.R.A. over private property. (N.S.) 511.

Establishment of road as essential to liability of townships for defects therein. 13 L.R.A. (N.S.) 1222.

Necessity and sufficiency of acceptance of grant of right of way over public land for public highway. L.R.A.1917A, 355.

§ 5. Acquiring by prescription.

Adverse possession of highway, see Adverse

Possession, § 12.

Public easement acquired by prescription. 11 L.R.A. 55.

Establishment of highway by prescription as affected by the means of conveyance transportation employed. L.R.A. 1918E, 402.

6. Acceptance.

Effect of mere use of highway over public domain as acceptance of grant or right of way. 9 L.R.A.(N.S.) 1223.

Refusal by public to accept platted street or highway as affecting private easements of abutting owners. L.R.A.1917A, 1123.

7. Laying out across railroad. See RAILEOADS, § 31.

8 8. Width.

Delegation by city council of power to determine width. 20 L.R.A. 653.

Rights acquired as against public by en-

closure and adverse possession of part of width of highway. 18 L.R.A. 149. Duty of municipality as to width of rural

highway within city or village limits. 29 L.R.A. (N.S.) 825.

8a. — narrowing streets.

Right of abutting owner to compensation on narrowing of street. 36 L.R.A. (N.S.) 1119.

IV. Title; control; use; obstruction; encroachment.

#### a. In general.

9. Generally.

Lighting of, see infra, §§ 53, 54. Choice of remedies as to rights in, see ELECTION OF REMEDIES, § 10.

Power of municipality to limit its control or authority over street or other public ground as an incident of its acquisition of title or right therein. 9 L.R.A. (N.S.) 1045.

Injunction against interference with view from. 5 L.R.A.(N.S.) 486.

b. Title and property rights generally.

§ 10. Generally. Of abutting owner, see infra, IV. c. Consult also L.R.A. Digests of Cases. HIGHWAYS, IV. b-cont'd

Ejectment for lands subject to easement of highway. 18 L.R.A. 787.

Ejectment for easement in street. 11 L.R.A. (N.S.) 129.

Taxes on easements of corporation in, as real estate. 1 L.R.A.(N.S.) · 263.

c. Rights and title of abutting owner.

11. Generally.

Rights and liabilities of railroad in highway as against abutting owner, see infra, § 27.

Rights as to trees and material, see infra, 42-44.

Liability to abutting owner for damage from grading street, see infra, § 51.

Liability to abutting owner for damage from change of grade, see infra, § 53. Boundary on highway, see Boundaries, §

Creation of easement in highway by conveyance with reference to street, see

EASEMENTS, § 11.
Easements of light and air, see EASE-MENTS, §§ 13, 19-21.

Right to minerals under, see infra, § 44. In case of street railways, see STREET RAIL-WAYS, § 4.

Injunction as proper remedy to protect right of ingress and egress from street to abutting property. 35 L.R.A.(N.S.)

Right of abutting owner to change existing conditions in surface of street or highway. 16 L.R.A.(N.S.) 1038.

Obstructions in highway, preventing access to property except by a circuitous route, as a special injury entitling owner to maintain action for damages, or to abate the nuisance. 8 L.R.A. (N.S.) 227; 21 L.R.A.(N.S.) 75; L.R.A. 1917A, 1155.

Liability of county for injuries caused by construction or maintenance of a bridge to property thereto adjoining. L.R.A. (N.S.) 209.

Liability of a municipality for temporary interference with access to property in making improvements. (N.S.) 620. 46

Right of action of occupant of premises abutting on highway for interference with the public's view of goods or advertising displayed thereon. 6 B. R. C. 493.

12. Water rights.

Effect of street on shore on title to accretions to shore lands. 58 L.R.A. 208.

Does public easement in street terminating at shore line follow recession of shore line. 22 L.R.A.(N.S.) 593.

Effect of construction by abutting owner of wharf on the street. 16 L.R.A.(N.S.)

Effect of deed to carry title to water's edge, where a street or highway intervenes. 13 L.R.A.(N.S.) 551.

HIGHWAYS, IV. c-cont'd

Is one a riparian or littoral owner whose property abuts on a highway one line of which is coterminous with the shore line of navigable water. 22 L.R.A. (N.S.) 674.

# § 13. Uses permitted to abutting own-

As to awnings; signs, etc., see infra, § 19a. Right to obstruct for business and building purposes, see infra, § 34.

In general. 49 L.R.A.(N.S.) 844.

Municipal liability for injury to traveler by uses permitted to abutting own-er. 19 L.R.A.(N.S.) 509.

Right to lay pipe or make other underground use of highway. 13 L.R.A. ground use of highway. 13 L.R (N.S.) 905; 52 L.R.A.(N.S.) 1038.

Right to use highway for ditch. 34 L.R.A. (N.S.) 506.

Right to continue enjoyment of passway across highway. 12 L.R.A.(N.S.) 918. Right to join land to street by driveway or walk. 30 L.R.A.(N.S.) 1074.

Power of municipality to permit abutting owners to extend structures into street. 28, L.R.A.(N.S.) 375.

Encroachment on public street or alley by occupier of abutting property for storage or similar purposes as basis of adverse possession or estoppel. 36 L.R.A. (N.S.) 1056.

# 14. - vaults; areaways, etc.

Municipal liability for injury due to, see infra, §§ 62, 69.

For areaways, hatchways, coal holes, etc. 19 L.R.A. (N.S.) 516.

Power of municipality to require removal of vaults in street. 32 L.R.A.(N.S.) 1034; L.R.A.1915F, 1009.

Power of municipal corporation to exact fee or rental for vaults or areaways in street. 31 L.R.A.(N.S.) 868.

# d. Uses; what allowed in street generally.

# 1. In general.

§ 15. Generally.

Use by abutting owner, see supra, §§ 13, 14.

Municipal liability for injury to traveler by permitting or failing to prevent im-proper use, see infra, §§ 76, 77.

Use for drains and sewers, see DRAINS AND SEWERS, § 4. Use of street for hack stands, see HACKS, §

License for use of streets generally, see License, § 44.

Use for market, see MARKETS, § 3.

Liability for injuries in consequence of fright of animals not on highway because of an improper use of highway. L.R.A.1918D, 571.

Incorporation of territory into municipality as affecting prior rights as to use of highway. 47 L.R.A. (N.S.) 607.

HIGHWAYS, IV. d, 1-cont'd

Power to permit tunnel or passageway under street for private purposes. L.R.A. 1915F, 937.

Power of municipality to authorize use of, for private drain. 16 L.R.A. 715. Right of county, municipality or town to

collect tolls for use of highway. 42 L.R.A. (N.S.) 836.

Violating ordinance as to use of, as ground of private action. 5 L.R.A.(N.S.) 257. Power of municipality to punish use of, which is also an offense under state law. 17 L.R.A.(N.S.) 53.

# § 16. For business or advertising purposes.

Obstruction for, see infra, § 34.

Location of gasolene stations in highway.

L.R.A.1917F, 1005.

Power of municipal corporation to grant or lease space on street or sidewalk for business purposes. 25 L.R.A. (N.S.) 400.

Grant of right to use streets or other public places for advertising purposes. 9 L.R.A.(N.S.) 455.

Power of city as to regulation of signs and billboards in street. 21 L.R.A. (N.S.) 735; L.R.A.1917A, 1222.

# 2. Use by public generally.

§ 17. Generally.

Regulation of automobiles in, see AUTOMO-BILES, § 1a.

Use of jitney busses on, see JITNEY BUSSES.

State or municipal regulations affecting those engaged in handling United States mails. L.R.A.1918C, 940.

Validity of statute or ordinance for direction of street traffic by police officers. L.R.A.1918F, 1113.

Homicide resulting from negligent use of highway. 61 L.R.A. 279.

Forbidding or restricting teaming on certain public ways. 51 L.R.A.(N.S.) 1203.

Ordinances as to street parades. 19 L.R.A. 858; 39 L.R.A. 672; 25 L.R.A.(N.S.) 251.

Delegation of power to regulate parades. 20 L.R.A. 721.

Market regulations as to sales on. 24 L.R.A. 584.

Privilege of using street as a contract. 50 L.R.A. 142; L.R.A.1918E, 892.

Right of public to use or divert water in highway. 41 L.R.A.(N.S.) 1066.

#### § 18. Prohibition against loitering or assembling in.

Power of municipality to prevent gathering or assembling of persons in street or on sidewalk. 52 L.R.A.(N.S.) 999.

Right of municipal corporation to prevent loitering in streets. 15 L.R.A. (N.S.) 973. Begin with this book on every law question.

HIGHWAYS, IV. d, 2-cont'd § 19. Use by bicyclist.

Right of bicyclists to use, generally. 47 L.R.A. 289.

Validity of enactments restricting use of, by bicyclist. 47 L.R.A. 290.

§ 19a. Overhanging objects; awnings; signs; billboards.

Municipal liability for injury to traveler by, see infra, § 68.

Right to maintain awnings in streets. 26 L.R.A. 340.

Power of municipal corporation to compel removal of awnings or signs encroaching on streets. 2 L.R.A.1916C, 564. 20 L.R.A. (N.S.) 146;

Signboards as a nuisance in street; municipal control over. 39 L.R.A. 661.

Municipal power as to regulation of signs and billboards. 21 L.R.A. (N.S.) 735.

For esthetic purposes. 34 L.R.A. (N.S.) 998; L.R.A.1917A, 1220.

Signs and other objects overhanging and liable to fall. 19 L.R.A. (N.S.) 517.

Power to make erection of signs conditional upon consent of neighbors. 8 L.R.A. (N.S.) 978.

Special damage from awning or structure overhanging street, which will sustain action by private person to abate or enjoin it as a nuisance. 48 L.R.A. (N.S.) 173.

§ 20. As to hitching of horses.

Negligence in leaving horse unhitched, see NEGLIGENCE, § 27.

Power of municipality to regulate hitching of, in streets. 11 L.R.A.(N.S.) 1080.

8. Use by public service corporations generally; street franchises.

3 21. Generally.

Measure of damages to abutting owner for additional burdens in highway, see DAMAGES, §§ 89, 90.

What constitutes a taking of an interest in highway, see Eminent Domain, § 44.

What constitutes an additional burden or servitude in highway, see EMINENT Domain, §§ 55-57.

As to street railways, see STREET RAIL-**WAYS, §§ 3-6.** 

Right to exact additional compensation when extending street franchise to cover additional purposes. L.R.A.1915E, 165.

Privilege of using street as a contract within provision against impairing obliga-50 L.R.A. 142; L.R.A.1918E, 892.

Power of municipality in absence of express legislative authority to grant street franchises. 22 L.R.A.(N.S.) 925.

Validity of contract making public service corporation's liability to municipality dependent upon the continuance of its franchise without competition. L.R.A.(N.S.) 214.

Consult also L.R.A. Digests of Cases.

HIGHWAYS, IV. d, 3-cont'd

Right of owner of franchise for public benefit which is not exclusive to injunction against its invasion without right. 29 L.R.A. (N.S.) 77.

Proper remedy to make franchise available,

as against municipality. 6 L.R.A.

(N.S.) 782. Municipal declaration of forfeiture of street franchise or privilege for breach of conditions, as a judicial determination. 4 L.R.A.(N.S.) 321.

Liability of municipality in damages for repeal or interference with enjoyment of street franchise. 36 L.R.A. (N.S.) 861.

Duty and right of municipality to reimburse public service corporation for expenses entailed by improvements in street. 6 L.R.A. (N.S.) 1026.

Franchise to occupy, as affecting liability of user of electricity for interference with the business or injury to the property of another resulting from induction or from use of earth as a return electric circuit. 2 B. R. C. 130.

Location of street franchise for purposes of taxation. 5 L.R.A.(N.S.) 174.

Does taxation of business or occupation of public service corporation and taxation of its franchise or right to occupy the streets amount to double taxation. 28 L.R.A. (N.S.) 221.

Who may question validity of street franchise granted by municipality. 22 L.R.A.(N.S.) 939.

§ 22. Gas pipes in street.

Incorporation of territory into municipality as affecting prior rights to lay gas pipes in. 47 L.R.A.(N.S.) 608. As a nuisance. 39 L.R.A. 680.

Gas pipe line in highway or street as an additional burden. 17 L.R.A. 480; 7 L.R.A.(N.S.) 506.

Privilege of laying, as a contract within provision against impairing obligation. 50 L.R.A. 146; L.R.A.1918E, 908.

Permitting abutting owner to make gas connections in street. 19 L.R.A. (N.S.) 512.

Power of municipality, in absence of express legislative authority, to grant franchise to use street for gas lighting. 22 L.R.A.(N.S.) 933, 937.

Power of municipality to fix gas rates as an incident of its power to authorize the laying of gas mains. 18 L.R.A. (N.S.) 1197.

Injury to gas pipes by change of street grade. 19 L.R.A. 510.

Right to prevent use of highways for pipe line for exporting natural gas. L.R.A. (N.S.) 1195. Right to transfer or mortgage privilege to

use streets for. L.R.A.1917D, 707.

§ 23. Water pipes.

Right to lay water pipes in. 61 L.R.A. 76. Right to lay pipes in streets as element of compensation to water company upon taking its plant. 47 L.R.A. (N.S.) 784. HIGHWAYS, IV. d, 3-cont'd

Incorporation of territory into municipality as affecting prior rights to lay water pipes in. 47 L.R.A.(N.S.) 608.

Water pipes in street as an additional bur-den on easement. 17 L.R.A. 480.

Power of municipality in absence of express legislative authority to grant franchise to lay water mains in street. 22 L.R.A.(N.S.) 933, 938.

Privilege of laying water mains in street as a contract within provision against impairing contract obligations. L.R.A. 145; L.R.A.1918E, 905.

Injury to, by change of grade in highway. 19 L.R.A. 510.

Lien on pumping or power plant for pipes, wires or tracks laid in street. 42 L.R.A. (N.S.) 355.

Right to transfer or mortgage privilege to use streets for. L.R.A.1917D, 707.

§ 24. Electric poles and wires; telegraphs and telephones.

Injury to trees in erecting, see infra, § 42. As additional burden, see EMINENT DOMAIN, § 56.

Incorporation of territory into municipality as affecting prior rights to maintain poles and wires in. 47 L.R.A.(N.S.) 608.

Privilege of using street for, as a contract. 50 L.R.A. 146; L.R.A.1918E, 907.

Police regulation as to use of, by electric companies. 31 L.R.A. 799.

Liability for injuries by electric wires in highway. 31 L.R.A. 566.

Municipal regulation of poles and wires as nuisances in street. 39 L.R.A. 619.

Injunction against poles and wires as public nuisance. 44 L.R.A. 577.

Power of municipality in absence of express legislative authority to grant franchise to use street for electric lighting. 22 L.R.A.(N.S.) 933, 937.

Power of municipality in absence of express legislative authority to grant franchise to use street for telephone line. L.R.A.(N.S.) 934, 939.

Municipal liability for injury by telegraph or telephone pole in street. 20 L.R.A. (N.S.) 607.

Right to transfer or mortgage privilege to use street for telegraph, telephone, or other quasi-public purposes. 47 L.R.A. 87; L.R.A.1917D, 707.

Right to require telegraph or telephone wires to be placed underground. L.R.A. 806; 14 L.R.A.(N.S.) 654.

Delay in applying for injunction against maintaining telegraph or telephone line in. 8 L.R.A.(N.S.) 1091.

Imposing license fee on telegraph or telephone company for use of. 1 L.R.A. (N.S.) 581.

Right to interfere with wires of public service corporation in moving building along street. 14 L.R.A.(N.S.) 448; L.R.A.1917C, 774. HIGHWAYS, IV. d, 3-cont'd

Lien on power plant for pipes, wires, or tracks laid in street. 42 L.R.A.(N.S.) 355.

Right to place overhead wires in highway without grant or permission from public authority. 43 L.R.A.(N.S.) 1033. Duty to change location of poles in street or highway. L.R.A.1917D, 663.

25. Electric conduits.

Right to place electric conduits under streets under general charter authority to enter upon the same. 9 L.R.A. (N.S.) 404.

e. Use and obstruction by railroad.

§ 26. Generally.

Laying out highway across railroad, see supra, § 7.

Duty as to repairs, see infra, § 48. Municipal liability for injury due to railroad, see infra, § 63.

Liability for injury due to defects at crossings, see infra, § 88.

Railroad as additional burden, see EMINENT DOMAIN, § 57.

Injunction against, see Injunction, § 67. Liability of right of way for local assessments, see Public Improvements, § 21.

As to street railways, see STREET RAILWAYS, §§ 3-6.

Duty of railroad company in respect to a restored or substituted highway. L.R.A. 1917C, 971.

Incorporation of territory into municipality as affecting prior rights as to use of, by railroads and street railways. 47 L.R.A.(N.S.) 608.

Lawfulness of the use of steam traction engine on. 16 L.R.A. 148.

Privilege of using street for railroad as contract within provision against impairing obligation. 50 L.R.A. 143; L.R.A. 1918E, 904.

Power of municipality in absence of express legislative authority to grant street franchise for railroad. 22 L.R.A.(N.S.) 925, 927, 935.

Power of municipality to assume part or all of burden of adapting street or bridges for use of railroads or street railways. 50 L.R.A. (N.S.) 143.

Injury to tracks by change of street grade, 19 L.R.A. 510.

Municipal control over public nuisances upon public streets and highways created by railroads and other electrical companies. 39 L.R.A. 609.

Effect of acquiescence or consent by a town or municipality to construction or use of railroad in street or highway, to estop it from objecting thereto. L.R.A. (N.S.) 1187.

Right of municipal corporation to resist by force unauthorized use of street by railroad company. 15 L.R.A. (N.S.) 1269.

Power of municipality to prevent laying an additional track under a franchise originally granting the right to lay double tracks. 36 L.R.A.(N.S.) 850.

Begin with this book on every law question.

HIGHWAYS, IV. e-cont'd

Power of municipality to compel removal of spur track, turnout, or switch from street or highway. L.R.A.1918B, 481. Injunction against railroad in street. 23

L.R.A. 303.

Right to transfer or mortgage privilege to use street for quasi-public purpose. 47 L.R.A. 87; L.R.A.1917D, 707.

Effect of city's permitting use of street by railroad in such way as practically to exclude public to cause a reversion of the street to dedicators or abutting owners. 11 L.R.A.(N.S.) 589.

Nature of railroad company's rights in public streets for purpose of taxation. 66 L.R.A. 55.

Criminal or penal responsibility for blocking crossing. L.R.A.1915B, 329.

§ 27. Rights and liabilities as against abutting owner.

Measure of damages to abutting owner from railroad in street, see DAMAGES, § 90.

Right to compensation for construction of railway in street, see EMINENT Do-MAIN, § 50.

Injury to abutter's easement by railroad in street. 14 L.R.A. 381. Easements of light, air, and access by

grading street to cross. 14 L.R.A.

Liability of successor of railroad company for damages of abutting property from construction of road in street. L.R.A.(N.S.) 874; L.R.A.1915D, 397.

Does release of damages for construction of railroad in highway include damages from elevation of grade. 10 L.R.A. (N.S.) 1202.

Remedy of abutting owner as affected by his consent to the construction of railroad or street railway in street or highway. 7 L.R.A.(N.S.) 991; 23 L.R.A. (N.S.) 433.

Preventive remedy of nonconsenting abutting property owner where use of high-way for street railway is authorized by public. 28 L.R.A.(N.S.) 1082.

§ 28. Use for storing cars or making up trains.

Parking cars or making up trains within city limits. 29 L.R.A. (N.S.) 643.

Effect of legislative authority on liability for use of street as railroad yard. L.R.A. (N.S.) 78.

§ 29. Imposing conditions generally on allowing use.

Municipal power to impose conditions when giving consent to railway in street. 36 L.R.A. 33.

Power to compel railroad company to light tracks in city. 41 L.R.A. 422; 19 L.R.A.(N.S.) 658.

30. Requirements at crossings. Rights and duties of railroad company as to crossings generally, see RAILROADS, | Mandatory injunction for removal of ob-\$\$ 31-33, 58-70. structions to. 20 L.R.A. 162. Consult also L.R.A. Digests of Cases.

HIGHWAYS, IV. e-cont'd

Power of municipal corporation to require safety gates at railroad crossing. 3 L.R.A.(N.S.) 141; 45 L.R.A.(N.S.) 946.

Power of municipal corporation to regulate speed of, and signals from, trains at highway crossings. 17 L.R.A.(N.S.) 561.

Power of municipal corporation to require railroad company to keep highway in repair at overhead or underground crossing. 18 L.R.A.(N.S.) 915.

§ 31. - power of municipality to compel change of grade of railroad in street.

Requiring abolishment of grade crossings, see RAILROADS, § 32.

Generally. 70 L.R.A. 850.

The need of legislative authority. 70 L.R.A. 850.

Municipal police power over railroads in

public streets. 70 L.R.A. 851. Continuity of power and obligation respecting street grades. 70 L.R.A. 852. General limitations on municipal action. 70 L.R.A. 853.

Effect of provisions in the franchise grant. 70 L.R.A. 854.

Effect of franchises given by the state. 70 L.R.A. 855.

Remedies in the courts. 70 L.R.A. 855.

§ 32. Obstruction of crossing by train. Injury to person attempting to cross train obstructing crossing, see RAILROADS, §§ 62, 82.

Obstruction of street by railroad. 14 L.R.A. 558.

Liability of a railroad company for obstructing a highway crossing. 18 L.R.A. 154.

Act of third person as excuse to railroad for blocking street crossing. 23 L.R.A.

(N.S.) 350.

Duty and liability of railroad company toward one going on its property to pass around train blocking crossing. 5 L.R.A.(N.S.) 775. •

Criminal or penal responsibility for blocking street or highway railroad crossing. L.R.A.1915B, 329.

Obstruction of, by railroad train in violation of statute or ordinance as ground for private action. 5 L.R.A.(N.S.) 244; 47 L.R.A.(N.S.) 821.

Damages recoverable for delaying person by blocking railroad crossing. 44 L.R.A.(N.S.) 1069; L.R.A.1915E, 336.

1. Obstructions, generally; encroachments.

§ 33. Generally.

By railroads, see supra, IV. e.

Municipal liability for injury by, see infra, **§§ 65–75**.

Municipal liability for permitting obstructions, see infra, § 77.

HIGHWAYS, IV. f-cont'd

Liability of municipal corporation for ob-

struction. 1 L.R.A.(N.S.) 127.

Liability of municipality for temporary interference with access to property in making improvements. 46 L.R.A. (N.S.) 620.

Loss of profits as element of damages for obstruction of highways. 52 L.R.A. 47; 13 L.R.A. (N.S.) 253.

Abandonment of highway by permitting obstructions in. 26 L.R.A. 465.

Cruel and unusual punishment for obstructing. 35 L.R.A. 573.

Obstruction of street in violation of police ordinance as ground for private action. 5 L.R.A.(N.S.) 257.

Temporary obstruction of street as a "takor a "damaging." ing" L.R.A.1918E,

Duty and liability of one who maintains temporary obstruction in street for pur-Pose of loading or unloading vehicle. 24 L.R.A. (N.S.) 97.

Obstruction in highway preventing access to property except by circuitous route as a special injury entitling owner to maintain action for damages or abate the nuisance. 8 L.R.A.(N.S.) 227; 21 L.R.A.(N.S.) 75; L.R.A.1917A, 1155.

Does the fact that one is prevented by an unlawful obstruction from using a highway cause him a special damage which will sustain an action by him against the wrongdoer. 28 L.R.A. (N.S.) 1053; L.R.A.1915D, 142.

Employer's duty not to impede public use of highway by independent contractors.

66 L.R.A. 148.

Obstruction or defect in highway as justification for entry on adjoining land which would otherwise be a trespass, 20 L.R.A.(N.S.) 153.

Effect of encroachment. 26 L.R.A. 465.

# § 34. For business and building purposes.

Use for, see supra, § 16.

In general. 14 L.R.A. 556.

Use for loading and unloading goods. L.R.A. 557; 24 L.R.A. (N.S.) 97.

For hack stand or storing wagons. L.R.A. 557.

For fair or market purposes. 14 L.R.A. 558.

Rights of railroad companies. 14 L.R.A. 558.

Convenient uses generally. 14 L.R.A. 558. Private ways. 14 L.R.A. 559.

Burden of proof; question of law and fact. 14 L.R.A. 559.

Obstruction of sidewalks. 14 L.R.A. 559. Right of abutting owner to place building materials in street. 14 L.R.A. 560; 19 L.R.A. 643.

Municipal liability for injury by building material in street. 20 L.R.A. (N.S.)

Right of abutting property owner to extend steps into street. 24 L.R.A.(N.S.)

HIGHWAYS, IV. f-cont'd

§ 35. Polling booths.

Right of municipal corporation to place polling booth in street. 4 L.R.A. (N.S.)

§ 36. Hitching posts and stepping blocks.

Hitching posts or stepping blocks in public streets as unlawful obstructions. 31 L.R.A.(N.S.) 853.

Municipal liability for injury by hitching post in street. 20 L.R.A.(N.S.) 607.

37. Bridges.

Right of municipality without express power to permit construction of an overhead bridge across a public street for private purpose. 23 L.R.A.(N.S.) 158. Liability of county for injury caused by

maintenance or construction of bridge to property thereto adjoining. L.R.A.(N.S.) 209.

§ 38. Fences,

Injunction against maintenance of fence in. 7 L.R.A. (N.S.) 72.

Injunction against interference with fences under claim of highway. 7 L.R.A. (N.S.) 58.

39. Prescriptive right to maintain. Prescriptive right to obstruct. 53 L.R.A. 897.

# g. Nuisances.

§ 40. Generally.

Power of municipality as to nuisances affecting highways, see MUNICIPAL COR-PORATIONS, § 36.

Prescriptive right to maintain. 53 L.R.A. 897.

Injunction against use of street constituting nuisance. 23 L.R.A. 303.

Injunction by municipality against nuisances. 42 L.R.A. 814.

Right to compensation for property destroyed in abating a nuisance on highway. 19 L.R.A. 196.

Presumption as to statutory authority to commit, by alterations in highway. 70 L.R.A. 584.

Municipal liability for nuisance caused by change of highway grade. 1 L.R.A. (N.S.) 129.

Obstructions preventing access to property except by circuitous route, as special injury entitling owner to maintain action to abate the nuisance. 8 L.R.A. (N.S.) 227; 21 L.R.A. (N.S.) 75; L.R.A. 1917A, 1155.

State as proper party to maintain bill to enjoin a public nuisance in a city street. 19 L.R.A.(N.S.) 1173.

Special damage from awning or structure overhanging street which will sustain action by private person to abate or enjoy it as a nuisance. 48 L.R.A. (N.S. )173.

Regulation of jitney busses as. 1915F, 840. L.R.A.

Power to prohibit use of automobile upon public thoroughfare as. L.R.A.1915E, 264.

Begin with this book on every law question.

HIGHWAYS, IV. g—cont'd Liability of abutting owner for nuisance created by a predecessor in title upon

the highway or adjoining property. 7 B. R. C. 581.

# § 41. What are nuisances.

Trees on, as a nuisance subject to municipal control. 39 L.R.A. 670.

Auction in street. 20 L.R.A.(N.S.) 972. Hitching posts or stepping blocks in public streets as. 31 L.R.A.(N.S.) 853.

Parking cars or making up trains within city limits as. 29 L.R.A.(N.S.) 643.

Fireworks in street as 16 L.R.A. 305. 16

Fireworks in street as. 16 L.R.A. 395; 16 L.R.A.(N.S.) 621.

# h. Rights as to trees and material in street.

§ 42. Trees.

Ownership and control of trees in. 15 L.R.A. 553.

Right of abutting owner to remove trees in highway. L.R.A.1917F, 389.

Right of municipal corporation to cut or trim trees within limits of highway. 20 L.R.A.(N.S.) 809; 31 L.R.A.(N.S.) 951.

Authority of municipal officers to cut or trim tree on private property to facilitate use of street. 20 L.R.A.(N.S.) 814.

Liability to abutting owner for mutilating trees in highway by erecting poles or stringing wires. 12 L.R.A.(N.S.) 1125; 30 L.R.A.(N.S.) 1084; 51 L.R.A.(N.S.) 1082.

Trees on street as a 'nuisance subject to municipal control. 39 L.R.A. 670.

Municipal liability for injury by trees in street. 20 L.R.A.(N.S.) 607, 649; 39 L.R.A.(N.S.) 405.

Liability of abutting owner for injuries due to trees in street. L.R.A.1918F, 817.

Liability of street railway company operating in street for injury to employee by tree maintained by third person near tracks. 16 L.R.A.(N.S.) 978.

§ 43. Vegetation.

Right to vegetation growing in highway. 33 L.R.A.(N.S.) 1053.

§ 44. Soil; minerals.

Right of municipality to take soil or mineral from, to injury of fee. 12 L.R.A. (N.S.) 1164.

Right to mineral under the surface of street or highway the fee of which is vested in the public. 8 L.R.A.(N.S.) 422.

# i. Rights and regulations as to vehicles.

§ 45. Generally.

Regulations as to automobiles, see AUTOMO-BILES.

As to jitney busses, see JITNEY BUSSES. License for vehicles, see LICENSE, § 43.

Power of municipality over interurban vehicles used for hire. L.R.A.1918B, 891.

Validity of statutes or ordinances regulating horse-drawn vehicles in city streets. 31 L.R.A.(N.S.) 682.

Consult also L.R.A. Digests of Cases.

HIGHWAYS, IV. i-cont'd

Regulation of draymen. 45 L.R.A.(N.S.) 1152.

Validity of ordinance giving superior rights in public streets to certain vehicles, 43 L.R.A.(N.S.) 600.

§ 46. Regulation of speed.

Regulation of speed of vehicles on stre

Regulation of speed of vehicles on streets. 36 L.R.A. 305.

V. Improvement; repairs; grading; change of grade; lighting; removal of snow, toe, weeds, etc.

# a. In general.

47. Generally.

Widening street, see supra, § 8.

Narrowing streets, see supra, § 8a. Rights as to trees in improvement of street,

see supra, § 42.

Liability for personal injury while improving or repairing street or highway, see infra, VI.

Improvement of highways generally, see Public Improvements.

Contracts for improvements, see Public IMPROVEMENTS, §§ 7-9.

Assessments for improvements, see Public Improvements. IV.

IMPROVEMENTS, IV.
Liability for cost of sprinkling and sweeping, see Public Improvements, § 15.

Improvement of highway as an "internal improvement" within the meaning of a constitutional prohibition against the state engaging in or aiding internal improvements. L.R.A.1917C, 1038.

Duty of municipality as to drainage of surface waters on highways. 65 L.R.A.

950

Presumption as to statutory authority to commit nuisance by alterations in highway. 70 L.R.A. 584.

Prescriptive rights to maintain sidewalks. 53 L.R.A. 903.

Exercise of police power for esthetic purposes. 34 L.R.A.(N.S.) 998; L.R.A. 1917A, 1220.

Persons undertaking work on highway as independent contractors. 17 L.R.A. (N.S.) 374.

Compulsory use of private property in road work. 42 L.R.A. (N.S.) 1045; L.R.A. 1918D, 974.

Liability of municipality for temporarily interfering with access to property in making improvements. 46 L.R.A. (N.S.) 620.

Duty to set apart portion of street or highway for a sidewalk. L.R.A.1916B, 1051.

Right of owner to material employed in an improvement made by him in the street which the municipality has refused to accept. L.R.A.1915B, 187.

#### § 47a. Liability for injuries to property in making.

Municipal liability for injury to property rights through defective plan of streets construction. 67 L.R.A. 257.

HIGHWAYS, V. a-cont'd

Municipal liability for injury to lateral sup- Injury to abutter's easements of light, air, port in making L.R.A. (N.S.) 696. improvement.

§ 48. Duty of railroad company as to repairs.

Liability of railroad right of way for improvements, see Public Improvements, § 21.

Power of municipal corporation to require railroad company to keep highway in repair at overhead or underground crossing. 18 L.R.A.(N.S.) 915.

Duty of railroad company in respect to a restored or substituted highway. L.R.A. 1917C, 971.

§ 49. Lateral support.

Rights and duty as to, see LATERAL SUP-PORT, § 4.

# b. Grading street.

\$ 50. Generally.

Grading street formerly used as a country highway as initial establishment of grade within rule as to municipal liability for changing grade. 51 L.R.A.

(N.S.) 363. Liability of municipal corporation for damming back surface water by grading of streets. 65 L.R.A. 250; 29 L.R.A. (N.S.) 126.

Municipal liability for damming up water course in grading street. 59 L.R.A. 854.

§ 51. Liability to abutting owner.

Municipal liability for injury to abutting property from bringing street to grade first established. 23 L.R.A. 658; 7 L.R.A. (N.S.) 108; 36 L.R.A. (N.S.) 1201; L.R.A.1915A, 383.

#### c. Change of grade.

🛊 52. Generally.

As affecting railway tracks, gas and water pipes, etc. 19 L.R.A. 510.

Cost of, to avoid railroad crossing at grade. 26 L.R.A. 92.

Duty of railroad to conform crossing to change of grade of street. L.R.A.1915B,

Power of municipality to compel change of grade of railway in street. 70 L.R.A. 850.

Duty of municipality to care for surface water on raising grade. 65 L.R.A. 253. Liability of municipal corporation for nuisance caused by change of highway grade. 1 L.R.A.(N.S.) 129.

53, Liability to abutting owner.

Grading street formerly used as a country highway as initial establishment of grade within rule as to municipal liability for changing grade. 51 L.R.A. (N.S.) 363.

Right of abutting owner to damages for. 3 L.R.A. 247; 14 L.R.A. 371.

HIGHWAYS, V. c-cont'd

and access by changing grade. L.R.A. 370, 383.

Right of abutting owner to damages for special injuries from changing street grade where street railway is not considered an additional burden. L.R.A.(N.S.) 1266.

Liability of a municipal corporation for injury to abutting property from changing the grade of a street under a constitutional provision against "damaging" private prop-erty for public use without compensation. 36 L.R.A. (N.S.) 1194; L.R.A.1915A, 382.

Right of abutting owner to damages where railroad changes grade of street. 36 L.R.A. (N.S.) 796.

Liability of railroad company to abutting owner for damages from change of grade of, necessary to carry it across tracks. 26 L.R.A.(N.S.) 226; L.R.A. 1916D, 1078.

Right to interest on damages from change of grade. 28 L.R.A.(N.S.) 66.

Duty of property owner to minimize damages from change of grade. 44 L.R.A. (N.S.) 301.

Right of tenant for years to recover from a

municipality for change of grade in street. 48 L.R.A.(N.S.) 899. Measure of damages to leasehold from change of grade. L.R.A.1917C, 428.

# d. Lighting of streets and bridges.

§ 54. Generally.

As warning in case of obstruction or excavation in street or highway, see infra, § 73.

Street lighting as a local improvement assessable against property benefited. L.R.A.1917Ă, 1098.

Power of board to make contract for street lighting extending beyond its own term. 29 L.R.A. (N.S.) 653.

Duty of municipality to light streets. 13 L.R.A.(N.S.) 1166; 20 L.R.A.(N.S.) 686; L.R.A.1915A, 325.

Duty to light highway bridge. 28 L.R.A.

(N.S.) 946.

§ 55. By railroad company.

Duty of railroad to light space below elevated tracks. 36 L.R.A. (N.S.) 1081.

Power to compel railroad companies to light their tracks in cities. 41 L.R.A. 422; 19 L.R.A.(N.S.) 658.

e. Removal of snow, ice, weeds, etc.

§ 56. Generally.

Liability for injury due to, see infra, §§ 71, 84, 86, 91.

Right to compel abutting owner or occupant to remove ice and snow from side-walks. 24 L.R.A. 413; 51 L.R.A. (N.S.) 274; L.R.A.1918D, 1019.

Begin with this book on every law question.

HIGHWAYS, V. e-cont'd Duty to remove snow or ice from cross walks. 39 L.R.A.(N.S.) 1167.

Right to impose on abutting owner the duty or expense of removing weeds, in the street or highway. 51 L.R.A. (N.S.) 274.

# VI. Liability for injuries to travelers.

#### a. In general.

§ 56a. Generally.

Liability for injury by animals on, see

ANIMALS, § 10. Duty and liability of person operating automobile in street, see AUTOMOBILES, § 2. Liability for injury by electric wire, see Electricity, III. a.

Presumption and burden of proof as to negligence towards person injured on, see EVIDENCE, § 76.

Evidence as to negligence, see Evidence, § 267.

Liability for explosion in street, see Explo-SIONS AND EXPLOSIVES, § 4.

Liability for frightening horse, see Horses, §§ 7-14.

Attractive nuisance in highway, see NEGLI-GENCE, §§ 23, 23a.

Personal injuries on highways not due to defects or obstructions therein, see NEG-LIGENCE, §§ 24-27.

Proximate cause of injury on highway, see

PROXIMATE CAUSE, § 13.
Injury at railroad crossing, see RAILROADS, §§ 58-70.

Injury on street car tracks, see STREET RAILWAYS, IV.

Question for jury as to, see TRIAL, § 42.

I iability for turning steam or other dangerous vapors or gases into sewer. L.R.A. (N.S.) 957.

Doctrine of attractive nuisances as applied to attractions in highway. 19 L.R.A. (N.S.) 1154.

Violation of police ordinance as to excavation in or near street as ground for private action. 5 L.R.A.(N.S.) 259.

For injury caused by placing or exploding bombs, etc., in highways. 3 L.R.A.(N. 8.) 759.

56b. Injury on private road. Injuries due to other causes than defects in, see Negligence, § 28.

Liability for condition of, or injuries on, private roads. 15 L.R.A. 459.

# b. Liability of municipality.

# 1. In general.

57. Generally.

Liability to abutting owner for injury to property, see supra, §§ 49, 51, 53. Duty as to lighting streets, see supra, § 54. Liability of county, see infra, § 78. Liability of township, see infra, § 79. Joint liability of municipality and others, see infra, § 94.

Consult also L.R.A. Digests of Cases.

HIGHWAYS, VI. b, 1—cont'd Recovery over by municipality against person primarily liable, see infra, § 95.

Contributory negligence and its effect, see infra, §§ 96-101.

Notice of defect as condition of liability,

see infra, § 103.

Notice of injury as condition of, see infra, §§ 106, 107.

Duty and liability toward person operating automobile in street, see AUTOMOBILES,

Liability for injury by contact with electric

wire, see Electricity, § 17.
Municipal liability as to streets, generally, see MUNICIPAL CORPORATIONS, § 95.

Proximate cause of injury on highway, see PROXIMATE CAUSE, § 13.

Duty of municipality to guard drainage ditch along sidewalk. 27 L.R.A.(N.S.) 1169.

Duty of municipality as to condition of rural highway within city or village limits. 29 L.R.A. (N.S.) 823; 38 L.R.A. (N.S.) 1127.

Duty of municipality as to condition of sidewalk which extends across street line. 52 L.R.A. (N.S.) 773. extends across

Liability for loss of life or property at ford.

46 L.R.A.(N.S.) 229. Constitutionality of legislation relieving municipalities from liability for defects in streets or sidewalks. 42 L.R.A. (N. 8.) 493.

Effect on liability for injury on defective highways of division of territory of municipality, town, or county. 39 L.R.A.(N.S.) 285.

Sufficiency of general allegations of negligence as to. 59 L.R.A. 248.

Presumption of negligence from occurrence of accident to person in highway. 15 \ L.R.A. 33.

Evidence as to conditions before and after accident. 32 L.R.A. (N.S.) 1084.

Admissibility of evidence of prior accidents in. 32 L.R.A. (N.S.) 1104.

Right to interest on amount allowed as damages. 28 L.R.A.(N.S.) 73.

58. Effect of previous fright of horse. Liability for objects calculated to frighten

horses, see infra, § 67.

Proximate cause of injury on defective highway through fright of horse, see PROXI-MATE CAUSE, § 20.

Effect upon right of recovery, of fact that horse was frightened when accident occurred on defective highway. 18 L.R.A. 100; 8 L.R.A. (N.S.) 77; L.R.A. 100; 8 L.R.A.(N.S.) 77; 20 L.R.A.(N.S.) 742; 29 L.R.A. (N.S.) 199; L.R.A.1915D, 243.

Absence of guard rail as proximate cause of accident occasioned by frightened horse. 18 L.R.A.(N.S.) 1139.

# 2. Who entitled to protection.

§ 59. Generally.

Care due to sick, infirm, disabled and otherwise helpless persons on. 69 L.R.A. 513.

HIGHWAYS, VI. b, 2-cont'd

Duty toward blind persons or persons with defective eyesight as to condition of streets. L.R.A.1917C, 126.

Duty to have highway safe for automobiles. 14 L.R.A.(N.S.) 816.

Duty to make streets and highways safe for bicycles. 23 L.R.A.(N.S.) 543; 47 L.R.A. 298.

Duty as to condition of highway to persons entering or leaving private property. 37 L.R.A. (N.S.) 357.

Right of person using street for play to recover for injury by defect or obstruction therein. 20 L.R.A.(N.S.) 753.

#### 59a. Children.

Rights of children to protection against dangerous condition of highway. 22 L.R.A. 561.

Duty toward children as to obstructions or defects in street. 6 L.R.A.(N.S.) 905; 20 L.R.A.(N.S.) 753; 34 L.R.A.(N.S.) 118; L.R.A.1916B, 947.

# 3. For acts and omissions of others.

### § 60. Employees and independent contractors.

Liability of municipality for condition of highway due to acts of independent contractor. 66 L.R.A. 126.

Liability for defect or obstruction in street caused by servants. 20 L.R.A.(N.S.)

For injuries inflicted by negligence of employees engaged in repair or construction of highways. 6 L.R.A.(N.S.) 1090; 30 L.R.A.(N.S.) 1161.

For fire set by sparks from steam roller engaged in repairing a street. 6 L.R.A. (N.S.) 1094; 20 L.R.A. (N.S.) 654.

#### 61. Abutting owner.

Liability for injury by falling objects, see infra, § 68.

Municipal liability for obstruction or defect in street by abutting owner. 20 L.R.A.(N.S.) 553.

Duty of municipality to guard building material in street. 3 L.R.A.(N.S.) 386.

Municipal liability for injury by excava-tions by abutting owner. 20 L.R.A. (N.S.) 606.

For injury from opening maintained in sidewalk by abutting owner. 7 L.R.A. (N.S.) 424; 43 L.R.A. (N.S.) 1116.

Liability for uses permitted to abutting owners. 19 L.R.A. (N.S.) 509; 49 L.R.A.(N.S.) 844.

Municipal liability for injuries by use of space under street. 61 L.R.A. 583.

Liability of municipality for injuries from material placed in the street by individuals. 46 L.R.A.(N.S.) 330.

62. — cellarways, stairways, etc. Liability for permitting abutting owner to use areaways, hatchways, coalholes, etc. 19 L.R.A. (N.S.) 516.

HIGHWAYS, VI. b, 3—cont'd Liability for injury by stairways and other projections. 20 L.R.A. (N.S.) 622, 635. Municipal liability for injuries to travelers by cellarway in streets. 61 L.R.A. 583; 20 L.R.A. (N.S.) 622; 43 L.R.A. (N.S.)

# 63. Railroad company.

Municipal liability for defects or obstruc-tions in street by act of railroad occupying street. 20 L.R.A.(N.S.) 553.

Municipal liability for injury by railways in streets. 20 L.R.A.(N.S.) 624.

#### 64. Street railway.

Municipal liability for injury by use of highway by street railway. 19 L.R.A. (N.S.) 521.

# 4. Defects and obstructions.

# § 65. Generally.

As to obstructions generally, see supra, §§ 33-39.

Towards whom duty to keep streets free from is due, see supra, §§ 59, 60.

Liability for permitting obstruction by others, see infra, § 77.

Liability of township for defects, see infra,

§ 79.

Effect of contributory negligence on liability, see infra, §§ 100, 101.

Notice of, see infra, §§ 102-105.

Liability for defects after closing, see in-fra, § 113. Liability for injury by defects in bridge,

see Bridges, §§ 5, 6.

Liability for injury due to oiling street. L.R.A.1917F, 712.

Res ipsa loquitur in action for injury by obstruction. 43 L.R.A. (N.S.) 594. Liability for injury due to latent defects. 2 L.R.A. (N.S.) 159.

Liability of county for injury to travelers and vehicles by defective roads. 39 L.R.A. 53.

Different general rules as to liability. 20 L.R.A.(N.S.) 516.

Power to perform duty as affecting liability. 20 L.R.A.(N.S.) 529.

Application of rule as to nonliability for governmental and discretionary acts. 20 L.R.A.(N.S.) 532.

Delegation of duty. 20 L.R.A.(N.S.) 538. Cause of obstruction or defect as affecting liability. 20 L.R.A.(N.S.) 542.

Ways as to which the duty exists. L.R.A. (N.S.) 553; L.R.A. 1915E, 597.

Park paths, bicycle paths, etc. 20 L.R.A. (N.S.) 574; see also 23 L.R.A. (N.S.) 543.

The degree of diligence or care as affecting

liability, 20 L.R.A.(N.S.) 577.
The degree of perfection required.
L.R.A.(N.S.) 583.

Precautions against injury. 20 L.R.A. (N.S.) 671. Injury as result of obstruction or defect. 20

L.R.A.(N.S.) 732. Begin with this book on every law question.

HIGHWAYS, VI. b, 4-cont'd

Right to redress of the person injured. L.R.A. (N.S.) 746.

Effect of concurrent liability of third person. 20 L.R.A.(N.S.) 760.

Damages. 20 L.R.A.(N.S.) 763.
Liability for injury by defect or obstruction in space between sidewalk and carriage way. 40 L.R.A.(N.S.) 94; L.R.A.1918D, 814.

Liability of county, town, or municipality for obstruction or defect outside of traveled portion of highway. 40 L.R.A. (N.S.) 182.

Sufficiency of allegation of facts in regard to defect in street or highway, in action against municipal corporation for injuries received therefrom. 21 L.R.A. (N.S.) 42.

§ 66. Defective plan of street construction as distinguished from other defects.

In general. 67 L.R.A. 253; 37 L.R.A. (N.S.) 1150.

Plan must be formally adopted. 67 L.R.A. 256.

Injury to travelers. 67 L.R.A. 265.

Negligence with respect to slope or grade of sidewalk. 51 L.R.A.(N.S.) 214.

Narrowness of highway as a defect. L.R.A. 1918D, 1180.

§ 67. Objects calculated to frighten

Effect of previous fright of horse on liability for injury due to defects, see supra, § 58.

Liability for injury by frightening horses generally, see Horses, II.

In general. 20 L.R.A.(N.S.) 652. Steam rollers, etc. 20 L.R.A.(N.S.) 654. Building material and other objects. L.R.A. (N.S.) 655.

For placing near highway object calculated to frighten horse. 12 L.R.A.(N.S.) 1152.

Liability of municipality for injuries caused by horse becoming frightened at object in highway. 15 L.R.A. 365. Liability of county for injury caused by fright of horse. 39 L.R.A. 56.

§ 68. Overhanging and falling objects.

Right to maintain, see supra, § 19a. Liability of abutting owner, see infra, § 83.

Res ipsa loquitur in action for injury by. 43 L.R.A.(N.S.) 594.

Liability for injury by overhanging and falling objects. 12 L.R.A. (N.S.) 721; 20 L.R.A. (N.S.) 644; 24 L.R.A.(N.S.) 139.

s, billboards, etc. 19 L.R.A. (N.S.) 517; 20 L.R.A. (N.S.) 646; Signs, 51 L.R.A. (N.S.) 1077.

Liability of municipality for personal injuries by trees. 39 L.R.A.(N.S.)

Consult also L.R.A. Digests of Cases.

HIGHWAYS, VI. b, 4-cont'd Contributory negligence of one struck by object overhanging highway. L.R.A. 1918A, 204.

§ 69. Use of space under street. Liability of abutting owner, see infra, § 82.

In general. 61 L.R.A. 583.

Liability for defective condition. 61 L.R.A. 583; 43 L.R.A.(N.S.) 1116.

Liability for negligent use. 61 L.R.A. 587. Necessity of notice. 61 L.R.A. 589. Questions for jury. 61 L.R.A. 589.

Action over, against person primarily liable. 61 L.R.A. 591.

70. Excavations; holes and openings.

In sidewalk, see infra, § 75. Liability of abutting owner for excavations near highway, see infra, § 81.

Liability of municipality permitting ex-cavations to be made in street. 49 L.R.A. (N.S.) 844.

Municipal liability for injury by excava-tions by abutting owner. 20 L.R.A. (N.S.) 606.

Excavations outside right of way. 20 L.R.A. (N.S.) 595.

Holes and openings generally. 20 L.R.A. (N.S.) 629; 43 L.R.A.(N.S.) 1116.

Hole as defect in highway for which town-ship is liable. 13 L.R.A. (N.S.) 1246.

§ 71. Ice and snow on streets and sidewalks.

Liability of abutting owners or occupants, see infra, § 84.

Liability of landlord, see infra, § 86.

Liability of street railway company, see infra, § 91.

Generally. 21 L.R.A. 263. Effect of ordinance. 21 L.R.A. 264.

Negligence. 21 L.R.A. 265; 20 L.R.A. (N.S.) 656.

Liability for permitting water to accumulate and freeze on sidewalk to the injury of travelers. 58 L.R.A. 321; 20 L.R.A.(N.S.) 656.

Liability for injuries from smooth, level ice or snow accumulating from natural causes on a sidewalk not otherwise defective. 7 L.R.A.(N.S.) 933.

Liability of municipal corporation for in-juries from rough or uneven ice or snow accumulated from natural causes on a street or sidewalk not otherwise defective. 13 L.R.A.(N.S.) 1105; 45 L.R.A. (N.S.) 75.

Liability of municipality for injuries caused by freezing of water accumulated on walk by reason of artificial conditions. 20 L.R.A.(N.S.) 201.

Ice and snow as defects for which township is liable. 13 L.R.A.(N.S.) 1246.

§ 72. Various particular defects and obstructions.

Applicability of maxim Res ipsa loquitur to caving in or sinking of surface of street. 23 L.R.A (N.S.) 1022; 43 L.R.A. (N.S.) 592.

HIGHWAYS, VI. b, 4-cont'd

Posts, stumps, trees, etc. 20 L.R.A.(N.S.) 607, 649; 39 L.R.A.(N.S.) 405.

Rubbish, refuse, etc. 20 L.R.A. (N.S.) 610. Storage of vehicles, lumber, etc. 20 L.R.A. (N.S.) 612.

Machines, tools, etc. 20 L.R.A.(N.S.) 613.
Markets and other business or individual enterprise. 20 L.R.A.(N.S.) 614.

Stones and similar articles. 20 L.R.A. (N.S.) 615.

Unevenness, inequalities, etc. 20 L.R.A. (N.S.) 618.

Permitting ruts to remain in highways. 9 L.R.A.(N.S.) 1266.

Slopes or grades. 20 L.R.A.(N.S.) 619. Obstructions in connection with its waterworks system. 25 L.R.A.(N.S.) 242; 52 L.R.A. (N.S.) 467.

Hydrants and other appliances pertaining to municipal water works. 20 L.R.A. (N.S.) 620.

Embankments. 20 L.R.A. (N.S.) 626. Gutters and drains. 20 L.R.A. (N.S.) 627;

L.R.A.1916F, 708. Decay and wear. 20 L.R.A.(N.S.) 642. Liability for injury by obstruction placed in street or highway to stop travel. 42 L.R.A.(N.S.) 480.

§ 73. Absence or insufficiency of

guards, lights and barriers. Sufficiency of barrier or railing maintained in highway. L.R.A.1917D, 756.

Municipal liability for improper or insuffi-cient barriers, lights, etc., at excava-tion in street. 20 L.R.A.(N.S.) 604, 671.

Absence of guards as defects for which township is liable. 13 L.R.A. (N.S.)

Duty to provide barriers against abandoned highway. 37 L.R.A.(N.S.) 1158.

What injuries may be deemed to be proximately caused by the absence of a guard rail. 18 L.R.A.(N.S.) 1135.

Duty of county or town to maintain barriers along rural highways or bridges. 42 L.R.A.(N.S.) 267; L.R.A.1916F, 973.

Duty to provide barriers to protect travelers from obstructions outside the highway. 20 L.R.A.(N.S.) 980; L.R.A. 1916F, 1218.

Liability for injury by giving way of barrier in highway when one sat or leaned upon it. L.R.A.1916C, 382.

§ 74. Defects in and obstructions on sidewalk.

Ice and snow on sidewalks, see supra, § 71.

Res ipsa loquitur in action for injury by. 43 L.R.A.(N.S,) 592.

Defects and obstructions in sidewalks and crossings. 20 L.R.A. (N.S.) 632.

Degree of perfection required in sidewalk. 20 L.R.A.(N.S.) 591.

Municipal liability for injury due to permitting abutting owners to construct sidewalk. 19 L.R.A.(N.S.) 515.

Begin with this book on every law question.

HIGHWAYS, VI. b, 4-cont'd

Liability of municipality for injuries from unevenness in sidewalk or cross walk.
20 L.R.A. (N.S.) 640; 29 L.R.A. (N.S.)
180; 43 L.R.A. (N.S.) 1158; L.R.A. 1916A, 486.

§ 75. - breaks, excavations, and open-

Liability of landlord, see infra, § 86a.

Res ipsa loquitur in action for injury by. 43 L.R.A.(N.S.) 593.

Municipal liability for injury by breaks. excavations, or openings maintained in sidewalk by abutting owner or occupant. 61 L.R.A. 583; 7 L.R.A. (N.S.) 424; 20 L.R.A. (N.S.) 632; 43 L.R.A. (N.S.) 1116.

§ 75a. Criminal responsibility.

Criminal responsibility of municipality for nuisance resulting from nonrepair of. 39 L.R.A.(N.S.) 414.

5. For permitting or failure to prevent improper use.

76. Generally.

Liability for failure to prevent improper conduct in or use of streets. L.R.A.(N.S.) 636; 42 L.R.A.(N.S.) 862.

Liability for failure to prevent use of fire-works in street. 23 L.R.A.(N.S.) 643. For personal injury on account of exhibi-tion permitted in public street. 9 L.R.A.(N.S.) 146; L.R.A.1915F, 568.

Liability of municipality which permits or fails to prevent riding bicycles on sidewalk for injury caused thereby. 10 L.R.A.(N.S.) 785.

§ 77. - for permitting obstruction. Liability of municipal corporation for permitting obstruction to be placed in street. 19 L.R.A. (N.S.) 507; 49 L.R.A. street. 19 I (N.S.) 844.

# c. Liability of county.

§ 78. Generally.

Liability of counties for torts and negligence as to. 39 L.R.A. 53.

Liability of county for injury to travelers and vehicles by defective roads and highways. 39 L.R.A. 53.

Duty of county or town to maintain bar-riers along rural highways or bridges. 42 L.R.A. (N.S.) 267; L.R.A.1915F, 973.

Effect on liability for injury on defective highway of division of territory of county. 39 L.R.A.(N.S.) 285.

Liability for obstruction or defect outside of traveled portion of highway. 40 L.R.A.(N.S.) 182.

Constitutionality of legislation relieving counties from liability for defects in highway. 42 L.R.A.(N.S.) 493.

# HIGHWAYS, VI .-- cont'd

# d. Liability of township.

79. Generally.

Effect of contributory negligence, see infra, \$ 101.

Liability of township for defects in high-ways. 13 L.R.A.(N.S.) 1219.

Duty to provide barriers to protect traveler from danger outside of highway. 20 L.R.A. (N.S.) 980; L.R.A.1916F, 1218.

Duty of town to maintain barriers along rural highways or bridges. 42 L.R.A. (N.S.) 267; L.R.A.1915F, 973.

Effect of liability for injury on defective highway of division of territory of town. 39 L.R.A.(N.S.) 285.

Liability for obstruction or defect outside of traveled portion of highway. L.R.A.(N.S.) 182.

Liability of township for injury to employee engaged in repairing highway. L.R.A.(N.S.) 1074.

Constitutionality of legislation relieving towns from liability for defects in highway. 42 L.R.A.(N.S.) 493.

# e. Liability of abutting owners or occupants.

§ \$0. Generally.

Joint liability with and liability over to municipality, see infra, §§ 94, 95.

Liability as to condition of fences along highway, see FENCES, § 4.

Liability of abutting owner for nuisance created by a predecessor in title upon the highway or adjoining property. 7 B. R. C. 581.

Imposition on abutting owner of liability for injury by defects or obstruction in streets. 20 L.R.A.(N.S.) 540.

Effect of imposition of duty to keep sidewalk in repair upon abutting owner to impose upon him liability for injuries. 3 L.R.A. (N.S.) 84.

For failure to guard coal hole or other opening in sidewalk for commercial purposes, while in use by a third person. 11 L.R.A.(N.S.) 993.

Liability for injury to pedestrian by refuse on sidewalk. 29 L.R.A.(N.S.) 707.

Liability for injuries due to trees in street. L.R.A.1918F, 817.

Violation of ordinance requiring covering of sidewalks fronting buildings under construction as ground for private action. 5 L.R.A.(N.S.) 258.

Liability for frightening horses by paper or other objects likely to be set in motion by wind. L.R.A.1915D, 617.

§ 81. Excavations and other defects near highway.

Municipal liability for excavations on highway, see supra, § 70.

Liability of landlord, see infra, § 86a. Consult also L.R.A. Digests of Cases. HIGHWAYS, VI. e-cont'd

Duty to trespasser with respect to excavations maintained on uninclosed land near. 5 L.R.A.(N.S.) 733.

Liability for dangerous condition of private grounds lying open beside highway. 26 L.R.A. 686; L.R.A.1918A, 849.

Duty as to entrance to building located on street with ascending grade. 22 L.R.A. (N.S.) 730.

§ 82. Excavations under highway. Municipal liability, see supra, § 69.

Right to make. 14 L.R.A. 398. Liability as affected by consent of municipality. 14 L.R.A. 398.

Duties of one maintaining. 14 L.R.A. 398.

§ 83. Injury by falling objects. Liability of municipality, see supra, § 68.

Res ipsa loquitur in action for injury by. 43 L.R.A. (N.S.) 594.

For injury from falling of object suspended over street. 12 L.R.A.(N.S.) 721; 24 L.R.A.(N.S.) 139.

Liability for injury to person in street from fall of wall or building. 34 L.R.A. 559. Violating ordinance as to awnings or signs as ground for private action. 5 L.R.A. (N.S.) 261.

§ 84. As to snow or ice. Liability of municipality, see supra, § 71. Liability of landlord, see infra, § 86. Liability of street railway company, see in-

fra, § 91.

Liability for permitting water to accumulate and freeze on sidewalk to injury of travelers. 58 L.R.A. 328.

Liability of abutting property owner for injury caused by ice formed from water artificially turned across sidewalk. L.R.A. (N.S.) 598; 28 L.R.A. (N.S.) 200; 51 L.R.A.(N.S.) 309.

Liability of owner or occupant of abutting premises to one injured by reason of the former's failure to remove snow or ice from the sidewalk as required by a valid statute or ordinance. 5 L.R.A. (N.S.) 262; 6 L.R.A.(N.S.) 616.

# f. Liability of landlord.

§ 85. Generally.

Liability of landlord for condition of sidewalk. 23 L.R.A. 157; 26 L.R.A. 198. Liability for condition of awnings. 26 L.R.A. 200.

Liability of landlord to third persons for obstructions on sidewalk. 50 L.R.A. (N.S.) 303.

Liability of landlord to third persons for injuries by things falling because of condition of leased premises. 50 L.R.A. (N.S.) 312.

\$ 86. Snow and ice.

Liability of municipality, see supra, § 71. Liability of abutting owner, generally, see supra, § 84.

HIGHWAYS, VI. f-cont'd

Liability of landlord as to third persons on account of. 26 L.R.A. 201; 50 L.R.A. (N.S.) 300.

§ 86a. Coal holes, areaways, or other excavations under or near highway.

Liability of municipality, see supra, §§ 69,

Where injury is due to tenant's negligent use. 50 L.R.A. (N.S.) 306.

Where defect existed at time of demise. 50 L.R.A.(N.S.) 307.

Purchaser of property with existing defect. 50 L.R.A.(N.S.) 308.

Covenant of tenant to repair. 50 L.R.A. (N.S.) 308. Assumption by landlord of duty to repair.

50 L.R.A. (N.S.) 309. Part of premises in control of landlord. 50

L.R.A. (N.S.) 309. Nuisance per se. 50 L.R.A. (N.S.) 310.

# g. Liability of highway officers.

87. Generally.

Capacity in which liable. 22 L.R.A. 824; 52

L.R.A.(N.S.) 143. Foundation of liability. 22 L.R.A. 825; 52 L.R.A. (N.S.) 144

Principles exempting from liability. L.R.A. 826; 52 L.R.A. (N.S.) L.R.A.1916B, 1186 145;

Principles sustaining liability. 22 L.R.A. 830; 52 L.R.A. (N.S.) 146.

Necessity of notice. 22 L.R.A. 829; 52

L.R.A. (N.S.) 146.

For acts of predecessors or successors. 22 L.R.A. 833; 52 L.R.A.(N.S.) 151.

For acts of employees. 22 L.R.A. 833; 52 L.R.A. (N.S.) 151. Adjoining towns. 22 L.R.A. 834. Canals. 22 L.R.A. 834; L.R.A.1916B, 1188.

Criminal liability. 22 L.R.A. 835.

Personal liability of highway officers for acts in excess of their authority. 13 L.R.A.(N.S.) 233.

# h. Liability of railroads.

§ 88. Generally.

Use and obstruction of highway by railroads generally, see supra, §§ 26-32. Duty as to lighting streets, see supra, § 55. Liability for injury by frightening horse, see Horses, § 10.

Liability for injury by train operated longitudinally in street, see RAILROADS, §

Liability for injury by train at railroad crossing, see RAILROADS, §§ 58-70.

Liability for injury by train at defective crossing, see RAILROADS, § 60.

Imposition on railway in street of liability for injury by defects or obstructions. 20 L.R.A.(N.S.) 539.

Liability for injury to person on highway by objects falling from train. 31 L.R.A. (N.S.) 981.

Begin with this book on every law question.

HIGHWAYS, VI. h-cont'd

Defects in roadbed of company operating train or cars longitudinally along public street. 49 L.R.A.(N.S.) 678.

Contributory negligence in attempting to use railroad crossing known to be in a dangerous or defective condition. L.R.A.1915C, 813.

Contributory negligence of one who strikes railroad bridge extending over highway. L.R.A.1918A, 204.

# i. Liability of street railways.

§ 89. Generally.

Liability for injury by frightening horse, see Horses, § 11.

Liability for injury by street car, see STREET RAILWAYS, §§ 10-23.

Res ipsa loquitur in action for injury. 43 L.R.A. (N.S.) 599.

Liability for injury to person other than passenger or employee by derailment of street car. 23 L.R.A. (N.S.) 751.

§ 90. For defects in track or street. In general. 52 L.R.A. 448; 15 L.R.A. (N.S.)

Grounds of company's liability. 52 L.R.A. 448.

Defects in track; defects in street caused by company. 52 L.R.A. 449; 15 L.R.A. (N.S.) 841.

Defects in street not caused by the company. 52 L.R.A. 457; 15 L.R.A.(N.S.) 842. Remedy. 52 L.R.A. 459. Effect of municipal direction or sanction.

52 L.R.A. 460; 15 L.R.A.(N.S.) 845.

Shifting liability; effect of negligence of municipality, independent contractors, or of other company. 52 L.R.A. 461; 15 L.R.A. (N.S.) 845.

Notice of injury. 52 L.R.A. 463.

§ 91. Ice and snow.

Liability of municipality, see supra, § 71. Liability of abutting owner, see supra, § 84. Liability of landlord, see supra, § 86.

Street railway companies' duty as to removal of. 53 L.R.A. 453.

Negligence in removal of, from street railway track. 52 L.R.A., 453.

Liability of street railroad company for negligence in removal of snow from track. 15 L.R.A.(N.S.) 844.

# j. Liability of contractors.

92. Generally.

Violation of ordinance requiring covering of sidewalks fronting buildings under construction as ground for private action. 5 L.R.A.(N.S.) 258.

Liability of highway contractor for dangerconditions where municipality, tv. or town is not liable. 27 ous county, or town is not liable. 27 L.R.A.(N.S.) 1009; L.R.A.1916A, 1006.

Does bond of highway contractor cover per-sonal injuries to members of public.

34 L.R.A.(N.S.) 152.

HIGHWAYS, VI. j-cont'd

Will breach of contract with municipality to keep a street or highway in repair sustain an action by a person injured directly against the contractor. 39 L.R.A.(N.S.) 1112.

Liability for injury due to oiling street. L.R.A.1917F, 712.

# k. Liability for acts of independent contractors.

# 93. Generally.

Duties imposed on grantees of special privileges in respect to highway as to acts of independent contractor. 66 L.R.A. 134.

Employer's nonliability for acts of independent contractor in work on. 65 L.R.A. 644, 650.

Employer's liability for acts of independent contractor in construction or repair of highway. 65 L.R.A. 845.

Employer's liability for acts of independent contractor in work which is dangerous to persons using highway. 65 L.R.A. 842.

Liability for act of independent contractor affecting safety of highway. 17 L.R.A. (N.S.) 758.

# 1. Joint liability of municipality and others; liability over.

94. Generally.

Right of one injured on highway to proceed in first instance against one ultimately liable. 16 L.R.A. 554.

Joinder of municipality and person responsible for dangerous condition, in action for injuries on street or highway. 37 L.R.A.(N.S.) 569.

Right of one constructively liable for injury on, to contribution or indemnity from one actually responsible therefor. 40 L.R.A.(N.S.) 1149.

95. Recovery over by municipality. Right of municipality held liable for injury on highway to recover indemnity or contribution from one responsible therefor. 61 L.R.A. 591; 40 L.R.A. (N.S.) 1165; L.R.A.1916F, 86.

# m. Contributory negligence.

8 96. Generally.

Contributory negligence on bridges, see Bringes, § 7.

With respect to electric wires, see ELECTRIC-ITY, § 18.

Of person injured otherwise than by defects, see Negligence, §§ 38-40. Question for jury as to, see TRIAL, § 48.

Consult also L.R.A. Digests of Cases.

HIGHWAYS, VI. m-cont'd

Contributory negligence of children. L.R.A. 1917F, 95.

Of child injured on defective railroad crossing. L.R.A.1917F, 153.

Of one who strikes bridge or other object extending over highway. L.R.A.1918A, 204.

Of person injured by dangerous condition of private grounds lying open beside a highway or frequented path. L.R.A. 1918A, 861.

Intoxication amounting to contributory negligence. 40 L.R.A. 138; 47 L.R.A. (N.S.) 737; L.R.A.1916F, 102.

Liability for injury to drunken person by defect in street. 2 L.R.A.(N.S.) 481.

Doctrine of contributory negligence as applied to one who attempts to cross, street. 16 L.R.A. (N.S.) 459.

Negligence in falling on uneven sidewalk.
17 L.R.A. (N.S.) 195.

In case of injury by ice on streets or sidewalks.
21 L.R.A. 276.

Injury to one while coasting in street. 42 L.R.A. (N.S.) 865; L.R.A.1918F, 782.

Driving blind horse as contributory negligence. 48 L.R.A.(N.S.) 141.

Nonobservance of public regulations by one using highway as affecting recovery of damages caused by obstruction or defect therein. 42 L.R.A.(N.S.) 1035.

Violation of statute or ordinance by plain-tiff as precluding recovery for negli-gence in action by driver or owner of automobile. L.R.A.1915E, 960.

Presumption as to exercise of due care by person found killed on highway. 16 L.R.A. 261.

# § 97. Deviating from usual thoroughfare.

Deviation from sidewalk or cross walk by pedestrian. 17 L.R.A. 124; 11 L.R.A. (N.S.) 1114.

Deviation from roadway. 17 L.R.A. 125. Other instances. 17 L.R.A. 126.

§ 98. Person of poor sight.

Care required from one of defective sight, in using streets. 14 L.R.A.(N.S.) 648; 39 L.R.A.(N.S.) 1055.

As affecting municipal liability. 21 L.R.A. (N.S.) 638; 48 L.R.A.(N.S.) 634.

#### § 99. Effect of previous knowledge of defect.

Contributory negligence in attempting to use railroad crossing known to be in a dangerous or defective condition. L.R.A.1915C, 813.

# § 100. Effect on municipal liability for defects and obstructions.

General rules as to effect of contributory negligence on liability. 21 L.R.A. 21 L.R.A. (N.S.) 615; 48 L.R.A.(N.S.) 628.

The degree of care required. 21 I (N.S.) 618; 48 L.R.A.(N.S.) 628. 21 L.R.A. HIGHWAYS, VI. m—cont'd Observation and avoidance of obstruction or defect. 21 L.R.A.(N.S.) 630; 48 L.R.A. (N.S.) 632.

Knowledge of obstruction or defect as affecting liability. 21 L.R.A. (N.S.) 638; 48 L.R.A. (N.S.) 634.

Excuses for failure to observe and avoid defect or obstruction. 21 L.R.A. (N.S.)

648; 48 L.R.A. (N.S.) 637.

Travel in the night. 21 L.R.A. (N.S.) 655;
48 L.R.A. (N.S.) 637.

Choice of ways. 21 L.R.A. (N.S.) 659; 48
L.R.A. (N.S.) 638.

Leaving traveled track. 21 L.R.A.(N.S.) 665; 48 L.R.A.(N.S.) 639.

Violation of law as contributory negligence. 21 L.R.A.(N.S.) 667; 48 L.R.A.(N.S.) 639.

Negligence of third person contributing. 21 L.R.A.(N.S.) 670.

and determination. Proof (N.S.) 673; 48 L.R.A.(N.S.) 639.

Contributory negligence of person injured by materials placed in street by individuals. 46 L.R.A.(N.S.) 333.

# § 101. Effect on liability of township for defects.

Burden of proof. 13 L.R.A. (N.S.) 1260. Question for the jury. 13 L.R.A.(N.S.) 1261.

Knowledge that the road is dangerous. 13 L.R.A. (N.S.) 1262.

Venturesome or careless driving. 13 L.R.A. (N.S.) 1265.

Mode of driving; kind of load. 13 L.R.A. (N.S.) 1266.

Intoxication. 13 L.R.A.(N.S.) 1267. Wrong side of road. 13 L.R.A. (N.S.) 1267. Defective horse, wagon or harness. L.R.A.(N.S.) 1267.

# n, Notice.

# 1. Of defects.

§ 102. Generally. To person injured, see supra, § 99.

Knowledge or notice by municipality of obstruction in highway. 19 L.R.A. (N.S.) 523; 20 L.R.A.(N.S.) 689.

Notice of accumulation of ice on streets or

sidewalks. 21 L.R.A. 267. Question for jury. 20 L.R.A.(N.S.) 730.

§ 103. Necessity of.

Necessity of, to liability. 20 L.R.A.(N.S.) 689.

Actual knowledge or notice. 20 L.R.A. (N.S.) 694.

Constructive or implied notice. 20 L.R.A. (N.S.) 705.

Necessity of notice to municipality of dangerous condition of space under street. 61 L.R.A. 589.

Knowledge by town of defect in highway as essential to liability. 13 L.R.A. (N.S.)

HIGHWAYS, VI. n. 1—cont'd '

Validity of requirement of written notice of defect to render municipal corpora-tion liable for injuries caused by de-

fective highway. 11 L.R.A.(N.S.) 391.
Applicability in case of injury to municipal employee, of rule requiring notice of defect as condition of municipal liability for personal injury on street or highway. 28 L.R.A.(N.S.) 533.

Necessity of written notice as to defect as condition of municipal liability for injuries due to positive act of its officers or servants. 23 L.R.A.(N.S.) 282.

Necessity of showing that municipality had notice of dangerous conditions to ren-der it liable for independent contractor's negligence. 66 L.R.A. 133.

Necessity of notice of condition to make municipality liable for injuries from materials placed in street by individuals. 46 L.R.A.(N.S.) 330.

As essential to liability of street railroad company for defect in track or street.

15 L.R.A.(N.S.) 843.

§ 104. Constructive or implied notice. In general. 20 L.R.A. (N.S.) 705.

Duration of existence of obstruction as affecting. 20 L.R.A.(N.S.) 708.

Cause naturally calculated to produce obstruction. 20 L.R.A. (N.S.) 714. General defectiveness or obstruction as af-

fecting particular defect. 20 L.R.A. (N.S.) 717.

Other accidents. 20 L.R.A. (N.S.) 721. Place, circumstances, etc. 20 L.R.A.(N.S.)

Removal of safeguard by unlooked for event. 20 L.R.A.(N.S.) 723. The duty to inspect. 20 L.R.A.(N.S.) 725.

Time to remove. 20 L.R.A. (N.S.) 728. Officer or agent whose knowledge or notice of defect or obstruction in street is

binding on municipality. L.R.A.1918B, 649.

Length of time sufficient to charge city with notice of materials placed in street by individuals. 46 L.R.A. (N.S.) 332.

§ 105. Sufficiency of notice. Necessity of actual notice. 20 L.R.A. (N.S.)

# 2. Of injuries.

§ 106. Generally.

Notice of injury as condition of municipal liability, generally, see MUNICIPAL CORPORATIONS, §§ 104-107.

What included in statute or ordinance requiring notice or presentation as a condition of municipal liability. 50 L.R.A. (N.S.) 182.

Notice of claim and cause of injury from defects or obstructions in street. 20

L.R.A.(N.S.) 757.

HIGHWAYS, VI. n, 2—cont'd Notice of claim for injury as essential to liability of town for injury by defects in highway. 13 L.R.A.(N.S.) 1228.

Validity of requirement of notice of injury as condition of municipal liability. 36 L.R.A.(N.S.) 1136.

May injured person's residence be required to be stated in notice of accident or injury as condition of municipal liability. 20 L.R.A.(N.S.) 738; 35 L.R.A. (N.S.) 840.

Applicability of rule requiring notice of in-jury as condition of municipal liability for personal injury on street or highway in case of injury to municipal employee. 28 L.R.A.(N.S.) 533.

107. Sufficiency of notice.

In case of claim against municipality generally, see MUNICIPAL CORPORATIONS, § 105.

Sufficiency of description of injury in notice. 20 L.R.A.(N.S.) 804.

# VII. Municipal liability for injury to property through defects in street.

108. Generally.

Liability for injury in improving street, see supra, § 47a.

Liability for injury due to fixing grade,

see supra, §§ 50, 51. Liability for injury by change of grade, see supra, §§ 52, 53.

Measure of damages recoverable from municipal corporation for overflow from defective street. 29 L.R.A. (N.S.) 860.

Liability of municipal corporation for damage to abutting property by water per-colating through soil of highway by reason of defect therein. (N.S.) 333. 22 L.R.A.

# VIII. Discontinuance; vacation; abandonment; reversion.

§ 109. Generally.

By acts of public authorities. 26 L.R.A. 821.

Municipal declaration of forfeiture of street franchise or privilege for breach of conditions as a judicial determination. 4 L.R.A.(N.S.) 321.

Rights acquired as against public by adverse possession of highway. 18 L.R.A. 146.

§ 110. By nonuser or otherwise than by acts of public authorities.

Abandonment in general. 26 L.R.A. 449. Presumption of abandonment. 26 L.R.A. 450.

Title acquired by prescription. 26 L.R.A. 451.

Equitable estoppel. 26 L.R.A. 461.

Effect of nonuser of road. 26 L.R.A. 462. Effect of nonuser of part. 26 L.R.A. 465. Effect of encroachments, obstructions, etc. 26 L.R.A. 465.

New road in place of old. 26 L.R.A. 468. Consult also L.R.A. Digests of Cases.

HIGHWAYS, VIII.—cont'd Laches of corporation officials. 26 L.R.A.

469. Effect of nonuser of. 18 L.R.A. 540.

§ 111. Rights of abutting owner generally.

Injury to abutting owner by vacation of. 26 L.R.A. 662; 39 L.R.A. 68.

Injuries to abutters' easements of light, air, and access by vacating street. L.R.A. 370.

The question of damages and compensation on abandonment. 26 L.R.A. 662.

Damages as personal property on abandonment. 26 L.R.A. 665.

Right of abutting owner to compensation for vacation of highway. 36 L.R.A. (N.S.) 1115.

Right of abutting owner to compensation where street is vacated and used for railroad purposes. 36 L.R.A.(N.S.)

Power of municipality as against abutting owner to vacate street or portion thereof and devote land to private purposes. 22 L.R.A.(N.S.) 530.

Vacation of platted street or highway as affecting private easements of abutting owners. L.R.A.1917A, 1123.

Right of property owner whose means of access from one direction is shut off or interfered with by closing of adjoining street, or portion of street on which he is situated. 2 LR.A.(N.S.) 269; 30 L.R.A.(N.S.) 637; 52 LR.A. (N.S.) 889.

112. Title to land; reversion.

Question of reversion of title on abandon-ment of highway. 26 L.R.A. 659.

Effect of city's permitting use of a street by a railroad in such a way as practically to exclude the public, to cause a reversion of the street to dedicators or abutting owners. 11 L.R.A.(N.S.) **589.** 

Conveyance of parcel abutting on abandoned street as carrying grantor's title to fee of former street. 32 L.R.A. (N.S.) 778.

§ 113. Liability for defects after closing.

Municipal liability for defects or obstructions in street after closing. 20 L.R.A. (N.S.) 575.

Duty to provide barriers against abandoned highway. 37 L.R.A.(N.S.) 1158.

# IX. Highway officers.

§ 114. Generally.

Liability for injury to traveler, see supra, § 87.

Nature of their office. 22 L.R.A. 824; 52 L.R.A. (N.S.) 143.

Binding effect on municipality of knowledge or notice of street commissioner of defect or obstruction in street. L.R.A.1918B, 650.

HIGHWAYS, IX.-cont'd Power to employ attorney. L.R.A.1917D, 247.

Power of road commissioners to vacate highway. 26 L.R.A. 824.

Duties required of them. 22 L.R.A. 824; 52 L.R.A. (N.S.) 143. Ministerial duties. 22 L.R.A. 825; 52 L.R.A.

(N.S.) 144; L.R.A.1916B, 1186.

Principles sustaining liability. 22 L.R.A. 830.

State decisions. 22 L.R.A. 831. Liability for damming flow of stream. 59 L.R.A. 857.

#### HILLSIDE.

Permitting articles to roll down hillside or decline. L.R.A.1915B, 426.

Duty of master to protect servant from material rolling down hillside. 46 L.R.A. (N.S.) 629.

#### HIRED VEHICLE.

Who is responsible for acts of driver of. 13 L.R.A. (N.S.) 1122; 25 L.R.A. (N.S.) 33; 38 L.R.A. (N.S.) 973; 44 L.R.A. (N.S.) 113; 51 L.R.A. (N.S.) 1164; L.R.A.1918E, 121.

# HIRE PURCHASE AGREEMENTS.

Rights of seller of fixtures, retaining title thereto or a lien thereon, as against purchasers or encumbrancers of the realty. 1 B. R. C. 664.

#### HIRER.

See BAILMENT.

#### HIRING.

Of horse, see LIVERY STABLE, § 3.

# HITCHING POSTS.

In highway, see HIGHWAYS, § 36.

# HOBBIES.

As affecting testamentary capacity. L.R.A.(N.S.) 56; L.R.A.1915A, 458. Begin with this book on every law question.

#### HOGS.

Carriers' duty to shower during shipment. 16 L.R.A.(N.S.) 883.

### HOISTING APPARATUS.

Nondelegability of duty to protect servant from defects in. 54 L.R.A. 72, 80. Delegability of master's duty to warn servants as to dangers attending. 26 L.R.A. (N.S.) 642.

Master's liability for vice principal's negligence in operating. 54 L.R.A. 130.

#### HOISTWAYS.

Validity of regulations concerning. L.R.A.(N.S.) 899.

Private action for violation of statutory provision as to. 9 L.R.A.(N.S.) 380; L.R.A.1915E, 541.

Duty of storekeeper towards customer as to condition of. 21 L.R.A.(N.S.) 458; L.R.A. 1915F, 572.

# HOLDING CORPORATION.

Right of holding corporation to maintain action against its own director for an injury to the subsidiary corporation. L.R.A.1915F, 617.

# ----HOLDING OVER.

By tenant, see LANDLORD AND TENANT, § 26. By officer, see Officers, § 18.

# HOLES.

As defects in street or sidewalk, see High-ways, §§ 70, 75, 81.

# HOLIDAYS.

Validity of contract made on, see Con-TRACTS, § 71.

Service of pleading on, see Pleading, § 9. Rule as to, in computing time, see TIME, §§ 18, 19.
Falling on Sunday, see SUNDAY, § 2.

See also SUNDAY.

Right of school teacher to salary on. 50 L.R.A. 374; 38 L.R.A.(N.S.) 514.

Validity of court business transacted on legal holiday. 10 L.R.A.(N.S.) 791. How far the law of holidays extends to mat-

ters other than those relating to negotiable paper. 19 L.R.A. 316.

#### HOLOGRAPHIC WILL.

See WILLS, § 59.

# HOME.

What constitutes residence of inmate of charitable or public home entitling him to privilege of public schools. 36 L.R.A.(N.S.) 344; 51 L.R.A.(N.S.) 234.

#### HOME ECONOMICS.

Power to prescribe teaching of, in public schools. 47 L.R.A.(N.S.) 202.

# HOME OFFICE.

Designation of, by corporation, as fixing situs for purpose of taxation. L.R.A. 1917A, 469.

#### HOME PORT.

Maritime lien for supplies furnished in. 70 L.R.A. 407.

What ports are, for purposes of maritime lien. 70 L.R.A. 412.

Of vessel for purpose of taxation. 2 L.R.A. (N.S.) 197, 1196; 37 L.R.A.(N.S.) 520.

# HOMESTEAD.

I. In general, § 1.

II. The exemption generally, \$\$ 2-7.

III. Loss; abandonment, § 8.

IV. Conveyance of, or contract relating to, mortgage or other encumbrance on; partition, §§ 9-16.

V. Transmission in case of death, **§§** 17-20.

VI. Revaluation or reassignment of, \$ 21.

#### I. In general.

1. Generally.

Effect of divorce on homestead rights, see DIVORCE AND SEPARATION, § 51.

On public land, see PUBLIC LANDS, §§ 16,

Husband's insurable interest in homestead.

66 L.R.A. 660; 45 L.R.A. (N.S.) 1131. Notice of title to homestead lands from possession by husband and wire. L.R.A.(N.S.) 129.

Succession tax on statutory homestead. L.R.A.(N.S.) 428; L.R.A.1916C, 675.

Liability of homestead to assessment or lien for local improvement. L.R.A.1915E,

Consult also L.R.A. Digests of Cases.

#### HOMESTEAD-cont'd

# II. The exemption generally.

2. Generally.

Effect of divorce on homestead rights, see DIVORCE AND SEPARATION, § 51.

Self-executing constitutional provisions as

to exemption. 16 L.R.A. 284. When homestead deemed "otherwise disposed of according to law" within statute providing for its continuance until that time. 30 L.R.A.(N.S.) 921.

Application to existing judgments of statute abolishing homestead exemption. 25 L.R.A.(N.S.) 189.

Right of husband, as against creditors, to claim homestead as exempt where title is vested in wife. 13 L.R.A. (N.S.) 170.

General direction in will to pay debts as charging homestead. 44 L.R.A.(N.S.) 1177

Enforcement of claim for alimony against homestead. 50 L.R.A.(N.S.) 699.

Effect of nonresidence of family whose head is a resident. 52 L.R.A.(N.S.) 746.

Transfer of homestead exemption from one building or tract of land to another. 50 L.R.A. (N.S.) 1128.

Liability of homestead in hands of devisee for the debts of the deviser. L.R.A. 1918D, 1002.

Homestead as subject of mechanics' lien. L.R.A.1918D, 1055.

Right to mechanics' lien as affected by the acquisition of a homestead right after the making of the contract or commencement of the work. L.R.A.1918B,

§ 3. Existence and head of family.

Wife as head of family within homestead statute. 51 L.R.A.(N.S.) 1121.

Is continuance of family a condition of the continuance of homestead, where its existence is a condition of the inception of the homestead. 16 L.R.A. (N.S.) 111.

§ 4. — what constitutes a family. "Family" defined. 4 L.R.A.(N.S.) 366; L.R.A.1917C, 361.

Different aggregations of people. 4 L.R.A. (N.S.) 367; L.R.A.1917C, 363.

Rights acquired by survivorship. 4 L.R.A. (N.S.) 390; L.R.A.1917C, 370.

Divorce. 4 L.R.A. (N.S.) 396; L.R.A.1917C, 371.

§ 5. In what property. In proceeds of sale, see infra, § 14.

In land held under estate by entireties. 30 L.R.A. 313.

In partnership land. 28 L.R.A. 105.

Right to claim homestead in property used as a hotel or boarding house. 41 L.R.A. (N.S.) 303.

HOMESTEAD, II.—cont'd

§ 6. — in crops grown on homestead. Crops grown on homestead, or proceeds thereof, as exempt. 32 L.R.A. (N.S.) 577.

§ 7. Exemption from liability for torts. Generally. 24 L.R.A. 789; 16 L.R.A. (N.S.) 947.

Fine or costs. 24 L.R.A. 790. "Official bonds." 24 L.R.A. 790.

#### III. Loss; abandonment.

8 8. Generally.

By incompetent person, see INCOMPETENT PERSONS, § 14.

Abandonment of homestead by parent, effect on rights of children. 56 L.R.A. 80.

Right to testify as to intent with reference to residence, occupation or use of homestead. 23 L.R.A. (N.S.) 397.

Husband's power without wife's consent to abandon homestead or convey premises by his sole deed after abandonment. 37 L.R.A.(N.S.) 807.

Abandonment during insanity of one spouse. 13 L.R.A.(N.S.) 430.

Effect of insanity and imprisonment as abandonment of. 3 L.R.A.(N.S.) 515. Effect of remarriage upon widow's existing

homestead rights. L.R.A.1916A,

Effect of abandonment on right to partition homestead. 4 L.R.A.(N.S.) 793, 797.

IV. Conveyance of, or contract relating to, mortgage or other encumbrance on; partition.

§ 9. Generally.

Effect of mistake of law as to contract with reference to homestead as ground of reformation. 28 L.R.A.(N.S.) 872.

Conveyance, or encumbrance of homestead during insanity of one of the spouses. 13 L.R.A.(N.S.) 430.

Does homestead exemption attach to surplus on foreclosure of lien paramount to homestead right. 18 L.R.A.(N.S.) 491.

Injunction against sale of, under execution. 30 L.R.A. 100.

Effect of conveyance of homestead on right to partition same. 4 L.R.A.(N.S.) 797, 799.

Purchase of homestead by widow under foreclosure of lien. L.R.A.1917F, 433.

§ 10. By husband alone.

Conveyance of homestead by husband after abandonment by wife. 8 L.R.A.(N.S.) 565; L.R.A.1915D, 551.

Husband's power without wife's consent to convey premises by his sole deed after abandonment. 37 L.R.A.(N.S.) 807.

Power of husband to create easements in homestead without wife's consent. 27 L.R.A.(N.S.) 963.

Begin with this book on every law question.

HOMESTEAD, IV.—cont'd

Power of legislature to take away husband's right to convey or encumber homestead property. 36 L.R.A.(N.S.) 1029.

§ 11. By wife.

Validity of conveyance or encumbrance of homestead by wife after abandonment by husband. 36 L.R.A.(N.S.) 1024.

Effect of a wife's separate deed of homestead in connection with a conveyance or encumbrance by husband, or her subsequent joinder therein. 8 L.R.A. (N.S.) 748.

§ 12. By surviving spouse.

Widow's right to convey, lease, or encumber homestead during minority of children. 10 L.R.A.(N.S.) 787.

Effect of alienation or encumbrance of

Effect of alienation or encumbrance of homestead by surviving spouse on rights of children. 56 L.R.A. 71.

§ 13. Conveyance by husband to wife. Effect of conveyance by husband to wife. 69 L.R.A. 379.

Constructive trust in deed of, by husband to wife, with proviso attempting to derogate from her right of survivorship. 1 L.R.A.(N.S.) 312.

§ 14. Exemption of proceeds on sale. Exemption of proceeds of homestead sold for reinvestment. 19 L.R.A. 36.

Exemption of property obtained in exchange for homestead. 19 L.R.A. 38. Exemption of proceeds of sale of homestead. 19 L.R.A. 39.

Does homestead exemption attach to the surplus upon foreclosure of a lien paramount to the homestead right. 18 L.R.A.(N.S.) 491.

§ 15. Liens as affecting.

Homestead as subject of mechanics' lien. L.R.A.1918D, 1055.

Right to mechanics' lien as affected by the acquisition of a homestead right after the making of the contract or commencement of the work. L.R.A.1918B, 818.

Enforcement of mechanics' lien against building only erected upon homestead lands. 62 L.R.A. 375.

Money decree for permanent alimony or separate maintenance as lien on. 25 L.R.A. (N.S.) 137; L.R.A.1916B, 652.

Mortgage to secure money advanced to purchase property as a purchase money mortgage not subject to homestead rights. 40 L.R.A.(N.S.) 275.

Homestead exemption as against claim for money loaned by third person to pay off existing purchase money obligations. L.R.A.1915E, 875.

Is money loaned to improve land part of the purchase price within the rule that a purchase money lien takes priority over homestead rights. 41 L.R.A. (N.S.) 89. HOMESTEAD, IV.—cont'd § 16. Partition of. See Partition, § 7.

# V. Transmission in case of death.

§ 17. Generally.

Liability of homestead in hands of devisee for the debts of the devisor. L.R.A. 1918D, 1002.

Right of heirs to exemption of homestead from ancestor's debts contracted prior to its acquisition by him. 4 L.R.A. (N.S.) 544.

§ 18. Rights of widow.

Rights of, under homestead and exemption laws. 4 L.R.A.(N.S.) 391; L.R.A. 1917C, 365.

Partition of homestead where homestead right is in widow. 4 L.R.A.(N.S.) 790.

Purchase of homestead by widow under fore-closure of lien. L.R.A.1917F, 433. Widow's homestead rights in partnership

real estate. 27 L.R.A. 347.

Estoppel of wife living apart from husband to claim homestead as against pur-chaser ignorant of the relationship. 26 L.R.A.(N.S.) 575; 34 L.R.A.(N.S.)

Is a widow's dower right in property allotted to her as homestead extinguished merely in abeyance. 10 L.R.A. (N.S.) 1206.

Descent to child of right in parent's homestead as dependent on existence of widow. 56 L.R.A. 47.

Child's right in parent's homestead as against widow. 56 L.R.A. 66.

Right of widow to convey, lease, or encumber homestead during minority of children. 10 L.R.A. (N.S.) 787.

Wife as head of family within homestead or exemption laws. 51 L.R.A.(N.S.) 1121.

Effect of remarriage upon widow's existing homestead rights. L.R.A.1916A, 1000. Woman's right to homestead in estate of second husband, as affected by her homestead right in estate of first husband. L.R.A.1916A, 998.

### \$ 19. Rights of child in parent's homestead.

Rights during lifetime of owner. 56 L.R.A. 34.

Descent or continuance to family. L.R.A. 40.

Governed by what law. 56 L.R.A. 47. The selection or setting apart. 56 L.R.A. 48.

Who are children entitled to take. L.R.A. 52.

Necessity of indebtedness or insolvency. 56 L.R.A. 56. Against what debts a protection. 56 L.R.A.

In what property claimed. 56 L.R.A. 60.

As affected by title or estate of parent. 56 L.R.A. 61.

Consult also L.R.A. Digests of Cases.

HOMESTEAD, V.—cont'd

As affected by domicil of child. 56 L.R.A.

Rights acquired with relation to other interests. 56 L.R.A. 62.

Effect of alienation or encumbrance by survivor. 56 L.R.A. 71.

Effect of sale subject to homestead. L.R.A. 74.

Waiver of release of homestead. 56 L.R.A. 76.

Partition. 56 L.R.A. 77.

Abandonment. 56 L.R.A. 80. Termination. 56 L.R.A. 86.

Effect of death of childless wife on homestead. 16 L.R.A.(N.S.) 111.

Death of both parents. 16 L.R.A.(N.S.) 112.

Death of all but head of family. 16 L.R.A. (N.S.) 112.

Death of spouse and arrival at majority or removal from home of all the children. 16 L.R.A.(N.S.) 112.

Rights of surviving children under homestead and exemption laws. 4 L.R.A. (N.S.) 394; L.R.A.1917C, 371.

Partition of homestead when homestead right is in minor children. 4 L.R.A. (N.S.) 792; 27 L.R.A.(N.S.) 550.

Widow's right to convey, lease, or encumber homestead during minority of

children. 10 L.R.A.(N.S.) 787.
Effect as against children of purchase of homestead by widow under foreclosure of lien. L.R.A.1917F, 433.

### § 20. - child's rights as against creditors.

Child's right in parents' homestead as against creditors. 56 L.R.A. 62.

Right to exemption of homestead from ancestor's debts contracted prior to acquisition by him. 4 L.R.A. (N.S.) 544.

# VI. Revaluation or reassignment of.

21. Generally.

When the question arises. 44 L.R.A. 400; 16 L.R.A.(N.S.) 728.

prices. Change from fluctuation in L.R.A. 400; 16 L.R.A.(N.S.) 728.

Change from improvements and additions. 44 L.R.A. 402.

Homestead in decedents' estates. 44 L.R.A. 402.

# HOMICIDE.

I. In general, §§ 1-4.

tion; malice, §§ 5-7. II. Intent; deliberation;

III. Nature of act causing death, \$\$ 8-18.

a. In general, \$\$ 8-13.

b. Accident, misadventure, or neglect, §§ 14, 15.

c. In commission of unlawful act, \$\$ 16-18.

HOMICIDE—cont'd

IV. Defenses; provocation; degree, \$\$ 19-34.

a. In general, §\$ 19-26a. b. Self defense, §§ 27-30.

o. Degree, \$\$ 31-34. V. Punishment, \$ 35.

#### I. In general,

§ 1. Generally.

Assault with intent to kill, see ASSAULT AND BATTERY.

Charge of assault and battery included in prosecution for, see Assault and Bat-

TERY, § 12.
Territorial jurisdiction over crime of, see Courts, § 25.

As to responsibility for crime generally, see CRIMINAL LAW, III.

Mental condition as affecting responsibility, see Criminal Law, §§ 8, 9.

Former jeopardy, see CRIMINAL LAW, §§ 59-64.

Civil liability for, see DEATH.

Presumption and burden of proof in prosecution for, see Evidence, § 116.

Acts and declarations of co-conspirators,

see EVIDENCE, § 237.
As to threats, see EVIDENCE, § 239.

Dying declarations, see EVIDENCE, §§ 242, 318a.

Evidence of character or reputation of accused, see Evidence, § 252.

Evidence in prosecution for, generally, see EVIDENCE, § 286.

Sufficiency of evidence in prosecution for,

see Evidence, § 326. Variance between pleading and proof, see EVIDENCE, § 332.

Indictment for, see Indictment, etc., § 21. Effect on right to inherit or otherwise obtain property of murdered person, see

DESCENT AND DISTRIBUTION, § 8. Effect of murder of insured on right to proceeds of policy, see INSURANCE, § 193. Procedure on trial for, see CRIMINAL LAW,

IV. Instructions in prosecution for, see TRIAL, § 68.

Verdict in prosecution for, see TRIAL, VIII.

Evidence of declarations of victim of intent to commit suicide. L.R.A.1916B, 821. Time when deemed to be committed. 34 L.R.A. 851.

Solicitation to commit. 25 L.R.A. 437.

What constitutes an attempt to commit homicide as distinguished from assault with intent to kill. 21 L.R.A. (N.S.)

Several offenses growing out of same facts. 31 L.R.A. (N.S.) 693.

What weapons may be considered deadly under law of homicide and assault. 21 L.R.A.(N.S.) 497.

Trial of life termer for murder. 41 L.R.A. (N.S.) 1097.

Civil liability of insane person for. 42 L.R.A.(N.S.) 84.

Begin with this book on every law question.

HOMICIDE, I.—cont'd

§ 2. Bail in case of.

Necessity and sufficiency of description of offense in bail bond or recognizance. L.R.A.(N.S.) 312, 320.

# § 3. Effect of character and reputation of deceased.

Evidence of character or reputation of deceased, see EVIDENCE, § 251.

General rules. 3 L.R.A.(N.S.) 352.

Exception in self-defense cases. 3 L.R.A. (N.S.) 353.

Other exceptions. 3 L.R.A.(N.S.) 361.

Nature or kind of character provable. L.R.A.(N.S.) 364.

Methods of proving character. 3 L.R.A. (N.S.) 370.

Determination as to admissibility and effect. 3 L.R.A.(N.S.) 375.

4. By corporation.

May a corporation be convicted of homicide. 21 L.R.A. (N.S.) 998; 45 L.R.A. (N.S.) 344.

Criminal responsibility of corporation for. 2 B. R. C. 247.

# II. Intent; deliberation; premeditation; malice.

§ 5. Intent.

In homicide by intoxicated person. L.R.A. 470; 52 L.R.A. (N.S.) 230.

Common intent in homicide in carrying out unlawful purpose. 68 L.R.A. 203. Effect of absence of intent to do harm in

homicide by misadventure. 3 L.R.A. (N.S.) 1155.

To kill as affecting degree of homicide in heat of passion. 5 L.R.A.(N.S.) 819. Charging assault with intent to kill when

actual intent is directed against another. 7 L.R.A.(N.S.) 630.

Intention to wound only, as affecting degree of homicide in absence of excuse or justification. 35 L.R.A.(N.S.) 621. Assault with intent to murder or kill by

unlawful act aimed at another than the one injured. 37 L.R.A. (N.S.) 172. Right to show immorality of deceased as

bearing on defendant's intent. L.R.A. (N.S.) 397.

Right of one to testify as to his intent. 23 L.R.A. (N.S.) 388; 34 L.R.A. (N.S.)

§ 6. Deliberation; premeditation.

In case of homicide in mutual combat. L.R.A.(N.S.) 648, 649.

homicide by intoxicated person. L.R.A. 473; 52 L.R.A. (N.S.) 230.

Elements of deliberation and premeditation as affected by the brevity of the period elapsing between the resolution to kill

and the homicide, 7 L.R.A.(N.S.) 1056. May finding of premeditation and deliberation essential to murder in first degree rest upon evidence that at the time defendant was fleeing from the scene of another crime. L.K.A.1918C, 566.

HOMICIDE, II.—cont'd § 7. Malice.

Presumption of malice from act of killing, see EVIDENCE, § 44.

In case of homicide in mutual combat. 45 L.R.A.(N.S.) 648.

Malicious homicide by officer. 67 L.R.A. 310.

As affecting degree of homicide in heat of passion. 5 L.R.A.(N.S.) 813, 819.

Express malice as affecting homicide in resisting arrest. 66 L.R.A. 353.

Proof of malice in homicide in resisting arrest. 66 L.R.A. 384.
"Malice aforethought" in the definition of

murder; what the term now means, and how the courts should deal with it in charging the jury. 38 L.R.A.(N.S.) 1054.

# III. Nature of act causing death.

#### a. In general.

§ 8. Generally.

In resisting assault and battery, see As-SAULT AND BATTERY, § 10.

Criminal homicide in operation of railroad or street railway. L.R.A.1916C, 536. Inciting or abetting suicide as. 66 L.R.A.

By means of spring gun, trap, or other dangerous instrument killing trespasser. 29 L.R.A. 156.

Criminal responsibility for death caused by spring gun or other dangerous mantrap upon one's own property. 14 L.R.A. (N.S.) 346.

Effect of failure to provide medical attendance to render one guilty of manslaughter. 6 L.R.A. (N.S.) 685; 45 L.R.A. (N.S.) 559.

Criminal responsibility for homicide committed by third person, growing out of an altercation between defendant and deceased. 12 L.R.A.(N.S.) 889.

Homicide by acting through innocent or irresponsible agent. 2 L.R.A.(N.S.) 897. Independent, intervening, or concurring cause of death as affecting criminal responsibility. 51 L.R.A. (N.S.) 877.

# § 9. By excessive or improper chastise-

The general rule. 60 L.R.A. 801. Parent and child. 60 L.R.A. 801 Persons in loco parentis. 60 L.R.A. 802. Schoolmaster and pupil. 60 L.R.A. 803. Husband and wife. 60 L.R.A. 803.

Master and servant, slave, or apprentice. 60 L.R.A. 804.

§ 10. In commission of, or attempt to commit, abortion.

General and common-law rules as to. L.R.A. 902; 49 L.R.A.(N.S.) 580.

Theories as to ground of criminal liability. 63 L.R.A. 903. Principal or accomplice. 49 L.R.A. (N.S.) 582.

Consult also L.R.A. Digests of Cases.

HOMICIDE, III. a--cont'd

Grade or degree of the crime. 63 L.R.A. 905; 49 L.R.A. (N.S.) 581.

Application of rules to the killing of the unborn child. 63 L.R.A. 908; 49 L.R.A. (N.S.) 582.

Justification or excuse. 49 L.R.A. (N.S.) 582. 63 L.R.A. 909;

The indictment. 63 L.R.A. 911; 49 L.R.A. (N.S.) 583.

Evidence. 63 L.R.A. 914.
The trial and determination. 63 L.R.A. 919.

# § 11. In resisting arrest, or officers of justice.

In general. 66 L.R.A. 353; 33 L.R.A. (N.S.) 143.

Effect of express malice. 66 L.R.A. 353. General rule in case of lawful arrest.

L.R.A. 354; 33 L.R.A.(N.S.) 144. Reasons for rule. 66 L.R.A. 355.

Determination as to criminality. 66 L.R.A. 357.

General rule in case of unlawful arrest. 66 L.R.A. 374; 33 L.R.A.(N.S.) 147.

Resistance to unlawful arrest. 66 L.R.A. 375; 33 L.R.A.(N.S.) 147.

Protection extended to officers' assistants. 66 L.R.A. 379.

Rules applicable to escapes from confinement. 66 L.R.A. 380.

Statutory protection to certain Federal officers. 66 L.R.A. 380.

The indictment. 66 L.R.A. 381. Proof. 66 L.R.A. 381.

Self-defense in resisting officer. 5 L.R.A. (N.S.) 1016.

Right to defend one's self against an officer who does not disclose his identity or character. L.R.A.1918D, 978.

Killing in self-defense, officer using unnecessary force in making arrest. 66 L.R.A. 367.

Homicide in carrying out conspiracy to effect escape. 68 L.R.A. 209.

Criminal responsibility for homicide in carrying out unlawful conspiracy for. 68 L.R.A. 109.

# § 12. By official action or by officers of justice.

Homicide by authority of law or under official direction. 67 L.R.A. 293.

Effect of official character and action in case of arrest, 67 L.R.A. 297.

General rules as to use of force in making arrest. 67 L.R.A. 297.
Checking flight. 67 L.R.A. 290.
Meeting actual physical resistance.
L.R.A. 301.

Preventing escape or rescue. 67 L.R.A. 302.

Recapture. 67 L.R.A. 303.

Limitation as to force which may be used. 67 L.R.A. 303.

Effect of question of legality or propriety of officer's action. 67 L.R.A. 307. Action by deputy or assistant. 67 L.R.A. HOMICIDE, III. a-cont'd

"Retreat to the wall" in homicide in performance of official duty. 2 L.R.A. (N.S.) 76.

Liability of peace officer or his bond for shooting a person while attempting to arrest him. 51 L.R.A.(N.S.) 1179.

Homicide by peace officer in attempting to enforce his commands against innocent persons. L.R.A.1918D, 379.

§ 13. Resulting from injuries by different persons acting independently.

Homicide resulting from injuries by different persons acting independently. 67 L.R.A. 426; 43 L.R.A. (N.S.) 419.

b. Accident, misadventure, or neglect.

§ 14. By accident or misadventure. Accident as defense to criminal prosecu-tion, generally, see CRIMINAL LAW, §

By accident while hunting. 1 L.R.A.(N.S.)

Accidental killing of bystander by shooting in self-defense. 2 L.R.A.(N.S.) 719. Homicide by misadventure. 3 L.R.A. (N.S.) 1153.

§ 15. Negligent homicide.

Generally. 61 L.R.A. 277; 63 L.R.A. 392. Distinction between different degrees of the crime. 61 L.R.A. 279.

Application of rules to particular classes of negligence. 61 L.R.A. 279. Negligent homicide under Texas Code. 61

L.R.A. 296. Necessity that negligent act shall be personal. 61 L.R.A. 297.

Effect of negligence of others contributing. 61 L.R.A. 298.

Application of doctrine of contributory neg-

ligence. 61 L.R.A. 298.

Pleading and practice. 61 L.R.A. 298.

Homicide in operation of railroad or street

railway. L.R.A.1917C, 536.

Homicide by negligent operation of auto-mobile. 30 L.R.A.(N.S.) 458; 33 L.R.A.(N.S.) 403; L.R.A.1918B, 954.

Effect of failure to provide medical attendance to render one guilty of man-

slaughter. 45 L.R.A. (N.S.) 559.
Negligence of physician. 61 L.R.A. 687;
L.R.A.1915D, 201.

# c. In commission of unlawful act.

16. Generally.

In commission of, or attempt to commit, abortion, see supra, § 10.

In resisting arrest or officers of justice, see supra, § 11.

General rules. 63 L.R.A. 354. Homicide in the commission of felonies. 63 L.R.A. 354.

Effect of statutory declaration that murder in the commission of felony shall be murder in the first degree upon right 1916D, 610.

Begin with this book on every law question.

HOMICIDE, III. c-cont'd

Homicide in the commission of unlawful acts not felonies. 63 L.R.A. 379. Homicide in commission of misdemeanor with dangerous weapons. 45 L.R.A. (N.S.) 219.

Abandonment of unlawful design. 63 L.R.A. 392.

The indictment. 63 L.R.A. 393. Evidence. 63 L.R.A. 397.

Instructions. 63 L.R.A. 401.

The conviction or acquittal. 63 L.R.A. 404. Is one causing fright by unlawful act guilty of homicide because death follows fright. 16 L.R.A.(N.S.) 327.

Death inflicted while defendant is violating municipal ordinance. 28 L.R.A. (N.S.) 770.

Homicide in mutual combat voluntarily and willingly entered into. 45 L.R.A. (N.S.) 646.

§ 17. By unlawful act aimed at another than the one killed.

The general rule. 63 L.R.A. 660.

When murder in the first degree. 63 L.R.A. 662.

When murder in the second or a lower degree. 63 L.R.A. 663.

When manslaughter. 63 L.R.A. 666. When justifiable or excusable. 63 L.R.A. 667.

Assault with intent to murder or kill by unlawful act aimed at another than the one injured. 37 L.R.A.(N.S.) 172.

As affected by mistake as to identity of victim. 33 L.R.A. (N.S.) 1070.

§ 18. In carrying out unlawful conspiracy.

Criminal responsibility. 68 L.R.A. 193. The conspiracy. 68 L.R.A. 200.

The common intent or purpose. 68 L.R.A. 203.

The degree of the crime. 68 L.R.A. 211. The indictment. 68 L.R.A. 214.

Proof. 68 L.R.A. 215.

Criminal responsibility of one who aids an-other in assault in which the latter, without his knowledge or consent, uses a deadly weapon. 23 L.R.A.(N.S.) 273. Responsibility of one assisting in burglary

during which his companion commits murder. 6 L.R.A.(N.S.) 1154. Responsibility of one assisting in robbery

during which his companion commits murder. 45 L.R.A. (N.S.) 55.

Absence from the scene of homicide as affecting the responsibility of a party to a common design to commit another offense. L.R.A.1918B, 75.

# IV. Defenses; provocation; degree.

#### a. In general,

§ 19. Generally.

As to responsibility for crime generally, see CRIMINAL LAW, III.

of jury to pass upon degree. L.R.A. Effect of threats on liability for, see THREATS, § 2.

HOMCIDE, IV. a-cont'd

When unlawful act aimed at another than one killed is justifiable or excusable. 63 L.R.A. 667.

Justifiable homicide in commission of or attempt to commit an abortion. 63 L.R.A.909; 49 LR.A.(N.S.) 582.

Provocation for homicide by intoxicated person. 36 L.R.A. 476.

Unnecessary force in making arrest as provocation for homicide. 66 L.R.A. 370.

Justifiable killing as defense in action for death intentionally inflicted. 23 L.R.A. (N.S.) 996.

# § 20. Youth.

Criminal liability of children generally, see CRIMINAL LAW, § 7.

Criminal liability of children for murder. 36 L.R.A. 200, 207.

§ 21. Weakness of mind; irresistible impulse.

As excuse for crime generally, see CRIMI-NAL LAW, §§ 8, 9.

Weakness of mind as affecting responsibility for homicide. 10 L.R.A.(N.S.) 999.

Irresistible impulse as an excuse. 18
L.R.A. 224; 27 L.R.A.(N.S.) 461;
L.R.A.1918D, 794.

# § 22. Intoxication.

As excuse for crime generally, see CRIMI-NAL LAW, § 10.

What intoxication will excuse. 36 L.R.A. 470.

Drunkenness as defense to homicide. 13 L.R.A.(N.S.) 1024; 25 L.R.A.(N.S.) 376; 52 L.R.A.(N.S.) 230.

Killing in self defense while intoxicated. 36 L.R.A. 476.

Effect of intoxication or heat of passion so as to mitigate or reduce degree of crime. 5 L.R.A. (N.S.) 825.

§ 23. To prevent criminal or unlawful acts.

Forcible felonies and crimes. 67 L.R.A. 529.

Application of rules to particular acts. 67 L.R.A. 532.

To prevent one from taking a child. L.R.A.1915A, 73.

Misdemeanors, crimes without force, and trespasses. 67 L.R.A. 536.

Attack in, or trespass or assault on, dwelling. 67 L.R.A. 541.

Defense of family and relations. 67 L.R.A.

Defense of family and relations. 67 L.R.A. 546.

Prevention as distinguished from punishment. 67 L.R.A. 547.

The question of degree. 67 L.R.A. 548.

§ 24. Insulting words or conduct.

Insulting words or conduct as a provoca-

tion to homicide. 4 L.R.A. (N.S.)

Consult also L.R.A. Digests of Cases.

HOMCIDE, IV. a-cont'd

§ 25. Effect of negligence or lack of skill in treatment or care of wound. In general. 22 L.R.A. (N.S.) 841; 28 L.R.A. (N.S.) 665; L.R.A.1915F, 608.

Negligent or unskilful medical or surgical treatment or want of care. 22 L.R.A. (N.S.) 841.

When death occurs during operation. 22 L.R.A.(N.S.) 844.

Effect of refusal to submit to operation. 22 L.R.A.(N.S.) 845.

When death is due to negligent act of deceased. 22 L.R.A.(N.S.) 845.

Failure to receive prompt medical or surgical treatment. 22 L.R.A.(N.S.) 846.

When death is due solely to negligent or improper treatment. 22 L.R.A.(N.S.)

When cause of death is in doubt. 22 L.R.A. (N.S.) 847.

#### \$ 26. Defense of another.

Homicide in defense of family and relations. 45 L.R.A.(N.S.) 145.

Is one assisting relative in peril bound by the latter's act in bringing on the difficulty. 15 L.R.A.(N.S.) 1013; 39 L.R.A. (N.S.) 671.

# § 26a. Defense of dwelling.

Homicide to prevent entrance of dwelling. 45 L.R.A. (N.S.) 71.

# b. Self defense,

27. Generally.

Killing in self-defense while intoxicated. 36 L.R.A. 476.

Right of officer to kill in self-defense. 67 L.R.A. 304.

Self-defense in resisting officer. 5 L.R.A. (N.S.) 1016.

Right to defend one's self against an officer who does not disclose his identity or character. L.R.A.1918D, 978.

Against unnecessary force in making arrest. 66 L.R.A. 367.

Proof of self-defense necessary to warrant admission of evidence as to character and reputation of deceased. 3 L.R.A. (N.S.) 355.

Applicability of rule of reasonable doubt to self-defense in homicide. 19 L.R.A. (N.S.) 483; 31 L.R.A.(N.S.) 1166.

Admissibility of evidence of turbulent and dangerous character of victim of homicide on issue of self-defense. L.R.A. 1916A, 1245.

Right to set up self-defense in case of homicide in mutual combat. 45 L.R.A. (N.S.) 646.

Right of self-defense against attack due to defendant's illicit relations with wife or other relative of assailant. 46 L.R.A.(N.S.) 13.

§ 28. Self-defense set up by accused who began the conflict. General doctrine. 45 L.R.A. 687. HOMICIDE, IV. b-cont'd

What amounts to provoking or bringing on the difficulty, or producing the occasion. 45 L.R.A. 695.

Threats. 45 L.R.A. 702.

Where relative or other party is the aggressor. 45 L.R.A. 703.

In case of mutual combat. 45 L.R.A. 704. Former quarrel induced by deceased. L.R.A. 705.

Burden of proof of freedom from fault. 45 L.R.A. 706.

Question for the jury. 45 L.R.A. 706.

The question of withdrawal. 45 L.R.A. 707; L.R.A.1915F, 656.

Criminal responsibility of aggressor for ac-cidental killing of third person by shot fired in self-defense at aggressor. 2 L.R.A.(N.S.) 719.

29. — duty to retreat.

Question of withdrawal by accused who began conflict. 45 L.R.A. 707; L.R.A. 1915F, **6**56.

Right of self-defense by one who is pursued and assaulted after leaving premises which he had entered for an unlawful purpose. 26 L.R.A.(N.S.) 621.

Withdrawal from participation in homicide, which will relieve from criminality. 4 L.R.A.(N.S.) 576.

"Retreat to the wall" in homicide. 2 L.R.A. (N.S.) 49.

§ 30. — necessity for killing.

Standpoint of determination as to danger and necessity to kill in self-defense. 3 L.R.A.(N.S.) 535.

# c. Degree.

**31. Generally.** 

Conviction of lower degree as acquittal of higher degree, see CRIMINAL LAW, § 62.

Effect of deceased's consent upon degree of homicide committed by defendant. 15 L.R.A.(N.S.) 988.

Degree of homicide in killing wife, as affected by her confession of, or declaration of intent to commit, adultery. 38 L.R.A.(N.S.) 99.

Presumption as to distinctive elements of murder in first degree from use of deadly weapon. 34 L.R.A.(N.S.) 74.

Killing or assaulting of a relative or friend of defendant as a sufficient provocation to reduce a homicide to manslaughter. 17 L.R.A.(N.S.) 795.

Degree of crime in case of homicide by peace officer in attempting to enforce his commands against innocent persons. L.R.A.1918D, 379

Test of provocation which will reduce grade of homicide from murder to man-slaughter. 7 B. R. C. 277.

§ 32. Heat of passion which will mitigate or reduce degree.

Effect of passion generally. 5 L.R.A. (N.S.) 809.

Necessity of. 5 L.R.A. (N.S.) 811.

Begin with this book on every law question.

HOMICIDE, IV. c-cont'd

Necessity of provocation as a cause. L.R.A.(N.S.) 812.

Malice or intent to kill as affecting. L.R.A. (N.S.) 813.

Nature and sufficiency of the passion. L.R.A. (N.S.) 815.

Conditions and circumstances indicating passion or malice as the controlling factor. 5 L.R.A.(N.S.) 818.

Determination as to existence and suffi-ciency. 5 L.R.A.(N.S.) 826.

Killing in hot blood in case of homicide in mutual combat. 45 L.R.A.(N.S.) 650. Proof. 5 L.R.A. (N.S.) 827.

As controlling element of homicide induced by insulting words or conduct. 4 L.R.A.(N.S.) 158, 166.

Responsibility for homicide committed in fit of anger. 10 L.R.A.(N.S.) 1032.

§ 33. Question for jury as to. See TRIAL, § 55.

§ 34. Conviction of lower or different degree.

Conviction of lower or different degree in prosecution for homicide. 21 L.R.A. prosecution for homicide. (N.S.) 1; 43 L.R.A.(N.S.) 813.

#### V. Punishment.

§ 35. Generally.

Cruel and unusual punishment for. L.R.A. 575; L.R.A.1915C, 569.

# HOOKS.

Master's liability for injury by defect in. 13 L.R.A.(N.S.) 678; L.R.A.1918D, 1141.

# HOOTING.

As disturbance of the public peace. 32 L.R.A.(N.S.) 505.

# HOP ALE.

Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 316.

# HOPE.

Voluntariness of confessions induced by. 18 L.R.A.(N.S.) 804, 825; 50 L.R.A. (N.S.) 1086.

#### HORNS.

Blowing of, as disturbance of public peace. 32 L.R.A. (N.S.) 505.

#### HORSE PLAY.

Injury received by employee while indulging in horse play as one arising out of his employment within the meaning of Workmen's Compensation Act.

L.R.A.1917D, 123.

Recovery under Workmen's Compensation
Acts for injuries caused by. L.R.A.

1918E, 504.

# HORSE RACE.

Constitutionality of statute as to, see Con-STITUTIONAL LAW, § 104.

As proper subject for exercise of police power. L.R.A.1917E, 318.

Power of state to prohibit or regulate horse racing. 25 L.R.A.(N.S.) 905.

Horse racing as a game within gambling statutes. 7 L.R.A.(N.S.) 899; 33 L.R.A. (N.S.) 828.

Oral betting as violation of statute against bookmaking. 25 L.R.A. (N.S.) 479.

Liability of municipal corporation for failure to prevent racing in streets. 23 L.R.A.(N.S.) 641.

Liability of proprietor for injury to patron.

1 L.R.A.(N.S.) 427; L.R.A.1915F, 690.

Effect of award founded on agreement as to. 58 L.R.A. 183.

# HORSE RAILROADS.

As additional burden in street. 17 L.R.A. 477; 36 L.R.A.(N.S.) 718.

# HORSES.

I. In general, §§ 1-6. II. Fright of; running away; injuries due to, \$\$ 7-14.

#### I. In general.

§ 1. Generally.

As to animals generally, see ANIMALS. Liability of bailee of, see BAILMENT, § 6. Liability of bailor of, see BAILMENT, § 12. Regulation of vehicles drawn by, see High-WAYS, §§ 45, 46.

As to horse race, see Horse RACE. As to horse trade, see Horse Trade. Stable for, see LIVERY STABLE.

Evidence as to disposition of horse prior to accident. 32 L.R.A.(N.S.) 1159.

Fixing the extent of liability of the several obligors to an agreement relating to purchase of horses as making it joint and several or several. L.R.A.1915B. 224.

Duty and liability of operator of automobile with respect to horses encountered

on highway. 48 L.R.A. (N.S.) 946.
False pretenses in misrepresenting the quality, condition or status of the sub-

Consult also L.R.A. Digests of Cases.

HORSES, I.—cont'd

§ 2. Warranty of.

Damages for breach of warranty, see DAM-AGES, § 116.

Warranty of horse kept for hire. 19 L.R.A. 283.

What amounts to a breach of warranty of soundness of a horse. 32 L.R.A. (N.S.)

Remedy for breach of warranty of horse where its death prevents its return and substitution of another as provided by the contract. 25 L.R.A.(N.S.) 823.

§ 3. Exemption of. See EXEMPTIONS, § 4a.

§ 4. Hiring of.

Liability of hirer, see BAILMENT, § 6. Liability to hirer, of one letting horse, see BAILMENT, § 12.

§ 6. Hitching of. See Highways, § 20; Negligence, § 27.

II. Fright of; running away; injuries due to.

7. Generally.

Vicious character of hired horse, see supra, § 5.

Fright of animals generally, see FRIGHT, § 1.

Effect of fright of horse on liability for injury by defective highway, see HIGH-

WAYS, § 58. Liability of municipality for injury due to objects calculated to frighten horse, see Highways, § 67.
Proximate cause of injury through fright

of horse, see PROXIMATE CAUSE, §§ 19,

Duty of driver of horse that is running

away. 35 L.R.A.(N.S.) 148. Liability, in absence of negligence, for damage by runaway horse. 37 L.R.A. (N.S.) 718.

Liability for death of or injury to one attempting to stop runaway horse. L.R.A. 1917C, ĭ083.

Fright of team as excuse for omission to look and listen at railroad crossing. 21 L.R.A.(N.S.) 415.

Liability to patron of public exhibition for injury due to collision with frightened horse. 1 L.R.A.(N.S.) 427.

What deemed to be proximate cause of injuries following a runaway. 5 L.R.A. (N.S.Y 373.

Liability for injury to, from fright caused by wrongful act. L.R.A.1917C, 991.

Liability for injuries in consequence of fright of horse not on highway because of an improper use of highway. L.R.A. 1918D, 571.

Liability for frightening horse to death. 23 L.R.A.(N.S.) 183.

ject of a horse trade. 49 L.R.A.(N.S.) Duty to avoid injury to person driving frightened horse. 69 L.R.A. 528.

HORSES, II.—cont'd

Liability for injury in consequence of Duty of trainmen where animals are fright-frightening horse by blasting. 36 ened by train, but are not struck L.R.A.(N.S.) 54. by it. 46 L.R.A.(N.S.) 430.

Vicious character of horse as affecting liability for injuries caused by frightening of horse. 22 L.R.A. (N.S.) 1229.

Liability of public service corporation for frightening horses by construction apparatus in street. 28 L.R.A.(N.S.)

Liability for placing near highway object calculated to frighten horse. 12 L.R.A. (N.S.) 1152.

Liability for frightening horses by paper or other objects liable to be set in motion by wind. L.R.A:1915D, 617.

Duty to prevent escape of steam from engine in highway so as to frighten horses. 31 L.R.A.(N.S.) 1209.

Sufficiency of general allegations of negligence towards persons by frightening horses. 59 L.R.A. 230.

Presumption of negligence from runaway. 23 L.R.A.(N.S.) 171; 39 L.R.A.(N.S.) 574.

Evidence that horses had been previously frightened by the same object. L.R.A. (N.S.) 1159.

# § 8. By bicycle.

Liability of bicyclist for frightening horses. 47 L.R.A. 295.

#### § 9. By automobile.

Contributory negligence, see infra, § 14.

Duty and liability of operator of automobile with respect to horses encountered on highway. 1 L.R.A. (N.S.) 223, 224; 14 L.R.A. (N.S.) 251; 48 L.R.A. (N.S.) 946.

§ 10. By railroad train or locomotive. Liability of company for wrongful use of whistle by employees. 27 L.R.A. 187. Liability for frightening animal to death. 23 L.R.A.(N.S.) 183.

Liability of railroad company for frightening horse on highway by flagman or warning device at crossing. L.R.A. 1917C, 982.

Liability of railroad company for frightening horse on highway by engine, car, etc., on or near crossing. 3 L.R.A. (N.S.) 111; 42 L.R.A. (N.S.) 568.

Frightening horse on highway by locomotive, car, or train running parallel therewith. 33 L.R.A.(N.S.) 123.

Liability for discharge of steam in street or highway so as to frighten horses. 23 L.R.A.(N.S.) 946.

Liability of railway company for frightening horse by escape of steam from engine standing on highway crossing. 24 L.R.A. (N.S.) 1202.

Liability of railroad company operating trains or cars longitudinally along public street for frightening horses by blowing off of steam or causing other noises. 49 L.R.A. (N.S.) 677.

| HORSES, II .- cont'd

ened by train, but are not struck

by it. 46 L.R.A. (N.S.) 430. Sufficiency of general allegations of railroad's negligence by frightening horses. 59 L.R.A. 230.

§ 11. By street car.

Generally. 34 L.R.A. 482; 21 L.R.A. (N.S.) 283; 48 L.R.A. (N.S.) 823.

By bells, gongs, and whistles. 485; 21 L.R.A.(N.S.) 286. 34 L.R.A.

By steam. 34 L.R.A. 486. Unusual noises. 21 L.R.A. (N.S.) 286. Excessive speed. 21 L.R.A.(N.S.) 286.

Unusual sounds and sights. 21 L.R.A. (N.S.) 287.

Frightening horse on highway by car running parallel therewith.
(N.S.) 123. 33 L.R.A.

Duty towards person whose horse has been frightened by the sounding of gong. 69 L.Ř.A. 530.

Liability for placing near highway object calculated to frighten. 12 L.R.A.(N.S.) 1152.

Liability of, for frightening horses by construction apparatus in street. L.R.A. (N.S.) 942.

Contributory negligence. 21 L.R.A.(N.S.) 288. 34 L.R.A. 486;

§ 12. Master's liability for injury by horse used by servant.

Master's liability for injury by horse when used by servant for his own business or pleasure. 9 L.R.A.(N.S.) 1033.

§ 13. Master's liability for injury to servant.

Duty to warn servant against vicious horse. 3 L.R.A. (N.S.) 209.

Servant's assumption of risk or contributory negligence in using unsafe horse. 18 L.R.A. (N.S.) 695.

14. Contributory negligence.

Contributory negligence of driver of horse encountering automobile on highway. 1 L.R.A. (N.S.) 228; 31 L.R.A. (N.S.) 1137; 50 L.R.A. (N.S.) 566.

In case of fright by street car. 34 L.R.A. 486: 21 L.R.A. (N.S.) 288; 48 L.R.A. (N.S.) 823.

#### HORSE STEALING.

Cruel and unusual punishment for. 35 L.R.A. 573.

#### HORSE TRADE.

False pretenses in misrepresenting the quality, condition or status of the subject of a horse trade. 49 L.R.A.(N.S.) 576.

#### HOSPITAL RECORDS.

Are hospital records within the privilege extended to communications between physician and patient. 14 L.R.A. (N.S.) 585.

#### HOSPITALS.

§ 1. Generally. Records of, see HOSPITAL RECORDS. Insane Asylums, see Insane Asylums.

Right of woman to be officer of. 38 L.R.A.

211. Power to provide for contagious diseases. 26 L.R.A. 727.

Right of occupants of, to acquire residence as voters. 23 L.R.A. 215; 40 L.R.A. (N.S.) 169.

Exemption from suit, as agency of state. 35 L.R.A. (N.S.) 243.

Injured servant's right to recover for master's delay in taking him to hospital. 7 L.R.A.(N.S.) 997.

Requiring payment for patient as affecting right of hospital to public aid or exemption from taxation. 29 L.R.A.

(N.S.) 190. Erection of, as violation of restrictive covenant in deed. 41 L.R.A. (N.S.) 617.

Liability for detaining patient at hospital against his will. L.R.A.1915D, 611.

Who may or must be admitted to private hospital or hospital maintained primarily for benefit of special class. L.R.A. 1918D, 561.

§ 2. As nuisance; objections to location of, in neighborhood. As nuisance, see NUISANCES, § 7.

Injunction against, by local authorities. 41 L.R.A. 324.

Use of building for, as violation of general restrictive covenant against use for purpose offensive or detrimental to neighborhood. 9 L.R.A.(N.S.) 1039.

Right of property owner to complain of location of contagious disease hospital in neighborhood. 5 L.R.A. (N.S.) 1028; 25 L.R.A.(N.S.) 228.

Right of municipality to establish contagious disease hospital beyond city limits. 18 L.R.A. (N.S.) 260.

§ 3. Sending of, or commitment of, persons to.

For insane; commitment in, see INCOMPE-TENT PERSONS, § 17.

Sending to pest house, see HEALTH, § 2.

4. Liability for negligence or tort. Liability of charitable institutions including charitable hospitals, for personal injuries, see CHARITIES, § 12.

Liability for damages for performing un-authorized autopsy. L.R.A.1918D, 404. Liability of hospital for loss or theft of property 1157. of patient.

Consult also L.R.A. Digests of Cases, 42

HOSPITALS-cont'd

Liability of, for negligence. 23 L.R.A. 200. Master's liability for effect of hospital treatment of seaman. 28 L.R.A. 555.

Liability of proprietor of private sanita-rium or hospital for negligence of nurse or attendant. 6 L.R.A. (N.S.) 306; L.R.A.1915D, 334.

Liability of operating surgeon for negligent act of interne or hospital nurse in caring for patient. 27 L.R.A.(N.S.) 1174; L.Ř.A.1918C, 134.

Liability for negligence of attendants furnished by relief department toward which employees contribute. 17 L.R.A. (N.S.) 1167; 30 L.R.A. (N.S.) 1207; 48 L.R.A. (N.S.) 531.

# HOSPITAL SERVICES.

As element of recovery under Workmen's Compensation Act. L.R.A.1917D, 178.

#### HOSTILITY.

As element of adverse possession, see Ap-verse Possession, § 13.

Of stockholder, effect on right to inspect corporate books. 45 L.R.A. 463.

Order for physical examination by hostile physician as abuse of discretion. 15 L.R.A. (N.S.) 665.

Right of party calling to impeach hostile witness. 21 L.R.A. 423.

Permitting hostile crowd in court room as denial of fair trial. 39 L.R.A.(N.S.) 667.

#### HOT AIR FURNACE.

As part of realty. 1 B. R. C. 972.

# HOTCHPOT.

Bringing advancements into hotchpot in cases of partial intestacy. 4 B. R. C. 268.

# HOTELS.

In general, see INNKEEPERS.

Servants in, as fellow servants. 50 L.R.A. 461.

Master's liability for negligence of supervising employee employed pursuant to statute. 41 L.R.A.(N.S.) 158.

Right to claim homestead in property used as. 41 L.R.A.(N.S.) 303.

L.R.A.1918A, As violation of restrictive covenant in deed.

41 L.R.A.(N.S.) 625.

HOTELS-cont'd

Right to use railroad right of way for purpose of as against owner of fee. 36 L.R.A.(N.S.) 517.

Hiring room in hotel as affecting domicil or residence. L.R.A.1917D, 788.

# HOT WATER.

Doctrine of attractive nuisance as applied to injury from hot water. 3 L.R.A., (N.S.) 149; 19 L.R.A.(N.S.) 1124.

# HOT WATER HEATER.

As part of realty. 1 B. R. C. 972.

HOUND.

See ANIMALS.

# HOURS OF LABOR.

See MASTER AND SERVANT, §§ 32, 33.

# HOUSE.

What passes under bequest of contents of property and effects contained in. L.R.A.1015C, 653.

### HOUSEHOLDER.

Necessity that grand juror be. 28 L.R.A. 197.
Servant as. 4 L.K.A.(N.S.) 707, 711, 713, 722.

#### HOUSEHOLD GOODS.

As baggage. 39 L.R.A. (N.S.) 634. Location of, as affecting insurance on. 26 L.R.A. 239.

As a family expense or necessary within statute rendering wife or her property liable therefor. L.R.A.1917F, 863.

Measure of damages for loss or conversion of or injury to. L.R.A.1917D, 495.

# HOUSE OF CORRECTION.

Cruel punishment in. 35 L.R.A. 567.
Confinement in, as cruel and unusual punishment. L.R.A.1915C, 563.

Begin with this book on every law question.

HOUSE OF ILL FAME.

See DISORDERLY HOUSES.

## HOUSE OF REFUGE.

Confinement in, as cruel and unusual punishment. 35 L.R.A. 567.

#### HOUSE PLANTING.

Right to allowance for improvements made with knowledge that property would be required for public use. 36 L.R.A. (N.S.) 273.

#### HUCKSTERS.

See PEDDLERS.

#### HUGGING.

Mental anguish as element of damages for hugging woman against her will. 33 L.R.A. (N.S.) 98.

# HUGHES' LEMON GINGER.

Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 316.

#### HUMANE OFFICERS.

Constitutionality of statutes authorizing seizure of animals by. 15 L.R.A. (N.S.) 554.

# HUMANITARIAN DOCTRINE.

See NEGLIGENCE, §§ 50-52.

#### HUMILIATION.

As element of damages, see Damages, §§ 96-106.

# HUNTING.

Injunction against hunting on navigable waters or against interference therewith. 17 L.R.A.(N.S.) 1236; 38 L.R.A. (N.S.) 286.

Civil liability for negligent discharge of firearms. 4 L.R.A. (N.S.) 119; 26 L.R.A. (N.S.) 134; L.R.A.1915E, 267.

HUNTING--cont'd

Nature and extent of right created by private grant of hunting privilege. 40 L.R.A.(N.S.) 300.

Criminal character of homicide by accident while hunting. 1 L.R.A. (N.S.) 991.

As violation of Sunday laws. 30 L.R.A.

(N.S.) 470.

Pursuit of game as justification for entry on land of another. 20 L.R.A. (N.S.)

# HUNTING PRESERVE.

Applicability to keeper of, of Workmen's Compensation Acts. L.R.A.1918F, 202.

#### HURRICANE.

Causes of loss covered by hurricane insurance. L.R.A.1915B, 1094.

# HUSBAND AND WIFE.

I. In general, §§ 1-4.

II. Husband's rights and liabilities,

\$\$ 5-11.

a. Rights, § 5. b. Liabilities, §§ 6-11.

III. Wife's rights, disabilities, and liabilities, §§ 12-25.
a. Rights and disabilities gen-

erally, §§ 12-14.

b. Power to contract, §§ 15-19.

c. Liabilities, §§ 20-25.
IV. Property rights, §§ 26-44.
a. In general, § 26.

b. Tenancy by the entireties, \$ 27.

6. Community property, §§ 28-32.

d. Wife's separate estate, §§ 33-37.

e. Conveyances to wife by third persons, § 38.

f. Conveyances or mortgages to third persons, \$\$ 38a-42.

g. Fraud on marital rights, \$\$ 43, 43a.

h. Rights of creditors, § 44. V. Transactions between, §§ 45-61.

a. In general, §§ 45-48.

b. Gifts; trusts, §§ 49-53. c. Partnership between, § 54.

d. Antenuptial contract; marriage settlement, §§ 55-61.

VI. Actions, §§ 62-69a. a. In general, § 62.

b. For personal injury or death, §§ 63-65.

c. Alienation of affections, §§ 66, 67,

d. Criminal conversation, \$ 68. e. Actions between, §§ 69, 69a. VII. Abandonment; nonsupport, \$\$ 70, 71.

# I. In general.

🖁 1. Generally.

Breach of promise see Breach of Promise. Divorce or separation, see DIVORCE AND SEP-ARATION.

Marriage, see MARRIAGE.

Power to dispose of private property, see CONSTITUTIONAL LAW, § 28.

Consult also L.R.A. Digests of Cases.

HUSBAND AND WIFE, I.—cont'd

Implied contract to pay for services of, see CONTRACTS, § 5.

Domicil of married woman, see DOMICIL AND RESIDENCE, § 3.

Presumption and burden of proof as to matters between, see EVIDENCE, § 111.

Privileged character of communications be-

tween, see Evidence, § 223.
Improvements by, see Improvements, § 8. Conclusiveness against one, of judgment

against the other, see JUDGMENT, § 45. Revocation of will of, see WILLS, §§ 36, 37. As witnesses, see WITNESSES, §§ 17-21.

Allowance for mental anguish because of negligence in transmission of telegram relating to illness or death of husband or wife, see DAMAGES, § 102.

When are husband and wife living together within meaning of workmen's compensation act. L.R.A.1916A, 370.

Wife as an "employee" of husband within meaning of Workmen's Compensation Acts. L.R.A.1918F, 205.

Common-law wife as a "dependent" within meaning of Workmen's Compensation

Statutes. L.R.A.1918F, 484.

Personal contributory negligence of wife riding in vehicle driven or controlled by husband. L.R.A.1915E, 232.

Notice to husband or wife to redeem from tax sale. 44 L.R.A.(N.S.) 679.

Admissibility of finding of coroner to prove that one spouse predeceased the other. 45 L.R.A. (N.S.) 408. Telegraph company's duty as to discovering

sendee of message addressed to married

woman. 22 L.R.A.(N.S.) 765. Survivor's right to compel or restrain removal of remains of deceased spouse. 3 L.R.A.(N.S.) 488.

Necessity for administration in devolution of personalty as to decedent's husband or wife. 15 L.R.A. 495.

Estoppel of tenant's wife to deny landlord's title. 30 L.R.A.(N.S.) 1102.

Omitting part of will of married woman from probate. 34 L.R.A.(N.S.) 973.

Marketability of title where deed is not executed, or is improperly executed by husband or wife. 38 L.R.A.(N.S.) 20.

Assault on wife as sufficient provocation to

reduce homicide to manslaughter. L.R.A.(N.S.) 795.

Federal courts following state decisions as to construction and effect of married women's acts. 40 L.R.A.(N.S.) 431.

# 2. Alien wife.

Effect of marriage on wife's status as an alien. 22 L.R.A. 148; L.R.A.1916D, 132.

Right of alien wife of alien to naturalization. 29 L.R.A.(N.S.) 829.

# § 3. Marital infidelity.

As to adultery generally, see Adultery.
As ground for divorce, see DIVORCE AND SEPARATION, § 22.

Belief in marital infidelity as insane delusion. 37 L.R.A. 273.

Assault to prevent seduction of, or commission of adultery with, wife in future. 18 L.R.A.(N.S.) 688. HUSBAND AND WIFE, I .-- cont'd

Degree of homicide in killing wife as affected by her confession of, or declaration of intent to commit adultery. 38 L.R.A. (N.S.) 99.

Right of self-defense against attack due to defendant's illicit relations with wife or other relative of assailant. 46 L.R.A. (N.S.) 13.

Construction and effect of provisions requir-ing prosecution for adultery to be on complaint of husband or wife.

L.R.A.(N.S.) 786.

Proof necessary to establish bastardy of child born to married woman. 36 L.R.A. (N.S.) 255.

§ 4. Contracts of husband or wife with third person.

Contracts between husband and wife, see infra, V.

Conveyances or mortgages to third persons, see infra, §§ 39-42.

Validity of contract to pay debt of married woman, see Contracts, § 83.

Contracts procured by threats of prosecution of husband. 20 L.R.A. (N.S.) 484; L.R.A.1915D, 1118.

Validity of contract by third person to pay one spouse to return to the other. 31 L.R.A.(N.S.) 441.

Wife as agent of husband in contracting for services of other persons. L.R.A.1918F,

# II. Husband's rights and liabilities.

# a. Rights.

§ 5. Generally.

Husband as agent for wife, see infra, § 15. Property rights, see infra, IV. Right of action, see infra, VI.

Insurable interest of husband in wife's property, see Insurance, § 25.

Insurable interest of husband, as such, in life of wife. 2 B. R. C. 410.

Avoidance of contract of either spouse induced by threats to prosecute the other. 26 L.R.A. 60.

Waiver by husband of stipulation in building contract with wife that alterations or extras must be ordered in writing. 48 L.R.A.(N.S.) 582.

#### b. Liabilities.

6. Generally.

Liability of property, see infra, IV. Liability for nonsupport, see infra, VII. Liability for alimony, see DIVORCE AND SEPARATION, V.

Ratification by husband, see RATIFICATION, § 2.

Homicide by excessive chastisement of wife. 60 L.R.A. 803.

Liability of estate of husband for wife's funeral expenses. 52 L.R.A. (N.S.)

HUSBAND AND WIFE, II. b-cont'd § 7. For necessaries.

Furnished to infant, see INFANTS, §§ 18, 19.

Liability for money loaned to wife to buy necessaries. 23 L.R.A. 132.

Husband's liability for services rendered to wife in divorce suit. 24 L.R.A. 629; L.R.A.1915C, 467.

Conclusiveness as to third persons in ac-tion for necessaries of decree in suit for divorce or annulment as to facts adjudicated 8.8 distinguished from status established. 38 L.R.A.(N.S.) 560.

§ 8. — necessaries furnished wife while living with husband.

In general. 65 L.R.A. 529; 47 L.R.A. (N.S.)

279; 7 B. R. C. 396. Personal necessaries. 65 L.R.A. 529; 47 L.R.A.(N.S.) 279.

Family necessaries. 65 L.R.A. 532; 47 L.R.A. (N.S.) 280.

Husband's liability affected by style of life he adopts. 65 L.R.A. 534; 47 L.R.A. (N.S.) 281.

Presumptive agency arising from cohabitation. 65 L.R.A. 539; 47 L.R.A. (N.S.) 281.

Authority implied from husband's assent to previous transactions. 65 L.R.A. 548; 47 L.R.A. (N.S.) 282; 7 B. R. C. 407.

Liability of husband by reason of estoppel or ratification. 65 L.R.A. 549; 47 L.R.A. (N.S.) 282; 7 B. R. C. 407.

When husband is an infant. 65 L.R.A. 550. Money loaned wife to purchase necessaries. 65 L.R.A. 550; 47 L.R.A. (N.S.) 283.

In absence of certainty as to whom credit was given. 65 L.R.A. 551; 47 L.R.A.

(N.S.) 283. Statutes. 65 L.R.A. 551; 47 L.R.A. (N.S.) 283; 7 B. R. C. 396.

Funeral expenses and medical attendance during wife's last sickness. 47 L.R.A. (N.S.) 283.

Liability for necessaries furnished reputed wife. L.R.A. 1917B, 1290.

§ 8a. — necessaries furnished while living apart from husband. Separation through fault or misconduct of husband. L.R.A.1917A, 958.

Separation through fault or misconduct of wife. L.R.A.1917A, 963.

Separation by mutual consent or agreement. L.R.A.1917A, 965.

Liability for necessaries furnished pending suit for divorce. L.R.A.1917A, 966.

Effect of wife having means of her own. L.R.A.1917A, 967.

Duty of tradesmen to make inquiry as to husband's liability. L.R.A.1917A, 968. Necessity for and effect of notice not to give

wife credit. L.R.A.1917A, 968. Burden of proving liability. L.R.A.1917A, 969.

Effect of agreement by husband to pay. L.R.A.1917A, 970.

HUSBAND AND WIFE, II. b-cont'd 9. For debts of wife.

Liability for fees of wife's counsel in divorce suit, see DIVORCE AND SEPAR-ATION, §§ 39-40a.

Husband's liability for money loaned to wife

to buy necessaries. 23 L.R.A. 132. Validity of husband's express promise to pay debt previously contracted by wife. 7 L.R.A.(N.S.) 1048.

10. - antenuptial indebtedness. Effect of intermarriage between debtor and creditor upon the indebtedness. 21 L.R.A.(N.S.) 683; L.R.A.1915D, 1126. Liability of community property for. 19 L.R.A. 235.

11. For torts of wife.

Liability for libel or slander by wife, see LIBEL AND SLANDER, § 5.

Effect of married women's acts upon husband's liability for wife's torts. 14 L.R.A.(N.S.) 1003; 25 L.R.A.(N.S.) 840; L.R.A.1915A, 491.

Liability of community property for. L.R.A. (N.S.) 88.

Liability for wife's conduct in alienating affection of another's husband. L.R.A. 1918A, 517.

#### III. Wife's rights, disabilities, and liabilities.

#### a. Rights and disabilities generally.

§ 12. Generally.

Property rights, see infra, IV. Right of action, see infra, VI. Acknowledgment by married woman, see

ACKNOWLEDGMENT. Estoppel of married woman, see Estoppel,

§§ 4, 8. Civil remedies of wife for sale of liquor to husband, see Intoxicating Liquors,

Wife's right to redeem from foreclosure sale, see Mortgage, § 88.

Capacity of married woman to make will, see WILLS, § 12.

Effect of disability of coverture on running of limitations, see LIMITATION OF AT-TIONS, § 46.

Removal of disabilities as affecting rule regarding revocation of woman's will by marriage. L.R.A.1918B, 943.

Validity and effect of deed or mortgage by married woman executed in blank as to the land to be conveyed. L.R.A. 1918A, 1156.

Effect of retaining statement of account between husband and wife to render it an account stated. 29 L.R.A. (N.S.) 341.

Right of husband to prevent wife engaging in a separate business in competition with his own business. 32 L.R.A. (N.S.) 837.

Wife as witness before grand jury. 28 L.R.A. 322.

Consult also L.R.A. Digests of Cases.

HUSBAND AND WIFE, III. a-cont'd

Effect of consent of beneficiary who is a married woman on personal liability of a trustee for losses to trust estate from investments. 44 L.R.A.(N.S.) 987.

§ 13. Right to insure husband's life. See Insurance, § 31.

§ 14. Insanity of husband as affecting wife's disability.

Generally; wife as head of family. L.R.A. 223.

As to separate property and rights of wife. 34 L.R.A. 224.

As to dower rights. 34 L.R.A. 224.

As to community property. 34 L.R.A. 225. As to property and rights of husband. 34 L.R.A. 225.

#### b. Power to contract.

§ 15. Generally.

Power to contract with husband, see infra,

Power to make antenuptial contract, see infra, §§ 55-60. Conflict of laws as to, see CONFLICT OF

LAWS, § 12.

Ratification of married woman's contracts, see Contracts, § 111.

Wife's statement of account. 27 L.R.A. 819. Ownership of separate estate, trade, or business as a condition of married woman's right to contract. 4 L.R.A.(N.S.) 547.

Effect of mistake of law as to contract of married woman as ground of reformation. 28 L.R.A.(N.S.) 873.

Power of married woman to become member of partnership. L.R.A.1916D, 1233.

Validity of contract by married woman incapable of binding herself as surety, to indemnify one against liability as surety for a third person. L.R.A. 1915B, 1116.

Competency to enter into arbitration agreement. 47 L.R.A. (N.S.) 345.

Power of married women to compromise or settle a bastardy proceeding. L.R.A. 1918D, 303.

16. As surety.

Obligation purporting to be that of married woman as principal, which, to knowledge of payee or obligee, is used to discharge debt of third person, as a contract of suretyship. 18 L.R.A.(N.S.) 81.

Power of married woman, under statute giving her sole control of her separate estate, to become surety for one other than her husband. 17 L.R.A.(N.S.) 676.

Contract to indemnify one against liability as surety for a third person. L.R.A. 1915B, 1116. HUSBAND AND WIFE, III. b—cont'd § 17. — for husband.

Conflict of laws as to capacity of married woman to become surety for her husband. 57 L.R.A. 513; L.R.A.1916A, 1054.

Right of third parties to set up defense of wife's suretyship in execution of incumbrance on property held by entireties to secure husband's debt. 66 L.R.A. 637.

§ 18. Agency of husband for wife. In contracting for services of other persons. L.R.A.1918F, 20.

Proof of husband's agency for wife by evidence of similar acts by husband. 17 L.R.A.(N.S.) 223.

Insurable interest of husband as agent in wife's property. 66 L.R.A. 658; 45 L.R.A.(N.S.) 1131.

#### § 19. Effect of new promise after discoverture.

New promise after discoverture to sustain contract of. 53 L.R.A. 366.

Validity of new promise by woman, after discoverture, to pay debt incurred during coverture. 7 L.R.A.(N.S.) 1053; 33 L.R.A.(N.S.) 741.

#### c. Liabilities.

§ 20. Generally. Liability of property, see infra, IV. Liability for libel, see LIBEL AND SLANDER,

Fraud or mistake regarding legal effect of wife's signing contract with husband. L.R.A.1918A, 496.

Enforcement of wife's liability under statute of other state for debt contracted by husband. 17 L.R.A.(N.S.) 426.

Liability of estate of married woman for funeral expenses. 33 L.R.A. 662; 52 L.R.A.(N.S.) 1154.

Avoidance of contract of either spouse induced by threats to prosecute the other. 26 L.R.A. 60.

# § 21. For necessaries.

Liability of married woman for necessaries purchased by her. 33 L.R.A. (N.S.) 426; L.R.A.1915D, 1184.

What constitutes necessaries within statute rendering wife or her property liable therefor. L.R.A.1917F, 861.

# § 22. For family expenses.

Implied liability of wife for family expenses; rules in various states. 15 L.R.A. 717.

What constitute "family expenses" within statute rendering wife or her property liable therefor. 21 L.R.A.(N.S.) 277; 32 L.R.A.(N.S.) 940; L.R.A.1917F, 861.

Liability of wife for family expenses as affected by act of husband. 3 L.R.A. (N.S.) 145.

Effect of husband's discharge upon statutory liability of wife for family expenses. 14 L.R.A.(N.S.) 1032.

HUSBAND AND WIFE, III. c—cont'd Enforcement of wife's liability under statute of another state for a debt contracted by her husband. 17 L.R.A.(N.S.) 426.

# § 23. For legal services in divorce suit.

Liability of married woman for legal services in divorce suit. 24 L.R.A. 634; 34 L.R.A. (N.S.) 1080; L.R.A.1917F, 362.

# § 24. For torts and crimes.

Liability of community property for. 36
L.R.A.(N.S.) 88.

Duress of wife by husband as excuse for crime. 19 L.R.A. 358.

# § 25. For use and safety of her premises.

Liability of married woman for the use and safety of premises owned by her. 23 L.R.A. 622; 19 L.R.A. (N.S.) 531.

# IV. Property rights.

### a. In general.

§ 26. Generally.

Property transactions between husband and wife, see infra, V.

Conflict of laws as to rights in matrimonial property, see CONFLICT OF LAWS, § 27. Tenancy by the curtesy of the wife's estate, see CURTESY.

Descent of property to husband or wife, see DESCENT AND DISTRIBUTION, § 7.

Effect of divorce on property rights, see Divorce and Separation, §§ 50-54. Wife's right of dower in husband's property,

see Dower.
Widow's allowance, see Executors and Administrators, §§ 55, 55a.

Rights in homestead, see HOMESTEAD.

Rights as to income, see INCOME, § 3. Husband's insurable interest in wife's property, see INSURANCE, § 25.

Election by widow, between dower and will, see WILLS, §§ 112-115.

Insurable interest of wife in husband's property L.R.A.1918A, 793.

Insurance effected by wife of property owner as violation of provision against additional insurance. L.R.A.1918D, 781.

Devise or bequest to one described as "husband," "wife," or "widow" as affected by illegality or nonexistence of marriage. L.R.A.1917B, 1153.

Notice to husband or wife to redcem from tax sale. 44 L.R.A.(N.S.) 679.

Revocation of consent given by one spouse

Revocation of consent given by one spouse to will of the other in the latter's lifetime. L.R.A.1915E, 815.

Succession tax upon property received by a surviving spouse. L.R.A.1916C. 675.

Right of children as against surviving husband to homestead of parent. 56 L.R.A.

Right of wife during husband's lifetime to redeem from mortgage on his real property. 3 L.R.A.(N.S.) 1068.

HUSBAND AND WIFE, IV. a-cont'd

Effect of husband's life estate to suspend or prevent running of statute of limita-tions against wife's title to real estate adversely possessed. 10 L.R.A.(N.S.)

Notice of title to land from possession by husband and wife. 13 L.R.A. (N.S.)

Circumstances sufficient to put purchaser of negotiable paper on inquiry as to rights of husband or wife of party therein. 29 L.R.A.(N.S.) 367.

Right of man to dispose of ornaments and wearing apparel purchased by him for his wife's use. 11 L.R.A. (N.S.) 389.

Use of words of singular import as affecting quantum of estate in deed to husband and wife. L.R.A.1918E, 798.

Who takes under gift to "husband" or "wife," or "widow." 33 L.R.A. (N.S.) 816.

Husband's right under devise and bequest to others subject to his "legal rights." 2 L.R.A.(N.S.) 1193.

Sustaining, in Federal courts, in bankruptcy case, equitable rights of wife which were not recognized by local law. L.R.A.(N.S.) 321.

Duty, as between husband and wife, to pay taxes. 32 L.R.A. 751.

# b. Tenancy by the entireties.

#### 27. Generally.

Adverse possession by tenant by entireties, see Adverse Possession, § 8.

Definition. 30 L.R.A. 306.

Who can hold this estate. 30 L.R.A. 306. Nature of the interest of each spouse. 30

L.R.A. 308.

Survivorship of one of the spouses after the death (actual or civil) of the other. 30 L.R.A. 310.

Operation of technical rules on the entirety estate. 30 L.R.A. 312.

Where and to what extent entirety estates exist. 30 L.R.A. 314.

In what subjects, estates, and interests entirety may exist. 30 L.R.A. 317.

Personal property held by entireties. L.R.A. 594; 30 L.R.A. 317.

Creation of entirety estates. 30 L.R.A. 320; 33 L.R.A.(N.S.) 166.

The share taken by husband and wife under a limitation to them and another or others. 30 L.R.A. 326.

Disposition or encumbrance of entirety property. 30 L.R.A. 327.

The effect of divorce on the entirety property. 30 L.R.A. 333; 10 L.R.A. (N.S.) 463; L.R.A.1915C, 396.

Partition between tenants by entireties. 30 L.R.A. 335; 42 L.R.A. 98.

Adverse possession and the statute of limitations. 30 L.R.A. 335.

Creation of tenancy by entireties by conveyance, to one spouse only, of interest in property of which the other already owns the whole or a part. 33 L.R.A. (N.S.) 166.

Consult also L.R.A. Digests of Cases.

HUSBAND AND WIFE, IV. b-cont'd

Effect upon character of estate as one by entireties under a conveyance to both spouses, of the fact that one of them already had an estate in the land. 25 L.R.A. (N.S.) 167.

Validity of encumbrance by husband and wife of property held by the entireties to secure the individual debt of the husband. 66 L.R.A. 632.

Insurable interest by husband, as tenant by

the entirety. 66 L.R.A. 660. Respective rights of husband and wife to the income or products from an estate held by the entirety. 19 L.R.A. (N.S.) 1037.

Liability of estate by entireties for husband's debts. 36 L.R.A.(N.S.) 205.

Judgment against individual as lien on interest of tenant by entireties. 9 L.R.A. (N.S.) 1026; 42 L.R.A. (N.S.) 555; L.R.A.1918C, 1015.

Discharge of liability of one spouse on judgment against both as affecting lien on estate by entireties. L.R.A.1916D, 115.

Succession tax upon death of one tenant of estate held by entireties. L.R.A. 1916C, 678.

# c. Community property.

§ 28. Generally.

Competency as witness of husband or wife of party to action involving a decedent's estate where the community interests of the parties are affected. L.R.A.1917A, 28.

Allegations of ownership in indictment for larceny of. 3 B. R. C. 785.

Husband's insurable interest in. 66 L.R.A. 661; 45 L.R.A.(N.S.) 1131.

Partition of homestead in community property. 56 L.R.A. 79; 4 L.R.A.(N.S.) **797.** 

Effect of conveyance of, by husband to wife. 69 L.R.A. 378.

Applicability of the community-property laws of the state to real property ac-quired from the Federal government. 26 L.R.A. (N.S.) 1117.

Right of one spouse living apart from the other to claim community rights in property as against persons ignorant of relationship. 29 L.R.A.(N.S.) 468.

Power of legislature to restrict husband's right to alienate or encumber community property. 36 L.R.A.(N.S.) 1040.

Effect of husband's insanity. 34 L.R.A. 225. Liability of community property to succession tax. 20 L.R.A.(N.S.) 208; 39 L.R.A. (N.S.) 1107; L.R.A.1916C, 676.\_\_

#### 29. What is.

Character of property as community or separate where title is initiated before, but not completed until after, death of one spouse. 17 L.R.A. (N.S.) 154; 46 L.R.A. (N.S.) 1033.

HUSBAND AND WIFE, IV. e-cont'd Profits accruing during marriage in con-nection with property belonging to separate estate of either spouse as community property. 31 L.R.A. (N.S.) 1092.

Presumption as to common hoard when earnings of both spouses or of family are invested in the name of one spouse. 35 L.R.A.(N.S.) 713.

Power of legislature to change increment or income of separate property from community property to separate property, or vice versa. 37 L.R.A.(N.S.) 186.

As affected by separate character impressed by law of other state on funds with which the property was purchased. 29 L.R.A.(N.S.) 781.

#### § 30. Effect of divorce or annulment of marriage.

Division of community property upon annulment of marriage. 36 L.R.A.(N.S.)

Effect of divorce on community property in absence of adjudication. 11 L.R.A. (N.S.) 103.

# 31. Interest of children in.

Descent or continuance to family of homestead in community property. L.R.A. 46.

Relative rights of widow and children with reference to community homesteads. 56 L.R.A. 69.

Effect of alienation or encumbrance of community homestead by surviving spouse on rights of children. 56 L.R.A. 73.

# 32. Liability for debts.

Liability of community property for debts. 19 L.R.A. 233.

Liability of community for personal injury. 36 L.R.A. (N.S.) 88.

Liability of community for husband's fraud. 27 L.R.A. (N.S.) 1022.

Remedy of judgment creditor of community after death of one of the spouses. L.R.A.1917C, 502.

# d. Wife's separate estate.

§ 33. Generally.

Competency as witness of husband of party to an action involving decedent's estate where only wife's separate estate is affected. L.R.A.1917A, 27.

Allegations of ownership of property of married woman in indictment for larceny. 3 B. R. C. 779.

Effect of husband's insanity on wife's separate property. 34 L.R.A. 224.

Ownership of separate estate, trade or business, as a condition of married women's right to contract. 4 L.R.A. (N.S.) 547.

Power of married woman under statute giving her sole control of her separate estate to become surety for one other than her husband. 17 L.R.A.(N.S.) 676.

Effect of one spouse joining in execution of other's deed or mortgage to convey former's separate property included Conveyance of homestead, see HOMESTEAD, therein. 28 L.R.A.(N.S.) 289. IV.

HUSBAND AND WIFE, IV. d-cont'd § 34. What is.

Conveyance by husband to wife as creating separate estate. 69 L.R.A. 370.

Character of property as community or separate where title is initiated before but not completed until after death of one spouse. 17 L.R.A.(N.S.) 154.

Life insurance policy in waiver of married woman or its proceeds as her separate estate. 37 L.R.A.(N.S.) 582.

Profits according during marriage in connection with property belonging to separate estate of either spouse as community property. 31 L.R.A.(N.S.) 1092. Effect of investment by husband in his own

name of wife's separate property in real estate, to create trust in her favor. 6 L.R.A.(N.S.) 381; 26 L.R.A.(N.S.) 161.

Power of legislature to change increment of income from separate property from community property to separate prop-erty or vice versa. 37 L.R.A.(N.S.) 186.

Married woman's clothing or jewelry pur-chased with husband's money as her separate property. 4 B. R. C. 611.

# 35. Liens on.

Mechanics' lien on building erected by husband on wife's land. 62 L.R.A. 374.

# 36. Liability for wife's debts.

When separate property of married woman chargeable with cost of improvement. 3 L.R.A. (N.S.) 307.

Liability of separate estate of wife for her funeral expenses. 6 L.R.A.(N.S.) 917; 37 L.R.A.(N.S.) 754.

# § 37. Liability for husband's debts.

Injunction against execution sale of wife's property. 30 L.R.A. 112, 118.

Right of husband's creditors to reach fruits or his management of, or services in connection with wife's separate estate or business. 21 L.R.A. 629; 23 L.R.A. (N.S.) 1124.

e. Conveyances to wife by third per-

# § 38. Generally.

Creation of estate by entireties by, see supra, § 27.

Conveyance by husband to wife, see infra,

Parol evidence to show consideration in deed to a married woman. 20 L.R.A. 112.

Effect of conveyance to wife by third person at instance of husband. 69 L.R.A. 367.

Validity of limitation upon power of alienation imposed upon grant or devise of equitable estate to married woman. L.R.A. (N.S.) 426; L.R.A.1917A, 679.

# f. Conveyances or mortgages to third

# § 38a. Generally.

HUSBAND AND WIFE, IV. f-cont'd Lease as encumbrance or conveyance within statute requiring joinder or consent of spouse. 39 L.R.A.(N.S.) 675.

§ 39. By one spouse only in general. Right to specific performance where wife refuses to unite in conveyance, see Specific Performance, § 19.

Right of one to dedicate land of other. 31 L.R.A. (N.S.) 1025.

Disposition or encumbrance by one spouse of property held by entireties. L.R.A. 328.

#### § 40. By husband alone.

Conveyance of homestead, see HOMESTEAD, § 10.

Specific performance of contract for conveyance not signed by wife. 24 L.R.A.

Failure of wife to join in partition deed. 57 L.R.A. 340.

Effect of sale or mortgage of future crops as against wife. 23 L.R.A. 466.

Power of leg: . lature to restrict husband's right to dienate or encumber munity property. 36 L.R.A.(N.S.) 1040.

#### § 41. By wife alone.

Conveyance of homestead, see HOMESTEAD,

Release by married woman of interest in estate. 65 L.R.A. 583.

Liability of married woman on her covenant. 22 L.R.A. 779.

Estoppel of married woman by covenant from acquiring superior title. 22 L.R.A.

Estoppel of married woman by recitals in deed. 22 L.R.A. 780.

Effect of nonjoinder of husband in wife's executory contract to convey where his joinder is essential to a conveyance. 30 L.R.A. (N.S.) 353.

Parol evidence to show consideration in deed by married woman. 20 L.R.A. 112.

# 42. By both husband and wife. Conveyance of homestead, see HOMESTEAD, §§ 9–14.

Operation and effect of conveyance in which a wife joins with her husband. L.R.A. 782.

Validity of encumbrance of property held by the entireties, to secure husband's individual debt. 66 L.R.A. 632.

Effect of one spouse joining in the execution of the other's deed or mortgage, to convey the former's separate property included therein, 28 L.R.A.(N.S.)

Disposition or encumbrance by both spouses of property held by entireties. L.R.A. 327

Consult also L.R.A. Digests of Cases.

# HUSBAND AND WIFE-cont'd

# g. Fraud on marital rights.

48. Generally.

Right of wife to give away her personal property without husband's consent. 3 L.R.A.(N.S.) 769.

Right of husband to give away his personal property without wife's consent. 3 L.R.A. (N.S.) 774; 21 L.R.A. (N.S.) 533.

Right of wife to relief against conveyance or transfer made or contemplated by her husband in fraud of her support. 18 L.R.A.(N.S.) 1147.

# 43a. Before marriage.

Conveyance of property in contemplation of, but before negotiations for, marriage, as a fraud. 9 L.R.A. (N.S.) 955. Dower rights in property fraudulently conveyed before marriage. 48 L.R.A. (N.S.) 513.

# h. Rights of creditors.

§ 44. Generally.

Husband's liability for wife's debts, see supra, §§ 7-10.

Liability of community property for debts, see supra, § 32.

Liability of wife's separate property for her debts, see supra, § 36. Liability of wife's separate property for

husband's debts, see supra, § 37.

Transactions between husband and wife in fraud of creditors, see FRAUDULENT CONVEYANCES, § 21a.

Garnishment of husband's interest in wife's legacy or distributive share. 47 L.R.A. 360.

Levy on interest in crops. 23 L.R.A. 260.

# V. Transactions between.

# a. In general,

45. Generally.

Husband as agent of wife, see supra, § 18. Agreements relating to divorce or separation, see DIVORCE AND SEPARATION, §\$ 58, 59.

Right to compensation for services rendered to each other. 15 L.R.A. 215.

Revocation of consent given by one spouse to will of the other in the latter's lifetime. L.R.A.1915E, 815.

Validity and enforceability of bond to one spouse conditioned for maintenance of family relation or proper conduct of other spouse. L.R.A.1917D, 445.

Validity of contract by husband to pay wife for services. L.R.A.1917D, 268.

§ 46. Larceny, embezzlement, robbery, or arson of other spouse's property. Larceny or embezzlement by one spouse of other's property. 29 L.R.A.(N.S.) 830. 30 Robbery by taking property from wife. 67 L.R.A. 346.

HUSBAND AND WIFE, V. a-cont'd Arson by one spouse burning property of other. 21 L.R.A.(N.S.) 27

§ 47. Effect of conveyance by husband to wife.

Antenuptial conveyances, see infra, §§ 55-BO.

Conveyance to wife by third person, see supra, § 38.

Conveyance of homestead, see HOMESTEAD, § 13.

At common law. 69 L.R.A. 353. In equity. 69 L.R.A. 357.

Effect of statutes. 69 L.R.A. 363.

Conveyance by third person at instance of husband. 69 L.R.A. 367.

Consideration. 69 L.R.A. 368.

Does conveyance create separate estate. 69 L.R.A. 370.

Remaining interest of husband. 69 L.R.A. 374.

Rights against husband's heirs. 69 L.R.A. 377.

Homestead and community. 69 L.R.A. 378. Effect of divorce. 69 L.R.A. 379.

Form and provisions of conveyance. L.R.A. 380.

§ 48. Transfers from wife to husband. Burden of proof of husband's debt to wife on account of property received from her. 56 L.R.A. 817.

Validity of direct conveyance by wife to husband. 20 L.R.A. 702; 31 L.R.A.

(N.S.) 844.

Validity of conveyance of wife's real prop-erty to husband through himself as trustee or through a third person. L.R.A.1915C, 767.

### b. Gifts; trusts.

§ 49. Gifts between. Gifts in fraud of marital rights, see supra, § 43.

Gift to third person, see GIFT, § 7.

Validity of gift of personalty from husband to wife. 2 L.R.A. 716; \* 5 L.R.A. 579; \* 69 L.R.A. 355.

Rights in respect to compensation for improvements on land, made in good faith, under an oral contract or gift. 53 L.R.A. 337.

Right of husband to dispose of ornaments and wearing apparel purchased by him for his wife's use. 11 L.R.A. (N.S.) 389.

Independent advice as condition of valid gift inter vivos between. 16 L.R.A.(N.S.)

Gift by will as affected by wife's promise to testator. 20 L.R.A. 467.

Does expectation of one spouse on making gift to other that latter will allow former to share in benefits of the property raise implied trust to that effect. 24 L.R.A.(N.S.) 1043.

HUSBAND AND WIFE, V. b-cont'd Applicability of statutory provision for restoration of property in case of divorce, to voluntary gifts between husband and wife. 39 L.R.A.(N.S.) 193.

§ 50. —effect of marital misconduct. Misconduct of wife as affecting gift to her before, and in consideration of, marriage. 6 L.R.A.(N.S.) 785.

Marital misconduct of one spouse as avoiding gift by other. 35 L.R.A.(N.S.) 124.

§ 51. — gift in fraud of creditors. See FRAUDULENT CONVEYANCES, § 21a.

§ 52. Gifts to one by parents of other. Gift of one spouse by the parent of the other as advancement or ademption. 26 L.R.A.(N.S.) 1050.

§ 58. Trusts.

Insurable interest of husband, as trustee, in

wife's property. 66 L.R.A. 659. Effect of statute of limitations on the trust relationship arising from the taking of title in the husband's name to lands inherited by or purchased with the money of the wife. 12 L.R.A.(N.S.) 493.

Effect of investment by husband in his own name of wife's separate property in real estate to create trust in her favor. 6 L.R.A.(N.S.) 381; 26 L.R.A.(N.S.) 161.

Does expectation of one spouse upon making gift of property to the other that the latter will allow the former to share in the benefit of the property raise an implied trust to that effect. 24 L.R.A.(N.S.) 1043.

Constructive trust in deed of homestead by husband to wife with proviso attempting to derogate from her right of survivorship. 1 L.R.A. (N.S.) 312.

Does the common-law rule precluding an executory contract or action at law between husband and wife apply where the husband acts as a trustee or in some other representative capacity. 11 L.R.A. (N.S.) 273.

Wife's right to secure husband's property at tax sale. 9 L.R.A. (N.S.) 674.

Appointment of trustee to protect alimony. 38 L.R.A.(N.S.) 270.

Enforcement in equity of grantee's oral promise to grantor to hold in trust in case of conveyance between husband and wife. 39 L.R.A.(N.S.) 925.

# c. Partnership between.

54. Generally.

Partnership between husband and wife. 9 L.R.A. 593\*; 16 L.R.A. 526.

d. Antenuptial contract; marriage settlement.

55. Generally.

Transaction in fraud of prospective wife or husband, see supra, § 43a.

Loss of dower right by, see Dower. § 9.

HUSBAND AND WIFE, V. c-cont'd Conflict of laws as to. 57 L.R.A. 368; 29 L.R.A.(N.S.) 783.

Meaning of words "unmarried" and "without having been married" in marriage settlement. 15 L.R.A. 293.

Validity of marriage settlement as against creditors. 13 L.R.A. 712; 32 L.R.A.

Validity of antenuptial contract by one party to support the other. 15 L.R.A. (N.S.) 491. Validity of contract relinquishing rights in

intended husband's estate, signed by intending wife in ignorance of her legal rights. 9 L.R.A.(N.S.) 953. Validity of antenuptial contract making

provision for wife in the event of her obtaining divorce for subsequent fault of husband. L.R.A.1918A, 384.

Waiver of right to widow's allowance by 25 L.R.A. antenuptial agreement. (N.S.) 751.

Power to bar dower by antenuptial agreement sufficient in equity but not conforming to any statutory method of barring dower. 17 L.R.A. (N.S.) barring 866.

Marriage settlements under rule in Shelley's Case. 29 L.R.A.(N.S.) 1143.

§ 56. Effect of statute of frauds. Postnuptial written contract to confirm antenuptial oral contract relinquishing rights in property. 11 L.R.A. (N.S.)

# § 57. Consideration for.

Agreement to comply with marriage con-tract as consideration for new promise. 34 L.R.A. 37.

#### 58. Disaffirmance of.

Right of woman to disaffirm marriage settlement executed while she was an infant. 12 L.R.A.(N.S.) 1184.

# 59. Enforcement of.

Specific performance of contract to provide intended husband or wife. L.R.A.(N.S.) 232.

Right of party to antenuptial marriage settlement who is in default to enforce covenants to be performed by the other party. 26 L.R.A.(N.S.) 858.

60. Effect of marital misconduct. Misconduct of wife as affecting deed or gift to her before and in consideration of marriage. 6 L.R.A. (N.S.) 785.

61. Contracts of third persons. Specific performance of agreement by third person to make provision for parties to contemplated marriage. 7 L.R.A. (N.S.) 734.

# VI. Actions.

# a. In general.

62. Generally. Imputing husband's negligence to wife, see Negligence, § 44. Consult also L.R.A. Digests of Cases.

HUSBAND AND WIFE, VI. a-cont'd Husband or wife as witness, see WITNESSES, §§ 17-21.

Which is real party in interest by whom action must be brought. 64 L.R.A. 610.

Publication of process against married woman in her maiden name. 19 L.R.A. (N.S.) 984.

Set-off in bankruptcy cases. 55 L.R.A. 47. Right of either spouse to sue for wrongs to property held by entireties. 30 L.R.A.

Wife's right of action at common law against one selling drugs or liquor to husband. 40 L.R.A.(N.S.) 360.

Delay of feme covert in paying purchase price or bringing suit as bar to action for specific performance of contract for sale of land of which time is not of the essence. 25 L.R.A.(N.S.) 639.

Action for mutilation of corpse. L.R.A. 1915B, 521.

Right of husband to sue for libel or slander

of wife. 45 L.R.A.(N.S.) 767. Wife's right of action for enticement or abduction of child. 1 L.R.A. (N.S.)

362; 45 L.R.A. (N.S.) 872. Right of married woman to maintain action for board or lodging of, or services rendered to, a third person living in the home. 46 L.R.A. (N.S.) 238.

Right of mother of minor who has enlisted without his parent's consent in army, navy or militia, to prosecute writ for his discharge. 39 L.R.A.(N.S.) 459.

Conviction or acquittal of marital offense as bar to a subsequent prosecution. 40 L.R.A. (N.S.) 615.

Joinder of wife in action by husband to recover for her services rendered outside the home. L.R.A.1917E, 298.

#### b. For personal injury or death.

# 63. By husband.

Measure of damages for injury to wife, see DAMAGES, § 59.

Measure of damages for death of wife, see DAMAGES, § 66.

Damages sustained on account of injuries to husband and to wife at the same time as constituting one or more than one cause of action. L.R.A.1917C, 544.

Does husband's action for damages sustained by him on account of personal injuries to wife abate by his own death or that of the wrongdoer. 17 L.R.A. (N.S.) 570.

Right of husband to recover for loss of consortium through personal injury to wife. 33 L.R.A. (N.S.) 1042; L.R.A. 1915D, 524.

Right of husband to recover in action for breach of warranty, for loss of services of wife, occasioned by her injury or death in consequence of such breach. 3 B. R. C. 197.

HUSBAND AND WIFE, VI. b-cont'd Right of husband to recover for illicit intercourse with wife accomplished by

force. 52 L.R.A.(N.S.) 373. Husband's statutory right of action for death of wife. L.R.A.1916E, 126.

Conclusiveness of judgment in wife's suit for personal injuries in husband's action for loss of services and expenses. 10 L.R.A.(N.S.) 140.

Right of husband to recover for loss of wife's property transported as part of his baggage. L.R.A.1918C, 114.

#### § 64. — husband's negligence as bar to recovery.

Husband's negligence as bar to recovery for personal injuries to wife. 460; 8 L.R.A.(N.S.) 656. 22 L.R.A.

imputing husband's negligence to wife injured while riding with him. 14 L.R.A. 733; L.R.A.1915A, 764.

# 65. By wife.

Extent of recovery by wife for personal injury to her, see DAMAGES, §§ 59a, 60.

Measure of damages for death of husband, see DAMAGES, 66.

Effect of disability of coverture on running of limitations, see LIMITATION OF AC-TIONS, § 46.

Damages sustained on account of injuries to husband and to wife at the same time, as constituting one or more than one cause of action. L.R.A.1917C, 544.

Right of wife to sue for personal injury to husband. 40 L.R.A.(N.S.) 236.
Wife's statutory right of action for death of husband. L.R.A.1916E, 128.

Wife's right to recover for loss of consor-husband. 24 L.R.A. (N.S.) 1024; L.R.A. 1916E, 703.

Imputing negligence of one spouse to the other. 14 L.R.A. 733; 8 L.R.A. (N.S.) 656; L.R.A.1915A, 764.

Wife's right of action at common law against one selling drugs or liquor to husband. 40 L.R.A. (N.S.) 360.

Desertion or nonsupport by deceased as affecting action for death. 32 L.R.A. (N.S.) 362.

Right of deserted wife to recover for death or injury to child. 31 L.R.A.(N.S.)

Right of wife to recover for loss of husband's property contained in her baggage. L.R.A.1918C, 114.

Right of married woman to recover for services rendered outside the home. L.R.A. 1917E, 282.

# c. Alienation of affections.

# 66. Generally.

Measure of damages for, see Damages, § 50b.

Conspiracy to alienate affections. 3 L.R.A. (N.S.) 470.

May action for alienation of affections rest upon a breach of contract or negligent tort. L.R.A.1917B, 680.

HUSBAND AND WIFE, VI. e-cont'd

Liability of parent for causing separation of husband and wife. 9 L.R.A. (N.S.) 322.

Effect of fact that husband or wife of plaintiff in action for alienation of affections was the active and aggressive party. 16 L.R.A. (N.S.) 742; 43 L.R.A. (N.S.) 332.

Competency of one spouse to testify as to misconduct of other spouse in action

for. 39 L.R.A.(N.S.) 317.

Are communications between husband and wife tending to show affection, or the contrary, privileged. 2 L.R.A.(N.S.) 708.

Right to testify as to intent in action for. 23 L.R.A.(N.S.) 391.

Conclusiveness as to third persons in action for alienation of affections of decree in suit for divorce or annulment as to facts adjudicated as distinguished from status established. 38 L.R.A. (N.S.) 560; L.R.A.1915C, 870.

Malice as essential to an action for alienation of affections, in absence of meretricious relations. 46 L.R.A. (N.S.) 465.

Divorce or separation as affecting action. 46 L.R.A.(N.S.) 1084.

Extent of alienation necessary to sustain action against stranger. L.R.A.1916E, 1091.

# § 67. Action by wife

Right of wife, under modern married women's acts, to sue for alienation of the affections of her husband. 4 L.R.A. (N.S.) 643; 29 L.R.A.(N.S.) 842; L.R.A.1916A, 67.

### d. Criminal conversation.

# § 68. Generally.

Measure of damages for, see DAMAGES, § 50b.

Right of action for criminal conversation or enticement of wife as asset of bankrupt. 43 L.R.A.(N.S.) 941.

Divorce or separation as affecting action for. 46 L.R.A.(N.S.) 1084.

Validity of agreement in settlement of cause of action for. 36 L.R.A.(N.S.)

Effect of condonation of infidelity on right of action for crim. con. 6 B. R. C. 649.

Evidence of character of husband or wife in action for criminal conversation. 14 L.R.A.(N.S.) 749.

Effect of fact that the husband or wife of plaintiff in an action for criminal conversation was the active and aggressive party. 16 L.R.A. (N.S.) 742.

Mental suffering of husband as an element of damages in criminal conversation.

16 L.R.A. (N.S.) 674.

Conclusiveness as to third persons in actions for, of decree in suit for divorce or annulment as to facts adjudicated as distinguished from status established. 38 L.R.A.(N.S.) 559.

HUSBAND AND WIFE, VI. d-cont'd Competency of one spouse as witness to show misconduct of other in action for. 39 L.R.A.(N.S.) 316.

#### e. Actions between.

Effect as to claim by wife against husband, of statutory removal of disability of coverture to repeal exception in Statute of Limitations in favor of married women. L.R.A.1918C, 203.

§ 69. Generally.Wife's right to sue husband on contract.5 L.R.A.(N.S.) 611.

Recovery by mother against father for money expended in support of children. 38 L.R.A. (N.S.) 508.

Does common law rule precluding action at law between husband and wife apply where husband acts as trustee or in some other representative capacity? 11 L.R.A.(N.S.) 273.

Right of assignee of claim from one spouse to maintain action against the other spouse. 31 L.R.A.(N.S.) 1148.

Recovery by mother against father for money expended in support of children. L.R.A 1915A, 1137.

# 69a. — for torts.

Right of wife to sue husband for personal 6 L.R.A. (N.S.) 191; 30 L.R.A.

(N.S.) 1153; 52 L.R.A.(N.S.) 185. Husband's right to sue wife for personal tort. 23 L.R.A. (N.S.) 699.

# VII. Abandonment; nonsupport.

#### § 70. Generally.

Abandonment as ground for divorce, see DI-VORCE AND SEPARATION, § 24.

Insanity as affecting. 34 L.R.A. 164. Effect of desertion on homestead. 16 L.R.A.

(N.S.) 114. Abandoned wife as head of family within homestead or exemption laws. L.R.A.(N.S.) 1121.

Conveyance of homestead by husband after abandonment by wife. 8 L.R.A. (N.S.) 565; L.R.A.1915D, 551.

Validity of conveyance or encumbrance of homestead by wife after abandonment by husband. 36 L.R.A.(N.S.) 1024.

Effect of widow's previous abandonment of husband on her rights under homestead and exemption laws. 4 L.R.A.(N.S.) 394.

Effect of husband's own adultery to prevent him from relying on wife's adultery as defense to an action for support. 19

L.R.A.(N.S.) 468.
Adultery of wife with consent or connivance of husband as justification of abandonment or nonsupport by latter. L.R.A. 1917D, 640.

Constitutionality of statute requiring a husband upon conviction of abandonment to provide for support of wife or family. 28 L.R.A.(N.S.) 854.

Consult also L.R.A. Digests of Cases.

HUSBAND AND WIFE, VII.-cont'd Desertion or nonsupport by deceased hus-

band as affecting wife's right of action for death. 32 L.R.A. (N.S.) 362; L.R.A. 1916C, 806.

Failure to support wife as desertion entitling her to divorce. 29 L.R.A.(N.S.) 618.

Inability of husband to support himself or wife as an excuse for leaving her. 52 L.R.A.(N.S.) 675.

#### § 71. Criminal liability.

Cruel and unusual punishment for. L.R.A. 1915C, 570.

Criminal liability of husband for neglect of wife, causing death. 61 L.R.A. 292 Criminal liability of infant for failure to support wife. 36 L.R.A. 208; L.R.A.

1916E, 762.

Offense of desertion or failure to provide for wife or family as affected by residence of parties. 47 L.R.A. (N.S.) 218.

What amounts to nonsupport by husband within criminal statutes. 49 L.R.A. (N.S.) 588.

Wife as witness against husband in prosecution for abandonment. L.R.A.1917E, 1134.

#### HYDRANT.

Right to compel water company to furnish general supply while municipality is in default in paying hydrant rental. 34 L.R.A. (N.S.) 196.

Municipal liability for injury by hydrants in street. 20 L.R.A. (N.S.) 620.

# HYDROPHOBIA.

Apprehension of, as basis of recovery for mental anguish. 20 L.R.A.(N.S.) 458.

#### HYPNOTISM.

Definitions. 40 L.R.A. 269.

Its existence and effect generally. 40 L.R.A. 270.

use in procuring the commission of crime. 40 L.R.A. 271.

Its use in procuring submission to criminal acts or attacks. 40 L.R.A. 274.

Its use as an inquisitorial agent. 40 L.R.A. 275.

Its curative uses—propriety of restraint. 40 L.R.A. 275.

Application of statute regulating practice of medicine to hypnotists. 3 L.R.A. (N.S.) 762; 24 L.R.A.(N.S.) 103; 25 L.R.A.(N.S.) 1297.

# HYPOTHECATION. .

Jurisdiction of admiralty in case of. 66 L.R.A. 204, 233.

When contract for, will be supported. L.R.A. 364, 431.

# HYPOTHETICAL QUESTIONS.

As to, see EVIDENCE, § 186.

#### ICE.

# 1. Generally.

Removal of, from sidewalk, see HIGHWAYS, § 56.

Compelling abutting owners sidewalks. 24 L.R.A. 413.

Private action for violating statute regularization for L.R.A.1915E, 561.

Right to discharge from roof upon premises of adjoining owner. L.R.A.1916A, 693.

§ 2. Rights as to.

Right to take ice from stream. 3 L.R.A. (N.S.) 1103.

Right of public authorities to preserve, for support. 3 L.R.A.(N.S.) 1103.

Right to ice on railroad right of way as between company and fee owner. 45 L.R.A. (N.S.) 799.

Right as between owner of flowage rights and owner of soil, to ice. L.R.A. 1916B,

Discharging matter into stream preventing formation of, or polluting, ice. L.R.A. 1915E, 1210.

8. Sale of.

Collecting and distributing as a manufac-turing business. 64 L.R.A. 66. Right of municipal corporation to sell. 31 L.R.A.(N.S.) 117.

4. Duty of carriers as to icing cars. Duty of carrier as to re-icing refrigerator cars. 10 L.R.A.(N.S.) 318.

5. Liability for injury by. On street or sidewalk, see HIGHWAYS, §§ 56,

71, 84, 86, 91. Liability of one who renders ice unsafe for skating or travel. L.R.A.1918A, 408.

Servant's assumption of risk from ice on working place. 19 L.R.A. (N.S.) 365. Forgetfulness of, as contributory negligence.

39 L.R.A.(N.S.) 898. Duty of railroad company as to ice on cattle guards. 36 L.R.A.(N.S.) 997;

L.R.A.1915B, 134. Landlord's liability to third person for injury by fall of. 26 L.R.A. 201.

Duty of carrier of passengers to keep steps of cars free from. 15 L.R.A.(N.S.) 523; 35 L.R.A.(N.S.) 592.

Liability for injury from ice formed by water precipitated from adjoining property. 36 L.R.A. (N.S.) 1172.

highway by fall of ice from roof. 43 L.R.A.(N.S.) 597.

# ICE CREAM.

See FOOD, § 6a.

#### ICE TONGS.

Master's liability for injury by defect in. 13 L.R.A. (N.S.) 679.

# IDEM SONANS.

See NAME, § 16.

# IDENTITY AND IDENTIFICATION.

I. Of persons, §§ 1-6.

II. Of corporation or religious society,

III. Of things, §§ 8-12.

# I. Of persons.

§ 1. Generally.

Identification of person by voice, see Evi-DENCE, § 155.

Parol evidence to identify person, see Evi-DENCE, § 183.

Of name, see NAME, § 11.

See also Impostor.

What identity of issues is necessary to abate second action. L.R.A.1918A, 5.

Right of witness to express opinion as to. L.R.A.1918A, 713.

Difficulty in identifying grantor with record owner as affecting marketability of ti-tle. 38 L.R.A.(N.S.) 20.

As affecting bar of judgment in employee's favor against recovery from employer for employer's act or default. 54 L.R.A. 650.

Concealment of identity by change of name as interrupting statute of limitations. 39 L.R.A. (N.S.) 741.

Privilege of attorney against revealing identity of client. L.R.A.1916C, 602.

- IDENTITY AND IDENTIFICATION, I .- | IDENTITY AND IDENTIFICATION, I .-
- Recital in certificate of acknowledgment by married woman as to her identity. 45 L.R.A. (N.S.) 1122.
- Liability of one who identifies an impostor, for fraud perpetrated by him. L.R.A. (N.S.) 707.
- § 2. Necessity and duty as to identification.
- Of person alleged to be writer of handwriting sought to be proved. 63 L.R.A. 981.
- Payment of savings bank deposit to fraudu-lent claimant on fraudulent claim of
- identity. 69 L.R.A. 327. Necessity of identification as foundation for admitting conversation or communication by telephone. 6 L.R.A.(N.S.) 1180; L.R.A. 1918D, 720.
- Carrier's right to demand identification be-
- for delivery of goods. 37 L.R.A. 178. Broker's duty to disclose to principal identity of purchaser. 53 L.R.A. 241.
- Duty of telegraph company to ascertain identity or authority of sender of message. 4 L.R.A.(N.S.) 181.
- Power to require one who has caused an injury to identify himself. 40 L.R.A. (N.S.) 622.
- 3. Mistake as to identity.
- As excuse for assault, see Assault and BATTERY, § 6.
- Mistake as to identity of person libeled or slandered. 47 L.R.A.(N.S.) 240.
- Mistake as to identity of juror as ground for new trial. 50 L.R.A.(N.S.) 972.
- Right to avoid contract because of mistake as to identity of other party thereto. L.R.A.1916D, 801.
- Seller's mistake as to identity of vendee, as affecting the passing of the title to the goods sold. 13 L.R.A. (N.S.) L.R.A.1918B, 975.
- Assault with intent to murder or kill by unlawful act under mistaken identity of person assaulted. 37 L.R.A.(N.S.)
- Mistake as to identity of victim as affecting l.omicide. 33 L.R.A.(N.S.) 1070.
- § 4. Mode and sufficiency of identifica-
- Use of photograph to show. 35 L.R.A. 807; 51 L.R.A. (N.S.) 851.
- Identification of a person by voice. L.R.A.(N.S.) 373.
- Compelling accused to exhibit himself to determine. 28 L.R.A. 699.
- Right to take or retain in rogues gallery picture of one accused of crime before conviction. 7 L.R.A.(N.S.) 274; 23 L.R.A.(N.S.) 739; L.R.A.1916A, 743.
- Sufficiency of identification as foundation for admitting conversation or communication by telephone. 6 L.R.A. (N.S.) 1180.
- Opinions of witnesses as to identity of person referred to in action for defamation of unnamed person. 48 L.R.A. (N.S.) 364.
- Consult also L.R.A. Digests of Cases.

- cont'd
- Sufficiency of evidence to establish identity in action for defamation of unnamed person. 48 L.R.A.(N.S.) 369.
- § 5. Presumption and burden of proof as to identity. See EVIDENCE, § 26.
- § 6. Of remains of victim of homicide. Of corpse generally, see Corpse, § 2.
- Sufficiency of circumstantial evidence to identify remains found as those of person charged to have been killed. L.R.A.(N.S.) 181.
- II. Of corporation or religious society.
- § 7. Generally.
- Of employing and contracting company. 65 L.R.A. 507.
- In case of schism or division in religious society. 24 L.R.A.(N.S.) 696.
- Letters identified only by prosecutrix as corroboration of her testimony to prove seduction or rape. 49 L.R.A. (N.S.) 1198.
- Identifying misapplied trust funds to follow and recover them. L.R.A.1916C,

#### III. Of things.

- § 8. Generally.
- Of ballots, see Election, §§ 20. 21.
- Sufficiency of selection or designation of goods sold out of a larger lot, see SALE. § 13.
- Right of witness to express opinion as to. L.R.A.1918A, 717, 741.
- Justification in libel or slander as to identity of offense charged. 21 L.R.A. 508.
- Identification of extrinsic document referred to in will. 68 L.R.A. 381.
- Identification of substance by odor. L.R.A.(N.S.) 854.
- Admissibility of secondary evidence to identify record of justice of the peace. 2 L.R.A.(N.S.) 652.
- Necessity for identifying things found by aid of involuntary or inadmissible confession. 53 L.R.A. 407.
- 9. Of goods sold.
- Distinction between warranty or identity and warranty of quality. 35 L.R.A. (N.S.) 265.
- Intention as test of sale with particular description of kind or quality when words referable to identity are used. 35 L.R.A. (N.S.) 275.
- Sufficiency of identification for purposes of executory contract where goods are or-dered by reference to catalogue or price list. 31 L.R.A.(N.S.) 927.
- Mistake as to identity of property as ground of relief from purchase at auction. 34 L.R.A. (N.S.) 927.

IDENTITY AND IDENTIFICATION, III. -- | IGNORANCE-cont'd cont'd

§ 10. Of property given by will.
Identification of land described in will.

L.R.A. (N.S.) 956; L.R.A.1915E, 1008. Failure to identify the subject-matter of a devise or bequest. 36 L.R.A. (N.S.)

'§ 11. Of pleadings. Between new and old pleadings within rule as to limitation of actions. 3 L.R.A. (N.S.) 275; 33 L.R.A. (N.S.) 197; 47 L.R.A. (N.S.) 932.

§ 12. Of handwriting.

Opinion evidence as to, see Evidence, §§ 198-205.

Of handwriting used as standard for comparison. 63 L.R.A. 433.

#### IDIOTS.

As to incompetent persons generally, see Incompetent Persons.

Actions by. 2 L.R.A.(N.S.) 961.

#### IGNORANCE.

§ 1. Generally.

Effect of, on criminal responsibility, see Criminal Law, §§ 13, 14.

Of minority of person to whom liquor is sold, see Intoxicating Liquors, § 29. As to mistake, see MISTAKE.

Of cause of action as suspending statute of limitations against action for personal injuries or death. L.R.A.1917B, 1259. Ignorance of law as no excuse entitling to

equitable relief. 28 L.R.A. (N.S.) 796. Disqualifying grand juror, 28 L.R.A. 205. Liability of physician for. 37 L.R.A. 833.

Adverse possession due to ignorance as to boundary. 21 L.R.A. 829; 33 L.R.A. (N.S.) 923.

Evidence of specific instances to prove ignorance of servant. 14 L.R.A. (N.S.) 772.

Servant's ignorance of contents of a release given by him for injuries previously received. 48 L.R.A.(N.S.) 447.

Of debt, as affecting assumption of debts on dissolution of partnership. 48 L.R.A. (N.S.) 551.

Effect of owner's ignorance of alterations or extras on right to recover therefor under building contract containing stipulation that alterations or extras must be ordered in writing. 48 L.R.A. (N.S.) 585.

Estoppel against assertion of title or interest in real property by concealing the same or representing it to be in another as affected by ignorance of person claiming estoppel. 48 L.R.A. (N.S.) 770.

§ 2. Of party to contract.

As affecting right to equitable relief from contract by which one has been over- Property held for, as subject of larceny. reached. 5 L.R.A.(N.S.) 799. L.R.A.1918D, 690.

Effect of validity of contract of one party's ignorance that it was executed by the other on Sunday. 18 L.R.A. (N.S.) 1176.

Ignorance that article furnished as butter is oleomargarin as a defense. 32 L.R.A. (N.S.) 746.

Of debt as affecting assumption of, on dissolution of partnership. 9 L.R.A. solution of partnership. (N.S.) 70.

Broker's right to commissions when sale is made by the owner in ignorance of former's instrumentality in procuring purchaser. 8 L.R.A.(N.S.) 153.

Ignorance of extent of his legal rights by servant giving release from injury previously received. 11 L.R.A.(N.S.) 198.

Servant's ignorance of the contents of a release given by him for injuries previously received. 11 L.R.A.(N.S.) 199.

§ 3. Of party paying money. Right to recover back overpayment made in ignorance of former payment. L.R.A.(N.S.) 517.

Right of bank to recover amount paid on check in ignorance of insolvency of drawer who was indebted to it. L.R.A.(N.S.) 963.

Right to recover back license fee voluntarily paid in ignorance of law. 22 L.R.A. (N.S.) 863.

#### ILLEGAL ACTS.

Injunction against, see INJUNCTION, §§ 16,

Power of counsel to license. 45 L.R.A. 500.

# ILLEGAL BUILDING.

Individual liability for fall of. 34 L.R.A. 562.

# ILLEGALITY.

Of contracts, see CONTRACTS, IV.

# ILLEGAL USE.

Validity of lease of premises for illegal use, see CONTRACTS, § 76.

Right of one intending to make illegal use of property to invoke aid of court for recovery from one who has wrongfully taken the same. 39 L.R.A.(N.S.) 1093.

#### ILLEGITIMACY.

§ 1. Generally.

Action for death of illegitimate child or for death of parent of, see DEATH, §

As to bastardy proceedings, see BASTARDY. Conflict of laws as to, see CONFLICT OF LAWS, § 15.

Presumptions and burden of proof as to, see EVIDENCE, § 24.

Belief as to, as insane delusion. 37 L.R.A. 274.

Use of lunatic's property to support illegiti-

mate children. 34 L.R.A. 298. Illegitimate child as a "dependent" within restriction as to beneficiaries of mutual benefit associations. 2 L.R.A.(N.S.)

Illegitimate children as "dependents" with-in meaning of Workmen's Compensation Statutes. L.R.A.1918F, 485.

Right of one in loco parentis to maintain action for seduction of an illegitimate. 35 L.R.A.(N.S.) 1062.

Right to recover for negligent killing of illegitimate, or to maintain action for benefit of illegitimate for negligent killing of relative. 2 L.R.A.(N.S.)

Conclusiveness as to third persons, in actions involving legitimacy of children, of decree in suit for divorce or annulment as to facts adjudicated as distinguished from status established. 38 L.R.A.(N.S.) 560.

Domicil of illegitimate child. 49 L.R.A. (N.S.) 863.

Status of child begotten after divorce between parents. 51 L.R.A. (N.S.) 308.

\$ 2. Right of mother or reputed father to custody or control of illegitimate. Mother generally entitled to custody. 65 L.R.A. 689.

Reputed father's right to custody in general. 65 L.R.A. 690.

Rights of mother or reputed father as against each other. 65 L.R.A. 690. Rights of mother or reputed father as against other persons. 65 L.R.A.

6**9**2. Right of mother or reputed father to guard-ianship of child. 65 L.R.A. 695.

Right of mother or reputed father as against guardian of child. 65 L.R.A. 696.

Rights of mother or reputed father in proceedings affecting custody. L.R.A. 696.

2a. Services of illegitimate child. Who may recover for. 44 L.R.A. (N.S.) 1137.

§ 8. Legitimation. Conflict of laws as to, see CONFLICT OF LAWS.

Legitimation of offspring of adulterous re- | Illicit cohabitation as a nuisance or crim-lations. 1 L.R.A.(N.S.) 773. inal offense. L.R.A.1916C, 653, Consult also L.R.A. Digests of Cases. 43

ILLEGITIMACY—cont'd

Necessity of parent's consent to adoption of illegitimate child. 30 L.R.A. (N.S.) 152.

Effect of subsequent marriage of parents on antenuptial issue. 13 L.R.A. 275.

Effect of statute legitimating issue of void or voidable marriage. L.R.A.1916C, 764.

What amounts to recognition within statutes affecting the status or rights of illegitimates. L.R.A.1916E, 659.

§ 4. Rights of illegitimate children.

Inheritance by, through, or from illegiti-mate persons, see DESCENT AND DIS-TRIBUTION, § 5.

Right of illegitimate children in homestead of parent. 56 L.R.A. 55.

Extrinsic evidence to show that testator in devising property to children intended to include illegitimate children. 47 L.R.A. (N.S.) 534.

5. Evidence as to.

Presumption and burden of proof as to legitimacy, see EVIDENCE, § 24. Sufficiency of evidence as to, see EVIDENCE, § 296.

Parol evidence as to resemblance on issue of, 52 L.R.A. 500.

Competency of woman to testify as to non-access of husband. 2 L.R.A. (N.S.) 619; L.R.A.1916B, 1053.

Evidence of declarations to show maternity of illegitimate child. 11 L.R.A. (N.S.)

Admissibility of declarations of relatives of claimant to prove legitimacy or re-lationship of illegitimate. 36 L.R.A.

(N.S.) 533; L.R.A.1915D, 215.
Admissibility of declarations of person since deceased against his or her own marriage. 15 L.R.A.(N.S.) 190.

# ILL FAME.

House of, see DISORDERLY HOUSE.

# ILL HEALTH.

Sickness generally, see SICKNESS.

As defense to action for breach of promise. 40 L.R.A.(N.S.) 585; L.R.A.1916D, 1276.

# ILLICIT COHABITATION.

# JLLICIT INTERCOURSE.

See also Adultery; Disorderly Houses; Fornication; Illicit Relations; Incest; Lascivious Cohabitation; Lewdness; Prostitution; Seduction.

Injunction against enforcing contracts for. 48 L.R.A. 844.

Evidence of other crimes in prosecution for. 62 L.R.A. 329.

Evidence of specific instances of, to prove character of witness. 14 L.R.A.(N.S.) 697.

### ILLICIT RELATIONS.

Implied contract to pay for services of persons living in, see CONTRACTS, § 6.

Enforcement of contract between parties living in, see CONTRACTS, § 120.

See also Adultery; Disorderly Houses; Fornication; Illicit Cohabitation; Incest; Lewdness; Prostitution; Seduction.

Woman living in as a "dependent" within restrictions as to beneficiaries of mutual benefit associations. 2 L.R.A. (N.S.) 654; 36 L.R.A. (N.S.) 209.

Right to recover for household services rendered while parties were living in. 29 L.R.A. (N.S.) 787; L.R.A.1917B, 683.

29 L.R.A. (N.S.) 787; L.R.A.1917B, 683. Right to invoke aid of court to determine rights to property accumulated in common by parties living in illicit relations. 36 L.R.A. (N.S.) 838.

Right of self-defense against attack due to defendant's illicit relations with wife or other relative of assailant. 46 L.R.A. (N.S.) 13.

Insurance on life in favor of paramour. 47 L.R.A.(N.S.) 252.

# ILLITERACY.

Effect of illiteracy of insured retaining policy as to which insurer has been guilty of fraud or mistake. 67 L.R.A. 740.

Statement of accounts by illiterate person. 27 L.R.A. 820.

Unknown illiteracy of juror as ground for new trial. 50 L:R.A.(N.S.) 977.

Proof of knowledge by illiterate of the contents of his will. L.R.A.1918D, 765. Charge of, against officer or candidate for

Charge of, against officer or candidate for office as libel or slander. L.R.A.1918E, 27.

# ILLNESS.

See SICKNESS.

#### ILL TREATMENT.

#### ILL WILL.

As insane delusion. 37 L.R.A. 267.

# IMBECILITY.

In general, see Incompetent Persons. Of testator, see Wills, §§ 9-15.

#### IMITATION.

See UNFAIR COMPETITION.

# IMITATION BUTTER.

See FOOD, § 9.

#### IMAGINATIVE USES.

Of property as element of compensation in eminent domain. L.R.A.1917A, 405.

#### IMMATERIAL TESTIMONY.

Immateriality of testimony, see EVIDENCE,. XII.

May perjury be predicated of false testimony before grand jury on immaterial matters. 22 L.R.A.(N.S.) 1192.

May charge of subornation of perjury bebased on false testimony which is immaterial. 25 L.R.A.(N.S.) 120.

#### IMMATURITY.

Effect of immaturity of claim at time of insolvency proceedings on right of setoff. 25 L.R.A.(N.S.) 393.

Finding value of immature policies of insolvent insurance company. 38 L.R.A. 101.

### IMMEDIATE DEATH.

Apprehension of, as requisite to admissibility of dying declarations. 56 L.R.A. 391.

# IMMIGRATION.

See ALIENS, § 3.

#### IMMORAL CONSIDERATION.

Of servant, see Master and Servant, § 6. Validity of, see Contracts, § 92. Begin with this book on every law question.

#### IMMORALITY.

See also Adultery; Disorderly Houses; Fornication; Illicit Cohabitation; Illicit Intercourse; Illicit Relations; Incest; Lascivious Cohabitation; Lewdness; Prostitution; Sebuccion.

Actionability of words charging, see LIBEL AND SLANDER, 111. b.

Common law rights in immoral work. 51 L.R.A. 360.

Libel or slander by charge of, against public officer or candidate. L.R.A.1918E,

As ground for discharge of one employed in executive or supervisory capacity. L.R.A.1918C, 1038.

As ground for revoking physician's license. 30 L.R.A. (N.S.) 783; 43 L.R.A. (N.S.) 912; 51 L.R.A. (N.S.) 958.

Effect of, on parent's right to custody of child. 41 L.R.A.(N.S.) 590, 603.

Constitutionality of discrimination based on race or color in police regulations affecting. 34 L.R.A. (N.S.) 604.

Right on trial for homicide to show immorality of deceased as bearing on defendant's intent or motive. 36 L.R.A. (N.S.) 397.

State legislation for prevention of immorality as interference with interstate commerce. 51 L.R.A.(N.S.) 157.

# IMMUNITY.

Effect of agreement for immunity of accomplice testifying for prosecution, see CRIMINAL LAW, § 34.

Of accused giving self-incriminating testimony, see CRIMINAL LAW, § 51.

Who may grant immunity to witness. L.R.A.1918A, 376.

Right of contractor with public to immunity which latter enjoys from liability for damages. L.R.A.1916D, 511.

#### IMPAIRMENT OF MEMORY.

Impairment of memory as defense to prosecution for perjury. 21 L.R.A.(N.S.) 993.

# IMPAIRMENT OF OBLIGATION.

See Constitutional Law, §§ 30-38.

# IMPANELING OF JURY.

See Jury, III.

Consult also L.R.A. Digests of Cases.

# IMPASSABLE ROADS.

Liability of township for. 13 L.R.A.(N.S.) 1275.

#### IMPEACHMENT.

Of certificate of acknowledgment, see ACKNOWLEDGMENT, § 5.

Of dying declarations, see Evidence, § 242.
Of judicial facts on which administration is based, see EXECUTORS AND ADMINIS-

TRATORS, § 10.
Of jurors as ground for new trial, see New TRIAL, § 8.

Of officer, see Officers, § 25.

Of enrolled bill. see STATUTES, § 12.

Of witnesses, see WITNESSES, §§ 41-44.

Of contradicting affidavit on application for continuance. 16 L.R.A. 240.

Of indictment by showing nonconcurrence of twelve grand jurors. 28 L.R.A. 35.

Right of defendant in action for conversion to impeach plaintiff's title as being based on contract void under statute of frauds. 2 B. R. C. 733.

# IMPEDIMENT.

To marriage, cohabitation after as proof of marriage. 14 L.R.A. 364.

# IMPENDING DANGER.

See EMERGENCY.

#### IMPLICATION.

As to implied agreements, generally, see Contracts, §§ 3-6; Municipal Corporations, §§ 58-60.

Implied covenants, see Covenants, §§ 3, 4;
LANDLORD AND TENANT, §§ 21, 22.

What passes by, in deed, see Deeds, §§ 21-23.

Easement by, see Easements, §§ 10-15.

As to implied guaranty, see GUARANTY.
As to implied warranty, see SALES, §§ 26-38, 53-59, 68.

Repeal of statute by, see STATUTES, § 32. Devise or bequest by, see WILLS, § 62.

Reasonableness of new by-laws as implied condition of consent to change of by-laws. 8 L.R.A.(N.S.) 521.

Implied consent of patient to surgical operation. 1 L.R.A. (N.S.) 441.

Implied invitation as basis of liability for injury by attractive nuisance. 19 L.R.A. (N.S.) 1094; L.R.A. 1915D, 160.

#### IMPLIED CONTRACTS.

# IMPLIED COVENANTS.

See Covenants, §§ 3, 4; Landlord and Tenant, §§ 21, 22.

# \*\*\* IMPLIED REPEAL.

Of statutes, see STATUTES, § 32.

# IMPLIED TRUSTS.

See TRUSTS, § 12.

and the second

# IMPORTED ARTICLES.

Constitutionality of statute as to, see Con-STITUTIONAL LAW, § 105.

# IMPORTERS.

License of, see LICENSE, § 30.

## IMPORTS AND EXPORTS.

Validity of prohibition laws as limited by provision of Federal Constitution against laying impost on imports or exports. 15 L.R.A.(N.S.) 929.

# IMPOSSIBILITY.

As excuse for nonperformance of contract, see CONTRACTS, §§ 124, 125.

# IMPOSSIBLE DATE.

Charging commission of alleged crime at. 2 L.R.A. (N.S.) 251.

#### IMPOST.

Right of prohibition as limited by provision of United States Constitution, article 1, § 10, against laying an impost on imports or exports. 15 L.R.A.(N.S.) 929. Begin with this book on every law question.

#### IMPOSTOR.

See Contracts, §§ 3-6; Municipal Corpo- Payment of check to, by bank, see Banks, Rations, §§ 58-60. Note payable to, see BILLS AND NOTES, § 14. Delivery to, by carrier, see CARRIERS, § 120. Liability of one who identifies an impostor, for fraud perpetrated by him. 51 L.R.A. (N.S.) 707.

#### IMPOTENCY.

Misrepresentations or concealment as to, as ground for annulment of marriage. 13 L.R.A.(N.S.) 996.

As defense to prosecution for rape or assault with intent to commit rape. L.R.A.1915B, 131.

# IMPOUNDING.

Of animals, see ANIMALS, § 20.

Right of riparian owner to impound water for purpose of floating logs. 35 L.R.A. (N.S.) 832.

#### IMPRESSIONS.

Right of witness to express opinion as to. L.R.A.1918A, 732.

# IMPRISONMENT.

Constitutionality of statutes as to, see Constitutional Law, § 194.

For crime generally, see CRIMINAL LAW, VI.
As ground for divorce, see DIVORCE AND SEPARATION, § 29.

Enforcement of alimony by, see DIVORCE AND SEPARATION, § 44.

False imprisonment, see FALSE IMPRISON-MENT.

For debt, see IMPRISONMENT FOR DEBT.

As a disability within saving clause of Statute of Limitations. L.R.A.1918F, 352.

Effect of duress by, to avoid marriage. 43 L.R.A. 816.

Threats of imprisonment by public officer as duress. L.R.A.1916B, 670.

Effect of, as abandonment of homestead. 3 L.R.A.(N.S.) 515.

Condition of place of, as element of damages in action for malicious prosecution or false imprisonment. 33 L.R.A. (N.S.)

Designation of wrong place of, as ground for discharge on habeas corpus. 13 L.R.A. (N.S.) 518.

Imprisonment of one of the parties to a contract as affecting rights and obliga-tions thereunder. L.R.A.1917F, 628.

#### IMPRISONMENT FOR DEBT.

Constitutionality of. 34 L.R.A. 634; L.R.A. 1915B, 645.

Enforcing orders and decrees of court. 34 L.R.A. 661; L.R.A.1915B, 649.

ony. 34 L.R.A. 665; 17 L.R.A. (N.S.) 1140; L.R.A.1915B, 651. Alimony.

Constitutionality of statute providing for imprisonment for breach of contract of labor or rental. 21 L.R.A.(N.S.) 242.

Constitutionality of statute providing for imprisonment for beating board bill. 21 L.R.A.(N.S.) 259.

Effect of discharge from imprisonment under insolvent law on equitable remedy to subject choses in action to judgment. 63 L.R.A. 694.

#### IMPROBABILITY.

Offense of obtaining money by false pre-tenses as affected by improbability of representations made. 6 L.R.A. (N.S.) 369; L.R.A.1916C, 1104.

#### IMPROVEMENT COMPANIES.

For improving navigability of stream. 67 L.R.A. 828.

# IMPROVEMENT OF NAVIGATION.

See WATERS, §§ 19, 20.

#### IMPROVEMENTS.

1. Generally.

Recovery in eminent domain for improvements made by person seeking condemnation, see Damages, § 84.

Relief as to, in ejectment, see EJECTMENT, § 12.

Estoppel by permitting making of, see Es-TOPPEL, § 25.

Of highway, see HIGHWAYS, V.; PUBLIC IM-PROVEMENTS.

On leased premises, see LANDLORD AND TEN-ANT, §§ 17-18, 40, 41, 48-54. Lien for generally, see Liens, § 11. Mechanics' lien for, see MECHANICS' LIENS.

As to public improvements generally, see PUBLIC IMPROVEMENTS.

Of navigation, see WATERS, §§ 19, 20. For wharf, cost of, see Wharves, § 4.

Improvement of right of way. L.R.A.1918A,

Right of one holding, to notice to redeem from tax sale. 44 L.R.A.(N.S.) 676. Consult also L.R.A. Digests of Cases.

IMPROVEMENTS—cont'd
Treatment of cost of, in estimating the
return of a public service corporation
for rate-making purposes. 52 L.R.A. (N.S.) 15.

Right of widow to dower in improvements not made by husband. 3 B. R. C. 957.

Constitutionality of retroactive statute creating right of action on account of. 52 L.R.A. 934.

Obstructing flow of surface water by. 21 L.R.A. 600.

Of canals. 61 L.R.A. 876.

Revaluation of homestead because of adding. 44 L.R.A. 402,

Right of relocator of mining claim as abandoned or forfeited to credit for value of improvements by original locator. 68 L.R.A. 846.

Allowance for, in determining reasonableness of railroad rates prescribed by the state for local traffic. 15 L.R.A.(N.S.) 116.

Of personal property at request of bailee. 38 L.R.A. (N.S.) 97.

Mistake as to improvements as ground of relief from purchase at auction. 34 L.R.A. (N.S.) 930. Notice of title to land from. 13 L.R.A.

(N.S.) 92.

Right of devisee or heir to completion of improvements at the expense of the estate. 36 L.R.A.(N.S.) 303.

Evidence of structural value of improvements to fix damages in condemnation. 41 L.R.A.(N.S.) 411.

Abandonment or loss of private way by improvements inconsistent with its use. 22 L.R.A.(N.S.) 880; 42 L.R.A.(N.S.) 741.

§ 2. What are.

Plowing and cultivating land as an "improvement." 20 L.R.A. (N.S.) 378.

§ 3. Consent to making of. . .,

Subsequent promise to pay for, when made without promisor's consent. 53 L.R.A. 375.

Requiring or permitting another to make improvements on land at his own expense as a consent by the owner which will subject his interest to a lien. 11 L.R.A. (N.S.) 764.

§ 4. On public lands. See Public Lands, §§ 9, 10.

§ 5. On trust property.

Trustee's power to mortgage trust estate for purpose of making improvements so as to render it productive. 7 L.R.A. (N.S.) 263.

§ 6. On partnership lands.

On partnership lands. 27 L.R.A. 484. Effect of improvements, on question whether real estate is partnership property. 37 L.R.A.(N.S.) 904. Widow's right to dower out of improve-

ments upon partnership real estate. 27 L.R.A. 347.

#### IMPROVEMENTS-cont'd

§ 7. Under occupying claimant's act.
Relief under occupying claimant's acts of
one buying or making lawful entry on
public land. 70 L.R.A. 803.

Right to allowance for improvements made before acquiring color of title. L.R.A. (N.S.) 918.

§ 8. By husband or wife.

Improvements made by husband on wife's land as fraud against his creditors. 21 L.R.A. 631.

Husband's right to compensation for improvements on land held by entireties. 30 L.R.A. 309.

When separate property of married woman chargeable with costs of improvement. 3 L.R.A. (N.S.) 307.

Improvement of real property as a family expense or necessary within statute rendering wife or her property liable therefor. L.R.A.1917F, 862.

§ 9. By life temant. See LIPE TENANT, § 9.

§ 10. By cotenants. Liability for, see COTENANCY, § 9.

§ 11. By vendor of land.

Admissibility of parol evidence as to im-provements to be made on tract from which a lot is sold. 36 L.R.A.(N.S.)

Right of vendee to rescind executory contract for sale of land because of vendor's breach of covenant to make improvements. 21 L.R.A. (N.S.) 823; provements. 21 L.R.A.1917B, 403.

§ 12. By purchaser of land.

Specific performance of oral contract to convey real estate in consideration of making improvements where possession is not taken. 33 L.R.A.(N.S.) 534.

Right of one in possession under void foreclosure sale to payment for. 40 L.R.A. (N.S.) 845.

§ 13. Under oral contract.

Rights in respect to compensation for improvements on land, made in good faith, under an oral contract or gift. 53 L.R.A. 337.

Effect of making improvements under lease for term beyond that permitted by statute to entitle lessee to hold during term. 3 L.R.A.(N.S.) 854.

i 14. By one holding under tax deed. Right of one holding under invalid tax deed to be reimbursed for improvements. 34 L.R.A.(N.S.) 549.

14a. By mortgagee in possession. Right and duty of mortgagee in possession as to: 49 L.R.A.(N.S.) 124.

§ 15. On redemption from foreclosure sale.

Allowance for, upon redemption from mortgage foreclosure sale. 9 L.R.A. 676.\* Begin with this book on every law question.

#### IMPUTED KNOWLEDGE.

See Banks, § 8a; Insurance, § 20; Notice, §§ 13-15.

# IMPUTED NEGLIGENCE.

Imputing attorney's negligence to client, see ATTORNEYS, § 17. In general, see Negligence, §§ 41-49, 55.

#### IMPUTED NOTICE.

See Banks, § 8a; Insurance, § 20; Notice, §§ 13-15.

#### INABILITY.

Effect of, on right to specific performance, see Specific Performance, § 20.

Inability to pay alimony as defense to contempt. 30 L.R.A. (N.S.) 1001; L.R.A. 1917C, 97.

#### INADEQUACY.

Of consideration, see Contracts, § 14. Inadequate damages for personal injury, see Damages, § 64.

As ground for setting aside verdict. 11 L.R.A. 50; \* 47 L.R.A. 33. Liability of railroad for delay in transpor-

tation of freight due to inadequate facilities. 10 L.R.A.(N.S.) 432; 34 cilities. 10 L.I L.R.A.(N.S.) 637.

Consideration of inadequacy of equipment in treatment of depreciation in estimating return of public service corporation for rate-making purposes. L.R.A.(N.S.) 37.

#### INADVERTENCE.

ground for relief from judgment, see JUDGMENT, § 94.

#### INANIMATE PROPERTY.

Title and right to escaped inanimate property. 43 L.R.A.(N.S.) 460.

# INCAPACITY.

Charge of, against officer or candidate for office as libel or slander. L.R.A.1918E, 27.

#### INCENDIARISM.

See Arson.

#### INCEST.

#### 1. Generally.

Conflict of laws as to incestuous marriage. 57 L.R.A. 166; 43 L.R.A. (N.S.) 358.

May girl below the age of consent be guilty of incest. 27 L.R.A.(N.S.) 872.

Between persons related by marriage. 31 L.R.A.(N.S.) 772.

Slander in charging person with. 24 L.R.A.

(N.S.) 612. Incestuous marriage as void or voidable. L.R.A.1916C, 723.

Validity of marriage with relative by marriage. L.R.A.1916C, 756.

Former jeopardy in case of. L.R.A.1915A, 256.

Acquittal of one of the parties, as bar to prosecution of the other. 49 L.R.A. (N.S.) 479.

Conviction or acquittal of one indicted for incest as bar to prosecution for similar offense with the same person at a i different time. L.R.A.1917D, 731.

# § 2. Evidence; witnesses.

Proof of corpus delicti in prosecution for. 68 L.R.A. 45.

Evidence of other crimes in prosecution for. 62 L.R.A. 329.

Admissibility of evidence of prior or subsequent acts of intercourse between the parties in a prosecution for incest. 26 L.R.A.(N.S.) 466; L.R.A.1915A, 138.

Evidence of specific instances to prove character for chastity in prosecution for. 14 L.R.A.(N.S.) 725; L.R.A.1916B, 966.

Husband or wife as witness against the other in prosecution for. 2 L.R.A. (N.S.) 862; L.R.A.1917E, 1134.

Age of alleged accomplice as affecting necessity of corroboration of testimony. L.R.A.1915E, 1222.

#### INCIDENTAL EXPENSES.

Attorney's implied authority to incur. 23 L.R.A.(N.S.) 702.

# INCIDENTAL PARDON.

Legislative power to grant. 34 L.R.A. 254.

# INCIDENTAL SERVICE.

Effect of rendering incidental service to members of the public to make corporation, otherwise private, a public utility. L.R.A.1918A, 213.

Consult also L.R.A. Digests of Cases.

#### INCOME.

# § 1. Generally.

Apportionment of, see Apportionment, § 2. As between life tenants and remaindermen, see LIFE TENANTS, II.

Right to, on foreclosure, see MORTGAGE, § 79a.

Misstatement as to income of insured. L.R.A.1917C, 344.

Consideration of earnings or income in determining the value of property for purposes of taxation. L.R.A.1916C, 529.

Application of child's income to his support. 57 L.R.A. 740.

Right to, after foreclosure decree and before perfecting of purchaser's title. 1 L.R.A. (N.S.) 1079.

Taxation of, as part of capital stock of corporation. 58 L.R.A. 569.

# § 2. Bequest of.

Bequest of, see WILLS, § 95.

3. Rights of husband and wife as to. Respective rights of husband and wife to income from estate by the entireties. 19 L.R.A.(N.S.) 1037.

Power of legislature to change income of separate property from community property to separate property and vice versa. 37 L.R.A.(N.S.) 186.

#### § 4. Of railroad company.

Basis on which income is to be computed in determining reasonableness of railroad rates prescribed by state for local traffic. 15 L.R.A. (N.S.) 109; 25 L.R.A. (N.S.) 1002.

Minimum ratio of income in determining reasonableness of railroad rates prescribed by state for local traffic. 15 L.R.A.(N.S.) 111; 25 L.R.A.(N.S.) 1002.

Sufficiency of railroad rates prescribed by state for local traffic to produce minimum income. 15 L.R.A.(N.S.) 112; 25 L.R.A.(N.S.) 1004.

#### INCOME TAX.

See TAXES, § 106.

# INCOMPATIBLE OFFICES.

See Officers, § 5.

# INCOMPETENCY.

Of juror, see JURY, Ill. b.

Of fellow servants, see Master and Serv-ANT, §§ 104, 105.

Mental incompetency, see Incompetent

Persons.

Charge of, against officer or candidate for office as libel or slander. L.R.A.1918E, INCOMPETENCY—cont'd

As ground for diccharge of one employed in executive or supervisory capacity. L.R.A.1918C, 1038.

#### INCOMPETENT PERSONS.

I. In general, § 1.

II. Who are, \$\$ 2-4.

III. Inquisition and lunacy proceedings, §§ 5-7.

IV. Capacity; contracts; deeds, \$\$ 8-10.

V. Negligence of or towards; torts, §§ 11, 12.

VI. Property rights, \$\$ 13-16.

VII. Confinement; support, \$ 17.

VIII. Actions and proceedings; judgments, §§ 18-20.

IX. Guardian or committee, \$\$ 21-24.

#### I. In general,

§ 1. Generally.

Asylum for, see ASYLUM.

Mental condition as affecting criminal responsibility, generally, see CRIMINAL LAW, §§ 8-10, 42.

Insanity after commission of criminal act, see CRIMINAL LAW, § 42.

Insanity as ground of divorce, see DIVORCE
AND SEPARATION, § 28.

Intoxicated persons, see DRUNKENNESS, §§ 5-9.

Presumption and burden of proof as to sanity, see EVIDENCE, §§ 38-40, 61a.

Opinion evidence as to sanity, see EVIDENCE, VIII. e.

Relevancy of evidence as to sanity, see EVI-DENCE, § 254.

Sufficiency of evidence as to sanity, see Evi-DENCE, §§ 291, 292, 297, 298, 316.

Effect of husband's insanity on wife's disability, see HUSBAND AND WIFE, § 14. Suicide of insured while insane, see INSUR-ANCE. § 171.

ANCE, § 171.
Effect of insanity on judgment, see Judgment, § 33.

Marriage of, see MARRIAGE, § 10.

Weight of evidence as to sanity as question for jury, see TRIAL, § 21.

Question for jury as to sanity, see TRIAL, § 29.

Competency of, as witnesses, see WITNESSES, § 14.

Cross-examination of witness as to sanity, see Witnesses, § 33.

As to married women, see Husband and Wife.

As to Indians, see Indians.

As to infants, see INFANTS.

Mental anguish because of inability to attend insane brother, as element of recovery in telegraph cases. 49 L.R.A. (N.S.) 238, 334.

Applicability of workmen's compensation act where insane workman commits suicide or suffers personal injury. L.R.A.1916A, 339.

INCOMPETENT PERSONS, I .- cont'd

Recovery under Workmen's Compensation Act for injury from fall caused or accompanied by abnormal mental condition. L.R.A.1918F, 903.

Insanity as an accident within the meaning of the Workmen's Compensation 'Act. L.R.A.1917D, 112.

Arrest upon suspicion of insanity. L.R.A. 1916C, 230

Insanity as act of God. 4 L.R.A.(N.S.) 898.

Right to remove from state. 58 L.R.A. 931. Effect of incompetency on rights of parent to custody of child. 41 L.R.A. (N.S.) 592, 606.

Liens on subject-matter of legacy or devise while testator is insane as an ademption. 40 L.R.A.(N.S.) 548.

Insanity of husband as affecting wife's disability of coverture. 34 L.R.A. 223.

Lunacy as total disability of insured. 38 L.R.A. 537.

Who may elect against will in behalf of insane widow. 17 L.R.A. 296; 35 L.R.A. (N.S.) 1210; 49 L.R.A. (N.S.) 1108.

Rule admitting statements made in presence of party and undenied by him as affected by his mental and physical condition at the time. 13 L.R.A.(N.S.) 349.

Right to recover for insanity resulting from fright caused by wrongful act. 3 L.R.A.(N.S.) 57.

Carrier's liability for injury to pregnant woman by seeing lunatic on train. 39 L.R.A.(N.S.) 647.

Duty of carrier to accept insane person as passenger. 26 L.R.A. (N.S.) 172; L.R.A. 1915E, 788.

Evidence of specific instances to prove insanity of fellow servant. 14 L.R.A. (N.S.) 773.

Computation of period of abandonment as affected by insanity of defendant. 16 L.R.A.(N.S.) 1071.

Right of witness to give opinion on exact issue as to sanity or mental capacity of accused. 36 L.R.A. 65.

Trial of insane person as former jeopardy. 35 L.R.A. (N.S.) 470.

Mental condition of accused at time of making confession as affecting voluntariness. 18 L.R.A. (N.S.) 788; 50 L.R.A. (N.S.) 1082.

Of witness as ground for admission of testimony given upon preliminary examination. 25 L.R.A.(N.S.) 873.

Asexualization or sterilization of. 41 L.R.A. (N.S.) 419; L.R.A.1918D, 236.

Effect of insanity or mental incompetency of executor or administrator. 45 L.R.A. (N.S.) 1073.

Insanity as a ground for refusing extradition. 46 L.R.A.(N.S.) 397.

Mental incapacity of partner as dissolution or a ground for dissolution of a partnership. 47 L.R.A.(N.S.) 839.

Begin with this book on every law question.

#### INCOMPETENT PERSONS—cont'd

#### II. Who are.

§ 2. Generally.

Presumption and burden of proof as to sanity, see Evidence, §§ 38-40, 61a.

Relevancy of evidence as to sanity, see Evi-DENCE, § 254.
Opinion evidence as to sanity, see EVIDENCE,

VIII. e.

Sufficiency of evidence as to sanity, see EVIDENCE, §§ 291, 292, 297, 298, 315.

Does disqualification of physician as witness extend to mental condition of patient. L.R.A.1918E, 974.

Law with reference to hypnotism. L.R.A. 269.

Desire of aged person to marry as ground for appointment of guardian. 47 L.R.A. (N.S.) 475.

§ 3. What are insane delusions.

Insane delusions defined. 37 L.R.A. 261. Must be insane. 37 L.R.A. 262. Must be against evidence. 37 L.R.A. 263.

Must be connected with the act in question. 37 L.R.A. 264.

Must be sufficient to excuse if true. L.R.A. 266.

Prejudice; ill-will. 37 L.R.A. 267.

Eccentricities and belief in absurdities. 37 L.R.A. 267.

Application of ordinary tests. 37 L.R.A. 268.

Delusions on particular subjects. 37 L.R.A. 269.

§ 4. Morphinism and other addictions as affecting responsibility and capacity.

Scope and general view of the subject. 39 L.R.A. 262.

Effect on criminal responsibility. 39 L.R.A. 262.

Effect on capacity to contract. 39 L.R.A. 262.

Effect on testamentary capacity. 39 L.R.A.

As a ground for divorce. 39 L.R.A. 264. As affecting insurance. 39 L.R.A. 265.

As affecting competency of witness. L.R.A. 265.

#### III. Inquisition and lunacy proceedings.

§ 5. Generally.

Appointment of guardian or committee, see infra, §§ 22, 23.

Constitutional right to trial by jury in inquisition of insanity. L.R.A.1918A, 348. Opinion evidence by nonexpert as to contractual or testamentary capacity in. 37 L.R.A.(N.S.) 598.

Right to dismiss proceedings in nature of writ inquirendo de lunatico. 51 L.R.A. (N.S.) 1191.

6. Notice of proceedings.

Necessity and sufficiency of notice to the alleged lunatic. 23 L.R.A. 737; 26 L.R.A. (N.S.) 232.

Notice to others. 23 L.R.A. 744. Consult also L.R.A. Digests of Cases.

INCOMPETENT PERSONS, III.-cont'd § 7. Effect of inquisition.

To establish insanity of grantor of land. 19 L.R.A. 493.

On competency of witness. 37 L.R.A., 427; 46 L.R.A. (N.S.) 1031.

judgment against insane person 39 L.R.A. 783; 35 L.R.A.(N.S.) 1097.

On validity of marriage of insane person. 40 L.R.A. 743.

Right of insane person to institute proceedings by next friend after inquisition. 64 L.R.A. 526.

#### IV. Capacity; contracts; deeds.

§ 8. Generally.

Criminal liability of incompetent, see CRIM-

INAL LAW, § 8.

Presumption and burden of proof as to capacity, see EVIDENCE, §§ 38, 39.

Opinion evidence as to capacity, see Evi-DENCE, VIII. e.

Sufficiency of evidence as to capacity, see EVIDENCE, §§ 291, 292, 297, 298.
Contracts with drunken persons, see DRUNK-

ENNESS, §§ 3, 4.

Capacity to enter into contract of marriage, see MARRIAGE, § 10.

Testamentary capacity of testator, see WILLS, §§ 9-15.

Capacity to make contract as affected by mental conditions. 3 L.R.A.(N.S.) 174.

Renewal of obligations by. 34 L.R.A. 274. Right of bona fide holder of promissory note of insane person. 35 L.R.A. 161.

Effect of insanity of party to revoke war-rant of attorney to confess judgment. 13 L.R.A. 797.

Validity of contract executed after insanity in pursuance of an obligation assumed while sane. 14 L.R.A. (N.S.) 962.

Power of guardian or committee to bind incompetent person or his estate by contract. 8 L.R.A. (N.S.) 436.

What circumstances will charge one with notice that other contracting party is of unsound mind. 31 L.R.A. (N.S.) 1159.

Right to enforce mortgage given by incompetent person who had not been declared such. 42 L.R.A.(N.S.) 343.

Effect upon liability of surety of principal's incapacity to contract. 20 L.R.A.(N. S.) 1000.

Statute of frauds as affecting guaranty of contract of person under disability. 33 L.R.A. 359.

Consent of incompetent or his guardian, committee, or agent to a license for the sale of intoxicating liquors. L.R.A. 1916D, 819.

Competency of parties to agree to arbitrate. 47 L.R.A.(N.S.) 345.

Mental capacity of servant executing release on accepting benefits of relief fund. 11 L.R.A.(N.S.) 201; 48 L.R.A.(N.S.) 450.

Insanity of subscriber to charity as revoking subscription. 48 L.R.A.(N.S.) 801. INCOMPETENT PERSONS, IV .-- cont'd Right to recover against incompetent or his estate for legal services in attempting to secure his freedom, or in resisting lunacy proceedings. 45 L.R.A. (N.S.)

#### § 9. Insurance matters.

Effect of insanity on failure to pay insurance premium when due. 12 L.R.A. ance premium when due. 12 L (N.S.) 319; 46 L.R.A. (N.S.) 537.

Insanity of insured as excuse for failure to give notice or furnish proofs of loss as required by policy of fire insurance. LR.A.1917A, 305.

Insanity of member as affecting decision of

lodge against him. 49 L.R.A. 371. Rights and remedies of prior beneficiary where insured was mentally incompetent when he made a change of beneficiary. L.R.A.1916C, 1132.

# § 10. Deeds.

Validity of deed. 19 L.R.A. 489.

Belief in spiritualism, witchcraft, etc., as affecting capacity to make will or deed. 16 L.R.A. 677.

Deed in partition by. 57 L.R.A. 340.

May deed of real property executed by an incompetent not judicially declared such be avoided in action at law. 19 L.R.A. (N.S.) 461.

Validity of deed executed during lucid interval by adjudged incompetent. 4 B. R. C. 451.

Conveyance of homestead during insanity by one of spouses. 13 L.R.A.(N.S.) 430.

Right of devisee or legatee to attack convevance or transfer by testator. L.R.A.(N.S.) 194.

Mental incapacity of grantor as rendering title unmarketable. 38 L.R.A. (N.S.)

Power of court or guardian to consent to conveyance by trustee under a trust requiring consent by cestui que trust. 39 L.R.A.(N.S.) 39.

Undue influence in conveyance or transfer of property by person physically or mentally feeble in consideration of support of the grantor or a third person. 52 L.R.A. (N.S.) 476.

Signature made by hand of unconscious person. L.R.A.1915B, 678.

#### V. Negligence of or towards; torts.

#### § 11. Generally.

Effect of intoxication on negligence, see DBUNKENNESS, §§ 5-9.

Duty of person of impaired faculties when crossing or traveling public street to avoid passing teams. 19 L.R.A.(N.S.) 163.

Mental incompetency as excuse for failure to give notice of injury required as a condition of municipal liability. 32L.R.A.(N.S.) 350.

Rape of female of unsound mind. L.R.A. Sentence and imprisonment for crime, see 1916F, 742.

INCOMPETENT PERSONS, V .-- cont'd

Injuries inflicted by insane persons as within provision in accident insurance policy exempting insurer or limiting liability in case of injury intentionally inflicted by another. 48 L.R.A. (N.S.) • 527.

Right to show disability of adult on issue of contributory negligence without allegation thereof. L.R.A.1917D, 558.

#### § 12. Civil liability for torts or negligence.

Civil liability of insane persons for torts or negligence. 26 L.R.A. 153; 42 L.R.A. (N.S.) 83.

guardian or employee. 42 L.R.A.(N. S.) 87. Liability of lunatic for torts of committee,

Responsibility of one having custody or control of person mentally incompetent, for latter's torts. 50 L.R.A. (N.S.) 1104.

#### VI. Property rights.

§ 13. Generally.

Who may elect against will in behalf of an insane widow. 17 L.R.A.297; 49 L.R.A. (N.S.) 1108.

Effect of imbecility of person for whose benefit particular estate is created, who is member of class at testator's death. on time for ascertaining who belonged to class under description as testator's "heirs," "next of kin," "relations," etc. 33 L.R.A.(N.S.) 12.

Place of taxation of lunatic's property. 20 L.R.A. 155.

# § 14. Abandonment of homestead.

Abandonment, conveyance, or encumbrance of homestead during insanity of one of the spouses. 13 L.R.A.(N.S.) 430.

Effect of insanity and imprisonment as abandonment of homestead. 3 L.R.A. (N.S.) 515.

§ 15. Use of property.
To carry out his presumed wishes or to fulfil his equitable obligations in the absence of a legal liability. 34 L.R.A. 297.

#### § 16. Sale of property.

Power of legislature to authorize guardian to sell real estate of incompetent. 16 L.R.A. 254.

Necessity of notice to insane person of application for sale of his property to pay debts. 29 L.R.A.(N.S.) 147.

Effect of sale of lands of lunatics on descent of ancestral estates. L.R.A.1916C, 910.

# VII. Confinement; support.

# § 17. Generally.

Constitutionality of statutes as to support, see Constitutional Law, § 106a.

CRIMINAL LAW, § 72. Begin with this book on every law question.

INCOMPETENT PERSONS, VII.-cont'd Confinement in asylum as affecting right to divorce upon the ground of living apart, desertion, or abandonment. L.R.A. 1918A, 1186.

Effect of confinement on competency of insane person as witness. 37 L.R.A. 427.

Habeas corpus to procure release of one committed to insane asylum upon acquittal on the ground of insanity. 36 L.R.A. (N.S.) 578.

Validity of statute for commitment of inebriates to public or private institutions. 17 L.R.A.(N.S.) 984.

Recommitment without further hearing of person discharged from insane hospital. 14 L.R.A. (N.S.) 468.

Right of one restrained as insane person to discharge upon ground of irregularity or invalidity of commitment. 44 L.R.A.(N.S.) 389.

Privilege of records of insane asylum. 51 L.R.A. (N.S.) 22.

#### VIII. Actions and proceedings; judgments.

§ 18. Generally.

As to lunacy proceedings, see supra, §§ 5-7.

Mental incapacity as affecting running of statute of limitations. 51 L.R.A. (N.S.) 834.

Action by insane persons. 2 L.R.A. (N.S.) 961.

Action for divorce on behalf of insane person. 34 L.R.A. 166.

Admissions and waivers by representatives in actions. 32 L.R.A. 688.

Continuance because of insanity of party. 42 L.R.A.(N.S.) 667.

#### § 19. Right to institute proceedings by next friend.

In general. 64 L.R.A. 513.

Before inquisition of lunacy. 64 L.R.A. 518. After inquisition of lunacy. 64 L.R.A. 526. Distinction between suits in equity and at law. 64 L.R.A. 529.

20. Judgments.

Insanity as affecting judgments. 39 L.R.A. 775; 35 L.R.A. (N.S.) 1090.

Validity of judgment against lunatic. 39 L.R.A. 775.

Attack on divorce decree grounded on lunacy of divorced spouse. L.R.A.1917B, 466. Judgment rendered in a civil action as evidence of insanity in criminal prosecution. 26 L.R.A. (N.S.) 461.

Effect of inquisition on validity of judgment against insane person. 35 L.R.A. (N.S.) 1097.

# IX. Guardian or committee.

# 31. Generally.

Lunacy proceedings, see supra, §§ 5-7.

Guardianship as affecting testamentary capacity. 27 L.R.A.(N.S.) 54.

Right of committee of lunatic to appointment as administrator or executor. L.R.A.1915C, 581.

Consult also L.R.A. Digests of Cases.

INCOMPETENT PERSONS, IX.—cont'd § 22. Appointment.

Validity of deed by insane person when under guardianship. 19 L.R.A. 490.

23. — right to appeal.

Right of applicant to appeal in proceedings to appoint guardian for. 15 L.R.A.(N. S.) 436.

Who is a "person aggrieved" within a stat-ute allowing an appeal by such person in proceedings for the appointment of a guardian for an alleged incompetent. 25 L.R.A.(N.S.) 155.

#### § 24. Powers of.

Right of guardian to remove incompetent from state. 58 L.R.A. 931.

Power of guardian or committee of insane person to procure necessities for family of his ward. L.R.A.1917B, 678.

Power of guardian to elect against will in behalf of insane widow. 17 L.R.A. 297; 35 L.R.A. (N.S.) 1210; 49 L.R.A. (N.S.) 1108.

Power of guardian or conservator to adeem legacy. 28 L.R.A.(N.S.) 401.

Power of guardian or committee to bind incompetent person or his estate by contract. 8 L.R.A. (N.S.) 436.

Right of guardian of mentally incompetent person to maintain action for damages against one to whom ward has transferred property. 34 L.R.A.(N.S.) 1058. Power of guardian to consent to conveyance

by trustee under a trust requiring consent by cestui que trust. 39 L.R.A.

(N.S.) 39. Consent of guardian or committee to a license for the sale of intoxicating liquors. L.R.A.1916D, 819.

### INCONSISTENCY.

Election between inconsistent remedies, see ELECTION OF REMEDIES.
Estoppel by, see ESTOPPEL, §§ 30, 31.

Right to plead inconsistent defenses, see

PLEADING, § 4.
Contradiction of witness by proof of, see WITNESSES, § 43.

Between ordinances and statutes for punishment of same offense. 17 L.R.A. (N. S.) 67.

Between special findings. 24 L.R.A. (N.S.)

Inconsistent testimony in other suit as ground for new trial. 42 L.R.A. (N.S.) ĕ92.

Sufficiency of inconsistency between general and special verdict. 24 L.R.A. (N.S.)

In entries in legislative journals. 40 L.R.A. (N.S.) 36.

Effect of party's changing testimony on second trial, to supply defects in the case made on the first trial. 37 L.R.A.(N.S.) 429.

#### INCONTESTABLE CLAUSE.

#### INCONTINENCE.

Antenuptial, as ground for divorce or annulment of marriage. 18 L.R.A. 375; See CRIMINAL LAW, §§ 49-53. L.R.A.1916E, 650.

#### INCONVENIENCE.

As element of damages for carrying passenger beyond destination. 17 L.R.A. (N.S.) 1230.

# INCORPORATION.

Of corporation generally, see CORPORATIONS, § 5.

Of county, see Counties, § 3.

Of municipality, see MUNICIPAL CORPORA-TIONS, § 6.

Of town, see Towns, § 2.

#### INCORPORATION TAX.

Liability for, upon extension, reorganiza tion, consolidation, or merger of existing corporation. 47 L.R.A.(N.S.) 1066

#### INCORPORATORS.

See Corporations, §§ 62-65.

# INCORPOREAL HEREDITAMENT.

Action on covenant in grant of, by or against grantee's successor in title, L.R.A.1915C, 222.

# INCREASE.

Of animal, see Animals, § 3. Of stock, see Corporations, § 70.

Rights as between life tenant and remainderman to increase of slaves. L.R.A. 1915C, 849.

Levy upon property as including subsequent increase thereof. L.R.A.1917B, 944.

# INCREASED PUNISHMENT.

.For habitual criminals or prior offenders; see Criminal Law, § 83.

#### INCREASE OF RISK.

In insurance policy, see INSURANCE, § 103. As affecting insurance, see INSURANCE, §§ 83, 89, 102.

#### INCRIMINATION.

#### INCUMBRANCE.

See ENCUMBRANCE.

#### IN CUSTODIA LEGIS.

See CUSTODY OF LAW.

#### INDEBTEDNESS.

See DEBTS.

#### INDECENCY.

See OBSCENE LITERATURE.

#### INDECENT ASSAULT.

Liability of infant for. 36 L.R.A. 205. Admissibility of declarations of infant too young to be sworn as witness at the trial. 65 L.R.A. 318. Evidence of plaintiff's character in action for. 14 L.R.A. (N.S.) 753.

Mental anguish as element of damages for.

33 L.R.A. (N.S.) 98.

#### INDECENT PUBLICATIONS.

See OBSCENE LITERATURE.

#### INDEFINITENESS.

In charitable gift, see CHARITIES, §§ 6-9. Of contract, see Contracts, §§ 20, 21. In description of beneficiaries, see WILLS,

# INDEMNITY.

§ 1. Generally.

To sureties on bail bond, see BAIL AND RE-COGNIZANCE, § 9.

By bonds generally, see Bonds, II. Begin with this book on every law question.

INDEMNITY-cont'd

TRACTS, § 78.

Insurance as, generally, see Insurance.

Indemnity insurance, see INSURANCE, X. Against mechanics' liens, see MECHANICS' LIENS, § 4.

Of surety, see PRINCIPAL AND SURETY, § 21.

Validity of agreement to indemnify bail in a criminal case. 14 L.R.A. 78; 20 criminal case. L.R.A. (N.S.) 58.

Warranty as inducement to copartner to enter into a contract as a promise to indemnify. 15 L.R.A.(N.S.) 1151.

Breach of covenant to indemnify or save harmless on assumption of debts on dissolution of firm. 9 L.R.A.(N.S.) 107.

Broker's right to commission where sale or loan fails because of owner's refusal to give indemnity against possible mechanics' liens or other encumbrances. 15 L.R.A. (N.S.) 187.

Constitutionality of statute ferbidding avoidance of liability to employee or reduction of his damages by relief or indemnity contract. 33 L.R.A.(N.S.) 706; 38 L.R.A.(N.S.) 867.

Right of one injured on highway to proceed in first instance against person ultimately liable. 16 L.R.A. 554.

Right of personal representative to indemnity from estate for debts contracted in carrying on business. 40 L.R.A. (N. S.) 232, 233.

Right of nominal owner of shares of stock to indemnity against consequences of such ownership. 3 B. R. C. 365.

Right of purchaser to indemnity for expense of defending suit or proceeding based on bulk sales act. L.R.A.1916F, 551.

Right of trustees or executive committee of club to indemnity for obligations incurred by them. 5 B. R. C. 763.

Liability of indemnitor for costs of unsuccessful appeal by party indemnified. L.R.A.1915F, 598.

Liability of depositor who requests bank to hold noninterest bearing deposit against a claimant, to reimburse bank for interest which it is compelled to pay to claimant on the legal establishment of his claim to the deposit. L.R.A. . 1915**E**, 797.

Assurance fund provided for by the Torrens Law. L.R.A.1916D, 56.

# § 2. Liability over to person secondarily liable.

Contribution between persons liable, see CONTRIBUTION.

Recovery over against one joint tort feasor, see JOINT CREDITORS AND DEBTORS, § 7.

Right of receiver to be indemnified for costs of defending action charging him with | fraud or misconduct. 2 B. R. C. 423. See Bonns, II. Consult also L.R.A. Digests of Cases.

INDEMNITY—cont'd

Validity of indemnity contract, see Con-Right to recover from obligor under collateral contract the damages which the obligee was compelled to pay because of his breach of a contract with a third person, in consequence of the failure or delay in performance of the collateral

contract. 18 L.R.A.(N.S.) 575.

Conclusiveness of judgment against constructive tort feasor in subsequent action for indemnity. 40 L.R.A.(N.S.)

.1172.

Right of one liable for damages from defective article to recover over against vendor or manufacturer. L.R.A.1915C, 336.

§ 8. - to employer.

Effect of provision in contract that employer shall be indemnified for all loss caused by negligence of contractor. 65 L.R.A. 506.

Effect on status as independent contractor of provision in contract that employer shall be indemnified for all losses caused by negligence of the person employed. 17 L.R.A.(N.S.) 381.

Right of employer who has been held liable for tort of servant or contractor to re-cover over from him. 40 L.R.A. (N.S.) 1153.

Right of employer to indemnity under workmen's compensation acts from third person whose regligence causes the injury. L.R.A.1016Å, 102, 225; L.R.A. 1917D, 101; L.R.A.1918F, 524.

§ 4. — to municipality.

In case of injury on highway, see High-WAYS, § 95.

Right of municipality to recover indemnity from one for whose tort is has been held liable. 40 L.R.A.(N.S.) 1165; L.R.A.1916F, 86.

§ 5. Specific performance of contract, for.

Specific performance of contract to give. 6 L.R.A. (N.S.) 592.

Jurisdiction of action for specific performance of contract for sale of corporate stock to indemnify vendor against liability on stock. 50 L.R.A. 506.

# § 6. Running of limitations on claim

Contingency of claim for, as affecting time for presentation to decedent's estate. 58 L.R.A. 88.

Time when limitation begins to run on liability for breach of contract of. 15 L.R.A.(N.S.) 164.

# INDEMNITY BONDS.

#### INDEMNITY INSURANCE.

See Insurance, §§ 211-219.

# INDEPENDENT ADVICE.

Independent advice as condition of valid gift inter vivos between parties occupying confidential relations. 16 L.R.A. (N.S.) 1087.

# INDEPENDENT AGREEMENT.

As defense to promissory note. 43 L.R.A. 464.

#### INDEPENDENT CONTRACTOR.

Liability for injury in highway due to negligence of, see Highways, §§ 60, 93.
Liability for injury to tenant, see Landlord

AND TENANT, § 73. Employer's liability for acts of, see MASTER

AND SERVANT, §§ 185-195. Municipal liability for acts of, see MUNIC-

IPAL CORPORATIONS, § 85. Who are independent contractors, see Mas-

TER AND SERVANT, § 195.

Liability of, for injuries, see MASTER AND SERVANT, §§ 196-198. Liability for injury to servants of, see Mas-

TER AND SERVANT, § 202. In mine, see MINES, § 42.

Liability for acts of, as to timber, see TIM-BEB, § 7.

Authority of, to contract for services of other persons. L.R.A.1918F, 79.

As "workman" or "employee" within meaning of Workmen's Compensation Act. L.R.A.1916A, 118, 247; L.R.A.1917D, 148; L.R.A.1918F, 206.

Servant of employer and servant of con-tractor as fellow servants. 17 L.R.A. (N.S.) 334.

# INDETERMINATE SENTENCE.

See CRIMINAL LAW, § 80a.

### INDEX.

As part of public record, see RECORDS AND RECORDING LAWS, § 2.

As part of record of title. 14 L.R.A. 393. Liability of registrar of deeds for neglect, delay, or mistake in indexing instru-

Right of public to benefit of indexes, devices, etc., made or prepared by officer or employee. L.R.A.1917B, 1183.

# INDIAN RESERVATION.

Location of mining claim on. 7 L.R.A.(N.

Cutting of timber on. 70 L.R.A. 909.

Jurisdiction to punish crimes committed on reservations within state limits. 21 L.R.A. 169; L.R.A.1915F, 590.

#### INDIANS.

§ 1. Generally.

Question relating to, as Federal question. 62 L.R.A. 537.

Validity of divorce according to Indian custom. 35 L.R.A. (N.S.) 795; L.R.A. 1917D, 574.

Voluntariness of confession made by Indian to Indian agent. 50 L.R.A. (N.S.) 1088.

Right of Indian children to school privileges. 50 L.R.A.(N.S.) 147.

§ 2: Jurisdiction to punish crimes, committed by or against.

When the crime is committed in United States territory. 21 L.R.A. 169; L.R.A. 1915F, 588.

On reservations within state limits. L.R.A. 169; L.R.A.1915F, 590.

Crimes committed within a state, and not upon a reservation. L.R.A.1915F, 589.

Crimes by Indians against Indians. L.R.A. 171. 21

United States or territorial courts. L.R.A. 173.

Crimes committed by nontribal Indian or off reservation. 21 L.R.A. 173.

Indians who have ceased tribal relations. L.R.A.1915F, 595.

Effect of allotments. L.R.A.1915F, 592. Regulation of commerce. 21 L.R.A. 173. Miscellaneous. L.R.A.1915F, 596.

#### INDICTMENT, INFORMATION, AND COMPLAINT.

I. In general, §§ 1-9.

II. Formal requisites, §§ 9a-12.

III. Particular offenses, §§ 13-28.

IV. Quashing; amendment; joinder; duplicity, \$\$ 29-31.

#### I. In general,

§ 1. Generally.

ment affecting title to real property. Necessity for indictment, see CRIMINAL 23 L.R.A.(N.S.) 127.

LAW, § 35.

Begin with this book on every law question.

INDICTMENT, ETC., I.—cont'd

Delay in indicting or filing information as ground for discharge, see CRIMINAL LAW, § 45.

Matters affecting grand jury, see GRAND JURY.

Evidence before grand jury, see GRAND JURY, §§ 7, 8.

Habeas corpus to test indictment or information. L.R.A.1918B, 1156.

Informality of commitment as justification of prison breach. 15 L.R.A. 191.

Limitation of general allegations in, by specific allegations. 28 L.R.A. 395.

Failure to indict as evidence of want of probable cause for prosecution. 64 L.R.A. 488.

Variance as to name of deceased as a ground of reversal in homicide. 38 L.R.A.(N.S.) 187.

Right of private person to exhibit criminal information in court of record. 19 L.R.A.(N.S.) 1050.

Right of indicted person to inspect minutes of grand jury. 27 L.R.A.(N.S.) 558.

Presumption as to time of alteration in. 39 L.R.A.(N.S.) 115.

For other crime, effect on admissibility of evidence of such crime. 62 L.R.A. 339.

Power of legislature to provide for indictment in county or district other than that in which crime is alleged to have been committed. 7 L.R.A.(N.S.) 669; L.R.A.1918F, 965.

Responsiveness of special verdict to. 24 L.R.A.(N.S.) 43.

Complaint or information based on information and belief as the basis for the issuance of a warrant, or for an examination preliminary thereto. 10 L.R.A.(N.S.) 159; 25 L.R.A.(N.S.) 60. Effect of loss of. 41 L.R.A.(N.S.) 1079

Necessity of alleging former conviction in prosecution for crimes committed by habitual criminals for which penalty is enhanced. 48 L.R.A.(N.S.) 205.

Conviction upon proof of aiding and abetting under indictment simply charging the crime without reference to aiding or abetting. L.R.A.1915E, 608.

§ 2. In extradition proceedings.

Right of court of asylum state, in interstate extradition proceedings, to examine sufficiency of indictment. 11 L.R.A.(N.S.) 424.

Validity and sufficiency of indictment for purposes of extradition. 28 L.R.A. 803.

§ 3. Against corporations.

Proceedings by indictment and fine against corporations. 3 L.R.A. 646.\*

§ 4. Knowledge or intent.

Necessity of allegation of knowledge. 11 L.R.A. 191.\*

Necessity of alleging intent. 11 L.R.A. 532.\*

Consult also L.R.A. Digests of Cases.

INDICTMENT, ETC., I .- cont'd

§ 5. Charging time and place. Charging commission of offense at an impossible date. 2 L.R.A.(N.S.) 251.

Charge of time and place in indictment for homicide. 3 L.R.A. (N.S.) 1019.

Allegation and proof of time in prosecution for keeping disorderly house.
49 L.R.A.(N.S.) 792.

§ 6. Designation of persons.

Designation of person by use of initials. 14 L.R.A. 694.

Necessity of naming person to whom forged instrument was passed. 31 L.R.A.(N. S.) 1046.

Must indictment or information for unlawful sale of intoxicating liquors state name of person to whom sale is made. 23 L.R.A.(N.S.) 581.

Necessity of proving that person bore both real name and the alias by which the indictment purports to describe him. 30 L.R.A.(N.S.) 134.

§ 7. Ownership.

May an indictment involving the felonious taking of property lay ownership in one in possession of property as agent, bailee, etc. 21 L.R.A. (N.S.) 311.

May an indictment or information for obtaining money under false pretenses lay ownership in one who was in possession of the property as agent, bailee, etc. 22 L.R.A.(N.S.) 645.

Form of allegation of ownership or property of a decedent's estate in an indictment or information for larceny. L.R.A.1916E, 785.

§ 8. Negation of defenses or exceptions.

Negativing exceptions in statute in indictment for commission of, or attempt to commit abortion. 49 L.R.A.(N.S.) 583.

§ 8a. Surplusage.

Rejection as surplusage of matter which tends to negative offense otherwise stated. 47 L.R.A.(N.S.) 679.

§ 9. Consolidated trials.

Consolidated trial upon several indictments against same defendant. 3 L.R.A. (N.S.) 412; 47 L.R.A. (N.S.) 955.

# II. Formal requisites.

9a. Generally.

Signing indictment or information in name of deputy. 42 L.R.A.(N.S.) 886.

Typewritten, printed, or stamped signature. L.R.A.1917B, 285.

§ 10. Showing name in which brought. Sufficiency of showing of name in which, and authority by which, prosecution carried on. 26 L.R.A.(N.S.) 1035.

INDICTMENT, ETC., II.—cont'd

Necessity that indictment or information show on its face that prosecution is carried on in the name and by the authority of the state. 26 L.R.A. (N.S.) 1034.

§ 11. Necessity, mode, and record of bringing into court.

Necessity that indictment be brought into open court. 26 L.R.A.(N.S.) 683. Indorsement by clerk as "filed" as proof

Indorsement by clerk as "filed" as proof that it was returned. 26 L.R.A.(N.S.)

Presence of the grand jury. 26 L.R.A. (N.S.) 684.

Necessity that return be made by foreman. 26 L.R.A.(N.S.) 684.

Presumptions as to regularity of proceedings. 26 L.R.A.(N.S.) 684.

Necessity that record show the return into open court. 26 L.R.A. (N.S.) 685. Amendment to the record. 26 L.R.A. (N.S.)

688. Waiver. 26 L.R.A.(N.S.) 688.

Miscellaneous cases. 26 L.R.A.(N.S.) 689.

#### § 12. Verification.

Necessity of. L.R.A.1915B, 651. Waiver of. 31 L.R.A.(N.S.) 805.

Amendment of verification of indictment to cure defect for which motion in arrest of judgment has been made. 67 L.R.A. 182.

# III. Particular offenses.

§ 13. Generally.

May indictment involving felonious taking of property lay ownership in one in possession of property as agent, bailee, etc. 21 L.R.A.(N.S.) 311.

Indictment for rape of female of unsound mind. L.R.A.1916F, 748. Illicit cohabitation. L.R.A.1916C, 669.

Illicit cohabitation. L.R.A.1916C, 669. For violation of embargo on shipment of arms into Mexico. L.R.A.1917A, 281.

For violation of Selective Service Act of May 18, 1917. L.R.A.1918E, 1026. Indictment under the Espionage Act of

June 15, 1917. L.R.A.1918F, 410.
For violation of acts regulating speed of automobiles. L.R.A.1918D, 146.

#### 14. Assault.

Charging assault with intent to kill, when actual intent directed against another. 7 L.R.A.(N.S.) 630.

§ 15. Burglary.

Pleading value of goods taken or sought to be taken in indictment for burglary, 34 L.R.A. (N.S.) 246.

May an indictment involving the felonious taking of property lay ownership in one in possession of property as agent, bailee, etc. 21 L.R.A.(N.S.) 311.

§ 16. Dams. For damming back water of stream. 5 L.R.A. 886. INDICTMENT, ETC., III.—cont'd

§ 16a. Disorderly houses.

Allegation of time in prosecution for keeping disorderly house. 49 L.R.A.(N.S.) 792.

§ 17. Embezzlement.

Character of occupation of premises as affecting correct wording of indictment in prosecution for embezzlement. 4 L.R.A.(N.S.) 707.

§ 18. Extortion.

For extortion. 4 L.R.A. 360; \* 11 L.R.A. 658.\*

§ 19. False pretenses.

For expression of opinion as false pretenses. 35 L.R.A. 435.

Indictment for false pretenses; necessity and sufficiency of allegations as to causal connections between the false pretenses and the loss. 27 L.R.A. (N.S.) 363.

May indictment or information for obtaining money under false pretenses lay ownership in one who was in possession of the property as agent, bailee, etc. 22 L.R.A.(N.S.) 645.

Use of term "confidence game" or similar term in statute or indictment to describe offense. L.R.A.1916F, 684.

§ 20. Forgery.

Sufficiency of common-law indictment for perjury to support conviction for a similar statutory offense. 33 L.R.A. (N.S.) 946.

Sufficiency of averment in indictment or information for perjury as to jurisdiction or authority to administer oath. 32 L.R.A.(N.S.) 142.

Necessity of setting out copy of forged instrument. 31 L.R.A.(N.S.) 215.

Necessity of naming person to whom instrument was passed. 31 L.R.A. (N.S.) 1046.

§ 21. Homicide.

Charging negligent homicide; form of. 61 L.R.A. 298.

For homicide in commission of unlawful act. 63 L.R.A. 393.

For homicide in resisting arrest. 66 L.R.A. 381.

For homicide in carrying out unlawful conspiracy. 68 L.R.A. 214.

For homicide in commission of or attempt to commit abortion. 63 L.R.A. 911; 49 L.R.A. (N.S.) 583.

Charge of time and place in indictment for homicide. 3 L.R.A. (N.S.) 1019.

Convection of lower or different degree in prosecution for homicide. 21 L.R.A. (N.S.) 16; 43 L.R.A. (N.S.) 813.

8 8 216 Phiringement of union labels.
Form of indictment for. 39 L.R.A.(N.S.)

Begin with this book on every law question.

INDICTMENT, ETC., III.-cont'd

22. Intoxicating liquors.

Must indictment or information for unlawful sale of intoxicating liquors state name of person to whom sale is made. 23 L.R.A. (N.S.) 581.

Sufficiency of indictment or complaint against carrier for transporting intoxi-

cating liquors. 46 L.R.A. 422.
Use of disjunctive "or" in charging kind or quality of liquor sold. 51 L.R.A. (N.S.) 133.

§ 23. Larceny.

Allegations of ownership of property of married woman in indictment for larceny. 3 B. R. C. 779.

Form of allegation of ownership of property of a decedent's estate, in an indictment or information for larceny. L.R.A.1916E, 785.

Sufficiency of description of money in an indictment for larceny. 36 L.R.A. (N.S.) 933.

Sufficiency of description of property in an indictment or information for larceny. 34 L.R.A. (N.S.) 301; L.R.A.1915B, 71.

May an indictment involving the felonious taking of property lay ownership in one in possession of property as agent, bailee, etc. 21 L.R.A.(N.S.) 311.

§ 24. Lottery.

For maintaining lottery. 3 L.R.A. 403.\*

25. Nuisances.

To abate common nuisance. 4 L.R.A. 210;\* 9 L.R.A. 717.

§ 26. Perjury.

Sufficiency of common-law indetments for perjury to support conviction for a similar statutory offense. 33 L.R.A. 946.

Sufficiency of averment in indictment as to jurisdiction or authority to administer oath. 32 L.R.A. 142.

§ 27. Prize fighting.

For prize fighting. 15 L.R.A. 517.

§ 27a. Prostitution.

Indictment for violation of congressional "white slave traffic act." L.R.A.1915A,

§ 27b. Receiving stolen property.

Sufficiency of description of property in an indictment or information for receiving stolen property. L.R.A.1915B, 83.

§ 28. Robbery.

Sufficiency of indictment. 34 L.R.A.(N.S.) 301.

May indictment lay ownership in one in possession as agent, bailee, etc. 21 L.R.A.(N.S.) 311.

Consult also L.R.A. Digests of Cases. 44

INDICTMENT, ETC.—cont'd

IV. Quashing; amendment; joinder; duplicity.

29. Quashing.

Right to quash part of a count of an indictment, leaving the remainder of the count intact. 22 L.R.A. (N.S.) 469.

Termination of criminal prosecution by quashing of indictment so as to sup-port suit for malicious prosecution. 2 L.R.A.(N.S.) 937.

Raising objection of duplicity by motion to quash. 49 L.R.A.(N.S.) 454.

Effect on conviction of failure to give accused an opportunity to plead after motion to quash. 45 L.R.A.(N.S.) 667.

Improper evidence as ground for quashing indictment. 47 L.R.A.(N.S.) 1207.

30. Correction; amendment.

Effect upon prisoner's rights of necessity of amendment of charge upon which he was extradited. 25 L.R.A. 593; 47 L.R.A.(N.S.) 807.
Power to correct by dismissal as to part.

35 L.R.A. 712.

Amendment of, to cure defect for which motion in arrest of judgment has been made. 67 L.R.A. 182.

Effect on conviction of failure to give accused an opportunity to plead after amendment of indictment. 13 L (N.S.) 815; 45 L.R.A. (N.S.) 667. 13 L.R.A.

§ 31. Joinder; duplicity.

How and when objection of duplicity is to be made. 49 L.R.A.(N.S.) 453.

### INDIGENT PERSONS.

See Poor AND Poor LAWS.

# INDORSEMENT.

Of note, see BILLS AND NOTES, §§ 26-42.

Of bill of lading, see BILLS OF LADING.

In blank, see BLANKS, § 3. Of check, see CHECKS, § 6.

Purchase of money order from agent of indorsee. 3 L.R.A.(N.S.) 136.

# INDUCEMENT.

For confession, see EVIDENCE, § 207.

# INDUCTION.

See ELECTRICITY, § 5.

#### INDULGENCE.

Discharge of surety by indulgence to principal, see PRINCIPAL AND SURETY, §§ 14-16.

# INDUSTRIAL DISEASES.

See OCCUPATIONAL DISEASES.

#### INDUSTRIAL INSURANCE.

In general, see Workmen's Compensation. Constitutionality of compulsory industrial insurance. 37 L.R.A.(N.S.) 466.

# INDUSTRIAL LIFE INSURANCE.

"Facility of payment" clause in industrial life policies. L.R.A.1916F, 461.

#### INDUSTRIAL PLANT.

Injury to one examining industrial plant. 21 L.R.A. (N.S.) 466.

#### INEBRIATES.

See HABITUAL DRUNKARDS.

# INEBRIETY.

See DRUNKENNESS.

# INEFFICIENT MANAGEMENT.

Treatment of cost of, in estimating return of a public service corporation for ratemaking purposes. 52 L.R.A. (N.S.) 51.

# INEQUITABLE CONDUCT.

Relief from mistake of law as to effect of instrument accompanied by inequitable conduct. 28 L.R.A.(N.S.) 858.

# \*\*\* INEVITABLE ACCIDENT.

Effect of, on carrier's liability, see CAR-RIERS, § 111. See also ACT OF GOD.

Liability of carrier for injuries arising from. 2 L.R.A. 252.

Confusion of goods by. L.R.A.1917D, 851. Begin with this book on every law question.

#### INEXACT SCIENCES.

Books of, as evidence. 40 L.R.A. 561.

#### INEXPERIENCE.

Evidence of specific instances of inexperience of servant. 14 L.R.A. (N.S.) 772.

#### IN EXTREMIS.

Testamentary capacity of person executing will in extremss. 27 L.R.A.(N.S.) 32, 98; L.R.A.1915A, 452.

#### INFAMOUS CRIME.

What constitutes, within constitutional provisions. 17 L.R.A. 764.

#### INFANTS.

I. In general, §§ 1-5.

II. Custody; support, §\$ 6-13.

a. Custody of, \$\$ 6-10. b. Support and protection of,

§§ 11-13. III. Capacity and disabilities; contracts; liabilities, \$\$ 14-

a. In general, §§ 14, 15.

b. Contracts, §§ 16-23.

1. In general, \$\$ 16-19.

2. Affirmance; disaffirmance, §§ 20-23.

c. Liability for torts, \$ 24.

IV. Property and conveyance of same, §§ 25-29.

V. Actions by or against; judgments, **\$\$** 30-36.

a. In general, §§ 30-34.

b. Judgments, \$\$ 35, 36.
VI. Liability for killing or injuring child, \$\$ 37-41.

a. In general, \$\$ 37-39.

b. Contributory negligence, \$ 40.

c. Assumption of risk by infant, § 41.

#### I. In general,

§ 1. Generally.

Abandonment of, see ABANDONMENT, § 12. Abduction of, see ABDUCTION AND KIDNAP-

Enlistment of, see ARMY AND NAVY, § 2. Constitutionality of statutes as to, see Constitutional Law, §§ 57, 58.

Punishment of, for crime, see CRIMINAL Law, § 73.

Domicil of, see DOMICIL AND RESIDENCE.

Enticement of, see Enticing.

INFANTS, I.—cont'd

Confessions by, see EVIDENCE, § 210.

Admissibility of declarations of, see Evi-DENCE, § 218.

Guardians of, see GUARDIAN AND WARD. Insurance on life of, see INSURANCE, § 37.

Sale of liquor to, see INTOXICATING LI-QUORS, §§ 28, 29.

Statutes establishing juvenile courts, see JUVENILE COURTS.

Larceny by, see LARCENY, § 5.

Master's liability for negligence of infant employee, see Master and Servant, § 179.

Relation of, to parent generally, see PARENT AND CHILD.

Adoption of, see PARENT AND CHILD, §§ 16-18.

Rape of female infant, see RAPE, § 3. As pupils, see Schools.

Legal status of adopted child. 17 L.R.A. 435.

Contest by infant beneficiary of will containing provision for forfeiture by any contesting beneficiary. 68 L.R.A. 453.

Necessity for administration in devolution of personalty when decedent was a

minor. 15 L.R.A. 496. Personal liability of executor or administrator to distributees for interest where settlement of estate is delayed by infancy of distributees. 31 L.R.A. (N.S.) 361.

Admissibility of dying declarations of. 56 L.R.A. 360.

Inference from minority of incompetency of servant to perform duties of a particular employment. 20 L.R.A. (N.S.) 331.

Validity of statutes establishing tribunals for juvenile offenders. 3 L.R.A.(N.S.)

Payment of money deposited to credit of minor to person other than guardian. 29 L.R.A. (N.S.) 67.

Restraint on freedom of, as impairment of child's constitutional rights. 18 L.R.A. (N.S.) 886.

Right of stranger to action to appear as amicus curise to protect interests of infants. 44 L.R.A.(N.S.) 1182.

Liability on liquor dealer's bond for permitting minors to enter saloon. L.R.A. 1916E, 275.

Liability of one who sells dangerous instrumentalities to child in violation of statute or ordinance for injury in-Licted thereby upon child or third person. L.R.A.1915C, 460.

# § 2. Child labor.

Statutes as to employment of children, see MASTER AND SERVANT, § 12.

Injury to minor employee, see Master and Servant, §§ 50, 51, 55, 76-78, 122, 124.

# 2 3. Ejection for nonpayment of fare

Ejection of custodian for nonpayment of child's fare. 1915E. 313.

Consult also L.R.A. Digests of Cases.

INFANTS, I.—cont'd

Sufficiency of tender of fare by custodian of child to prevent ejection. 31 L.R.A. (N.S.) 995.

§ 4. Insurance on life of. See Insurance, § 37.

§ 5. When majority reached. See MAJORITY, § 1.

# II. Custody; support.

#### a. Custody.

§ 6. Generally.

Validity of contract as to, see CONTRACTS, §§ 87, 87a.

Conflict of laws as to, see Conflict of

LAWS, § 17.
In case of divorce, see DIVORCE AND SEPA-BATION, §§ 55, 56.

Conclusiveness of habeas corpus decree as to, see JUDGMENT, § 26.

Custody of illegitimate child; who entitled to. 65 L.R.A. 689.

Placing one's child in another's custody as implying contract not to reclaim child. 16 L.R.A.(N.S.) 1004.

Effect of contract on parent's right to custody of child. 41 L.R.A.(N.S.) 578.

Taking of child by or at instance of one parent from custody of other as kidnap-ping. 32 L.R.A. (N.S.) 845; L.R.A. 1915B, 189.

Liability for enticement of minor from parent's service. 1 L.R.A.(N.S.) 205.

Right of minor unlawfully enlisted in Army or Navy to discharge upon habeas corpus from custody of court martial under charge of desertion or fraudulent enlistiment. 18 L.R.A. (N.S.) 956; L.R.A.1917D, 1059.

Effect of father's attempt to appoint guardian for child against the surviving wife. 13 L.R.A. (N.S.) 288.

Denial of custody of child to parent for its well-being. 41 L.R.A.(N.S.) 564.

Exacting bond for production of child as condition of awarding custody to one parent as against other. L.R.A.1915A,

What amounts to enticement of minor child from custody. 48 L.R.A.(N.S.) 1001. Homicide or assault to prevent one from taking a child. L.R.A.1915A, 73.

§ 7. Right to provide for by will. Parent's right to will custody of child. 2

L.R.A.(N.S) 203. Effect of attempt by a father to appoint guardian for child against the surviving mother. 13 L.R.A.(N.S.) 288.

# § 8. In state institution.

State guardianship of children. 15 L.R.A. 593.

38 L.R.A. 140; L.R.A. Commitment to reformatories without conviction of crime. 16 L.R.A. 691.

INFANTS, II. a-cont'd § 9. Right to remove, from state. Removal by statutory or testamentary guardian. 58 L.R.A. 931. Removal by parent. 58 L.R.A. 937. Removal by stranger. 58 L.R.A. 939. Statutes. 58 L.R.A. 941.

§ 10. In other jurisdiction.

Jurisdiction to award custody of child temporarily within the state, but domiciled elsewhere. 10 L.R.A.(N.S.) 690.

Recognition of right, emanating from foreign power, to the custody and control of a child. 7 L.R.A.(N.S.) 306.

#### b. Support and protection of.

§ 11. Generally.

Parent's liability for necessaries furnished infant, see infra, § 18a.

Validity of contract as to, see CONTRACTS, §§ 87, 87a.

In case of divorce, see DIVORCE AND SEPA-RATION, § 57.

Support by parent of adult child, see PAR-ENT AND CHILD, § 9.

Parent's duty to support. 57 L.R.A. 728. Recovery by mother against father for money expended in support of children. 38 L.R.A.(N.S.) 508; L.R.A. 1915A, 1137.

Limitation of time for action to compel support of illegitimate child. L.R.A.(N.S.) 144.

§ 12. Parent's duty to support as affected by child's property interests. Generally. 57 L.R.A. 729.

Obligation of parent who has ability to support. 57 L.R.A. 729.

Application of child's property. 57 L.R.A. 730.

Rights of creditors. 57 L.R.A. 741.

§ 13. Criminal liability for lack of. Criminal liability for neglect of child causing death. 61 L.R.A. 290.

Criminal responsibility of parent for failure to support child where support is furnished by others. 32 L.R.A.(N.S.) 841; L.R.A.1915A, 564.

Criminal responsibility for failure to provide child with medical attendance and remedies. 1 B. R. C. 747; 6 B. R. C. 464.

Effect of failure to provide medical attendance for, to render one guilty of man-slaughter. 6 L.R.A.(N.S.) 685; 45 L.R.A. (N.S.) 559.

Religious belief as excuse for failure to furnish medical aid to child. 30 L.R.A.(N.S.) 633.

Wife as witness against husband in prosecution for failing to support children. L.R.A.1917E, 1133.

INFANTS-cont'd

III. Capacity: disabilities; contracts; liabilities.

#### a. In general.

§ 14. Generally.

Actions and judgments by or against, see infra, V

Duty and liability of infant bailee, see

BAILMENT, § 8.
Criminal liability of children, see CRIMI-NAL LAW, § 7; HOMICIDE, § 20; RAPE, § 2.

Estoppel of infant by fraud or misrepresentations as to age, see ESTOPPEL,

Guardianship of, see GUARDIAN AND WARD. Eligibility to office, see Officers, § 6.

Effect of infancy on running of limitations, see LIMITATIONS OF ACTIONS, § 47.

Competency of, as witnesses, see NESSES, § 13.

As deputy sheriff. 13 L.R.A. 721.

As members of co-operative insurance com-pany. 17 L.R.A. 547.

Right to locate mining claim. 7 L.R.A. (N.S.) 816.

Right of court to hold, as a matter of law, that a child of tender years is incapable of rendering valuable services. 41 L.R.A.(N.S.) 795.

Enlistment of, without parent's consent, in army or navy. 39 L.R.A.(N.S.) 454.

§ 15. Marriage; emancipation.

How far marriage of infant works emancipation. 16 L.R.A. 578; 24 L.R.A. (N.S.) 160.

Conflict of laws as to validity of marriage of. 57 L.R.A. 172; 43 L.R.A. (N.S.) 357.

Validity of marriage of persons of non-age. 22 L.R.A.(N.S.) 1202; L.R.A. 1916C, 740.

Effect of parents' consent to marriage of

minor child. 22 L.R.A.(N.S.) 1206. Effect of atatute sixing age of consent in defining statutory rape as determining age of consent for marriage. 21 L.R.A. (N.S.) 847.

Parent's statutory right of action for death of emancipated child. L.R.A.1916E, 122.

### b. Contracts.

# 1. In general.

16. Generally.

Estoppel of infant by misrepresentations as to age, see ESTOPPEL, § 29.

Contracts between parent and child, see PARENT AND CHILD, § 6.

Contracts of parent and child with third persons, see PARENT AND CHILD, §§ 7, 8. Power of child to bind parent by contracts, see PARENT AND CHILD, § 8.

Right of infant to enforce specific performance of contract. L.R.A.1918A, 787.

Begin with this book on every law question.

INFANTS, III. b, 1-cont'd

Infant's act in inducing another to enter into a contract with him by representing that he is of age as constituting offense of false pretenses. 24 L.R.A. (N.S.) 1101.

Execution of power of appointment by. 64 L.R.A. 907.

Implied agreement to pay for services rendered by infant relative or member of household. 11 L.R.A.(N.S.) 888.

Binding effect of stipulation in contract, as to time for suit thereon. 1 L.R.A. (N.S.) 525.

Effect of statute of frauds upon parol contracts relating to, which may, but are not intended to be, performed within a year. 15 L.R.A.(N.S.) 318.

Lack of parent or guardian as enlarging infant's capacity to contract for other than necessaries. 36 L.R.A.(N.S.) 57.

Effect of part performance of contract for services by. 24 L.R.A. 233.

Infant's right to repudiate contract to work for, and sue on quantum meruit. 15 L.R.A. 211.

Injunction to prevent infant from breaching contract made by or for him. L.R.A.1916E, 686.

Conflict of laws as to capacity to contract in relation to real property. L.R.A. 1916A. 1039.

1916A, 1039.
Guardian's consent as affecting infant's contract. L.R.A.1915C, 362.

Consent of infant or his guardian, committee, or agent to a license for the sale of intoxicating liquors. L.R.A.1916D, 819.

Validity of settlement between guardian and ward out of court. L.R.A.1916E, 863.

Infants as lessees. 47 L.R.A.(N.S.) 543. Validity of bond executed by an infant. 6 B. R. C. 115.

Power of infant to compromise or settle bastardy proceedings. L.R.A.1918D, 302.

Lien for repairs or storage upon automobile of infant. L.R.A.1918D, 330.

# § 17. Statement of accounts.

Statement of accounts by. 27 L.R.A. 819. Effect of infant's retaining an account to render it an account stated. 29 L.R.A. (N.S.) 340.

# § 18. Necessaries.

Furnished to married woman, see HUSBAND AND WIFE, §§ 7, 8.

Liability of infant husband for necessaries furnished wife while living with him. 65 L.R.A. 550.

Must the plaintiff in an action against an infant for necessaries furnished show them actually to have been required. 1 B. R. C. 156.

#### § 18a. — liability of parents or stepparents.

Education or instruction as necessary. 42 L.R.A.(N.S.) 1115.

Consult also L.R.A. Digests of Cases.

INFANTS, III. b, 1-cont'd

Right of one who employs minor without parents' consent to allowance on account of expenditures for necessaries. 9 L.R.A.(N.S.) 411.

Liability of parent for necessaries furnished minor child who is living away from the parent's home. 40 L.R.A.(N.S.) 488; L.R.A.1917B, 693.

Step-parent's liability for necessaries furnished step-child. 42 L.R.A.(N.S.) 535.

#### 🖇 19. — what are.

Bicycles as necessaries, 47 L.R.A. 307. Liability for legal services. 44 L.R.A (N.S.) 411.

# 2. Affirmance; disaffirmance.

# § 20. Affirmance.

New promise after majority. 53 L.R.A. 365.

Effect of infant's retaining account to render it account stated. 29 L.R.A.(N.S.) 340,

Possession after majority as affirmance of lease by infant. 47 L.R.A.(N.S.) 547.

#### § 21. Disaffirmance.

Avoidance of brokerage agency. 41 L.R.A. (N.S.) 1219.

Avoidance by infant of release of cause of action ew delicto. 11 L.R.A.(N.S.) 690. Effect upon title to property purchased by infant of his disaffirmance, after majority, of his executory contract to pay for the same. 8 L.R.A.(N.S.) 104.

Rights and remedies of parties to conditional sale to infant. 52 L.R.A. (N.S.) 723.

# § 22. — right to disaffirm.

Survival of infant's right to disaffirm contract. 43 L.R.A.(N.S.) 714.

Right of infant to disaffirm contract or conveyance before majority. 51 L.R.A.(N.S.) 28.

Infant's right to repudiate contract for services and sue on quantum meruit. 15 L.R.A. 211.

Right of woman to disaffirm marriage settlement executed while she was an infant. 12 L.R.A.(N.S.) 1184.

Right of infant to rescind purchase of corporate stock. 28 L.R.A.(N.S.) 128.

Right of an infant to disaffirm transfer of note by indorsement. L.R.A.1917B, 1174.

# § 23. — essentials to disaffirmance.

On disaffirmance by infants of conditional sale contract. 52 L.R.A.(N.S.) 723.

Necessity of returning consideration in or-

der to disaffirm infant's contract. 26 L.R.A. 177. INFANTS, III.-cont'd

#### c. Liability for torts.

§ 24. Generally.

Criminal responsibility for assault and battery, see Assault and Battery, § 7.

Estoppel of infant by fraud in misrepre-

senting age, see ESTOPPEL, § 29.
Liability of parent for tort committed by infant, see PARENT AND CHILD, § 10.

General liability of an infant for torts.

57 L.R.A. 673; 35 L.R.A. (N.S.) 574. Tort in inducing a contract. 57 L.R.A. 675.

Tort in the performance of a contract. 57 L.R.A. 680; 35 L.R.A.(N.S.) 574.

which it was not hired to go. 26 L.R.A.

Other torts arising from contracts. L.R.A. 683.

Estoppel of an infant by his fraud. L.R.A. 684.

Liability of an infant as trustee or officer. By guardian generally, see GUARDIAN AND 57 L.R.A. 688.

WARD, §§ 7, 14.

Infant's acts in inducing another to enter into contract with him by representing that he is of age as constituting offense of false pretenses. 24 L.R.A.

(N.S.) 1101. Liability of infant for money loaned him through his fraudulent representation. 6 B. R. C. 761.

Responsibility of infant for tort of his servant or agent. 51 L.R.A.(N.S.) 1092.

# IV. Property and conveyance of same.

§ 25. Generally.

Rights in homestead, see HOMESTEAD, §§ 19, 20.

Effect on title to property purchased by infant of his disaffirmance, after majority, of his executory contract to pay for same. 8 L.R.A. (N.S.) 104.

Infant cn ventre sa mere as grantee in deed. 44 L.R.A. 489.

Capacity of child en ventre sa mere to take under devise or bequest to "children," etc. 1 B. R. C. 582.

Liability of estate of infant for funeral expenses. 33 L.R.A. 662; 52 L.R.A. (N.S.) 1155.

Place of taxation of infant's property. 20 L.R.A. 155.

Effect of statutes relating to infants on descent of ancestral estates. L.R.A. 1916C, 926.

§ 26. Lien on.

Right to mechanics' lien for improvements made on infant's land by authority of guardian. 15 L.R.A.(N.S.) 1159.

§ 27. Sale or lease of.

Effect of sale of lands of infants on descent of ancestral estates. L.R.A.1916C, 910.

Begin with this book on every law question.

INFANTS, IV.—cont'd

Power to lease, or to authorize a lease of, infant's lands beyond his minority or the guardianship. L.R.A. 1916F, 499.

Widow's right to convey, lease, or encumber homestead during minority of children. 10 L.R.A. (N.S.) 787.

Title of purchaser at judicial sale of infant's lands as affected by failure to give bond. 21 L.R.A. 41.

§ 28. - by infant.

Release by infant of interest in estate. 65 L.R.A. 583.

Conveyance by infant of land held adversely. 35 L.R.A.(N.S.) 749.

Conversion of team driven to place for Delay of infant in paying purchase price which it was not hired to go. 26 L.R.A. Delay of infant in paying purchase price or bringing suit as bar to action for specific performance of contract for sale of land of which time is not of the essence. 25 L.R.A.(N.S.) 639.

§ 29. — by guardian ad litem.

Effect of fact that guardian ad litem appointed to sell land was interested in the purchase. 26 L.R.A.(N.S.) 558.

#### V. Actions by or against; judgments.

#### a. In general.

§ 30. Generally.

Right of infant to enforce specific performance of contract. L.R.A.1918A, 787.

Interruption of statute of limitations by infancy of one succeeding to original owner's interest. 3 B. R. C. 741. When infant real party in interest, by whom

action must be brought. 64 L.R.A. 610. Admission and waivers by representatives of, in actions. 32 L.R.A. 671.

Is minor's right to damages for the negligent killing of parent limited to the period of minority. 18 L.R.A. (N.S.) 1205.

Binding effect of stipulation in contract, as to time for suit thereon. 1 L.R.A. (N.S.) 525.

Delay of infant in paying purchase price or bringing suit as bar to action for spe-cific performance of contract for sale of land of which time is not of the essence. 25 L.R.A.(N.S.) 639.

Waiver in case of infant of privilege as to communications between physician and patient. 48 L.R.A.(N.S.) 420.

Statutory right of action for death of parent. L.R.A.1916E, 129.

Abandonment of child as affecting right to recover damages for negligent killing of father. L.R.A.1916C, 806.

31. How represented.

Right of guardian to enter appearance of ward. 32 L.R.A. 684.

Right of guardian to maintain ejectment. 18 L.R.A. 789.

INFANTS, V. a-cont'd

Right of stranger to action to appear as amicus curiæ to protect interests of infants. 44 L.R.A. (N.S.) 1182.

#### § 32. — guardian ad litem or next friend.

Guardian ad litem, as proper party to bring suit, see PARTIES, § 24.

Power to enter appearence. 32 L.R.A. 683. Control of guardian ad litem or next friend over action. 16 L.R.A. 507.

Right of parent, guardian, or next friend to compromise infant's cause of action for personal injuries. 21 L.R.A. (N.S.) 338; L.R.A.1918C, 58.

Right of next friend to receive payment of, and satisfy, judgment recovered in behalf of infant. 11 L.R.A. (N.S.) 913; L.R.A.1918C, 55.

Effect of fact that guardian ad litem appointed in proceedings for sale of infant's land was interested in the purchase. 26 L.R.A.(N.S.) 558.

Necessity of guardian or next friend for infant in bastardy proceedings. 52 L.R.A.(N.S.) 799.

#### § 33. Arbitration of infant's cause of action.

In general. 70 L.R.A. 171.

Power to submit for infant. 70 L.R.A. 172. Power of court to determine advisability of submission. 70 L.R.A. 175.

Right to plead infancy of parties to submission. 70 L.R.A. 176.

#### § 34. Compromise of.

Right of parent, guardian, or next friend to compromise infant's cause of action for personal injuries. 21 L.R.A. (N.S.) 338; L.R.A.1918C, 58.

#### b. Judgments.

35. Generally.

Right of alleged fraudulent grantee to attack judgment against grantor on ground of latter's infancy. 67 L.R.A.

Injunction against judgment for irregularities as to. 30 L.R.A. 707.

Right to open default as affected by character of defense. L.R.A.1916F, 857.

Attack on divorce decree grounded on infancy of divorced spouse. L.R.A.1917B,

#### 36. Satisfaction of.

Satisfaction by attorney, guardian ad litem or next friend, of judgment in favor of minor. 3 L.R.A.(N.S.) 72.

Right of next friend to receive payment of, and satisfy, judgment recovered in behalf of infant. 11 L.R.A. (N.S.) 913; L.R.A.1918C, 55.

Consult also L.R.A. Digests of Cases.

INFANTS-cont'd

# VI. Liability for killing or injuring

#### a. In general,

§ 37. Generally.

While in highway, see Highways, § 59a. Master's liability for injury to minor servant, see MASTER AND SERVANT, §§ 50, 51, 55, 76-78.

Negligence toward children, generally, see NEGLIGENCE, §§ 22-23a.

Imputing negligence of others to, see NEGLI-GENCE, §§ 46-48.

Proximate cause of injury, see PROXIMATE CAUSE, §§ 2, 7, 12, 16.

Negligence towards infant on railroad track, see RAILROADS, § 51.

Injury by street car, see STREET RAILWAYS, § 17.

Prenatal injury to, as ground of action. 45 L.R.A. (N.S.) 625.

May intervening act of a child break the causal connection between the defendant's negligence and the injury. L.R.A. (N.S.) 249.

Master's liability for injury to child invited into places of danger by employee. 4 L.R.A. (N.S.) 804.

Liability of owner of vehicle for injury to child invited to ride by driver. 46 L.R.A.(N.S.) 199.

Liability of master where servant invites or permits children to ride on engine or cars. L.R.A.1915E, 888.

Liability for injuries to children from explosives left accessible to them. 14 L.R.A.(N.S.) 586: 24 L.R.A.(N.S.) 1257; 42 L.R.A.(N.S.) 840; L.R.A. 1917A, 1295.

Storekeeper's liability for injuries to children due to condition of premises. L.R.A.(N.S.) 464.

Duty of property owner to trespassing child. 32 L.R.A. (N.S.) 559.

Liability of lessor for injury to trespassing child. L.R.A.1916F, 1135.

Duty and liability of owner to child on premises for purpose of seeing his employees. 24 L.R.A.(N.S.) 497.

Liability to child from dangerous condition of private grounds lying open beside a highway or frequented path. L.R.A.1918A, 860.

Right of child playing in street to recover for injury by obstruction or defect therein. 20 L.R.A.(N.S.) 753.

Duty in stringing electric wires to guard against danger to children. 11 L.R.A. (N.S.) 449; 25 L.R.A.(N.S.) 1220; 43 L.R.A. (N.S.) 137; L.R.A.1918E, 1039.

Liability for performing surgical operation on minor without parent's consent. 7 L.R.A. (N.S.) 612.

Right of infant to recover damages for loss of services or diminished earning capacity, during minority, from personal injuries. 6 L.R.A. (N.S.) 552.

INFANTS, VI. a-cont'd

Right of parent, guardian, or next friend to compromise infant's cause of action for personal injuries. 21 L.R.A. (N.S.) 338; L.R.A.1918C, 58.

Doctrine of attractive nuisance as applied to road vehicles. 50 L.R.A.(N.S.) 1147.

Liability of one who sells dangerous instrumentalities to child in violation of statute or ordinance for injury inflicted thereby upon child. L.R.A.1915C, 460.

§ 38. While on train or street car. Carrier's liability for injury to children on cars, see CARRIERS, § 55.

39. Right of action for death of. Parent's right of action for death, see DEATH, § 9.

Character and sufficiency of evidence to show pecuniary loss in action for death of infant. L.R.A.1918C, 1113.

Distinct causes of action arising from injuries to infant, resulting in death. 34 L.R.A. 798.

Instances of excessive or inadequate damages for death of child. L.R.A.1916C, 870.

May parent's recovery for death of minor child extend beyond his minority. L.R.A.(N.S.) 687.

#### b. Contributory negligence of.

40. Generally.

Contributory negligence of minor employees, see MASTER AND SERVANT, § 124.

Contributory negligence of children, general-

ly, see NEGLIGENCE, § 36.

Imputing negligence of other person to child, see NEGLIGENCE, §§ 46-48.

On street car track, see STREET RAILWAYS, § 22.

Question for jury as to, see TRIAL, § 49.

Contributory negligence of children. L.R.A. 1917F, 10.

Contributory negligence of child in jumping on or off moving train. 29 L.R.A. (N.S.) 846.

Negligence in getting on or off moving street car. 38 L.R.A. 789.

Contributory negligence of infant in attempting to cross train standing on a crossing. 13 L.R.A.(N.S.) 1069; 50 L.R.A.(N.S.) 1013.

Degree of care required of children in defective street. 21 L.R.A.(N.S.) 624; 48 L.R.A.(N.S.) 631.

Duty of children when crossing or traveling public streets to avoid passing teams. 19 L.R.A.(N.S.) 161; 39 L.R.A. (N.S.) 482.

Negligence of child in running in front of automobile. 26 L.R.A.(N.S.) 435.

Personal contributory negligence of child riding in vehicle driven or controlled by parent. L.R.A.1915E, 230.

Negligence of child injured by trains or cars operated longitudinally along public street. 49 L.R.A.(N.S.) 686.

Begin with this book on every law question.

INFANTS, VI. b-cont'd

Presumption and burden of proof as to capacity of minor servant to comprehend and avoid danger. 29 L.R.A. (N.S.) 487.

### c. Assumption of risk by infant.

§ 41. Generally.

Assumption of risk by minor employees, see MASTER AND SERVANT, § 122.

Assumption of risk by. 1 L.R.A. (N.S.) 279. In attempting to cross street car tracks. 11 L.R.A.(N.S.) 173; L.R.A.1917F, 172.

#### INFECTED HOUSE.

Municipal liability for destroying. L.R.A. (N.S.) 1128.

#### INFECTION.

Infectious diseases, see Contagious Diseas-

Duty of physician called to reduce fracture. 12 L.R.A.(N.S.) 752.

Recovery for, under Workmen's Compen-

sation Act. L.R.A.1918F, 876.
Recovery under workmen's compensation act for loss of eye through infection. L.R.A.1916A, 326; L.R.A.1917D, 130.

#### INFECTIOUS DISEASES.

See Contagious Diseases.

# INFIRM PERSONS.

Duty of carrier towards, see CARRIERS, 88 39, 40. As to sickness, see SICKNESS.

Care due to when no contract relation exists. 69 L.R.A. 513.

Evidence of specific instances to prove infirmity of fellow servant. 14 L.R.A.(N. S.) 773.

#### INFLAMMABLE MATERIALS.

As to fires generally, see FIRES; RAILEOADS, §§ 77, 78.

Keeping of, on insured premises, see In-SURANCE, § 78a.

Regulating the keeping or storing of. 41 L.R.A. (N.S.) 456.

Duty of abutting owner to prevent accumulation of, near railroad right of way. 12 L.R.A.(N.S.) 624.

Accumulation of material which aids spread of fire originating on another's property as proximate cause of destruction of property of third persons. 12 L.R.A. (N.S.) 446.

#### INFLUENCE.

Undue influence, see UNDUE INFLUENCE.

Nonexpert opinion as to existence or exercise of influence by one person over another. L.R.A.1918A, 728.

#### INFORMATION.

See Indictment, etc.

# INFORMATION AND BELIEF.

Denials on, see PLEADING, § 3.

Affidavit or complaint in contempt proceedings on information and belief. L.R.A. 1917C, 854.

Complaint or information based on as basis for issuance of warrant or for examination preliminary thereto. 10 L.R.A.(N.S.) 159; 25 L.R.A.(N.S.) 60. Perjury in statements involving matters of opinion or belief. 25 L.R.A. (N.S.) 654.

#### INFORMER.

Effect of pardon on informer's share of forfeiture. 15 L.R.A. 395.

# INFRINGEMENT.

Of copyright, see COPYRIGHT, §§ 7, 8. Of franchise, see FERRIES, §§ 3, 4; FRAN-CHISE, § 3.

Of patent, see Patents, §§ 15-17. Of trademark, see Trademarks, §§ 10, 11. Of tradename, see Tradenames, § 7.

Civil liability of insane person for. L.R.A.(N.S.) 85. 42

#### INGREDIENTS.

Evidence as to results of use of substance upon issue as to breach of warranty as to ingredients. L.R.A.1915D, 875.

# INGRESS.

See ACCESS.

# INHERITANCE.

In general, see DESCENT AND DISTRIBUTION. Tax on, see Taxes, §§ 90-105.

Effect of statutes disposing of necessity of using words of inheritance on estate | Power of legislature to repeal or amend. 50 passing by deed. 12 L.R.A. (N.S.) 963. L.R.A. (N.S.) 208; L.R.A.1917B, 24. Consult also L.R.A. Digests of Cases.

# INHERITANCE TAX.

See TAXES, §§ 90-105.

#### INHUMAN TREATMENT.

As ground of divorce, see DIVORCE AND SEP-ARATION, § 25.

# INITIAL CARRIER.

Liability of, see CARRIERS, §§ 98, 142, 143.

#### INITIALS.

See NAME, § 4.

#### INITIATION.

Liability of benovolent or fraternal society for injury to person during initiation or expulsion. 13 L.R.A. (N.S.) 314; L.R.A.1917C, 476.
Effect of initiation as delivery or policy

containing provision that it shall not become binding unless delivered while assured is in good health. 17 L.R.A. (N.S.) 1155.

Irregularities attending admission to membership in order as affecting action on benefit certificate. 49 L.R.A. (N.S.) 902.

# INITIATIVE.

See Initiative, Referendum, and Recall, § 1.

#### INITIATIVE, REFERENDUM, AND RECALL.

#### § 1. Initiative and referendum.

Scope and definitions. 50 L.R.A. (N.S.) 196;

L.R.A.1917B, 16.

Constitutionality of principle. 50 L.R.A.
(N.S.) 197; L.R.A.1917B, 17.

Necessity of legislation to carry constitutional provisions into effect. 50 L.R.A. (N.S.) 198; L.R.A.1917B, 18.

As applied to municipal matters. 50 L.R.A. (N.S.) 200; L.R.A.1917B, 19.

Application of existing constitutional provisions to initiative and referendum enactments. 50 L.R.A. (N.S.) 204; L.R.A. 1917B, 23.

Power of governor to veto. 50 L.R.A.(N.S.) 208; L.R.A.1917B, 24.

INITIATIVE, REFERENDUM, AND RE- | INJUNCTION-cont'd CALL—cont'd

Matters peculiar to initiative. (N.S.) 209; L.R.A.1917B, 24. 50 L.R.A.

Matters peculiar to referendum. 50 L.R.A. (N.S.) 210; L.R.A.1917B, 25.
Remedies. 50 L.R.A.(N.S.) 214; L.R.A.

1917B, 30.

Matters relating to practical exercise of the power. 50 L.R.A. (N.S.) 218; L.R.A. 1917B, 32.

Construction. 50 L.R.A. (N.S.) 226; L.R.A. 1917B, 45.

§ 2. The recall.

50 L.R.A.(N.S.) 227; Constitutionality. L.R.A.1916D, 1103.

50 L.R.A.(N.S.) Exclusiveness of remedy. 229; L.R.A.1916D, 1103.

Necessity of legislation to carry constitutional provisions into effect. L.R.A. 1916D. 1103.

Enforcement. 50 L.R.A. (N.S.) 229; L.R.A.

1916D, 1104. nn. 50 L.R.A.(N.S.) 230; L.R.A. Operation. 1916D, 1105.

### INJUNCTION.

I. In general, § 1.

II. Bight to; when granted, §§ 2-77.

a. In general, §§ 2-6.

b. As to contracts, §§ 7-14.

c. Against sale or transfer of property, § 15.

d. Illegal or tortious acts; crimes, §§ 16-18.

e. As to real property, 🕻 19-24.

f. Nuisances, § \$ 25-29.

g. Water rights; sewers, §§ 30-33.

h. As to corporate matters and franchises; religious societies, §§ 34-37.

i. As to partnership matters, § 38.

j. As to offices and elections, § 39.

k. Against legal proceedings, \$\$ 40-60.

1. In general, \$\$ 40-46.

2. Against judgments, §§ 47-60

l. Against officers or municipality generally; as ordinances, §§ 61, 62.

m. As to taxes, § 63.

n. As to streets, railroads, and carriers, \$\$ 64-68.

o. Unfair competition; tradename; trademark; patent; secrets, copyright; trade §§ 69-72.

p. Against speech or publication, § 73.

q. Miscellaneous, §\$ 74-77. III. Mandatory and temporary injunctions, §§ 78-80.

IV. Jurisdictional amount, \$ 81.

Begin with this book on every law question.

V. Procedure; bond; decree, \$\$ 82-90.

a. In general, §§ 82-84.

b. Bond, \$\$ 85-87.

c. Dissolution and decree, \$\$ 88-90.

#### 1. In general.

1. Generally.

Violation of, as contempt of court, see Conтемрт, § 8a.

Use of superintending control over inferior tribunal to compel grant or refusal of injunction. 20 L.R.A. (N.S.) 952.

Effect of injunction obtained by a private litigant, not a party to the contract, preventing performance, as an excuse for nonperformance of contract. L.R.A. 1916F, 75.

Application to suit for, of statute or ordinance requiring notice or presentation of claim as a condition of municipal liability. 50 L.R.A.(N.S.) 186.

# II. Right to; when granted.

#### a. In general,

§ 2. Generally.

Against or in aid of attachment, see Ar-TACHMENT, § 19.

Against nonresident, see Nonresidents, § 3.

Against donation of public money, see PUB. LIC MONEY, § 3.

In aid of set-off, see SET-OFF AND COUNTER-CLAIM, § 2.

Jurisdiction of equity when only relief sought is an injunction or receiver to preserve status quo pending action or proceeding before other tribunal. 38 L.R.A.(N.S.) 228.

§ 8. Adequate remedy at law

Injunction against collection of illegal tax in case of. 22 L.R.A. 702, 704.

Injunction against trespass to cut timber where remedy at law is inadequate. 22 L.R.A. 235; 43 L.R.A.(N.S.) 262; L.R.A.1917C, 236.

Effect of, on rights to enjoin execution sales or other proceedings under final proc-

ess. 30 L.R.A. 134.

As bar to injunction against judgment against sureties. 31 L.R.A. 60.

General equitable jurisdiction in regard to injunction against judgment where there is a remedy at law. 32 L.R.A. 326.

Effect of, on right to injunction against judgment by confession. 30 L.R.A. 242.

Adequacy of remedy at law as affecting right to injunction to compel or prevent erection, maintenance or removal of fences or gates. 7 L.R.A.(N.S.) 51, 55, 82.

Right to enjoin acts under an unconstitutional statute, as affected by other remedies in case such acts are done. L.R.A. (N.S.) 124.

INJUNCTION, II. a-cont'd § 4. Multiplicity of suits.

Injunction against trespass to cut timber on ground of. 22 L.R.A. 236; 43 L.R.A. (N.S.) 262; L.R.A.1917C, 236.

As ground for injunction against collection of illegal taxes. 22 L.R.A. 703.

As ground for injunction to compel or prevent erection maintenance or removal of fences or gates. 7 L.R.A(N.S.) 55.

Power of equity to take jurisdiction because of multiplicity of actions at law for personal injuries growing out of a single act. 20 L.R.A.(N.S.) 848; 35 L.R.A. (N.S.) 491.

Jurisdiction of equity to enjoin the prosecution of a multiplicity of baseless suits by different individuals in a court of inferior jurisdiction from which there is no appeal. 49 L.R.A.(N.S.) 496.

Equity jurisdiction to enjoin actions at law by different owners to recover for injuries to their land by the same negligent or wrongful act. L.R.A.1915F,

Injunction to restrain prosecution of criminal or quasi criminal nature to avoid multiplicity of suits. L.R.A.1916C, 271.

§ 5. Irreparable injury.

Insufficiency of allegation of, in action to enjoin trespass to cut timber. 22 L.R.A. 239.

As ground for injunction against collection of illegal taxes. 22 L.R.A. 704.

As affecting right to injunction against erection, maintenance, or removal of fences or gates on ground of nuisance. L.R.A. (N.S.) 78.

Injunction against trespass to cut timber on ground of. 43 L.R.A.(N.S.) 262; L.R.A.1917C, 236.

§ 5a. Comparative injury.

In suit to enjoin nuisance, see infra. § 26. In suit to enjoin infringement of patent, see infra, § 69a.

6. Effect of fraud.

Injunction against judgment obtained by fraud, see infra, § 52.

By one secking injunction against infringement of trademark or tradename, see infra, § 70.

Injunction against action or proceeding in foreign jurisdiction to prevent. L.R.A.(N.S.) 268.

Injunction against negotiation of note in case of fraud. 28 L.R.A. 578.

Fraud as ground of injunction against tax. 22 L.R.A. 707.

Necessity of fraudulent intent to justify injunction against unfair competition. 4 L.R.A.(N.S.) 960.

Effect of fraud or concealment on right to injunction against collection of pur-chase money where title to land is defective. 7 L.R.A. (N.S.) 448.

Power of equity to take jurisdiction of suits to cancel policy for fraud and enjoin action at law on the policy. 12 Parties in pari delicto. 28 L.R.A. 579. L.R.A. (N.S.) 881; 48 L.R.A. (N.S.) 265. Consult also L.R.A. Digests of Cases.

INJUNCTION, II,—cont'd

#### b. As to contracts.

7. Generally.

Mistake of law as to effect of instrument, as ground of. 28 L.R.A. (N.S.) 785.

Injunction against trespass to cut timber as interference with contract rights. 22 L.R.A. 239; 43 L.R.A.(N.S.) 268; L.R.A.1917C, 236.

Power to grant mandatory injunctions as to specific performance of contracts. 20 L.R.A. 167.

Enforcement of contracts of service by court of equity. 6 L.R.A.(N.S.) 1115.

Injunction to prevent infant from breaching contract made by or for him. L.R.A. 1916E, 686.

Injunction against breach of contract which cannot be specifically enforced. 5 B. R. C. 209.

Against breach of agreement by railroad company as to crossing provided for in deed to railroad of right of way. 48 L.R.A.(N.S.) 388.

Injunction to protect rights of lessee under parol lease which has been partly performed. 49 L.R.A.(N.S.) 116.

7a. Contracts of employment.

Against engaging in competitive business, see infra, § 14.

Against disclosure of trade secrets, see infra, § 72.

Right to mandatory injunction to compel specific performance of contract for services. 20 L.R.A. 167.

Injunction to prevent infant from breaching contract made by or for him. L.R.A 1916E, 686.

8. Public contract.

At instance of lowest bidder to prevent ' award of public contract to another. 30 L.R.A.(N.S.) 127.

§ 9. Against breach of covenant.

Right to enforcement of restrictive covenant as affected by change in neighborhood. 28 L.R.A. (N.S.) 706.

§ 10. Against inducing breach of con-

Injunction against inducing or aiding breach of contract. 11 L.R.A. (N.S.) 202; L.R.A.1917C, 782.

§ 11. Against negotiation of note.

Generally. 28 L.R.A. 577.

In cases where the note is void. 28 L.R.A. 577.

Fraud or failure of consideration. L.R.A. 578.

In aid of set-off. 28 L.R.A. 578.

Where note is held in trust. 28 L.R.A. 578. Not where there are other remedies. 28

Not where fraud is absent. 28 L.R.A. 579.

INJUNCTION, II. b-cont'd

Not for mere convenience. 28 L.R.A. 579. Not in hands of innocent holder. 28 L.R.A. 579.

§ 12. Illegal contract.

Contracts in restraint of trade, see infra, § 13,

Allowing injunction, in favor of party in pari delicto, against enforcing or otherwise proceeding with illegal contract. 48 L.R.A. 842.

Enjoining breach of contract contrary to public policy, on account of public in-convenience from the breach. 1 L.R.A. (N.S.) 1032.

Injunction to prevent infant from breaching contract made by or for him. L.R.A. 1916E, 686.

#### § 13. Against engaging in competitive business.

Injunction to prevent breach of stipulation to handle or use the product of one producer only. 10 L.R.A.(N.S.) 475.

Effect of stipulation for liquidated damages in contract not to engage in business, upon equitable jurisdiction to enjoin breach thereof. 10 L.R.A.(N.S.) 204; L.R.A.1917E, 886.

Remedy by injunction to restrain the violation of an agreement not to practise medicine or surgery within a L.R.A.1915B, certain territory. 206.

Right of husband to prevent wife engaging in a separate business in competition with his own. 32 L.R.A. (N.S.) 837.

#### § 14. — by employee.

Against disclosure of trade secrets, see infra, § 72.

Injunction against breach by employee of agreement not to engage in a competing business. 16 L.R.A.(N.S.) 389.

Against breach of covenant not to enter

another's employment as affected by distinction between procuring specific performance of contract and preventing injury to business. 35 L.R.A.(N. S.) 119.

Right, in absence of negative covenant, to enjoin former employee from soliciting business from customers of employer. 31 L.R.A.(N.S.) 260.

Injunction to prevent employee from entering service of rival in violation of agreement. 31 L.R.A. (N.S.) 249.

#### c. Against sale or transfer of property.

§ 15. Generally.

Against execution sale or sale under mortgage, or trust deed, see infra, §§ 41a-

Against sale of corporate franchise, see infra, § 36.

Against fraudulent conveyance, see FRAUD-ULENT CONVEYANCES, § 25.

Against sale of liquor, see Intoxicating Liquors, § 36.

INJUNCTION, II. c-cont'd

Against sale of letters. 37 L.R.A.(N.S.)

Surety's right prior to obtaining a judgment or lien to enjoin principal's transfer of property to defraud him. 15 L.R.A. (N.S.) 484.

Right to injunction during lifetime of one who has conveyed or is about to convey property in violation of agreement to leave same at his death to complainant. 18 L.R.A.(N.S.) 218.

Right to injunction against transfer by husband in fraud of wife's support. 18 L.R.A.(N.S.) 1156.

Validity of transfer of property in violation of restraining order. 50 L.R.A.(N.S.) 871.

Against sale of, or proposal to sell real property to person, or for purpose regarded as undesirable. 44 L.R.A. (N.S.)

#### d. Illegal or tortious acts; crimes.

§ 16. Generally.

As to nuisances, see infra, §§ 25-29.

Against labor organization, see CONSPIRA-

CY, §§ 4-7; LABOR ORGANIZATION.

Against sale of liquor, see INTOXICATING LIQUORS, § 36.

To prevent enticement of servant. 5 L.R.A. (N.S.) 1096.

Against violation of Federal anti-trust law. 64 L.R.A. 715.

Against being sent to pest house. 23 L.R.A. (N.S.) 1188.

Injury to one's business or interests as ground for an injunction against an illegal business establishment not directly affecting other property. L.R.A. (N.S.) 827.

Against interference with rights of ferry-man. L.R.A.1916D, 834.

# § 17. Blacklisting.

Against blacklisting of servant. 20 L.R.A. 342; 4 L.R.A. (N.S.) 1121.

# 18. Crimes.

Against criminal prosecution, see infra, § 46.

Injunction at the suit of state against public nuisance which is also a crime. 15 L.R.A.(N.S.) 747; 23 L.R.A.(N.S.) 691; 33 L.R.A.(N.S.) 325; 47 L.R.A. (N.S.) 673.

Injunction against crime which is a private nuisance. 3 L.R.A.(N.S.) 622; 21 L.R.A.(N.S.) 585; L.R.A.1918D, 683.

Injunction against commission of crime when property right involved. 3 L.R.A. (N.S.) 622; 21 L.R.A.(N.S.) 585; L.R.A.1918D, 683.

Validity, under constitutional provision forbidding second jeopardy, of statute authorizing injunction against commission of crime. 2 L.R.A.(N.S.) 1111.

Injunction to restrain sale of liquor to be shipped into prohibition territory.

L.R.A.1917D, 1027.

Begin with this book on every law question.

# INJUNCTION, II .- cont'd

#### e. As to real property.

§ 19. Generally.

Against breach of covenants as to, see supra, § 9.

Against sale or transfer of, see supra, § 15. Nuisances affecting, see infra, §§ 25-29.

As to streets, see infra, §§ 64, 65, 67. To prevent cloud on title, see CLOUD ON TITLE, § 4.

To prevent removal of lateral support. 68 L.R.A. 697.

Against surviving partner with reference to real estate. 28 L.R.A. 137.

Power to grant mandatory injunctions as to real property. 20 L.R.A. 161.

Power to grant mandatory injunctions as to possession of. 20 L.R.A. 169.

Mandatory injunction to compel the removal of a structure which encroaches on adjoining property. 36 L.R.A.(N. S.) 402.

Injunction to protect trees on boundary line. 46 L.R.A.(N.S.) 5.

Sufficiency of possessory title as a weapon of offense. 46 L.R.A.(N.S.) 505, 517. To prevent interference by railroad with crossing stipulated for in deed to railroad of right of way. 48 L.R.A. (N.S.) 378.

Against construction or use of crossing provided for in deed to railroad of right of way. 48 L.R.A.(N.S.) 389.

Injunction against waste of oil or gas causing injury to neighboring wells. L.R.A.(N.S.) 170.

Injunction to protect rights of lessee under parol lease which has been partly performed. 49 L.R.A.(N.S.) 116.

Injunction to prevent interference with land during seeding or harvest time. L.R.A. 1918B, 413.

20. In other state or country.

Jurisdiction to issue injunction affecting real property in another state or country. 69 L.R.A. 689.

Jurisdiction to enjoin acts with respect to real property in another state. L.R.A. (N.S.) 114.

21. Trespass.

Injunction to prevent interference with land during seeding or harvest time. L.R.A. 1918B, 413.

Injunction against repeated trespass. L.R.A.(N.S.) 173; 21 L.R.A.(N.S.) 417. Injunction to prevent trespass of animals or fowls. 48 L.R.A.(N.S.) 179.

Injunction, on grounds of trespass, to compel or prevent the erection, maintenance, or removal of fences or gates. 7 L.R.A.(N.S.) 50.

22. — on oyster beds.

Equitable jurisdiction. 3 L.R.A. (N.S.) 205. Injunctive relief as dependent on right, title, or interest of complainant. L.R.A.(N.S.) 206.

Consult also L.R.A. Digests of Cases.

INJUNCTION, II. e-cont'd Continuance or dissolution of injunction. 3 L.R.A.(N.S.) 207.

8 28. — to cut timber.Generally. 22 L.R.A. 233; 43 L.R.A. (N.S.) 262; L.R.A.1917C, 236.

Courts conservative in extending relief. 22 L.R.A. 234.

The injunction may be awarded if there is no adequate remedy at law. 22 L.R.A. 235.

When remedy at law is inadequate. L.R.A. 235.

Necessity that injury be irreparable. L.R.A.(N.S.) 262. Multiplicity of suits. 22 L.R.A. 236.

Where trespass is continuous. 43 L.R.A. (N.S.) 265; L.R.A.1917C, 237.

The question of possession or title. 22 L.R.A. 236.

Preventing waste pending litigation. L.R.A. 237.

Statutory provisions. 22 L.R.A. 239; 43 L.R.A. (N.S.) 269; L.R.A.1917C, 237.

Allegation of irreparable injury not sufficient. 22 L.R.A. 239.

Interference with contract rights. 22 L.R.A. 239.

Sufficient evidence of continuity of trespass. 43 L.R.A.(N.S.) 266.

Where no trespass is yet committed. 43 L.R.A.(N.S.) 266.

Insolvency of defendant. 43 L.R.A. (N.S.) 266.

Nonresidence of defendant. 43 L.R.A. (N.S.) 267.

Effect of privity between owner and tort-feasor 43 L.R.A. (N.S.) 267; L.R.A. 1917C, 237.

Where to preserve status quo pending another suit. 43 L.R.A.(N.S.) 268; other suit. 43 L.R.A. (N.S.) L.R.A.1917C, 237.

Where ancillary to suit in same court. 43 L.R.A.(N.S.) 269.

§ 24. Against mining operations.

Injunction against removal of subjacent support by mining. 16 L.R.A. (N.S.) 851.

Against mining operations by lessee pending dispute as to forfeiture of lease. 1 L.R.A.(N.S.) 333.

Against pollution of stream by mining operation. 22 L.R.A. (N.S.) 283.

Right of one who pumps oil, gas, or water on his premises to enjoin similar acts by his neighbor. 30 L.R.A. (N.S.) 1057.

# f. Nuisances.

§ 25. Generally.

In street, see infra, § 65.

Other remedies against nuisance, see Nui-SANCES, §§ 20-25.

Against blasting. 6 L.R.A.(N.S.) 570.

Against private nuisances authorized by legislature. 1 L.R.A.(N.S.) 134.

Injunction against crime which is a private nuisance. 3 L.R.A.(N.S.) 622; 21 L.R.A.(N.S.) 585; L.R.A.1918D, 683.

INJUNCTION, II. f-cont'd

Injunction at suit of state against public nuisance which is also a crime. 15 L.R.A.(N.S.) 747; 23 L.R.A.(N.S.) 691; C3 L.R.A. (N.S.) 325; 47 L.R.A. (N.S.) 673.

Right of property owner to damages or injunction for maintenance of electric light plant in vicinity of his property.

27 L.R.A. (N.S.) 237.

Right of property owner to enjoin location of contagious disease hospital in neighborhood. 5 L.R.A.(N.S.) 1028; 25 L.R.A.(N.S.) 223.

Right of lessee to maintain suit to enjoin nuisance. 3 L.R.A. (N.S.) 448.

Power to grant mandatory injunctions as to nuisances. 20 L.R.A. 165,

Injunction to compel erection, maintenance, or removal of fences or gates on grounds of nuisance. 7 L.R.A.(N.S.) 72.

Injunction against nuisance as affecting subsequent occupants of property. L.R.A. (N.S.) 462.

# § 26. Doctrine of comparative injury. in suit to enjoin nuisance.

In general. 31 L.R.A.(N.S.) 881: 39 L.R.A. (N.S.) 580; L.R.A.1916C, 1269.

Preliminary injunction. 31 L.R.A. (N.S.) 881; 39 L.R.A. (N.S.) 580; L.R.A. 1916C, 1269.

Distinction between preliminary and final injunction. 31 L.R.A.(N.S.) 882.

Final injunction. 31 L.R.A.(N.S.) 883; 39 L.R.A.(N.S.) 581.

Doctrine that injunction is discretionary. 31 L.R.A. (N.S.) 884; L.R.A. 1916C, 1269.

Doctrine that injunction is a matter of right. 31 L.R.A.(N.S.) 888; L.R.A. 1916C, 1269.

Effect of locality. L.R.A.1916C, 1269. Where public convenience is involved. L.R.A.1916C, 1270.

Laches of complainant. L.R.A.1916C, 1270. Conditional injunction. 31 L.R.A. (N.S.) 898.

Statutory provisions. 31 L.R.A.(N.S.) 899.

#### § 27. Against nuisance maintained by municipal corporation.

Drainage, generally. 23 L.R.A. 301. Drainage into water course. 23 L.R.A. 301. Docks and navigation. 23 L.R.A. 302. Market houses and buildings. 23 L.R.A.

303. Railroads and other uses of streets. L.R.A. 303.

Cemetery. 23 L.R.A. 303.

Public urinals. 23 L.R.A. 303.

#### § 28. Liquor nuisance.

Against saloon because of character of locality. 4 L.R.A.(N.S.) 810.

Injunction by municipality against unlawful keeping of saloon and sale of To restrain obstruction of stream. liquors. 41 L.R.A. 321.

Begin with this book on every law question.

INJUNCTION, II. f-cont'd

Injunction against use of real property for sale of liquor as affecting right of subsequent occupant. 13 L.R.A. (N.S.) 46Ž.

Injunction to restrain sale of liquor to be shipped into prohibition territory. L.R.A.1917D, 1027.

§ 28a. Disorderly houses.

Injunction against bawdyhouse. 1918D, 819.

Right of owner or occupant of neighboring property to enjoin maintenance of house of prostitution. 11 L.R.A. (N.S.) 1060; 42 L.R.A.(N.S.) 1041; L.R.A.1918D, 819.

### § 29. Injunctions by municipal corporations.

Remedies for nuisances generally, see Nui-SANCES, §§ 20-25.

Right of a municipality to maintain suit to enjoin a public nuisance. L.R.A. 657; L.R.A.1916D, 1020

Nuisances in water and water courses. 40 L.R.A. 465; L.R.A.1916D, 1025.

Public morals, peace, and good order.
41 L.R.A. 321; L.R.A.1916D, 1026.
Public hearth and satety. 41 L.R.A.
322; L.R.A.1916D, 1025.

Nuisance upon highway and streets. 42 L.R.A. 814; L.R.A.1916D, 1022. Nuisances by railroads and electrical companies. 44 L.R.A. 565.

# g. Water rights; sewers.

§ 30. Generally.

To protect water right. 3 L.R.A. 609;\* 4 L.R.A. 572;\* 12 L.R.A. 486.

Against use of stream to float logs. L.R.A. 497.

Injunction against nuisance as to docks and navigation maintained by municipality. 23 L.R.A. 302.

Injunction by municipal corporation against nuisances in water and water courses. 40 L.R.A. 465; L.R.A.1916D, 1025.

Power to grant mandatory injunctions relating to mill dams. 20 L.R.A. 163.

Injunction against hunting or fishing on navigable waters, or against interference therewith. 17 L.R.A. (N.S.) 1236; 38 L.R.A.(N.S.) 286.

# 31. As to drains and sewers.

Injunction against drainage nuisance. 23 L.R.A. 301.

Injunction against drainage by municipality into watercourse. 23 L.R.A. 301. Against construction of sewer. 60 L.R.A.

Against draining sewage into stream. 48 L.R.A. 707.

§ 32. Against obstruction or diversion. L.R.A. 881.

INJUNCTION, II. g—cont'd Against obstruction of navigable stream 59 L.R.A. 91.

Right of private person to injunction against obstruction of navigable stream. 38 L.R.A.(N.S.) 766.

Power to grant mandatory injunctions against obstruction or diversion of water courses generally. 20 L.R.A. 164.

At instance of riparian owner to prevent diversion of flood water. 22 L.R.A. (N.S.) 391.

#### 33. Pollution.

By drains and sewers, see supra, § 31.

Against pollution of stream for mining purposes. 24 L.R.A. 66.

h. As to corporate matters and franchises; religious societies.

#### \$ 34. Generally.

Against reduction of capital stock of corporation. 1 L.R.A. (N.S.) 571.

To enforce orders of Public Service Commissions. L.R.A.1918E, 308.

To restrain assessment on paid-up stock. 45 L.R.A. 653.

To enforce stockholder's right to inspect corporate books. 45 L.R.A. 458.

Right of benevolent, fraternal or social order to protection against use of name, insignia, ritual, etc., by another organization. L.R.A.1915B, 1074.

#### § 35. Dissolution or discontinuance of service.

Right of minority stockholder to restrain voluntary dissolution of corporation by directors or majority stockholders. 23 L.R.A. (N.S.) 1177.

Right of municipality, in absence of contract, to restrain natural gas company from discontinuing business of supplying gas. 26 L.R.A.(N.S.) 92.

# 36. Sale of franchise or invasion of rights under it.

Against sale of corporate franchise or propcrty necessary to its enjoyment. L.R.A. 737.

To restrain interference with rights of ferryman. 59 L.R.A. 552.

Right of owner of franchise for public benefit, which is not exclusive, to injunction against its invasion without right. 29 L.R.A.(N.S.) 77.

# 87. Religious societies.

Right of member of church to injunction against unlawful sale by trustees. L.R.A.(N.S.) 828.

Enjoining control, use of, or interference with church property. 3 L.R.A. (N.S.) 854.

#### i. As to partnership matters.

#### 8 28. Generally.

Against sale of partnership property for debt of partner. 46 L.R.A. 500.

Against surviving partner with reference to real estate. 28 L.R.A. 137.

Consult also L.R.A. Digests of Cases.

INJUNCTION, II. i-cont'd

Against levy on partnership property for debt of partner. 46 L.R.A. 491.

# j. As to offices and elections.

#### § 39. Generally.

Power to grant mandatory injunctions as to offices. 20 L.R.A. 167.

matters preceding election. (N.S.) 382. 3 L.R.A.

Against holding election. 40 L.R.A.(N.S.) 577.

As to matters connected with initiative and referendum election. 50 L.R.A.(N.S.) 215; L.R.A.1917B, 31.

connection with recall election. L.R.A.(N.S.) 230; L.R.A.1916D, 1104.

#### k. Against legal proceedings.

#### In general.

# 8 40. Generally.

Injunction against enforcement of illegal contract, see supra, §§ 12-14.

Against attachment, see ATTACHMENT, § 19. Injunction against proceedings in other court, see Courts, § 51.

Against documentary evidence. 51 L.R.A. 754.

In aid of attachment. 20 L.R.A. 446.

Doctrine of comparative injury in suit to enjoin other suits for infringement of patent. 39 L.R.A. (N.S.) 1.

Right to enjoin prosecution of collusive suit in court of co-ordinate jurisdiction.
11 L.R.A.(N.S.) 581.

Power of equity to take jurisdiction because of multiplicity of actions at law for personal injuries growing out of a single tort. 20 L.R.A.(N.S.) 848; 35 L.R.A. (N.S.) 491.

Application to governing body of municipality for relief, as condition of right of citizen to maintain suit to enjoin action by municipality. 8 L.R.A. (N.S.) 574.

Power of equity to take jurisdiction of suit to cancel policy for fraud and to enjoin action at law on the policy. L.R.A. (N.S.) 881; 48 L.R.A. (N.S.) 265.

Equity jurisdiction to enjoin actions at law by different owners to recover for injuries to their land by the same negligent or wrongful act. L.R.A.1915F, Ĭ012.

Injunction to restrain action by seller to recover property sold by conditional sale. L.R.A.1917C, 77.

#### § 41. Against action or proceedings in foreign jurisdiction.

General principles. 21 L.R.A. 71; 25 L.R.A. (N.S.) 267.

After a final decree. 21 L.R.A. 71.

Pending proceedings or to prevent harassing suits. 21 L.R.A. 72; 25 L.R.A. (N.S.) 268.

INJUNCTION, II. k, 1-cont'd In case of design to avoid domestic laws or contract. 21 L.R.A. 72; 15 L.R.A. (N.S.) 1008; 25 L.R.A. (N.S.) 269. In case of foreign defendant or property. 21 L.R.A. 73. In administration proceedings. 21 L.R.A. 73. In insolvency proceedings. 21 L.R.A. 74; 25 L.R.A. (N.S.) 270. Attachment proceedings. 21 L.R.A. 75. Garnishment in other state. 19 L.R.A. 580. In divorce suits. 21 L.R.A. 75. Before consul. 21 L.R.A. 75. Rule in case of state courts. 21 L.R.A. 75. To prevent embarrassment, oppression, or fraud. 25 L.R.A.(N.S.) 268. To enable plaintiff to secure a more favorable result. 25 L.R.A.(N.S.) 270. Where local court had prior jurisdiction. 25 L.R.A.(N.S.) 271. Where all matters at issue can be adjudicated in pending suit. 25 L.R.A.(N.S.) 271. Where the court cannot enforce its decree. 25 L.R.A.(N.S.) 271. Estoppel. 25 L.R.A.(N.S.) 272. Miscellaneous examples. 25 L.R.A. (N.S.) Jurisdiction to restrain legal proceedings with respect to land in another state or country. 69 L.R.A. 689; 7 L.R.A. (N.S.) 114. § 41a. Against execution sales or other proceedings under final process. Exempt personal property. 30 L.R.A. 99. Homestead. 30 L.R.A. 100. **3**0 What kind of property first liable. L.R.A. 102. Public property. 30 L.R.A. 103. Property in the custody of the law. L.R.A. 103. Railroad and quasi public corporation property. 30 L.R.A. 104. Partnership property. 30 L.R.A. 105. Property owned by third parties. 30 L.R.A. 107. Personal property of a peculiar value. 30 L.R.A. 119. Trust property. 30 L.R.A. 119. In favor of or against executors and administrators. 30 L.R.A. 120. In favor of assignee for creditors. 30 L.R.A. 124. In favor of or against lien creditors. 30 L.R.A. 125. In favor of general creditors. 30 L.R.A. Ejectment cases. 30 L.R.A. 129. Summary proceedings in forcible entry and detainer. 30 L.R.A. 129. Jurisdiction of courts. 30 L.R.A. 132. Remedy at law. 30 L.R.A. 134. Irregularities. 30 L.R.A. 136. Effect of injunction on executions, sales and final process. 30 L.R.A. 140. Effect of time upon injunctions, executions,

INJUNCTION, II. k, 1-cont'd Against sale of corporate franchise of property necessary to its enjoyment. 20 L.R.A. 737. Against sale of partnership property for debt of partner. 46 L.R.A. 500.

Amount in dispute in case of injunction against sale of exempt property. 61 L.R.A. 781. Judgment creditor as necessary party to suit to enjoin execution sale. L.R.A. ` 1915F, 1120. 42. — levy. Effect of irregularities in levy on right to injunction against sale thereunder. 30 L.R.A. 137. Against levy on partnership property for debt of partnership. 46 L.R.A. 491. § 48. Against sale under trust deed or mortgage. Against sale under trust deed pending bankruptcy. 2 L.R.A.(N.S.) 560. § 44. — under power in mortgage. Right to enjoin sale under a power in a mortgage against which the statute of limitations has run. 6 L.R.A.(N.S.) 510. Against sale under power in mortgage because of overstatement of amount due. 35 L.R.A.(N.S.) 909. § 44a. Against garnishment. Against judgment in garnishment proceedings, see infra, § 60. Garnishment in other state. 19 L.R.A. 580. Injunction against repeated garnishment of exempt wages. 10 L.R.A. (N.S.) 983. Right to enjoin garnishment of wages because of rule of employer providing for discharge of employees whose wages are garnished. 6 L.R.A. (N.S.) 491. § 45. Against collection of purchase money where title to land is defective. Fraud or concealment, 7 L.R.A. (N.S.) 448 Where purchaser held by title bond 7 L.R.A.(N.S.) 449. Insolvency or nonresidence of vendor. L.R.A.(N.S.) 451. Contract of vendor. 7 L.R.A.(N.S.) 454. Solvent vendors. 7 L.R.A.(N.S.) 455. Purchasers under quitclaim deeds. 7 L.R.A. Purchasers under quitciaim deeds. 7 L.R.A.
(N.S.) 458.
Estoppel. 7 L.R.A. (N.S.) 459.
Purchaser in default. 7 L.R.A. (N.S.) 459.
Contract of purchaser. 7 L.R.A. (N.S.) 460.
Notice to purchaser. 7 L.R.A. (N.S.) 460.
Pleading, parties, and proof. 7 L.R.A.
(N.S.) 461.
Rescission. 7 L.R.A. (N.S.) 463.
Curing title. 7 L.R.A. (N.S.) 463.
Code and statutory provisions. 7 L.R.A. Code and statutory provisions. 7 L.R.A.

(N.S.) 463.

30 L.R.A. English and Canadian cases. (N.S.) 465.

Begin with this book on every law question.

and judgments.

142.

INJUNCTION, II. k, 1-cont'd § 46. Against criminal proceedings.
 In general. 21 L.R.A. 84; 2 L.R.A. (N.S.)
 631; 25 L.R.A. (N.S.)
 193; 34 L.R.A.
 For alteration of record. 30 L.R.A. 563.
 For alteration of record. 30 L.R.A. 563. (N.S.) 454; L.R.A.1916C, 263. Prosecutions by the Crown or state. 21

L.R.A. 84. Prosecutions under city ordinances, generally. 21 L.R.A. 86.

# 2. Against judgments.

§ 47. Genéral equitable jurisdiction in regard to.

In matters of concurrent jurisdiction. 32 L.R.A. 321.

Where there is a failure to defend at law. 32 L.R.A. 322.

Where there is negligence in not asserting a legal defense. 32 L.R.A. 323. Where a legal defense was asserted at law.

32 L.R.A. 324. For defenses not available at law. 32

L.R.A. 324. On a bill of discovery to aid defense.

L.R.A. 325. Where there is a remedy at law. 32 L.R.A. 326.

Power of equity to enjoin enforcement of judgment in action at law, in order to retain the status quo pending an appeal from such judgment. 25 L.R.A. (N.S.) 828.

Against enforcement of judgment as aid to equitable set-off against judgment creditor. 35 L.R.A.(N.S.) 142:

Injunction against enforcement of judgments on betting and gambling contracts. 48 L.R.A. 847.

§ 48. For want of jurisdiction, or judgments which are void.

In general. 31 L.R.A. 200. As to party. 31 L.R.A. 202. As to time. 31 L.R.A. 202.

As to venue. 31 L.R.A. 203. As to amount. 31 L.R.A. 203.

As to judge or court. 31 L.R.A. 204.

Matters of process and service. 31 L.R.A. 204.

On account of appearance. 31 L.R.A. 211. Pleading and practice. 31 L.R.A. 212. Where there was no judgment or it was set aside. 31 L.R.A. 212.

In garnishment proceedings. 30 L.R.A. 362. Right of garnishee to enjoin judgment against him on ground of lack of jurisdiction against principal defendant. 51 L.R.A.(N.S.) 601.

§ 49. For errors and irregularities. For erroneous rulings and decisions. L.R.A. 700.

For irregularities. 30 L.R.A. 707. In judgment in garnishment proceedings. 30 L.R.A. 361.

§ 50. For matters arising subsequently to rendition. Lack of remedy by appeal or new trial. 30 L.R.A. 560.

INJUNCTION, II. k, 2-cont'd Judgments set aside, reversed, or superseded. 30 L.R.A. 563. For payment or satisfaction. 30 L.R.A. 563. In behalf of surety. 30 L.R.A. 567. For set-off. 30 L.R.A. 569. For newly discovered evidence. 30 L.R.A. 571; 31 L.R.A. 64.

§ 51. For defenses existing prior to rendition.

Set-off against judgment as ground for injunction, see SET-OFF AND COUNTER-CLAIM, § 24.

Failure of consideration. 31 L.R.A. 747. Fraud. 51 L.R.A. 756.
Public policy. 31 L.R.A. 758.
Set-off. 31 L.R.A. 763. Payment. 31 L.R.A. 770. Conditions. 31 L.R.A. 773.

Partition and dower. 31 L.R.A. 773.

As to party. 31 L.R.A. 773. Title to property. 31 L.R.A. 774. Nonliability in general. 31 L.R.A. 774.

§ 52. Obtained by fraud. Generally. 30 L.R.A. 562, 787. Judgment for purchase money. 31 L.R.A. 753.

Fraud affecting original cause of action. 31 L.R.A. 756. For fraud arising subsequently to rendi-

tion of judgment. 30 L.R.A. 562. Judgment by confession. 30 L.R.A. 213. By agreement. 30 L.R.A. 787. By concealment. 30 L.R.A. 791.

In matters of record. 30 L.R.A. 791. In matters of party. 30 L.R.A. 792. In acts committed at the trial. 30 L.R.A.

792. By collusion. 30 L.R.A. 792. For fraud in service. 31 L.R.A. 205. In garnishment proceedings. 30 L.R.A. 362.

§ 53. Obtained by perjury. Perjury as ground for relief generally against judgment, see Judgment, § 96.

Surprise in regard to perjury as ground for injunction against judgment. 30 L.R.A. 801.

§ 54. On account of accident, sickness, or death. Sickness. 30 L.R.A. 794. Death of attorney. 30 L.R.A. 796. Other causes. 30 L.R.A. 796.

§ 55. On account of mistake. As ground for injunction against judgment. 30 L.R.A. 797.

Against judgment for purchase money. 31 L.R.A. 750.

Loss of appeal by mistake as ground for injunction against judgment. 30 L.R.A. 560.

Consult also L.R.A. Digests of Cases. 45

INJUNCTION, II. k, 2—cont'd § 56. On account of surprise or duress. On account of surprise. 30 L.R.A. 800. On account of duress. 30 L.R.A. 802.

§ 57. Negligence as a cause for, and as a bar to.

As a cause for injunctions against judgments. 31 L.R.A. 33.

As a bar to injunctions against judgments.
31 L.R.A. 34.

Effect of negligence on right to injunction against judgment by confession. 30 L.R.A. 242.

 Loss of appeal by negligence as ground for injunction against judgment. 30 L.R.A. 562.

Negligence as bar to injunction against judgment against sureties. 31 L.R.A. 61.

Loss of defenses, by reason of negligence or unskilfulness of attorney, as ground for enjoining judgment. 9 L.R.A.(N.S.) 524.

§ 58. Against or in favor of sureties. Against sureties. 31 L.R.A. 60. In favor of sureties. 30 L.R.A. 567; 31 L.R.A. 66.

§ 59. Entered on confession. In favor of creditors. 30 L.R.A. 235. For irregularities. 30 L.R.A. 237. For fraud. 30 L.R.A. 238. Judgments against public policy. 30 L.R.A. 239.

Judgments against sureties. 30 L.R.A. 240. Judgments against corporations. 30 L.R.A. 240.

Judgments against partners. 30 L.R.A. 240. Judgments against executors and administrators. 30 L.R.A. 241.

Statute of limitations. 30 L.R.A. 241.
Consideration not due. 30 L.R.A. 241.
Valid defense must be shown. 30 L.R.A. 242.

Negligence. 30 L.R.A. 242. Remedy at law. 30 L.R.A. 242. Other matters. 30 L.R.A. 242.

§ 60. In garnishment proceedings. Necessity of making defense at law. 30 L.R.A. 360.

Injunctions for errors and irregularities. 30 L.R.A. 361.

Void judgments. 30 L.R.A. 362. Fraud and mistake. 30 L.R.A. 362. Payment. 30 L.R.A. 363.

Set-off. 30 L.R.A. 363.

Injunctions in behalf of creditors. 30 L.R.A. 363.

 Against officers or municipality generally; as to ordinances.

§ 61. Generally.

Against nuisance maintained by municipality, see supra, § 27.

Against state officers as action against the state. 44 L.R.A. (N.S.) 189.

Begin with this book on every law question.

INJUNCTION, II. 1-cont'd

Injunction against acts of food commissioner which affect sale of foods. 15 L.R.A. (N.S.) 331.

Against illegal removal of state capitol. 34 L.R.A.(N.S.) 380.

To prevent revocation of school-teacher's license. 15 L.R.A.(N.S.) 1148.

Power of courts to control action of executive officers by writ of injunction. 52 L.R.A.(N.S.) 433.

Power of court to enjoin illegal acts of police officers, other than arrest. 2 L.R.A. (N.S.) 678, 683.

Application to governing body of municipality for relief as condition of citizen's right to injunction against action by municipality. 8 L.R.A.(N.S.) 574. Right of taxpayer to enjoin removal of teacher. 51 L.R.A.(N.S.) 336.

§ 61a. By taxpayer, against unlawful expenditures by municipality.

Right of taxpayer, in absence of statute, to enjoin unlawful expenditures by municipality. 36 L.R.A.(N.S.) 1.

§ 61b. By citizen or taxpayer against waste or unlawful expenditure of state funds.

Action by citizens or taxpayers sustained. L.R.A.1915D, 179.

The action not allowed. L.R.A.1915D, 183. Unsettled or doubtful jurisdictions. L.R.A. 1915D, 184.

§ 62. As to ordinances.

Power to enjoin passage of municipal ordinance. 13 L.R.A. 844; 2 L.R.A. (N.S.) 152.

Injunctions against prosecutions under. 21 L.R.A. 86.

Injunction by private person to restrain violation of municipal ordinance. 5 L.R.A.(N.S.) 493.

# m. As to taxes.

68. Generally.

To restrain the collection of illegal taxes. 22 L.R.A. 699.

Injunction against enforcement of tax laws as affected by other remedies. 8 L.R.A. (N.S.) 125.

Injunction to prevent collection of tax on excessive assessment. 16 L.R.A.(N.S.) 807; L.R.A.1916A, 972.

Power to grant mandatory injunctions as to taxes. 20 L.R.A. 167.

n. As to streets, railroads, and carriers.

§ 64. As to streets.

Railroads in, see infra, § 67.

Interference with view of premises from street as special damage which will sustain injunction. 5 L.R.A. (N.S.) 486.

As proper remedy to make available franchise in street or highway as against municipality. 6 L.R.A.(N.S.) 782.

INJUNCTION, II. n-cont'd

Injunction or ejectment as the proper remedy where public highway is illegally opened over private property. 25 L.R.A. (N.S.) 511.

Interference with one's use of highway as a special damage which will sustain an o. Unfair action by him against the wrongdoer. 28 L.R.A.(N.S.) 1053; L.R.A.1915D, 142.

Delay in applying for injunction against maintaining telephone or telegraph line in street or highway. 8 L.R.A.(N.S.) 1091.

As a proper remedy to protect right of ingress and egress from street to abutting property. 35 L.R.A.(N.S.) 193.

Power to grant mandatory injunctions as to highways, roads, and passways. 20 L.R.A. 162.

# § 65. — nuisances in.

Injunction by municipal corporation against nuisances on. 42 L.R.A. 814.

Injunction against nuisance maintained by municipality in streets. 23 L.R.A. 303.

Abutter's right to enjoin railroad in street as nuisance. 23 L.R.A. 303; 36 L.R.A. (N.S.) 812.

Interference with right of ingress and egress from street as special damage entitling abutting owner to injunction. 35 L.R.A.(N.S.) 193.

State as proper party to maintain bill to abate or enjoin a public nuisance in a city street. 19 L.R.A.(N.S.) 1173.

Special damage from awning or structure overhanging street which will sustain action by private person to enjoin it as a nuisance. 48 L.R.A.(N.S.) 173.

# § 66. Railroads and street railways; carriers.

Injunction against, as nuisances, in suit by municipality. 44 L.R.A. 565.

Injunction to compel a carrier to transport freight. L.R.A.1918C, 887.

Remedy by injunction for unlawful discrimination by railroad against hack driver. 8 L.R.A.(N.S.) 1027.

driver. 8 L.R.A. (N.S.) 1027.

Power to grant mandatory injunctions in respect to common carriers, commerce, and railroads. 20 L.R.A. 166.

#### § 67. — in street.

Injunction against nuisance as to railroads in streets. 23 L.R.A. 303.

Right of abutting owners to enjoin railroad in street as nuisance. 36 L.R.A. (N.S.) 812.

Right of nonconsenting abutting owner to injunction against use of highway for street railway authorized by public. 28 L.R.A.(N.S.) 1082.

Effect of abutting owner's consent to construction of railroad or street railway in street on his right to an injunction. 7 L.R.A. (N.S.) 991; 23 L.R.A. (N.S.) 433.

Consult also L.R.A. Digests of Cases.

INJUNCTION, II. n-cont'd

§ 68. — as to tickets. Against dealing in nontransferable railroad ticket. 10 L.R.A.(N.S.) 437.

 Unfair competition; tradename; trademark; patent; copyright; trade secrets.

#### § 69. Generally.

Against false statement as to plaintiff's property or business. 16 L.R.A. 243.

Necessity of fraudulent intent to justify injunction against unfair competition. 4 L.R.A.(N.S.) 960.

Right of vendee to injunction against infringement of trademark. 1 L.R.A. (N.S.) 720.

Right to protection against use by rival of similar design, shell, or pattern not protected by patent. 19 L.R.A.(N.S.) 269; 37 L.R.A.(N.S.) 259.
Right of members of organization to pro-

Right of members of organization to protection in use of name which their efforts have made valuable. 28 L.R.A. (N.S.) 458.

Right of benevolent, fraternal or social order to protection against use of name, insignia, ritual, etc., by another organization. L.R.A.1915B, 1074.

Relief against the infringement of tradename not used in connection with manufactured articles. 15 L.R.A.(N.S.) 625.

Right to enjoin in different locality use of similar name as trademark or name. 35 L.R.A.(N.S.) 254.

Power of equity, upon enjoining unfair competition or infringement of trademark, tradename, patent, or copyright, to require defendant to pay damages sustained by complainant as distinguished from profits realized by defendant. 21 L.R.A. (N.S.) 526.

Right of noncompetitor to enjoin one from carrying on his business in such a way as to induce the belief that it is carried on by the plaintiff. 5 B. R. C. 350.

Protection of public as ground for injunction against misuse of trademark or tradename. L.R.A.1916D, 119.

# § 69a. Doctrine of comparative injury in suit to enjoin patent.

Where injunction sought to restrain other infringement suits. 39 L.R.A.(N.S.) 1. Where injunction sought to restrain infringement. 39 L.R.A.(N.S.) 3.

# § 70. Effect of fraud or deception by one asking for injunction.

Effect of false representations extrinsic to tradename or trademark, on right to injunction against infringement. 12 L.R.A.(N.S.) 1201; 23 L.R.A.(N.S.) 1151.

IN&UNCTION, II. o—cont'd

71. Copyright; rights of author.

Power of equity on enjoining infringement of copyright, to require defendant to pay damages sustained by complainant as distinguished from profits realized by defendant. 21 L.R.A.(N.S.) 526.

Rights and remedies of author who has parted with property rights in work. 3 L.R.A.(N.S.) 629.

72. Trade secrets.

To protect trade secrets. 13 L.R.A. 652; 12 L.R.A.(N.S.) 102; 20 L.R.A.(N.S.) 933; 44 L.R.A.(N.S.) 1160.

#### p. Against speech or publication.

78. Generally.

Against speech or publication. 32 L.R.A.

Against improper publication constituting punishable contempt. 32 L.R.A. 273.

Against publishing or circulating statements relative to industrial disputes by labor union. 32 L.R.A.(N.S.) 1013.

Injunction against publication of letters. 37 L.R.A.(N.S.) 944.

Against noulibelous publication affecting personal or political rights. L.R.A. 1917A, 163.

#### q. Miscellaneous.

§ 74. Generally.

To protect personal right. 37 L.R.A. 783; 1 L.R.A.(N.S.) 1147.

To prevent disturbance of religious worship. L.R.A.1917D, 996.

For violation of legal right. 6 L.R.A. 855. In aid of attachment. 20 L.R.A. 446.

Against interfering with public agency. 15 L.R.A. 64.

Against bringing intoxicating liquor into prohibition district. 35 L.R.A. (N.S.)

Right of property owner to injunction against maintenance of electric light plant in vicinity of his property. L.R.A.(N.S.) 237.

Right of benevolent, fraternal or social order to protection against use of name, insignia, ritual, etc., by another organization. L.R.A.1915B, 1074.

Rights of public service corporation to enjoin rival on ground that it is operating without right or in excess of powers. L.R.A.1916B, 1087.

Constitutionality of statute restricting remedy by injunction in labor disputes. L.R.A.1916F, 836.

§ 75. Cemetery; burial; removal of

Injunctive relief as to cemetery property, burials, or removal of remains. L.R.A. (N.S.) 482.

Injunction against nuisance as to cemeteries, maintained by municipality. 23 L.R.A. 303.

Injunctions by municipality against. L.R.A. 323.

INJUNCTION, II. q—cont'd § 76. As to fences and gates.

Injunction to compel or prevent the erec-

tion, maintenance, or removal of fences or gates. 7 L.R.A. (N.S.) 49, 72.

Against fences in highway. 42 L.R.A. 822.

§ 77. — spite fences. Against spite fence. 40 L.R.A. 177; 62 L.R.A. 683; 25 L.R.A.(N.S.) 831; 52 L.R.A.(N.S.) 736.

#### III. Mandatory and temporary injunctions.

§ 78. Mandatory injunctions.

Necessity of hearing before granting pre-liminary mandatory injunction. 9

L.R.A. (N.S.) 1225.

As proper remedy to make available, franchise in street or highway as against municipality. 6 L.R.A.(N.S.) 782.

Suspension of pending appeal. 38 L.R.A. (N.S.) 439.

Disobedience of void mandatory injunction as a contempt. 16 L.R.A. (N.S.) 1064.

Right to mandatory injunction to restore status existing prior to violation of prohibitory injunction. 47 L.R.A. (N.S.) 1155.

§ 79. — power to grant.

In regard to obstruction of lights. L.R.A. 161. 20

As to use of property. 20 L.R.A. 161.

As to roads, highways, and passways. L.R.A. 162.

As to mandatory injunctions relating to milldams. 20 L.R.A. 163.

As to obstruction or diversion of water courses in other matters. 20 L.R.A. 164.

As to other kinds of nuisances. 20 L.R.A. 165.

Mandatory injunctions as applied to common carriers, commerce, and railroads. 20 L.R.A. 166.

As to taxes. 20 L.R.A. 167

As to offices. 20 L.R.A. 167.

As to churches. 20 L.R.A. 167.

As to specific performance of contracts. 20 L.R.A. 167.

As to possession of property. 20 L.R.A. 169.

To compel removal of structure which encroaches on adjoining property. L.R.A. (N.S.) 402.

To compel or prevent erection or removal of fences or gates. 7 L.R.A.(N.S.) 49. Right to enforcement of restrictive cove-

nant as affected by change in neighborhood. 28 L.R.A. (N.S.) 706.

§ 80. Temporary injunction.

Violation of, as contempt of court, see Con-TEMPT, § 8a.

Necessity of hearing before granting. L.R.A.(N.S.) 1225.

41 Against obstructing waters of stream. 59 L.R.A. 885.

Begin with this book on every law question.

INJUNCTION, III.—cont'd

Right to temporary injunction against transfer by husband in fraud of wife's support. 18 L.R.A.(N.S.) 1156.

Doctrine of comparative injury on application for preliminary injunction against nuisance. 31 L.R.A. (N.S.) 881; L.R.A.1916C, 1269.

Doctrine of comparative injury on application for preliminary injunction against infringement of patent. 39 L.R.A. infringement of patent. (N.S.) 3.

Right to preliminary injunction which would have effect of transferring possession of property from defendant to plaintiff. 39 L.R.A.(N.S.)

#### IV. Jurisdictional amount.

§ 81. Generally.

Amount in dispute in case of injunction against enforcement of liens or claims against specific property. 61 L.R.A. 781.

# V. Procedure; bond; decree.

#### a. In general.

8 82. Generally.

Sufficiency of pleading, see Pleading, § 34.

When may local venue be disregarded in case of suit for injunction as ancillary to another suit or proceedings. L.R.A.1916D, 1135.

Necessity of hearing before granting preliminary mandatory injunction. L.R.A.(N.S.) 1225.

Removal of injunction proceeding because of separable controversy. 5 L.R.A. (N.S.) 98.

Joinder of parties in suit to restrain pollution of water course. 6 L.R.A. (N.S.)

Right of tenant who maintains his possession by means of wrongful injunction, to crops grown on the leasehold. 12 L.R.A.(N.S.) 194.

🖇 82a. Parties.

Joinder of tort feasors in suit to restrain their wrongful acts. 40 L.R.A. (N.S.)

Judgment creditor as necessary party to suit to enjoin execution sale. L.R.A. 1915F, 1120.

83. Effect of appeal.

To modify or suspend injunction. 1 L.R.A. (N.S.) 555.

Suspension of, pending appeal. 38 L.R.A. (N.S.) 436.

On jurisdiction of trial court to punish its violation as contempt. 14 L.R.A. (N.S.) 1150; L.R.A.1918F, 794.

§ 84. Damages for suing out.

Recovery on bond of attorneys' fees incurred in procuring dissolution, see Counsel fees as only damage. 16 L.R.A. infra, § 87.

Consult also L.R.A. Digests of Cases.

INJUNCTION, V. a-cont'd

Measure of damages in injunction cases, see Damages, § 94.

Right to recover damages caused by an injunction. 18 L.R.A. 275.

Right, independently of bond, to recover for damages caused by injunction. L.R.A.1916E, 1282.

Loss of profits as element of damages for

wrongful injunction. 52 L.R.A. 58.
Liability of municipality for wrongful injunction proceedings instituted by its officers. 32 L.R.A.(N.S.) 34.

#### b. Bond.

85. Generally.

Effect of insertion of unauthorized provisions in. L.R.A.1917B, 990.

Form of judgment on injunction bond. 62 L.R.A. 446.

Relief from judgment against sureties on bond. 31 L.R.A. 66.

Liability of injunction bond for acts of third persons. 34 L.R.A.(N.S.) 951.

Effect upon surety on injunction bond of judgment against principal. 40 L.R.A. (N.S.) 742; L.R.A.1918E, 820.

Liability of sureties on injunction bond where judgment is in favor of one principal and against another. 51 L.R.A. (Ñ.S.) 661.

Presumption as to time of alteration in injunction bond. 39 L.R.A.(N.S.) 114.

§ 86. Extent of recovery on.

Penalty as limit of liability on bond. 55 L.R.A. 389.

Right to interest on injunction bond. 28 L.R.A.(N.S.) 14, 82.

§ 87. — of attorneys' fees necessarily expended in dissolving the injunction.

The conflict in the courts. 16 L.R.A. (N.S.) 50; 33 L.R.A.(N.S.) 844.

The necessity and value of the services. 16 L.R.A. (N.S.) 61.

Preliminary work. 16 L.R.A. (N.S.) 62; 33 L.R.A. (N.S.) 845.

Restriction to services relating to dissolution of injunction. 16 L.R.A. (N.S.) 64; 33 L.R.A.(N.S.) 846.

Unsuccessful efforts to dissolve. 16 L.R.A. (N.S.) 65.

Defense on the merits. 16 L.R.A. (N.S.) 66.

General services in action. 16 L.R.A. (N.S.) 69.

The rule in Kentucky. 16 L.R.A. (N.S.) 72; 33 L.R.A.(N.S.) 847.

Particular kinds of service. 16 L.R.A.

(N.S.) 73. In suits in equity. 16 L.R.A.(N.S.) 74. Service by salaried officials, pro se, and

gratuitous. 16 L.R.A.(N.S.) 75; 33 L.R.A.(N.S.) 847.

(N.S.) 75.

INJUNCTION, V. b-cont'd Necessity of actual payment. 16 L.R.A. (N.S.) 76. Malice. 16 L.R.A.(N.S.) 76.

Final decree as prerequisite. 33 L.R.A. (N.S.) 848.

# c. Dissolution and decree.

#### § 88. Dissolution.

Recovery on bond of attorneys' fees expended in dissolution, see supra, § 87.

# § 89. Decree; relief granted.

Nature of proceeding for violation of, as civil or criminal, see CONTEMPT, § 2.

Extent and form of relief in action for injunction to compel or prevent erection, maintenance, or removal of fences or gates. 7 L.R.A.(N.S.) 70, 85.

Damages in lieu of injunction. 20 L.R.A.

752.

Power of equity on enjoining unfair competition or infringement of trademark, tradename, patent, or copyright, to re-quire defendant to pay damages sus-tained by complainant as distinguished from profits realized by defendant. 21 L.R.A. (N.S.) 526.

Final decree as prerequisite to recovery on bond of attorneys' fees incurred in procuring dissolution. (N.S.) 848. 33 L.R.A.

# 90. Effect and conclusiveness of de-

Conclusiveness of prior decisions on appeal as to. 34 L.R.A. 340.

Decree in taxpayer's suit restraining dis-trict from performing contract as binding on contractor. 37 L.R.A. (N.S.) 383.

Effect of decree enjoining use of real property in a certain manner upon right of occupants. subsequent 13 (N.S.) 462.

Effect of injunction against legal proceedings on running of statute of limita-tions. 3 L.R.A. (N.S.) 1187; 23 L.R.A. (N.S.) 673; L.R.A.1918F, 688.

Effect of injunction against doing of an act as a defense to a criminal prosecution. L.R.A.1916B, 767.

# INJURY.

Personal injury, see PERSONAL INJURIES.

# INLAND WATERS.

Jurisdiction over, see WATERS, § 7.

Duty and obligation of vessel on, in respect to sick or injured member of crew. 35 L.R.A. (N.S.) 199.

Begin with this book on every law question.

#### INNKEEPERS.

I. In general, §§ 1, 2.

II. What are inns or hotels, § 3. III. Who are guests §§ 4, 5.

IV. Duty and liability of innkeeper, § \$ 6-12.

V. Protection of innkeeper; liens, . \$\$ 13, 14.

#### 1. In general.

§ 1. Generally.

Board generally, see BOARD, § 1. As to restaurants, see RESTAURANTS.

Insurance against loss of profits by hotel keeper. L.R.A.1917C, 727.

Compulsory service by. 15 L.R.A. 321. Constitutional right to equal accommoda-tion. 14 L.R.A. 579.

Hotel or lodging house as violation of restrictive covenant. 41 L.R.A. (N.S.) 625.

Validity of agreement in restraint of trade ancillary to sale of business of, as affected by territorial scope. 24 L.R.A. (N.S.) 930.

Serving game or fish with meal as violation of game law. L.R.A.1917F, 769.

Serving liquor with meals by propriétor of hotel or restaurant as a sale thereof. 25 L.R.A. (N.S.) 943; 52 L.R.A. (N.S.) 722.

Right of innkeeper to transfer guest. 9
L.R.A.(N.S.) 213.

Character of occupancy of employees. 4 L.R.A.(N.S.) 702, 718.

§ 2. License of; unlicensed innkeepers. Power to require license to keep inn. L.R.A. 1915B, 1097.

Proprietor of hotel conducted on European plan as keeper of a restaurant within license statute or ordinance. 17 L.R.A. (N.S.) 566.

Validity of contract of unlicensed inn-keeper. 12 L.R.A.(N.S.) 617.

Effect of failure to procure license on right to recover for board. 1 L.R.A. (N.S.) 1159.

# II. What are inns or hotels.

### § 3. Generally.

Sleeping-car companies as. 21 L.R.A. 289; L.K.A.1915B, 621.

Furnishing food to guests as an essential characteristic of a hotel or inn. 17 L.R.A. (N.S.) 1259.

What constitutes within liquor license law. 20 L.R.A.(N.S.) 107.

What constitutes, within meaning of Civil Rights Statutes. L.R.A.1918F, 830.

Proprietor of hotel conducted on European plan as keeper of restaurant within license, statute, or ordinance. L.R.A. (N.S.) 566.

#### INNKEEPERS-cont'd

### III. Who are guests.

4. Generally.

Payment of board by week as affecting relation between proprietor of hotel and one who makes no arrangement as to time of stay. 14 L.R.A.(N.S.) 476; 42 L.R.A.(N.S.) 122.

Payment of expenses by third person as affecting existence of relation of innkeeper and guest. 4 B. R. C. 430.

5. Initiation of relation.

When is the relation of innkeeper and guest initiated. 34 L.R.A.(N.S.) 420.

What acts, with respect to baggage of an intending guest, will initiate the re-lation of innkeeper and guest so as to create liability for its loss or injury. 23 L.R.A.(N.S.) 1107; 39 L.R.A. (N.S.) 1085.

# IV. Duty and liability of innkeeper.

6. Generally.

Refusal to accept or serve one as a guest. 52 L.R.A.(N.S.) 740.

Duty of innkeeper with respect to operation of elevator. 16 L.R.A.(N.S.) 290.

§ 7. Liability for loss of property. Liability of innkeeper for loss of goods from

check room. L.R.A.1918C, 674. Duty and liability of boarding-house keeper or innkeeper with respect to property of boarder as distinguished

from guest. 45 L.R.A. (N.S.) 31. Liability of innkeeper or boarding-house keeper for theft from boarder. 3 B. R. C. 316.

Presumption of negligence of innkeeper from injury to property of guest. 20 L.R.A.(N.S.) 1027.

8. — for what property responsible. Effect of statute limiting innkeeper's liability for goods not delivered into his

custody. 51 L.R.A.(N.S.) 1168.

Liability of innkeeper for loss of baggage or effects of one making free use of inn. L.R.A.1916E, 535.

Liability for effects left by departing guest who intends to return. L.R.A.1917F,

Liability for loss or destruction of commercial traveler's samples. 35 L.R.A. (N.S.) 350.

Effect of statute limiting innkeeper's liability for goods not delivered into his custody. 22 L.R.A.(N.S.) 577.

Duty of innkeeper as to effects of one who has left without intention of returning as guest. 28 L.R.A. (N.S.) 495; L.R.A. 1916F, 235.

Effects left by departing guest who intends to return. L.R.A.1917F, 839.

§ 9. — contributory negligence guest.

Effect of guest's noncompliance with regulations. 6 L.R.A. 486. Consult also L.R.A. Digests of Cases.

INNKEEPERS, IV .- cont'd

§ 10. For injuries to persons or sensibilitles of guests.

Injury by elevator, see ELEVATORS, § 5. Liability of landlord for injury to guests of tenant, see LANDLORD AND TENANT, § 72.

Liability for ejecting guests. 42 L.R.A. (N.S.) 830.

Liability for personal injury to guest from condition of inn premises. 43 L.R.A.(N.S.) 657.

Liability for injury caused by lack or insufficiency of fire escapes. 15 L.R.A. 160; 10 L.R.A.(N.S.) 177; 21 L.R.A. (N.S.) 178; 39 L.R.A.(N.S.) 744; L.R.A.1917C, 1153.

Liability for serving unfit food. 40 L.R.A. (N.S.) 480; L.R.A.1915B, 481.

Presumption of negligence of innkeeper from injury to guest. 20 L.R.A. (N.S.) 1027.

# § 11. — by servant.

Liability for injury to guest by servant. 69 L.R.A. 642.

Liability, at common law, of a saloonkeeper for personal injury to patron. L.R.A. (N.S.) 649.

Liability for assault by servant upon a patron. 12 L.R.A. (N.S.) 1155; L.R.A. 1918E, 708.

Liability, for malicious acts of servant towards guest. 4 L.R.A.(N.S.) 485.

§ 12. Duty as to shelter and entertainment of traveler

General rules. 2 B. R. C. 684. Limitations and exceptions. 2 B. R. C. 689.

# V. Protection of innkeeper; liens.

§ 13. Generally.

Power of legislature to enact prima facie rule of evidence as to intent to defraud innkeeper. L.R.A.1915C, 733.

Constitutionality of statute providing for imprisonment for beating board bill. 21 L.R.A. (N.S.) 259; L.R.A.1915B, 649.

§ 14. Lien.

Generally. 21 L.R.A. 229.

Who is a boarding house keeper within statute giving lien. L.R.A.1918D, 402.

Distinction between guest and boarder. 21 L.R.A. 229.

What property subject. 21 L.R.A. 229. Property of third persons. 21 L.R.A. 230; 24 L.R.A. (N.S.) 958. Property purchased by guest under condi-tional sale. L.R.A.1915D, 1143.

Master's goods in possession of servant. 21 L.R.A. 230.

Where several are in one company. L.R.A. 230.

How relation of guest effected. 21 L.R.A. 231.

Waiver of lien. 21 L.R.A. 231. Enforcement of lien. 21 L.R.A. 231.

#### INNOCENCE.

Presumption of, see EVIDENCE, § 55.

Conclusiveness in civil action of judgment in criminal action to show innocence. 11 L.R.A.(N.S.) 657.

Innocence of one arrested as affecting right to arrest without a warrant under a statute authorizing such an arrest when the offender shall be taken or ap-

prehended in the act. 34 L.R.A. (N.S.) 1182.

#### INNUENDO.

Effect of innuendo on defense of truth to civil action for libel or slander. 31 L.R.A.(N.S.) 140; 50 L.R.A.(N.S.) 1040.

#### INOPERATIVE INSURANCE.

Effect of, on other insurance, see Insur-ANCE, § 100.

#### IN PARI DELICTO.

Doctrine of, see Contracts, § 113.

# INQUEST.

By coroners, see Coroners. In lunacy proceedings, see INCOMPETENT PERSONS, §§ 5-7.

#### INQUIRY.

Necessity of, to raise presumption of death from seven years' absence. 2 L.R.A. (N.S.) 809; 28 L.R.A.(N.S.) 178.

#### INSANE ASYLUM.

As a nuisance. 40 L.R.A. (N.S.) 647. Erection of, as violation of restrictive cove-

nant in deed. 41 L.R.A.(N.S.) 617. Exemption of, from suit, as agency of state. 35 L.R.A.(N.S.) 243.

Power to make estate of person committed to, or his relatives liable for cost of his maintenance therein. 24 L.R.A. (N.S.) 295.

Validity of decree of divorce obtained on publication or service out of state where defendant was confined in. 19 L.R.A. 816, 821.

Privilege of records of insane asylum.

L.R.A. (N.S.) 22. Begin with this book on every law question.

#### INSANE DELUSIONS.

As affecting criminal responsibility, see CRIMINAL LAW, §§ 8, 9. What are, see Incompetent Persons, § 3.

proof of incapacity of testator. 27 L.R.A.(N.S.) 62; L.R.A.1915A, 458.

#### INSANE PERSONS.

See Incompetent Persons; Wills, §§ 9-15.

#### INSANITY.

In general, see Incompetent Persons.

As included in the word "sickness" as used in policy providing for payment of sick benefits. L.R.A.1918B, 643.

#### INSECURITY CLAUSE.

Effect of, in chattel mortgage, see CHATTEL MORTGAGE, § 26.

#### INSIGNIA.

Right of benevolent, fraternal or social order to protection against use of, by another organization. L.R.A.1915B, 1074.

# INSOLVENCY.

I. In general, §§ 1, 2.

II. Preferences, § 3.

III. Assets, § 4. IV. Claims against estate, §§ 5-8.

a. In general, § 5.

b. Priorities, \$\$ 6-8.

V. Effect, \$\$ 9-15.

VI. Discharge and its effect, \$ 16.

## I. In general.

§ 1. Generally.

Assignment for benefit of creditors, see As-SIGNMENT FOR CREDITORS.

Bankruptcy, see BANKBUPTCY.

Set-off by or against estate of bankrupt, see BANKRUPTCY, §§ 26-30.
Set-off by or against insolvent bank, see

Banks, § 42. Relation of bankrupt law to assignments and insolvency proceedings under state laws, see BANKRUPTCY, § 9.

Composition with creditors, see Composi-TION WITH CREDITORS.

Transfer of insurance policy in case of, see INSURANCE, §§ 1, 2, 3.

Charge of insolvency as libel or slander, see LIBEL AND SLANDER, §§ 16, 17, 26.

As to receivers, see RECEIVERS.

INSOLVENCY, I.—cont'd

Set-off in case of, see SET-OFF, §§ 12, 16-21. Insolvency of corporation, generally, see CORPORATIONS, §§ 134-137.

Insolvency of bank, see Banks, §§ 39-42. Of building and loan association, see BUILD-ING AND LOAN ASSOCIATIONS.

Of corporation generally, see Corporations,

Of insurance company, see Insurance, §§

Of partnership, see PARTNERSHIP, §§ 15-17. Receivers for insolvent, see RECEIVERS.

Right of witness to express opinion as to. L.R.A.1918A, 739.

Buyer's concealment of insolvency as a fraud on seller. 14 L.R.A. 264.

Title secured by insolvent purchasing goods with knowledge that he cannot pay for them. 44 L.R.A.(N.S.) 16.

Dower in land subject to purchase money mortgage sold in insolvency proceedings against husband. 52 L.R.A.(N.S.) 549.

Duty of one taking note to communicate the fact of principal's insolvency to one assuming the obligation of surety. 14 L.R.A. (N.S.) 377.

Right of grantee in possession to question grantor's right to collect purchase money in action of. 21 L.R.A.(N.S.) 395.

Appointment of insolvent debtor as executor or administrator as discharging debt or charging his sureties. 26 L.R.A.(N.S.) 417.

Necessity of following insolvent's estate for pro rata to hold indorser of note. 18 L.R.A. (N.S.) 539.

Withdrawal from insolvent loan association. 35 L.R.A. 298; 49 L.R.A. (N.S.) 1142.

First and last days in computing time for matters in. 49 L.R.A. 240.

Pendency of action in both state and Feder-

al courts. 42 L.R.A. 460. Notice of vendor's insolvency sufficient to put purchaser on inquiry as to vendor's fraudulent intent. 32 L.R.A. 49.

Insolvency proceedings as violation of cove-nant in lease against assignment or sale. 14 L.R.A.(N.S.) 1201.

Federal courts following state decisions as to construction and effect of state statutes as to. 40 L.R.A. (N.S.) 431.

#### § 2. Recovering back payments made in ignorance of.

Right of bank to recover amount paid on check in ignorance of insolvency of drawer who was indebted to it. 33: drawer who was indebted to it. L.R.A.(N.S.) 963.

Right of executor or administrator to recover back from creditor excessive payments made under mistaken belief that estate was solvent. 28 L.R.A. (N.S.)

#### . II. Preferences.

# 🖁 3. Generally.

In assignment for creditors, see Assign-MEXT OF CREDITORS, §§ 15, 16. Consult also L.R.A. Digests of Cases.

INSOLVENCY, II.—cont'd Preferences by bankrupt, see BANKRUPTCY, §§ ·13-17.

By insolvent bank, see BANKS, § 40.

By insolvent corporations generally, see CORPORATIONS, § 137.

As between creditors of partnership and of individual partners, see PARTNERSHIP, § 17.

Application of firm property to payment of debts of individual partner. 29 L.R.A.

Preference by judgment. 5 L.R.A. 765; 12 L.R.A. 810; 22 L.R.A. 808.

Effect of contemporaneous agreement to give the debtor employment, or retain him in a position, to render an at-tempted preference invalid as to other creditors. 17 L.R.A. (N.S.) 310.

Law governing discrimination between residents and nonresidents. 65 L.R.A. 368.

Composition with creditors: preference created by act or undertaking of third party. 2 B. R. C. 460.

Liability of creditor obtaining a fraudulent preference in composition with

creditors. 27 L.R.A. 39.

Effect, under bankruptcy and insolvency laws, of creditors' participation in fraudulent intent of debtor in making transfer by way of preference. 31 L.R.A. 647.

Participation by preferred creditor in debtor's fraud. 36 L.R.A. 360.

Securing preference as participation in debtor's fraudulent intent. 31 L.R.A. 615.

#### III. Assets.

Assets of bankrupt, see BANKRUPTCY, §§ 18-

§ 4. What are.

Of bankrupt estate, see BANKRUPTCY, §§ 19,

Liquor license as asset. 4 L.R.A. (N.S.) 626.

Life insurance as assets of insolvent. 50 L.R.A. 33; 26 L.R.A.(N.S.) 451; 30 L.R.A.(N.S.) 990.

Rights of creditors of insured in endowment or tontine insurance. 4 L.R.A. (N.S.) 456.

Does right of action for personal injuries pass to assignee in insolvency. L.R.A. 180; 12 L.R.A. (N.S.) 1173.

Right of receiver of insurance company to fund deposited with state official to secure performance of contract. 46 L.R.A.(N.S.) 187.

May one be a "purchaser" for a valuable

consideration where nothing capable of money measurement is given. 4 B. R. C. 782.

Property covered by power of appointment as assets of donee's estate. L.R.A. 1918D, 346.

#### INSOLVENCY-cont'd

# IV. Claims against estate.

# · a. In general.

§ 5. Generally.

Against bankrupt estate, see BANKBUPTCY,

§§ 24-31.
Set-off in case of insolvency, see SET-OFF
AND COUNTERCLAIM, §§ 12, 16-21.

Liability of insolvent estate for funeral expenses. 33 L.R.A. 669.

Effect of failure to present claim against estate of insolvent principal to release surety. 25 L.R.A.(N.S.) 141. Liability of administrator and his sureties

for debt owing by former to estate of his intestate where administrator is hopelessly insolvent. 61 L.R.A. 313.

Right to have trust property wrongfully pledged by a trustee for his individual benefit redeemed by money belonging to his insolvent estate. 6 L.R.A. (N.S.) 487.

Claim in insolvency, as remedy for breach of agreement to assume debts on dissolution of partnership. (N.S.) 114.

Treatment of collateral held by creditor of insolvent. L.R.A.1918B, 1024.

#### b. Priorities.

§ 6. Generally.

In assignment for creditors, see Assign-MENT FOR CREDITORS, § 17.

Priority of rights against bankrupt estate, see BANKRUPTCY, § 12.

Trust in proceeds of insolvent bank, see BANKS, § 41.

Following trust funds, see BANKS, § 41; TRUSTS, § 37.

Of claims of laborers. 18 L.R.A. 305. Priority of claims for taxes. 29 L.R.A. 249, 278.

Right of customer who has advanced purchase money to broker or factor to preference in case of insolvency prior to the making of a purchase. L.R.A.(N.S.) 95.

§ 7. Of claim of United States.

Upon what based. 29 L.R.A. 227; 1 L.R.A. (N.S.) 255. Constitutionality of provisions for. 29

L.R.A. 228.

Superiority over state laws. 29 L.R.A.

Construction and scope of. 29 L.R.A. 228. When and to what it attaches. 29 L.R.A. 234.

Nature and extent. 29 L.R.A. 236. Marshaling assets. 29 L.R.A. 238.

Liability of assignee or representative. 29 L.R.A. 239.

Subrogation of sureties. 29 L.R.A. 240. What amounts to a devestiture of the right.

29 L.R.A. 241. How asserted. 29 L.R.A. 242.

Begin with this book on every law question.

INSOLVENCY, IV. b-cont'd Common-law priority of United States in payment from assets of debtor. 46 L.R.A.(N.S.) 260; L.R.A.1918A, 398.

§ 8. Of claim of state.

In general. 29 L.R.A. 243; 1 L.R.A. (N.S.) 255; 46 L.R.A. (N.S.) 260.

Upon what based. 29 L.R.A. 243.

Constitutionality of provision for. 29 L.R.A. 244.

Nature and extent. 29 L.R.A. 245.

To what indebtedness it applies. 29 L.R.A. 246.

Subrogation of surety making payment. 29 L.R.A. 248.

When it attaches and how devested. 29 L.R.A. 248.

Common-law priority of state in payment from assets of debtor. L.R.A.1918A, 398.

#### V. Effect.

§ 9. Generally.

Transfer of property out of state by insolvency proceedings, and extraterritorial effect of insolvency laws, see Conflict or Laws, § 25.

Effect of insolvency of corporation, see CORPORATIONS, § 136.

Interruption of limitations by assignment in, see LIMITATION OF ACTIONS, § 61. Effect on right of set-off, see SET-OFF AND

COUNTERCLAIM, §§ 16-21.

Transfer of trademark by, see TRADEMARK,

Effect of insolvency of debtor on accord and satisfaction by part payment. 20 L.R.A. 808; 11 L.R.A.(N.S.) 1024; L.R.A.1917A, 722.

As affecting right to assumption of debts on dissolution of partnership. 9 L.R.A.(N.S.) 56; 48 L.R.A.(N.S.) 548

Insolvency as excuse for not exhausting remedies at law before bringing creditors' bill. 23 L.R.A.(N.S.) 88, 97.

Of loan association, effect on application of payments for stock on mortgage given by member. 29 L.R.A. 132.

As ground for injunction against judgment. 31 L.R.A. 766.

Effect of insolvency assignment to interrupt limitations. 26 L.R.A. 737.

Provisions in lease accelerating maturity of future rents and giving lessor right to take possession upon insolvency of lessee as alternative or concurrent. L.R.A.1916B, 1101.

Effect of insolvency of defendant on right to injunction against trespass to cut timber. 43 L.R.A. (N.S.) 266; L.R.A. 1917C, 237.

Effect of insolvency of defendant on right to specific performance of contract in relation to personal property. L.R.A. 1918E, 611.

Withdrawals from building and loan as-sociations as affected by insolvency or winding up of business. 49 L.R.A. (N.S.) 1142. Effect of insolvency of parties on right

of obligee to be subrogated to security held by surety. L.R.A.1916C, 1075.

INSOLVENCY, V.-cont'd

§ 10. Of principal debtor.

Insolvency of principal debtor as excuse for failure to give guarantor notice of default. 20 L.R.A. 264.

Effect of principal's insolvency on surety's right to intervene in action against principal or vice versa. 68 L.R.A. 741.

11. Of insurer or reinsured.

Liability of reinsurer in case of insolvency of original insurer. 44 L.R.A. (N.S.) 317.

Extent of reinsurer's liability as affected by insolvency of reinsured. 8 L.R.A. (N.S.) 858.

Right to return of premiums on adjudication of insolvency of insurer. 19 L.R.A.(N.S.) 639.

§ 12. Of vendor. Insolvency of vendor as ground for injunction against judgment for purchase money. 31 L.R.A. 748. Effect of vendor's insolvency on right to

injunction against collection of purchase money, where title to land is defective. 7 L.R.A.(N.S.) 451.

18. Of purchaser.

Rescission of sale for insolvency of purchaser. 2 L.R.A. 153.\*

§ 14. Of decedent's estate or personal representative.

As affecting allowance for funeral expenses. 28 L.R.A. (N.S.) 575.

To whom notice of protest or nonpayment should be given after appointment of representative of insolvent. 61 L.R.A. 900.

Effect of insolvency of personal representative in liability of estate to attorney employed by him. 25 L.R.A. (N.S.) 74.

§ 15. Of party to commercial paper. Effect of insolvency of prior parties to put purchaser on inquiry. L.R.A.1918F, 1155.

Effect of insolvency of party negotiating paper to put purchaser on inquiry. 29 L.R.A.(N.S.) 372.

To whom notice of protest and nonpayment should be given after appointment of representative of insolvent. 61 L.R.A. 900.

Of maker of note as excuse for delay in enforcing liability so as to prevent re-lease of indorser. 18 L.R.A.(N.S.) 555.

Effect of insolvency of accommodated party on right of accommodation party who has been obliged to pay bill or note to recover the amount thereof. 37 L.R.A. (N.S.) 786.

Known insolvency of maker at time of indorsement as excusing presentment and | See ELECTRICITY. notice of nonpayment. 33 L.R.A. (N.S.) 640.

As excuse for lack of demand or notice of dishonor of paper held as collateral or conditional payment. 68 L.R.A. 490. See INSTALMENTS, § 4. Consult also L.R.A. Digests of Cases.

# INSOLVENCY—cont'd

#### VI. Discharge and its effect.

§ 16. Generally.

In bankruptcy, see BANKBUPTCY, §§ 32-36.

Right to open default judgment to let in defense of. L.R.A.1916F, 857.

Binding effect of judgment refusing discharge. 13 L.R.A.(N.S.) 629; 30 L.R.A. (N.S.) 1164.

Discharge of corporation 8.8 affecting stockholder's liability for its debts. 38 L.R.A.(N.S.) 648.

Discharge in, as defense in action for debts assumed on dissolution of partnership. 9 L.R.A.(N.S.) 112.

New promise after discharge of debtor. 53 L.R.A. 363.

#### INSPECTION.

By stockholder of property of corporation, see Corporations, § 99a.

In general, see DISCOVERY AND INSPECTION. By insurer, of property after loss, see In-SURANCE, VIII. b.

Effect of inspection or opportunity to inspect on vendee's right to rely on representations by vendor as to quality or condition of soil. L.R.A.1917C, 273,

#### INSPECTION LAWS.

Reasonableness of inspection fees. L.R.A. 1917D, 749.

Requiring inspection of animals as interference with interstate commerce. 26 L.R.A.(N.S.) 279; 43 L.R.A.(N.S.) 1066.

Validity of regulations as to fees for inspection of milk. L.R.A.1917C, 256. Requiring inspection of dairy herd of persons selling milk. L.R.A.1917C, 253.

# INSPECTORS.

Car inspectors, see CAR INSPECTORS. Track inspectors, see TRACK INSPECTORS.

Right of woman to be. 38 L.R.A. 212. Duty and liability to inspectors who enter premises in performance of their duty. 31 L.R.A.(N.S.) 380.

Authority of inspector on street railway to contract for services of other persons. L.R.A.1918F, 66.

#### INSTALLATION.

# INSTALMENT BONDS.

#### INSTALMENT NOTES.

See Instalments, § 5.

#### INSTALMENTS.

1. Generally.

Foreclosure of mortgage on default in payment of, see MORTGAGE, § 65.

Action to recover instalments of alimony under decree rendered in another state. 9 L.R.A.(N.S.) 1168; 28 L.R.A.(N.S.)

§ 2. Delivery in, of articles sold.

Acceptance of portion as affecting right to rescind contract for failure to deliver whole. 21 L.R.A.(N.S.) 864.
Right of purchaser of goods deliverable in

instalments to rescind the contract or refuse further deliveries for breach as to quality. 38 L.R.A.(N.S.) 539.

Time for delivery of goods sold to be de-livered in reasonable instalments, or in instalments as required by purchaser. L.R.A.1918A, 609.

8. Of purchase or contract price. One selling on instalment plan as peddler within statutory or municipal regulations. L.R.A.1916B, 1303.

Rescission of sale for failure to pay for instalment as delivered. 32 L.R.A.(N.S.)

Provision for payment of instalments of price of article during construction as indicating intent to pass title. 2 B. R. C. 646.

Delay in paying instalments as excusing building contractor's delay in com-pleting contract. 35 L.R.A. (N.S.) 1223.

Terminations of contract of employment by death of servant during term stipulated by contract providing for remuneration in instalments. 21 L.R.A. (N.S.) 929.

When municipal indebtedness payable in instalments arises. 37 L.R.A. (N.S.) 1063; L.R.A.1917E, 441.

Buyer's right to maintain separate action for delivery of each instalment under entire contract. 3 L.R.A.(N.S.) 1082.

Effect of setting up defects as counterclaim in action to recover instalment of purchase price on right to set up like counterclaim in subsequent action. 10 L.R.A. (N.S.) 734.

Right of seller to recover contract price or value of articles delivered while refusing further deliveries for purchaser's failure to pay. 43 L.R.A. (N.S.) 1000

§ 4. Instalment bonds.

Form of judgment on instalment bonds. 62 L.R.A. 428, 439.

INSTALMENTS—cont'd 5. Instalment notes.

Holders of, as parties to proceedings to enforce mortgage for part of debt. L.R.A. 742.

Effect of setting up defects in article purchased as counterclaim in action on one of a series of notes given for, or for an instalment of, the purchase price, on right to set up a like counter-claim in subsequent actions. 10 L.R.A. (N.S.) 734.

Effect on negotiability of bill or note of provision accelerating maturity for failure to pay instalment. 35 L.R.A. (N.S.) 391; L.R.A.1915B, 472.

# IN STATU QUO.

Placing party in as condition of rescission of contract, see CONTRACTS, § 156.

#### INSTIGATION.

To commit crime, see CRIMINAL LAW, § 19; ROBBERY, § 2.

#### INSTRUCTION.

As a necessary for an infant. 42 L.R.A. (N.S.) 1115.

#### INSTRUCTIONS.

On trial, see APPEAL AND ERROR, § 36;

TRIAL, §§ 60-68.

Master's duty to instruct servant, see MASTEE AND SERVANT, §§ 72-78, 165.

Instruction by correspondence as interstate commerce. 27 L.R.A.(N.S.) 493. Improper influence or interference with grand jury by. 28 L.R.A. 367.

# INSTRUMENTS.

Negotiable instruments, see EILLS AND Notes; Checks.

Order for physical examination requiring use of, as abuse of discretion. 15 L.R.A.(N.S.) 665.

#### INSUBORDINATION.

As ground for discharge of one employed in executive or supervisory capacity. L.R.A.1918C, 1038.

Prosecutions under the Espionage Act of June 15, 1917, for attempting to cause. L.R.A.1918F, 410.

#### INSUFFICIENCY OF FUNDS.

As relieving municipality from liability for injury from defe L.R.A.(N.S.) 529. from defects in streets. 20

# \*\*\* INSULATION.

Duty to insulate electric wires over highway. 22 L.R.A.(N.S.) 1171; 1 B. R.

#### INSULT.

As provocation for homicide, see HOMICIDE,

Breach of peace by use of insulting language. L.R.A.1918F, 941.

Insulting passenger by suggesting that he belongs in colored compartment as an actionable wrong. 32 L.R.A. (N.S.) 206.

To court because of decision after determination of case as contempt or ground

for disbarment. 17 L.R.A.(N.S.) 585.

Amount of damages that may be awarded for insulting language. 44 L.R.A. (N.S.) ·1139.

#### INSURABLE INTEREST.

See Insurance, IV.

# INSURANCE.

- I. In general, §§ 1-4.
- anies and associations; rights and liabilities of II. Companies members generally, §§ 5-18.
  - a. In general, § 5.
  - b. Foreign companies, \$\$ 6-8.
  - c. Insolvency and dissolution, \$\$ 9, 10.
  - d. Various particular kinds of companies and associations, \$\$ 11-14.
  - e. Rights, powers, and liabili-ties of members generally, \$\$ 15, 16.
- III. Agents, officers, and brokers, \$\$ 17-23.
- IV. Insurable interest; who may be beneficiaries, §§ 24-35.
  - a. In property, **§§** 24-26.
  - b. In life, §§ 27-35.
- V. The policy or contract; constitution and by-laws, \$\$ 36-119.
  - a. In general, **\$\$** 36-40.
  - b. Application generally, \$ 41.
  - c. Validity generally, §§ 42-45.
  - d. Constitution, rules, and by-

laws, \$\$ 46, 47.
Consult also L.R.A. Digests of Cases.

# INSURANCE, V.-cont'd

- e. Reformation; rescission; cancelation; surrender, §§ 48-54.
- 1. Paid up insurance; surrender value; extended insurance; options; endowment policies, \$\$ 55-58a. g. Construction, \$\$ 59-62.
- h. Warranties; representations; conditions; incontestability, \$\$ 63-103.
  - 1. In policies on property, \$\$ 63-89.
    - (a) In general, §§ 63-65.
    - (b) Title; ownership; encumbrances, § § 66-73.
    - (c) Use, care, condition of property, \$\$ 74-78.
    - (d) Iron-safe clause, \$ 79.
    - (e) Other insurance; previous application, § 80.
    - (f) Breach by tenant or mortgagor, §§ 81, 82.
    - (g) Increase of risk generally, § 83.
    - (h) Temporary change of conditions, §\$ 84-89.
  - 2. In life or accident policies, §§ 90-103.
    - (a) In general, §§ 90.92
    - (b) Health, habits, and occupation, \$\$ 93-98.
    - (c) Previous rejection; other insurance, §\$ 99-101.
    - (d) Increase of risk generally, \$ 102.
    - (8) Incontestability, \$ 102.
- i. Termination generally; suspension, §§ 104, 105.
- j. Forfeiture, §§ 106-108.
- k. Reinstatement, § 109.
- l. Premiums; assessments; rates, §§ 110-119.
  - 1. In general, \$\$ 110, 111.
  - 2. Payment of, §§ 112-115.
  - 3. Return of; recovery back, §§ 116-118. 4. Rates, § 119.
- VI. Transfer of policy or interest therein, §§ 120-129.
  - a. Assignment generally, 55 120-126.
  - b. Change of beneficiary, \$\$ 127-129.
- VII. Estoppel; waiver, \$\$ 130-144.

  - a. Of insured, \$\$ 130, 131.
    b. Of insurer, \$\$ 132-144.
    1. In general, \$\$ 132-140.

718

INSURANCE, VII. b-cont'd 2. By agent or officer, §§ 141-148. 3. Parol evidence rule, \$ 144. VIII. The loss and its adjustment; remedies, \$\$ 145-208. a. Notice and proofs of loss or death, §§ 145-150.
b. Submission to arbitration; adjustment of loss, appraisal, §§ 151-152b.
c. Bisks and causes of loss, injury, or death, \$\$ 158-171. 1. Under policies covering property, \$\$ 153-158. 2. Under life, accident, or health policies, **\$\$** 159-171. (a) In general, 159-169. (b) Suicide, §\$ 170, 171. d. Extent of injury, loss or rerelease, covery; 172-181. 1. Insurance on property, \$\$ 172-176. 2. Insurance on persons, \$\$ 177-181.

6. Interest in proceeds, §§ 182-194.

1. Of insurance on property, \$\$ 182-185. 2. Of insurance on persons,

\$\$ 186-194. f. Subrogation; set-off, §§ 195-

g. Contribution; prorating; apportionment, \$\$ 199, 200. h. Remedies; actions, §§ 201-

208. 1. In general, §§ 201-206. 2. Contractual limitation

of time, \$\$ 207, 208. IX. Reinsurance, \$\$ 209, 210.

X. Guaranty policies, §§ 211-219. XI. Burglary and theft insurance, § 220.

XII. Automobile insurance, § 221. XIII. Animal insurance, § 222. XIV. Insurance against loss of profits,

£ 223.

#### I. In general.

§ 1. Generally. Arson of insured property, see Arson, § 3. Conflict of laws as to, see CONFLICT OF Laws, § 8. Constitutionality of statutes regulating, see

CONSTITUTIONAL LAW, § 107. Custom and usage in insurance cases, see CUSTOM AND USAGE, § 12.

Measure of damages for breach of insurance contract, see Damages, § 23.

Death of insured persons generally, see DEATH, § 2.

Effect of death of insured, see DEATH, § 19. Demand in insurance matters, see DEMAND, State tax on insurance premiums. 57 L.R.A.

INSURANCE, I.—cont'd On fireworks, see FIREWORKS, § 1.

Guardian's power in insurance matters, see GUARDIAN AND WARD, § 8.

Sickness of insured, see SICKNESS, § 8.

Time in relation to insurance matters, see TIME, § 4.

Employer's contribution to insurance against injuries to employee as affecting or affected by recovery against him for personal injuries. L.R.A.1917B, 1160.

Provision exempting carrier from liability for risk capable of being covered by insurance as extending to loss caused by negligence. 6 B. R. C. 125.

Situs of insurance for purposes of administration. 24 L.R.A. 687.

Equitable relief against forfeiture of estate for breach of collateral covenant to insure. 69 L.R.A. 856.

Conclusiveness of determination by tribunals of association. 49 L.R.A. 363, 372. Validity of restrictive agreement ancillary to sale of insurance agency. L.R.A. 1916C, 631.

Life insurance as assets of bankrupt. 46 L.R.A.(N.S.) 148.

Treatment of, as part of overhead charges in public service property valuations. 48 L.R.A.(N.S.) 1051.

insurance. 47 L.R.A. What constitutes (N.S.) 290.

Agreement as to insurance as a test to determine when title passes under a contract of sale. L.R.A.1918B, 823.

Effect of insurance of property, or provisions relative thereto, on passing of title under contract for sale of goods to be produced or manufactured. L.R.A. (N.S.) 140.

Liability of bailee under special terms of contract to insure subject of bailment. L.R.A.1915B, 302.

2. Subjects of insurance.

Various particular kinds of insurance companies and associations, see infra, §§ 11–14.

Various kinds of guaranty insurance, see infra, §§ 211-219.

Burglary insurance, see infra, XI. Automobile insurance, see infra, XII.

Animal insurance, see infra, XIII.

Of bicycles. 47 L.R.A. 307.

Fire insurance as a business affected by a public interest. 29 L.R.A. (N.S.) 1195; L.R.A.1915C, 1189.

Validity of insurance of intoxicating liquors, as affected by liquor laws. 31 L.R.A. (N.S.) 874.

§ 3. — compulsory industrial insurance.

See Workmen's Compensation.

§ 4. Taxation.

Taxation of corporations generally, see Taxes, §§ 11, 33-39, 45, 46, 67.

INSURANÇE, I.—cont'd

Validity of law imposing tax on insurance companies for benefit of firemen. L.R.A.(N.S.) 1147.

Deposit by insurance company as subject of taxation. 36 L.R.A.(N.S.) 226.

Liability of insurance policy issued by a domestic corporation upon the life of a nonresident to a local transfer tax. 10 L.R.A.(N.S.) 1089.

#### II. Companies and associations; rights and liabilities of members generally.

#### a. In general.

§ 5. Generally.

Legality of combination among insurance underwriters, see Monopoly and Com-BINATIONS, § 11.

What constitutes doing an insurance business. 47 L.R.A.(N.S.) 290.

Liability of insurance company on contracts of another company which it has absorbed or attempted to absorb. 36 L.R.A.(N.S.) 597.

#### b. Foreign companies.

6. Generally.

Conflict of laws as to insurance generally, see CONFLICT OF LAWS, § 8.

As to foreign corporations generally, see Corporations, XI.

Law governing contract of insurance made

by. 63 L.R.A. 850. Laws of state of incorporation as limitation upon powers of insurance company. 63 L.R.A. 853; 52 L.R.A. (N.S.) 278.

Insurance contract made by mail by unauthorized foreign company. 24 L.R.A.

Exclusion of foreign companies as affecting

commerce. 24 L.R.A. 312. Revocation of license of foreign company on account of removal of action to Fed-

eral court. 1 L.R.A.(N.S.) 1019. Effect of location of insured property within the state to prevent an action by a foreign insurance company on contract made in another state. 9 L.R.A. (N.S.) 417.

Right of burglary and theft insurance companies to do business in foreign states. 46 L.R.A.(N.S.) 563.

Laws or judgments of courts of state in which insurance company is incorporated as binding in other states. L.R.A.1916A, 770.

Failure to comply with conditions of doing business in the state as defense to action by company against officer or agent. L.R.A.1916A, 648.

Service of process on insurance commissioner. 23 L.R.A. 499.

State tax on premiums of. 57 L.R.A. 71.

§ 7. Restrictions on business of. As to assets. 24 L.R.A. 298. License taxes. 24 L.R.A. 299. Consult also L.R.A. Digests of Cases. INSURANCE, II. b—cont'd Charges for fire department or firemen's fund. 24 L.R.A. 299. Certificates. 24 L.R.A. 300. Other requirements. 24 L.R.A. 301. Other "states." 24 L.R.A. 301. What companies within the statute.

L.R.A. 302.

Violation of statute. 24 L.R.A. 303. Retaliatory statutes. 24 L.R.A. 303.

§ 8. Effect on insurance of noncompliance with statutory requirements.

As to recovery on the policy. 20 L.R.A.

As to agent's liability. 20 L.R.A. 407.

Suits on premium notes. 20 L.R.A. 407. As to the effect of place of contract on premium notes. 20 L.R.A. 409.

As to criminal prosecutions. 20 L.R.A. 409. Generally, as to suits against foreign companies. 20 L.R.A. 409.

#### c. Insolvency and dissolution.

9. Generally.

Losses occurring after insolvency of insurer. L.R.A.1917E, 1141.

Liability of funds held by mutual benefit societies to the claims of their creditors. 6 L.R.A.(N.S.) 235.

Right to return of premiums on adjudica-tion of insolvency of insurance com-pany. 19 L.R.A.(N.S.) 639.

Distribution of surplus upon dissolution of mutual insurance company. 3 L.R.A. (N.S.) 653.

Right of receiver of insurance company to funds deposited with state official to secure performance of contracts. 46 L.R.A. (N.S.) 187.

§ 10. Distribution of assets of insolvent insurance company.

Who is to distribute. 38 L.R.A. 97. Valuation and adjustment of claims. 38 L.R.A. 100.

Priorities. 38 L.R.A. 103. Special funds. 38 L.R.A. 108. Contract rights. 38 L.R.A. 110. Surplus assets. 38 L.R.A. 110.

# d. Various particular kinds of companies and associations.

11. Lloyds associations. Restrictions on insurance by unincorporated associations or individuals; Lloyds associations. 25 L.R.A. 238.

§ 12. Assessment companies. Right of assessment company to change plan or class of policies. 1 L.R.A. (N.S.) 623.

Right to decrease benefits. 31 L.R.A.(N.S.)

423; L.R.A.1917C, 626. Right to increase rates. 31 L.R.A.(N.S.) 417; L.R.A.1916A, 762.

INSURANCE, II. d-cont'd 13. Fire insurance patrol. Liability of, for injuries. 21 L.R.A. (N.S.) 810.

§ 14. Is a benefit association an insurance company.

As to benevolent societies generally, see Br-NEVOLENT SOCIETIES.

Where the question is as to "other insurance." 38 L.R.A. 33.

Where the construction of the certificate is in question. 38 L.R.A. 34.

Where compliance with state insurance law is required before doing business. L.R.A. 40%

Where the question is in regard to jurisdiction. 38 L.R.A. 47.

Under statutes exempting benevolent societies. 38 L.R.A. 49.

Where the question is not discussed. L.R.A. 53.

Some definitions. 38 L.R.A. 54.

#### e. Rights, powers, and liabilities of members generally.

§ 15. Rights and powers of members. Right of policy holder to inspect books of insurance company. 11 L.R.A. (N.S.) 1089.

Liability of officers of a mutual company to members for permitting diversion of funds. 2 L.R.A.(N.S.) 165.

\$ 16. Liability of members of mutual

insurance company. In general. 32 L.R.A. 481.

Who are members. 32 L.R.A. 482. Notes of members. 32 L.R.A. 483.

Altered charter, by-law, or contract of membership. 32 L.R.A. 486.

For what losses or obligations liable. L.R.A. 487.

Defenses against contract. 32 L.R.A. 490. Termination of liability. 32 L.R.A. 492. Liability of guaranty members. 32 L.R.A. 496.

Assessments. 32 L.R.A. 496.

Jurisdiction of equity to enforce liability of member of mutual insurance company. 40 L.R.A.(N.S.) 781.

#### 'III. Agents, officers, and brokers.

\$ 17. Generally.

Waiver or estoppel by, see infra, §§ 141-143.

Effect of agent's failure to procure license. 1 L.R.A. (N.S.) 1159.

Effect of legislation limiting cost of new insurance on existing contracts with agents. 19 L.R.A. (N.S.) 946.

§ 17a. When agent is agent of assured. As to filling in of application. 20 L.R.A. 279.

As to notice of cancelation. 20 L.R.A. 283. As to waiver of conditions in policy. 20 L.R.A. 285.

As to payment of premium. 20 L.R.A. 286. Duty to read the policy. 20 L.R.A. 286. Begin with this book on every law question.

INSURANCE, 111.—cont'd

§ 18. Insurance broker as agent for insured.

Generally. 38 L.R.A. (N.S.) 614.
Payment of premium. 38 L.R.A. (N.S.) 616. Cancelation of policy. 38 L.R.A. (N.S.) 623. Alteration, and changing policy. 38 L.R.A. (N.S.) 630.

Liability of broker. 38 L.R.A.(N.S.) 631. Brokers' knowledge. 38 L.R.A. (N.S.) 634. Conflict of laws. 38 L.R.A. (N.S.) 640. Set-off. 38 L.R.A. (N.S.) 641. Lien. 38 L.R.A. (N.S.) 643.

§ 18a. Medical examiner as agent of insurer or of insured.

General rule. 41 L.R.A. (N.S.) 506.

Estoppel where examiner writes false answers not given by insured. 41 L.R.A. (N.S.) 507.

Estoppel by examiner's interpretation or opinion. 41 L.R.A. (N.S.) 509.

Estoppel by medical examiner's personal knowledge. 41 L.R.A. (N.S.) 510.

Estoppel by medical examiner's knowledge of facts in application as distinguished from medical report. 41 L.R.A. (N.S.) 511.

Estoppel by acts of special examiner. 41 L.R.A.(N.S.) 512.

Validity and effect of provision that examiner shall be agent of insured. L.R.A. (N.S.) 513.

Cases decided under Iowa statute. L.R.A.(N.S.) 513.

Ratification of examiner's acts. 41 L.R.A. (N.S.) 514.

Miscellaneous. 41 L.R.A. (N.S.) 515.

§ 19. Powers of.

As to waiver or estoppel by, see infra, §§ 141-143.

Authority of general insurance agent to employ subagent. L.R.A.1918F, 726.

Authority of insurance agent to contract for services of persons other than subagents. L.R.A.1918F, 15.

Presumption as to powers of agent in case of oral contract of insurance. 22 L.R.A. 773.

Conflict of laws as to local agent's authority to accept application. 63 L.R.A. 836.

Power of insurance agent to bind insurance company by insuring property in which he is interested personally or as agent, the company having no notice of such interest. 9 L.R.A.(N.S.) 1084; 49 L.R.A.(N.S.) 972.

Power of insurance agent to bind insured by transferring risk from one company to another. 51 L.R.A.(N.S.) 539.

Authority of agent to agree to renew policy in future. L.R.A.1916C, 784.

Power to accept cancelation of his own indebtedness in payment of premium. L.R.A.1915A, 686.

§ 20. Inputing knowledge of, to com-

Effect of notice to subagent. 21 L.R.A. 342.

INSURANCE, III.—cont'd 21. Compensation of.

Income tax on commissions on renewal premiums. L.R.A.1918A, 501.

Set-off of claims by and against insurance broker in case of bankruptcy. 55 L.R.A. 45, 61.

Applicability of statute against rebates and discrimination to allowance by agent to insured of part of former's commissions. 23 L.R.A. (N.S.) 722.

Assignability of insurance agent's right to commissions on renewal premiums. 18 L.R.A. (N.S.) 193.

Termination of agency as affecting insurance agent's right to commissions on renewals. 35 L.R.A.(N.S.) 153.

Retention of policy as waiver of mistake or fraud of insurer or its agent as to supplemental contract for allowance of commissions. 38 L.R.A. (N.S.) 790.

§ 22. Liability of.

Failure of foreign corporation to comply with conditions of doing business in the state as a defense to action on agent's note for uncollected premiums. L.R.A.1916A, 648.

Liability of agent where statutes regulating business of foreign insurance companies have not been complied with. 20 L.R.A. 407.

Liability of insurance agent to company for failure to follow instructions. 22 L.R.A.(N.S.) 509; L.R.A.1915A, 860. Liability of officers of mutual company to

members for permitting diversion of funds. 2 L.R.A.(N.S.) 165. Liability of insurance broker as agent for

insured. 38 L.R.A.(N.S.) 631.

§ 23. Termination of agency.

Termination of agency as affecting insurance agent's right to commissions on renewals. 35 L.R.A.(N.S.) 153.

#### IV. Insurable interest.

#### a. In property.

\$ 24. Generally.

Insurable interest in animals. 44 L.R.A. (N.S.) 569.

Insurable interest in crops. L.R.A.1917A, 485.

Right to recover premiums paid on policy which is invalid for want of insurable interest. 3 B. R. C. 839.

Mortgage as terminating. 38 L.R.A. 562. In unfinished building during its construc-tion by a contractor. 43 L.R.A. 664.

Of sole and absolute owner of building and land not belonging to him. 38 L.R.A. (N.S.) 429.

Insurable interest of one secondarily liable on an obligation, in property primarily charged with the same. 9 L.R.A. (N.S.) 490.

Insurable interest of holder of option on property. L.R.A.1918A, 393.

Insurable interest of tenant in leased property. 42 L.R.A.(N.S.) 135.

Consult also L.R.A. Digests of Cases. 48

INSURANCE, IV. a—cont'd lnsurable interest of one insured against loss of profits from marine adventure. L.R.A.1917C, 730.

Insurable interest of wife in husband's property. L.R.A.1918A, 793.

Illegality of policy of marine insurance for lack of insurable interest as affecting right to recover back premiums paid. L.R.A.1917A, 477.

§ 25. Of husband in wife's property, or that in which she is interested.

Husband without insurable interest unless he has beneficial interest. 45 L.R.A. (N.S.) 1132.

Insurable interest of husband where he has beneficial interest. 45 L.R.A.(N.S.) 1133.

As agent. 66 L.R.A. 658.

As guardian. 66 L.R.A. 659.

As trustee. 66 L.R.A. 659.

As tenant by the curtesy. 66 L.R.A. 659.

As tenant by the entirety. 66 L.R.A. 660.

In wife's personalty. 66 L.R.A. 660. In homestead. 66 L.R.A. 660.

In community property. 66 L.R.A. 661.

Arising from right to use and profits. 66 L.R.A. 661.

Arising from equitable interest. 66 L.R.A.

Mutual insurance company. 66 L.R.A. 662.

§ 26. When, must exist under fire policies.

Interest at the time of the policy. L.R.A. 330.

Interest at time of policy and at time of loss. 52 L.R.A. 332.

Interest at time of loss. 52 L.R.A. 336. Policies on fluctuating property. 52 L.R.A. 340.

#### b. In life.

**27.** Generally.

Right to recover premiums paid on policy which is invalid for want of insurable interest. 3 B. R. C. 839; L.R.A.1917A, 477.

Conflict of laws as to. 63 L.R.A. 856; 23 L.R.A. (N.S.) 976; 52 L.R.A. (N.S.) 279. Who is a member of the "family" within

contract of benefit society. 3 L.R.A. (N.S.) 334.

Insurable interest in life of foster child or foster parent. 46 L.R.A.(N.S.) 779.

Insurance on life in favor of paramour. 47 L.R.A.(N.S.) 252.

Insurance on life of officer of corporation for benefit of the corporations. 16 L.R.A. (N.S.) 1020; L.R.A.1915F, 979.
Right of holder of benefit certificate to

designate as beneficiary one not within the classes prescribed by law or rules of the association where such designation is upon a consideration moving from the appointee to the holder. 25 L.R.A. (N.S.) 814.

INSURANCE, IV. b-cont'd

§ 28. Of creditor.

Validity of life insurance to secure debt to insurer, see infra, § 45.

Right of creditor to proceeds of insurance, see infra, § 192.

\$ 29. Of husband.

Insurable interest of husband, as such, in life of wife. 2 B. R. C. 410.

§ 30. Of betrothed wife.

Right to insure life of betrothed husband. 53 L.R.A. 825.

Validity of life insurance for benefit of. 19 L.R.A. 187.

As a "dependent" within restrictions of

beneficiaries of mutual benefit associations, 2 L.R.A.(N.S.) 654; 36 L.R.A. (N.S.) 208; 51 L.R.A.(N.S.) 726.

§ 31. Wife's right to insure life of husband.

The right at common law. 53 L.R.A. 817. The right under statutes. 53 L.R.A. 819. Promised marriage and irregular marriages. 53 L.R.A. 825.

Consent to use by wife of husband's funds. 53 L.R.A. 825.

§ 32. In life of parent or child or other relative by blood.

The rule that pecuniary interest is necessary. 54 L.R.A. 225.

The rule that close relationship is sufficient. 54 L.R.A. 228.

Consent of the insured. 54 L.R.A. 233. Insurable interest of adult child in life of

parent. 19 L.R.A.(N.S.) 233. Insurable interest of brother or sister in other's life. 45 L.R.A.(N.S.) 982.

Insurable interest of cousin. 14 L.R.A. (N.S.) 1172.

§ 33. Who are dependents. Who is a "dependent" within statute or rules defining beneficiaries of mutual benefit societies. 2 L.R.A.(N.S.) 653; 36 L.R.A.(N.S.) 208; 37 L.R.A.(N.S.) 1191; 51 L.R.A.(N.S.) 726.

Adopted, foster or stepchild as "dependent." L.R.A.1916B, 906.

§ 34. Right to take life insurance for

benefit of stranger.
Generally. 25 L.R.A. 627.
Speculative policies. 25 L.R.A. 628.

The effect of existence of insurable interest. 25 L.R.A. 629.

Payment of premiums. 25 L.R.A. 629. The Texas doctrine. 25 L.R.A. 630.

Designation as beneficiary, of one without insurable interest, as affected by considerations of public policy. 16 L.R.A. (N.S.) 555.

Validity of assignment by beneficiary hav-ing no insurable interest to one paying premiums. 3 L.R.A.(N.S.) 952.

Validity of assignment of life insurance policy to one having no insurable interest where the assignment is not made by way of cover for a wager policy. 6 L.R.A. (N.S.) 128.

INSURANCE, IV. b—cont'd Defense of want of insurable interest as affected by incontestable clause. L.R.A. 257; 5 L.R.A.(N.S.) 747.

§ 35. Consent of person whose life is

insured, as a condition.

Policies on adults' lives. 56 L.R.A. 586;
L.R.A.1918F, 574.

Insurance on children's lives. 56 L.R.A.

To taking out of life insurance by relative on one's life. 54 L.R.A. 233.

Of husband to wife's use of his funds to insure his life. 53 L.R.A. 825.

V. The policy or contract; constitution and by-laws.

#### a. In general.

§ 36. Generally.

Contracts by foreign companies, see supra, §§ 6-8.

Conflict of laws as to, see CONFLICT OF Laws, § 8. Measure of damages for breach of insurance

contract, see Damages, § 23.

Evidence as to, see EVIDENCE, § 279.

Inheritance tax on proceeds of life insur-

ance. L.R.A.1917D, 636.

Effect of war on contracts with alien enemies. L.R.A.1917C, 675.

Applicability of rule excluding parol evi-dence to vary contract in favor of or against a stranger to the contract. L.R.A.1916A, 596, 608.

Terms and conditions of usual written policy as affecting a claim under an oral contract of insurance or for damages for breach of contract to issue policy. 48 L.R.A. (N.S.) 319.

Effect of carriage of contraband upon marine insurance. 5 B. R. C. 58.

Right of assessment company to change plan or class of policies. 1 L.R.A. (N.S.) 623.

Right to reject policy for nonconformance to representations of insurer's agent. 41 L.R.A.(N.S.) 1130.

Collection of insurance policy during life-time of testator as ademption of specific legacy thereof. 40 L.R.A. (N.S.) 561.

Insurance, in name of partnership, of property the legal title of which is in the name of individuals. 40 L.R.A. (N.S.) 152.

Liability of insurance company for negli-gent delay in passing upon or issuing policy until after loss. 40 L.R.A. (N.S.) 164.

Insurance on property the subject of a voidable preference under the bankruptcy act. 41 L.R.A. (N.S.) 1012.

Ratification after loss of unauthorized act of another in securing fire insurance. 42 L.R.A.(N.S.) 1025.

Presumption as to time of alteration in policy. 39 L.R.A.(N.S.) 114.

INSURANCE, VI. a-cont'd

Federal courts following state decisions as | Retention of policy as waiver of variation to insurance contracts. 40 L.R.A. (N.S.) 411.

# § 37. On life of minor.

Policies taken out by minors. 57 L.R.A. 496.

57 L.R.A. Insurance to secure creditors. 497.

Policies taken out by others on infant's life. 57 L.R.A. 499.

Insurance in benefit societies. 57 L.R.A. 502.

Surrender or disaffirmance of policy on infant's life. 57 L.R.A. 504.

Infants as members of co-operative company. 17 L.R.A. 547.

Insurable interest in life of parent or child. 54 L.R.A. 225.

Insurable interest of brother or sister in other's life. 45 L.R.A. (N.S.) 982.

Son as member of family of insured. L.R.A.(N.S.) 334.

Parent as member of family of insured. 3 L.R.A.(N.S.) 334.

Consent of children as condition of validity of insurance on their lives. 56 L.R.A. 591.

# 38. Delivery and acceptance.

Condition as to delivery of policy while insured is in good health, see infra,

Effect of general notification by agent of arrival of policy, when the company has substituted another form of policy for that applied for. 12 L.R.A. (N.S.) 421

Effect of delivery to agent as delivery to assured of policy containing stipula-tion that it shall not become binding unless delivered to assured while in good health. 17 L.R.A.(N.S.) 1146; L.R.A.1916F, 173.

Effect of cancelation of policy containing stipulation that it shall not become binding unless delivered to assured while in good health. 17 L.R.A. (N.S.)

Effect of recital in policy of receipt of first premium on time of taking effect of policy. L.R.A.1918A, 308.

#### 39. Renewal.

Validity of oral agreement to renew or extend policy. 22 L.R.A. 772.

Validity of agreement of agent to renew policy in future. L.R.A.1916C, 783.

Effect upon renewal of fire insurance policy of circumstance invalidating original policy, but which in the meantime has ceased to exist. 1 B. R. C. 610.

Terms and conditions of usual written policy as affecting a claim under an oral contract to renew the policy. 48 L.R.A.(N.S.) 321, 324.

Assignability of agent's right to commissions on renewal premiums. 18 L.R.A. (N.S.) 193.

Consult also L.R.A. Digests of Cases.

INSURANCE, VI. a-cont'd

of terms on renewal of policy by mistake or fraud of insurer or its agent. 67 L.R.A. 719.

#### § 40. Dividends.

Application of dividends to interest on applying for paid-up policy. 15 L.R.A. 453.

#### b. Application generally.

41. Generally.

Warranties and representations in, see infra, V. h.

Waiver of warranties and representations in, see infra, VII.

Attaching of, to policy, see infra, § 92.

Failure to sign application as avoiding accident, life, or mutual benefit policy. 4 B. R. C. 468.

Insurance agent as agent of insured as to filling in. 20 L.R.A. 279.

Conflict of laws as to local agent's authority to accept. 63 L.R.A. 836.

Retention of policy as waiver of fraud or mistake of insurer appearing in. 67 L.R.A. 734.

Retention of policy as waiver of mistake or fraud as to signature to. 67 L.R.A. 718.

Effect of rejection of portion of. 5 L.R.A. (N.S.) 739.

Effect of delay in passing upon. 36 L.R.A. (N.S.) 1211; 51 L.R.A. (N.S.) 873.

#### c. Validity generally.

§ 42. Generally.

Validity of wagering policy, see supra, §§ 24-35.

Effect of war on contracts with alien enemies. L.R.A.1917C, 675.

Failure to sign application as avoiding accident, life, or mutual benefit policy. 4 B. R. U. 468.

Validity of contract, in violation of statute. 12 L.R.A.(N.S.) 612.

Validity of Lloyd's policies of insurance. 55 L.R.A. 203.

Validity of insurance on intoxicating liquors as affected by liquor laws. 31 L.R.A.(N.S.) 874.

Insurance on disorderly house or furniture therein. 18 L.R.A. (N.S.) 214; L.R.A. 1917B, 257.
Effect of discrimination among insurants

upon the contract of insurance and its incidents. 35 L.R.A.(N.S.) 485; 49 L.R.A. (N.S.) 147.

Marine insurance; validity of insurance of enemy property against seizure. B. R. C. 836.

Effect of carriage of contraband on validity of marine insurance policy. 5 B. R. C.

§ 43. Validity of oral contract of insurance. Generally. 22 L.R.A. 768.

INSURANCE, V. c-cont'd

Validity of parol contract assumed. L.R.A. 769.

Charter or statutory provisions. 22 L.R.A.

Contract to insure. 22 L.R.A. 771.

Agreement to insure enforced. 22 L.R.A.

Agreement to renew or extend the policy. 22 L.R.A. 772.

Contract not fully completed. 22 L.R.A. 772.

Parol superseded by written contract. L.R.A. 772.

Presumption as to powers of agent. L.R.A. 773.

Requisites of a present oral contract of insurance. 5 L.R.A.(N.S.) 407.

# \$ 44. Validity of fire insurance on property illegally used.

General principles. 40 L.R.A. 845.

Violation of excise laws. 40 L.R.A. 845. Offenses against public order and decency. 40 L.Ř.A. 847.

Violation of law taxing occupations. L.R.A. 848.

Insurance on bawdy house or furniture therein. 18 L.R.A.(N.S.) 214.

#### § 45. Validity of life insurance to secure debt to insurer.

Insurable interest of creditor, see supra, § 28.

Right of creditor to proceeds of insurance, see infra, § 192.

In general. 53 L.R.A. 462. Usurious transactions. 53 L.R.A. 463.

d. Constitution, rules, and by-laws.

§ 46. Generally. Meaning of word "family" in by-laws. 3 L.R.A.(N.S.) 334.

Power of insured under constitution, bylaws, contract or statute to destroy rights of beneficiary. 49 L.R.A. 753.

Conflict between by-laws and certificate, or policy, of mutual benefit society or insurance company. 47 L.R.A. 681.

Necessity for compliance with by-laws as to payment of assessments. 38 L.R.A. (N.S.) 571; L.R.A.1915E, 153.

Validity and effect of by-law of mutual benefit society suspending member who disappears. L.R.A.1917A, 182.

Validity of by-law of mutual benefit society, refusing to pay indemnity upon pre-sumption of death from seven years' absence. L.R.A.1915B, 793: L.R.A. 1917C, 1032.

Validity and effect of rule of benefit society requiring designation of beneficiary by will or contract. L.R.A.1918F, 777.

#### 47. Change of.

Alteration of by-law of mutual fire insurance company. 32 L.R.A. 486.

INSURANCE, V. d-cont'd

Effect of adoption of by-laws by fraternal insurance order upon benefit certificates already issued. 1 L.R.A.(N.S.) 1065.

Reasonableness of new by-laws as implied condition of consent to change of by-

laws. 8 L.R.A.(N.S.) 521. Retroactive effect of resolution or by-law of mutual insurance company changing period during which policy may be contested for suicide. 12 L.R.A. (N.S.) 504.

Validity of retrospective by-law or other rule of benefit association as to manner of establishing claim. 24 L.R.A. (N.S.) 1027.

Subsequent by-law excluding or reducing liability in case of suicide. 46 L.R.A.

(N.S.) 308; L.R.A.1915D, 1095.
Retrospective by-law of benefit association in relation to beneficiaries. 24 L.R.A. (N.S.) 1030; L.R.A.1915A, 264.

Validity and effect of by-law of mutual benefit society passed after insured became a member, refusing to pay benefit upon presumption of death from seven years absence. L.R.A.1917C, 1032.

Right of mutual benefit society to decreas: benefits. 31 L.R.A. (N.S.) 423; L.R.A.

1917C, 626.

Right of mutual insurance company to in crease rates. 31 L.R.A.(N.S.) 417; L.R.A.1916A, 762.

e. Reformation; rescission; cancelation; surrender.

#### 48. Reformation.

Reformation of insurance policy for mistake of soliciting agent. 11 L.R.A. (N.S.) 357.

Reformation to conform to representation or estimate as to accumulation, divi-

dends, surplus, etc. L.R.A.1918F, 347. Relief from mistake of law as to effect of insurance policy. 28 L.R.A.(N.S.) 831.

Necessity for reforming policy before re-covery in case of mistake. 2 L.R.A. (N.S.) 548.

Right to reformation of mortgagee who, by mistake, is insured as owner or in owner's name or vice versa. L.R.A.1917C, 110.

Effect of delay in seeking relief from mistake. 28 L.R.A. (N.S.) 890.

Action on policy as bar to action to reform it. 12 L.R.A.(N.S.) 907.

# 49. Cancelation; rescission.

Return of premium generally on, see infra, § 118.

Effect of insolvency of insurer to work cancelation of policies so that no recovery can be had for losses occurring thereafter. L.R.A.1917E, 1141.

Policy insuring against burglary and theft. L.R.A.1918B, 574.

Rescission or cancelation of contract by members of mutual fire insurance company. 32 L.R.A. 492. Begin with this book on every law question.

INSURANCE, V. e-cont'd

When insurance agent is agent of assured as to notice of cancelation. 20 L.R.A. 283.

Insurance broker as agent for insured as to cancelation of policy. 38 L.R.A. (N.S.) 623.

Retention of policy as waiver of insurer's mistake or fraud as to right to cancel. 67 L.R.A. 716.

Cancelation of insurance contract by return of policy. 13 L.R.A.(N.S.) 805. From what time does notice of cancelation of fire insurance become effective. 39

L.R.A.(N.S.) **829**.

Rescission for insurer's breach of agreement to make loan on policy. 30 L.R.A. (N.S.) 1202.

Measure of damages for wrongful cancela-

tion of policy issued on assessment plan. 7 L.R.A.(N.S.) 1163; L.R.A. 1917E, 1035.

50. — grounds for, generally.

Right to rescind or abandon contracts for

other party's default. 30 L.R.A. 69. Breach of agreement of insurer to make loan on policy as justifying rescission and recovery of premium by insured. 30 L.R.A. (N.S.) 1202.

Right of insurer to cancelation of the policy in equity before loss, upon the ground that it was obtained by fraud. 45 L.R.A.(N.S.) 222.

Power of equity to take jurisdiction of suit to cancel policy for fraud and to enjoin action at law on the policy. 12 L.R.A.(N.S.) 881; 48 L.R.A.(N.S.) 265.

Retention of policy as waiver of mistake or fraud of insurer or its agent as to provision on right to cancel. 67 L.R.A. 716.

§ 50a. — for nonconformance to representations of insurer's agent.

Right to reject or rescind, in general. 41 L.R.A. (N.S.) 1131.

Necessity that applicant rely upon agent's misrepresentations. 41 L.R.A.(N.S.)

Policy varying from agent's agreement treated as counter proposal. 41 L.R.A. (N.S.) 1133.

Cases treating agent's statements as promissory representations. (N.S.) 1133. 41 L.R.A.

Misrepresentations made when policy is exchanged. 41 L.R.A.(N.S.) 1134.

Misrepresentations made by the agent at time of delivering policy. 41 L.R.A. (N.S.) 1135.

Effect of agent's agreement that applicant might reject policy. 41 L.R.A.(N.S.) 1135.

Misrepresentations made to illiterate persons. 41 L.R.A.(N.S.) 1135.

Where application is not intelligible to one induced to insure. 41 L.R.A. (N.S.) 1136.

Where agent makes good his misrepresentation. 41 L.R.A.(N.S.) 1137. Consult also L.R.A. Digests of Cases.

INSURANCE, V. e-cont'd

Admissibility of parol evidence conflicting with written application. 41 L.R.A. (N.S.) 1137.

Questions for the jury. 41 L.R.A.(N.S.) 1140.

Miscellaneous. 41 L.R.A.(N.S.) 1141.

§ 51. — conditions of; notice.

Return of premium as condition of cancelation of insurance. 13 L.R.A.(N.S.) 884; L.R.A.1916F, 444.

Waiver. 13 L.R.A.(N.S.) 889; L.R.A. 1916F, 446.

§ 52. — effect of.

Effect of attempted rescission of policy in case of mistake or fraud of insurer or its agent. 67 L.R.A. 742.

Attempted rescission of life policy on other grounds as waiver of false representations as to previous applications for insurance. 55 L.R.A. 137.

Effect of cancelation of policy containing stipulation that it shall not become binding unless delivered to assured while in good health. 17 L.R.A.(N.S.)

Necessity of giving mortgagee notice to cancel policy. 45 L.R.A.(N.S.) 463. Sufficiency of notice to insured of cancela-

tion of fire policy. 50 L.R.A. (N.S.) 35.

§ 53. Surrender.

Of policy on infant's life. 57 L.R.A. 504.

Right of guardian to surrender policy in favor of ward. 35 L.R.A.(N.S.) 1123. Surrender of policy of life insurance, in ignorance of the death of the insured, as subject to rescission as having been made under a mistake of fact. 5 B. R. C. 797.

Beneficiary's consent to surrender of policy as affecting his right to question validity thereof. L.R.A.1915A, 872.

54. — without beneficiary's consent. Power of insured to destroy rights of beneficiary by surrendering policy. 49 L.R.A. 746, 751.

Surrender of policy of ordinary life insurance without consent of beneficiary. 35 L.R.A.(N.S.) 844.

f. Paid-up insurance; surrender value; extended insurance; options; endowment policies.

§ 55. Paid-up and nonforfeiting policies of life insurance.

Conflict of laws as to paid up insurance. 63 L.R.A. 862; 23 L.R.A.(N.S.) 980. Mode of obtaining paid-up policy. 15 L.R.A. 449.

Need of demanding paid-up policy. 15 L.R.A. 449.

Time of demanding paid-up policy. L.R.A. 449.

Effect of failure to apply for paid-up insurance within time stipulated. L.R.A.(N.S.) 1044.

INSURANCE, V. f-cont'd

Forfeiture of original policy. 15 L.R.A.

Stipulations or provisions in separate instruments. 15 L.R.A. 451. Payment of outstanding premium notes.

15 L.R.A. 452.

Failure to pay interest on premium notes. 15 L.R.A. 452.

Payment of premium by promissory note as entitling insured to benefit of paid up insurance. 5 B. R. C. 376.

Application of dividends or profits to in-

terest. 15 L.R.A. 453.

Waiver or estoppel as to forfeiture.
L.R.A. 454.

Remedies of insured. 15 L.R.A. 454. Amount of recovery or of paid-up policy. 15 L.R.A. 455.

Extension under Massachusetts statute. 15 L.R.A. 455.

Are paid-up policies within statutes exempting life insurance policies. 25 L.R.A.(N.S.) 722.

Effect of failure to apply for paid-up insurance within time stipulated. 8 L.R.A. (N.S.) 193.

Paid-up policy as insurance within question as to other insurance. 32 L.R.A. (N.S.) 464.

Effect of statute providing for application of reserve to the purchase of paid-up insurance. 13 L.R.A.(N.S.) 1046.

Computation of, where policy holder has borrowed on the policy. 23 L.R.A. (N.S.) 828; L.R.A.1918A, 906.

§ 56. Options of insured.

Insurer's option to rebuild, see infra, § 174. Option of insurer as to payee, see infra, § 194.

Effect of loan as working forfeiture of options under policy. L.R.A.1917A, 1241. Right of creditors to reach option of in-

sured to receive cash surrender value of policy. 16 L.R.A.(N.S.) 316. Do option provisions in policy of life insurance operate automatically. L.R.A. (N.S.) 803.

Retention of policy as waiver of mistake or fraud of insurer or its agent as to provision as to existence of options at maturity. 67 L.R.A. 714.

Right of beneficiary to exercise option upon default in payment of premium. 45 L.R.A.(N.S.) 391; L.R.A.1916F, 1246.

Right of assignee of policy of life insurance to exercise options. L.R.A.1918C, 570.

57. Cash surrender value.

Right of creditors to reach option of insured to receive cash-surrender value. 16 L.R.A.(N.S.) 316.

Computation of cash surrender value, where policy holder has borrowed on the policy. 23 L.R.A. (N.S.) 828; L.R.A. 1918A, 906.

Life insurance policy having cash surrender value as assets of bankrupt. 26 L.R.A. (N.S.) 459; 46 L.R.A. (N.S.) 148.

INSURANCE, V. f-cont'd

Power of insured to destroy rights of beneficiary by procuring. 49 L.R.A. 746.
Payment of premium by promissory note as completing right to surrender value. 5 B. R. C. 376.

§ 58. Extended insurance.

Extension under Massachusetts statute. 15 L.R.A. 455.

Conflict of laws as to. 63 L.R.A. 862; 23 L.R.A. (N.S.) 978, 980; 52 L.R.A. (N.S.)

Effect of statute providing for application of reserve to purchase of. 13 L.R.A. (N.S.) 1046.

Computation of, where policy holder has borrowed on the policy. 23 (N.S.) 828; L.R.A.1918A, 906. 23 L.R.A.

Payment of premium by promissory note as entitling insured to extended insurance.

5 B. R. C. 376.

§ 58a. Endowment policies.
Right to subject to claims of creditors. 4 L.R.A. (N.S.) 456.

#### g. Construction.

\$ 59. Generally.

Of employer's liability policy, see infra, § 213.

Conflict of laws as to. 63 L.R.A. 856; 52

L.R.A.(N.S.) 279. Applicability of rule excluding parol evidence to vary contract in favor of or against a stranger to the contract. L.R.A.1916A, 596, 608.

Effect of riders or slips attached to insurance policies. 30 L.R.A. 636.

Nature of risk under insurance against loss by lightning. 26 L.R.A. 267.

Meaning of "cyclone," "tornado," or other

kind of wind storm in insurance pol-8 L.R.A.(N.S.) 308.

Conflict between by-laws and certificate, or policy, of a mutual benefit society or insurance company. 47 L.R.A. 681.

Language of insurance contract in relation to location of property as an essential part of the contract, or as a collateral or representation. L.R.A. warranty (1918B, 429.

Scope, application, and effect of provision of accident policy that the occurrence or payment of one loss shall terminate policy or liability. L.R.A.1918B, 506.

60. Property covered. Risks covered, see infra, §§ 153-171.

Import of word "additions" in policy of fire insurance. 33 L.R.A.(N.S.)

Heating apparatus as part of realty, as between owner of realty and insurer. 1 B. R. C. 976.

Retention of policy as waiver of mistake or fraud of insurer or its agent as to property covered. 67 L.R.A. 721. Begin with this book on every law question.

INSURANCE, V. g—cont'd
Interests covered by particular designation
of insured in policy on property of
decedent's estate. 42 L.R.A. (N.S.) 79. Property covered by policy on "farming utensils." L.R.A.1917B, 937.

#### 61. Severability.

When contract entire and when severable. 8 L.R.A. 834.\*

§ 62. — of insurance in same policy. Questions affecting divisibility. 51 L.R.A. (N.S.) 1050.

Special kinds of contract. 51 L.R.A.(N.S.) 1066.

Kinds of property covered by policy. 51 L.R.A. (N.S.) 1066. Separate buildings. 19 L.R.A. 212; 51

Separate buildings. L.R.A. (N.S.) 1066.

Building and contents. 19
51 L.R.A. (N.S.) 1066. 19 L.R.A. 214;

Fixtures and personal property. 51 L.R.A.(N.S.) 1068.

Different classes or articles of personal property. 19 L.R.A. 217; 51 L.R.A. (N.S.) 1068.

Effect on insurance upon buildings of forfeiture as to personal property. L.R.A. 217.

Policies on live stock. 19 L.R.A. 218. Fraud. 19 L.R.A. 218. Marine policies. 19 L.R.A. 218.

62a. Marine insurance. Risks covered by policy of, see infra, § 157. Cause of loss, see infra, § 157. Extent of loss, see infra, §§ 175, 176.

Severability. 19 L.R.A. 218.

Waters covered by description. L.R.A. 1915C, 408.

Contraband of "lawful goods." 5 B. R. C. 62. Language of insurance contract in relation to location of the property as an essential part of the contract or as a collateral warranty or representation. L.R.A.1918B, 429.

h. Warranties; representations; conditions: incontestability.

# In policies on property.

#### (a) In general.

§ 63. Generally.

Waiver of, or estoppel as to, see infra, VII. In policy against loss by burglary or theft, see infra, § 220.

Terms and conditions of usual written policy as affecting a claim under an oral contract of insurance or for damages for breach of contract to issue policy. 48 L.R.A.(N.S.) 319.

Right of insured to return of premium where policy is void or voidable because of misrepresentations on his part. 32 L.R.A. (N.S.) 298.

Consult also L.R.A. Digests of Cases.

INSURANCE, V. h, 1, (a)—cont'd When may statements be regarded as rep-resentations, although expressly denominated in the policy as warranties. 11 L.B.A.(N.S.) 981.

Effect of qualifying statements or war-ranties by words to "best of my knowl-edge and belief," or words of like im-

port. 43 L.R.A. (N.S.) 431. Duty to notify insurer of facts which develop after submission of application, but before delivery of policy or certificate. 39 L.R.A.(N.S.) 951.

Liability of insurer under policy of marine insurance for losses arising out of state of war as affected by warranties. 5 B. R. C. 10.

Effect of warranty against contraband or illicit trade in marine insurance policy. 5 B. R. C. 64.

Liability of insurer of vessel or cargo "warranted free from capture." 5 B. R. C. 74.

64. Lloyds policies.

Warranties in case of Lloyds policies. 55 L.R.A. 202.

Concealment of facts by insured in case of Lloyds policies. 55 L.R.A. 201.

65. Dimension of property.

Misrepresentation as to dimensions of insured building. 20 L.R.A.(N.S.) 340.

(b) Title; ownership; encumbrances.

66. Generally.

Sufficiency of title of tenant to fixtures placed by him on premises under agreement for their removal. L.R.A.1915E, 830.

Vendee under executory contract as owner, where vendor holds legal title. L.R.A. (N.S.) 775.

Retention of policy as waiver of mistake or fraud as to title. 67 L.R.A. 731.

Effect of insurance broker's knowledge as to title. 38 L.R.A. (N.S.) 637.

Conclusiveness of statements as to ownership, etc. in proof of loss. 44 L.R.A. 859.

Effect of warranty as to ownership on liability of insurer under policy of marine insurance for losses arising out of state of war. 5 B. R. C. 18.

67. Complete or full ownership. How far an undivided interest in property is a complete or full ownership. 18 L.R.A. 481.

§ 68. Sole and unconditional owner-

Owner of equitable title as sole and unconditional owner of property the legal title of which is in another. L.R.A. 1918E, 375.

Effect of bond for title to defeat unconditional and sole ownership. 2 L.R.A. (N.S.) 512.

Vendor's lien as affecting sole and unconditional ownership. 7 L.R.A. (N.S.) 627. INSURANCE, V. h, 1, (b)—cont'd

Failure to record conveyance to insured as affecting his "sole and unconditional ownership." 22 L.R.A.(N.S.) 732.

Title, for purpose of insurance, of house on government land under homestead entry, as within sole and unconditional ownership clause in insurance policy. 8 L.R.A.(N.S.) 903.

Want of title to land where insured is sole and absolute owner of building. 38 L.R.A.(N.S.) 427.

Judgment as violation of provision requiring sole and unconditional ownership. 50 L.R.A.(N.S.) 1164.

Outstanding contract for sale of property

Outstanding contract for sale of property as defeating sole and unconditional ownership by vendor. 52 L.R.A.(N.S.) 670.

Mortgage or instrument given as security as breach of condition as to sole and unconditional ownership. L.R.A.1915D, 812.

### § 69. Change of title or interest. Temporary change, see infra, § 84.

Provision against alienation or change in interest, title, or possession as applying to interest of cotenant. L.R.A.1917A, 32.

Effect of consent after loss to change of ownership. L.R.A.1917F, 1042.

Contract to convey as breach of condition against change in title or interest. 3 L.R.A.(N.S.) 107.

L.R.A.(N.S.) 107.

Delivery of deed in escrow as a change of title or interest. 38 L.R.A.(N.S.) 142.

Termination of liability of members of mutual fire insurance company by transfer of property insured. 32 L.R.A. 494.

Acquisition by mortgagee of title to property covered by policy protecting mortgagee's interest, as breach of condition against sale or transfer of title.

23 L.R.A.(N.S.) 1147.

Variance between assignment or transfer of property and insurer's consent thereto. 42 L.R.A.(N.S.) 173.

§ 70. — change in partnership interest. Effect of transfer by one partner of his interest in insured property to other members of firm as a prohibited change or alienation of interest. 18 L.R.A. 482.

Formation of partnership or change in personnel of firm as effecting a change of title or ownership. 21 L.R.A.(N.S.) 442.

#### § 71. - by judicial proceedings.

Judgment as change of interest or title. 50 L.R.A. (N.S.) 1164.

Effect of bankruptcy or insolvency proceedings or assignment for benefit of creditors on fire insurance. 15 L.R.A.(N.S.) 827.

Effect of appointment of receiver for insured on fire insurance. 19 L.R.A. (N.S.) 643.

Begin with this book on every law question.

INSURANCE, V. h, 1, (b)—cont'd

Levy of execution, attachment, or other process upon insured property as change in interest, title, or possession. 24 L.R.A. (N.S.) 803.

Sale of insured property by judicial proceedings as change in title, interest, or possession. 24 L.R.A. (N.S.) 807.

§ 72. — by mortgage.

Mortgage as effecting change of title or interest in insured property. 38 L.R.A. 562.

#### § 73. Encumbrances generally. Temporary encumbrances, see infra, § 88.

Effect of condition against encumbrances, upon renewal, substitution, or alteration of encumbrance upon insured property. 20 L.R.A. 400.

Retention of policy as waiver of mistake or fraud as to encumbrances. 67 L.R.A. 732, 737.

Effect of insurance broker's knowledge as to. 38 L.R.A.(N.S.) 637.

# (c) Use, care, and condition of property.

#### § 74. Generally.

Temporary use, see infra, §§ 85-87. Estoppel or waiver as to, see infra, VII.

Effect of insurance broker's knowledge as to condition or use of property. 38 L.R.A. (N.S.) 636.

Conclusiveness of statements as to, in proofs of loss. 44 L.R.A. 858.

Change in use or condition of mill or factory as avoiding policy. 45
L.R.A.(N.S.) 123.

# § 75. Vacancy; occupancy. Temporary vacancy, see infra, § 86.

When is insured property vacant or unoccupied. 2 L.R.A.(N.S.) 517.

Building in process of erection as vacant. 4 L.R.A.(N.S.) 1137.

Vacancy during change of tenants as violation of vacancy clause in fire policies covering rented premises. L.R.A.1915B, 844.

Effect, on vacancy clause, of tenant's removal without owner's knowledge. 3 L.R.A.(N.S.) 966.

Necessity of proof of increase of risk to avoid insurance policy because of the vacancy of insured property. 12 L.R.A.(N.S.) 456.

Retention of policy as waiver of insurer's mistake or fraud as to occupancy of premises. 67 L.R.A. 729.

Effect on provisions as to, of agent's representations or knowledge. 4 L.R.A. (N.S.) 758.

Conclusiveness of statements as to, in proofs of loss. 44 L.R.A. 858.

#### 76. Suspension of business.

19 L.R.A. Provisions against ceasing to operate mill or machinery. 8 L.R.A. 81.

INSURANCE, V. h, 1, (c)—cont'd § 77. Watchman.

Stipulation for watchman in policy against burglary. 46 L.R.A.(N.S.) 565.

Absence of watchman without knowledge of insured as a defense. 34 L.R.A.(N.S.)/563

Retention of policy as waiver of mistake or fraud of insurer or its agent as to provision obligating insured to keep watchman on premises. 67 L.R.A. 718.

§ 78. Location of movable property. Temporary change in location, see infra, § 87.

Language of insurance contract in relation to location of the property as an essential part of the contract or as a collateral warranty or representation. L.R.A.1916B, 429.

As affecting lightning insurance. 26 L.R.A. 267.

As affecting fire insurance thereon. 26 L.R.A. 287.

Effect of provision permitting temporary removal of property from place of insurance designated in policy, after a permanent removal from that place. L.R.A.1916D, 239.

Retention of policy as waiver of insurer's mistake or fraud as to. 67 L.R.A. 724.

# 78a. Prohibited articles.

Construction and effect of provisions against keeping prohibited articles. L.R.A. 1917C, 278; 3 B. R. C. 7.

Effect of temporary keeping of prohibited articles which ceased before loss. 10 L.R.A.(N.S.) 741; 48 L.R.A.(N.S.) 1222; 3 B. R. C. 7.

#### (d) Iron-safe clause.

§ 79. Generally.

Keeping books and vouchers. 51 L.R.A. 699.

Production of books and papers. 51 L.R.A. 702.

Keeping books and vouchers in a safe, or safe place. 51 L.R.A. 709.

Waiver. 51 L.R.A. 713; L.R.A.1915F, 759.

Condition as to keeping books in policy insurance against burglary and theft. L.R.A.1918B, 567.

What books and inventories must be kept in a safe to comply with the requirements of the iron-safe clause. 15 L.R.A.(N.S.) 471.

Loss or destruction of books, inventory, etc., as excusing their production as required by policy. 28 L.R.A. (N.S.) 337.

Retention of policy as waiver of mistake or fraud of insurer or its agent as to provision obligating insured to keep books in safe. 67 L.R.A. 717.

Consult also L.R.A. Digests of Cases.

INSURANCE, V. h, 1-cont'd

(e) Other insurance; previous application.

§ 80. Generally.

Retention of policy as waiver of insurer's mistake or fraud as to requirement as to. 67 L.R.A. 726.

Pro rata clause as a waiver of provision against additional insurance. L.R.A. 1918C, 343.

Effect of insurance broker's knowledge as to. 38 L.R.A.(N.S.) 638.

Conclusiveness of statements as to, in proof of loss. 44 L.R.A. 860.

Condition as to other applications or losses in policy insuring against burglary or theit. 46 L.R.A.(N.S.) 565; L.R.A. 1918B, 566.

What is concurrent insurance. 49 L.R.A. (N.S.) 374.

Property contemplated by provision against taking out "additional insurance;" "other insurance;" "double insurance." L.R.A.1917E, 753.

Procuring of insurance by mortgagee as a violation of provision in policy of mortgagor against other or additional insurance. L.R.A.1917A, 607.

Insurance effected by one other than owner as violation of provision against additional insurance. L.R.A.1918D, 781.

#### (f) Breach by tenant or mortgagor.

§ 81. By tenant.

Effect upon insurance policy of breach of condition by tenant. 12 L.R.A.(N.S.) 485.

Effect on vacancy clause of tenant's removal without owner's knowledge. 3 L.R.A.(N.S.) 966.

§ 82. By mortgagor.

Effect of breach of policy of insurance by mortgagor on rights of mortgagee.

18 L.R.A.(N.S.) 197; 25 L.R.A.
(N.S.) 1226; L.R.A.1915C, 758.

Effect of mortgagor's failure to give notice or proof of loss on mortgagee's right to recover. 14 L.R.A.(N.S.) 459.

# (g) Increase of risk generally.

§ 83. Generally.

Temporary increase of risk, see infra, § 89

Indications that building may be intentionally set on fire as an increase of risk 31 L.R.A.(N.S.) 603.

Condition as to change of risk, in policy insuring against burglary or theft. 46 L.R.A.(N.S.) 565; L.R.A.1918B, 567.

Effect of provision prohibiting presence of designated articles on premises. 3 B. R. C. 7.

Use of engine on farm premises as violation of general provision in fire policy against increase of risk or specific provisions relating to engines. L.R.A.1915D, 187.

INSURANCE, V. h, 1-cont'd

# (h) Temporary change of conditions.

84. Change of title.

Effect of sale of insured property in case of reconveyance before loss. 10 L.R.A. (N.S.) 738.

§ 85. Use of premises.

Effect of unauthorized use of premises which ceased before loss under provision against such use. 10 L.R.A.(N.S.) 742.

Effect of unauthorized use of mill or factory which has been abandoned before loss. 45 L.R.A.(N.S.) 127.

Effect of temporary keeping of prohibited articles on premises which ceased be-fore loss under provision against keep-ing such articles. 10 L.R.A.(N.S.) 741: 48 L.R.A.(N.S.) 1222; 3 B. R. C. 7.

§ 86. — vacancy. Effect of temporary vacancy ceasing before loss under provisions against vacancy. 10 L.R.A.(N.S.) 740; 28 L.R.A.(N.S.)

Effect of sleeping on premises to prevent their becoming vacant or unoccupied within insurance policy. 40 L.R.A. (N.S.) 58.

Vacancy permit as waiver of p vacancy. 47 L.R.A.(N.S.) 619. previous

§ 87. — location of property.

Temporary absence of insured property from location stated in the policy. 22 L.R.A.(N.S.) 848.

§ 88. Encumbrances generally.

Effect of temporary encumbrances on property which were removed before loss under general provisions against encumbrances. 10 L.R.A.(N.S.) 739; 48 L.R.A. (N.S.) 1222.

89. Increase of risk generally.

Scope and effect of provision that the working of mechanics shall avoid policy. 44 L.R.A.(N.S.) 148.

Effect of temporary condition which ceased before loss, under general provision against increase of risk, or specific provision against certain conditions. 10 L.R.A.(N.S.) 736; 28 L.R.A.(N.S.) 593; 32 L.R.A.(N.S.) 240; 48 L.R.A. (N.S.) 1221.

#### 2. In life or accident policies.

# (a) In general.

90. Generally.

Waiver of, or estoppel as to, see infra, VII.

When may statements be regarded as representations, although expressly denominated in policy as warranties. 11 L.R.A.(N.S.) 981.

Begin with this book on every law question.

INSURANCE, V. h, 2, (a) -cont'd

Statements respecting family history. L.R.A.1917C, 866.

Misstatement as to income of insured. L.R.A.1917C, 344.

Conflict of laws as to effect of misrepresentation in application. 63 L.R.A. 864; 23 L.R.A. (N.S.) 981; 52 L.R.A. (N.S.)

Admissions or statements by insured outside of his application as evidence against beneficiary. 11 L.R.A.(N.S.) 92; 49 L.R.A.(N.S.) 853.

Admissibility of declarations of insured tending to show good faith regarding statements in application. L.R.A.1918F, 271.

Right of insured to return of premium where policy is void or voidable because of misrepresentations on his part. 32 L.R.A.(N.S.) 298.

Duty to notify insurer of facts which develop after submission of application, but before delivery of policy or certificate. 8 L.R.A.(N.S.) 983.

Date from which the period to which a defense is limited in life insurance policy is to be computed. L.R.A.1915F, 703; L.R.A.1917B, 105.

Effect of qualifying statements or warranties by words to "best of my knowledge and belief," or words of like import. 43 L.R.A.(N.S.) 431.

Effect of temporary violation of conditions or warranties in policy of life insurance, ceasing before loss. 50 L.R.A. (N.S.) 592.

Character of residence or sojourn in prohibited place which will avoid policy. L.R.A.1915F, 1056.

Effect of beneficiary's knowledge of the falsity of a representation innocently made by insured. 41 L.R.A. (N.S.) 1199.

§ 91. Condition as to delivery while insured is in good health.

Waiver as to, see infra, § 140.

Effect of stipulation in application or policy of life insurance that it shall not become binding unless delivered to assured while in good health. 17 L.R.A.(N.S.) 1144; 43 L.R.A.(N.S.) 725; L.R.A.1916F, 171.

Effect of incontestable clause where insured is in poor health when policy is delivered. 6 L.R.A.(N.S.) 1064.

Promissory note as satisfying requirement that initial premium must have been paid while assured was in good health. 5 B. R. C. 375.

§ 91a. Condition as to autopsy.

Accident insurance; validity, construction and effect of provision in policy as to autopsy or examination of body of assured. L.R.A.1915D, 1199. INSURANCE, V. h, 2, (a)—cont'd

§ 92. Attaching or referring to application.

What reference in policy to application will make it part of policy. 19 L.R.A. (N.S.) 88; 33 L.R.A. (N.S.) 676.

Conflict of laws as to necessity of attaching application or copy thereof to policy. 63 L.R.A. 867; 23 L.R.A. (N.S.) 982; 52 L.R.A. (N.S.) 285.

What must be attached in order to satisfy requirement that "application" be attached to policy. 18 L.R.A.(N.S.) 1190.

Failure to attach copy of application to policy as affecting right of insurer to rely on representations or warranties incorporated in the policy itself. 19 L.R.A.(N.S.) 102.

Retention of policy as waiver of mistake or fraud of insurer or its agent as to facts appearing in application only where copy is attached to policy. 67 L.R.A. 734.

# (b) Health, habits, and occupation.

#### \$ 93. Generally.

Condition as to delivery while insured is in good health, see supra, § 91.

Effect of qualifying statements or warranties by words to "best of my knowledge and belief," or words of like import. 48 L.R.A.(N.S.) 714.

Scope and effect of questions or provisions as to contact with transmissible disease. 48 L.R.A.(N.S.) 714.

Hernia as breach of condition or warranty as to health or bodily condition. L.R.A. 1917B, 747.

Who is engaged in the liquor business within the meaning of an insurance contract. 45 L.R.A.(N.S.) 1144.

What amounts to a breach of warranty as to business, profession, or occupation of the insured in a policy of life or accident insurance. L.R.A.1916F, 1030.

Waiver of provision as to change of occupation by continued receipt of dues. L.R.A.1916F, 755.

Time covered by provision or representa-

Time covered by provision or representation with respect to the habits or occupation of insured. 5 L.R.A.(N.S.) 283.

What constitutes "spitting or coughing blood." 23 L.R.A. (N.S.) 917.

Retention of policy as waiver of mistake or fraud of insurer or its agent as to provision as to physical condition of insured. 67 L.R.A. 734.

Retention of policy as waiver of mistake or fraud of insurer or its agent as to provision as to occupation of insured. 67 L.R.A. 736.

# § 94. Innocent misrepresentation as to health.

By insured who has undiscovered disease. 53 L.R.A. 193.

Consult also L.R.A. Digests of Cases.

INSURANCE, V. h, 2, (b)-cont'd

Effect of honest mistake in answer as to health of insured, warranted by him to be true. 15 L.R.A.(N.S.) 1277.

#### § 95. Temporary change of occupation.

Temporary pursuit of other activities as change of occupation within meaning of accident insurance policy. 24 L.R.A. (N.S.) 1174.

Effect of temporary violation of condition as to occupation in policy of life insurance ceasing before loss. 50 L.R.A. (N.S.) 592.

Accident insurance: provision for forfeiture or reduction of benefits in event of injury while engaged in more hazardous occupation, or variations of that provision, as applied to occasional or temporary acts. L.R.A. 1915D, 312.

# § 96. Consultation with, or attendance of, physician.

What constitutes a consultation with, or attendance by, a physician, within the meaning of an application for life insurance. 18 L.R.A.(N.S.) 362.

Time covered by question or representation as to consultation with physician. 45 L.R.A.(N.S.) 162.

# § 97. Morphinism.

Morphinism of insured as affecting policy. 39 L.R.A. 265.

#### § 98. Use of intoxicating liquors.

Scope and effect of provisions in policies of insurance forbidding use of intoxicating liquor. 15 L.R.A.(N.S.) 206; 25 L.R.A.(N.S.) 1241.

# (c) Previous rejection; other insurance.

# § 99. Generally.

Waiver of condition as to other insurance, see infra, § 136.

Effect of condition against other insurance in same company. 5 L.R.A.(N.S.) 759.

Previous rejection by benefit association as declination or refusal of insurance within meaning of application for life insurance. 4 L.R.A.(N.S.) 247.

Effect of other insurance which ceased before loss under general provisions against other insurance. 10 L.R.A. (N.S.) 740.

Failure to disclose accident policies in reply to question as to other life insurance as breach of warranty. 1 B. R. C. 305.

Character of insurance or company covered by question in application for life or accident insurance as to other insurance or as to previous rejection of application. 32 L.R.A. (N.S.) 461. INSURANCE, V. h, 2, (c)—cont'd

First and last days in computing time, as to other insurance. 49 L.R.A. 208.

Effect of insurance broker's knowledge as to other insurance. 38 L.R.A. (N.S.) 638.

Retention of policy and waiver of insured's mistake or fraud as to requirement as to. 67 L.R.A. 726, 735.

100. Void or inoperative insurance. Void or inoperative policies of insurance as breach of a condition against additional or other insurance on property. 1 B. R. C. 39.

§ 101. False representations as to previous applications for insurance. Rule where the statement is a mere representation. 55 L.R.A. 122.

Rule as to statements made material by agreement. 55 L.R.A. 124.

Rule as to warranties. 55 L.R.A. 125. Construction with reference to distinction

between representations and warran-ties. 55 L.R.A. 126.

Falsity which will work forfeiture. L.R.A. 128.

Waiver of forfeiture. 55 L.R.A. 134.

Statutes prohibiting forfeiture for immaterial misrepresentations. 55 L.R.A. 137.

Application to mutual aid and benefit societies. 55 L.R.A. 138.

Misrepresentation as to previous rejection as increasing risk. L.R.A.1917E, 558.

#### (d) Increase of risk generally,

🖇 102. Generally.

Misrepresentation as to previous rejection as increasing risk. L.R.A.1917E, 558.

#### (e) Incontestability.

§ 103. Generally.

Incontestability of life insurance under provisions of the policy or of a statute. 42 L.R.A. 247.

Where the defense is that the beneficiary has no interest in the life. 42 L.R.A. 256; 5 L.R.A. (N.S.) 747.

Validity of provision making policy incontestable from date. 2 L.R.A.(N.S.)

Applicability of incontestable clause to nonpayment of premiums. 6 L.R.A. (N.S.)

Retroactive effect of resolution of mutual insurance company changing period during which policy may be contested for suicide. 12 L.R.A.(N.S.) 504.

Effect of incontestable clause in policy containing provision that it shall not be binding unless delivered to assured while in good health. 17 L.R.A. (N.S.) 1145; 43 L.R.A. (N.S.) 726; L.R.A. 1916F, 173.

INSURANCE, V. h, 2, (e)—cont'd

Effect of incontestable clause on right to recover life or accident insurance where insured is executed for crime. L.R.A. 1918A, 899.

Date from which the period to which a defense is limited in life insurance policy is to be computed. L.R.A.1915F,

703; L.R.A.1917B, 105.

Death of insured as interrupting period after which policy is incontestable. L.R.A.1918D, 1198.

Applicability of incontestable clause to false statements made in application for reinstatement. 46 L.R.A. (N.S.) 1056.

Applicability of incontestable clause in case of suicide. L.R.A.1918D, 870.

Validity and application of incontestable clause in case of fraud L.R.A.1917E, 338.

#### i. Termination generally; suspension.

§ 104. Generally.

Cancelation or rescission, see supra, §§ 49-

Termination of liability of members of mutual fire insurance companies. 32 L.R.A. 492.

First and last days in computing time as to life of policy. 49 L.R.A. 208.

May breach of policy which ipeo facto terminates it be waived. 25 L.R.A. (N.S.) 78.

Effect of war to terminate insurance contracts with alien enemy. L.R.A.1917C, 675.

Retention of policy as waiver of mistake or fraud of insurer or its agent as to provision as to duration of insurance. 67 L.R.A. 712.

§ 105. Effect of expulsion from society.

Suits on the benefit certificate. 25 L.R.A. 149.

Damages. 25 L.R.A. 150.

Conclusiveness of decision of tribunal of mutual benefit society expelling or suspending a member. 52 L.R.A. (N.S.) 806.

# j. Forfeitu<del>re</del>.

§ 106. Generally.

Cancelation or rescission, see supra, §§ 49-**52.** 

Effect on assignee of assignor's acts of forfeiture, see infra, § 125.

Power of insured to destroy rights of beneficiary, see infra, § 126.

Waiver of, or estoppel as to, see infra, VII. By matters occurring after loss, see infra, VIII.

By matters relating to proofs of loss, see infra, VIII. a.

Forfeiture because of cause of loss or in-

jury, see infra, VIII. c, 1.
Forfeiture because of cause of death or injury, see infra, VIII. c, 2. For fraud, see FRAUD AND DECEIT, § 28.

INSURANCE, V. j—cont'd Forfeiture of benefit certificate by default Mode of proving mailing of of subordinate lodge. 50 L.R.A. 111.

Conflict of laws as to. 63 L.R.A. 862; 23 L.R.A. (N.S.) 978; 52 L.R.A. (N.S.)

Of original policy on obtaining paid-up policy. 15 L.R.A. 450.

Effect on insurance on buildings of forfeiture as to personal property. 19 L.R.A.

Power of insured to destroy rights of beneficiary by allowing lapse or forfeiture. •49 L.R.A. 741, 751.

Validity of provision in contract of rail-road relief department for forfeiture of benefits in case of suit against the company for damages. 10 L.R.A. (N.S.) 198.

§ 107. For nonpayment of premiums. Payment of premiums generally, see infra, §§ 112-115.

First and last days in computing time in case of nonpayment. 49 L.R.A. 208.

Necessity of affirmative action in order to terminate rights of member in mutual benefit society for nonpayment of dues. 17 L.R.A.(N.S.) 246.

Effect of failure to pay periodical premium on policy of life insurance to terminate the same, in the absence of a provision for forfeiture. 26 L.R.A.(N.S.) 747; L.R.A.1917B, 214.

Waiver by officers of subordinate lodge of forfeiture for nonpayment of assessments. 4 L.R.A.(N.S.) 421; 38 L.R.A. (N.S.) 571; L.R.A.1915E, 152.

Option of insurer to refuse renewal premiums on accident policy as bearing upon effect of receipt of premiums after due as a waiver. L.R.A.1918D, 1129.

Nonpayment of premiums as affected by incontestable clause. 6 L.R.A. (N.S.)

Effect of failure to pay assessment between day of accident and time of death. 26 L.R.A. 112.

Effect of incapacitating illness or insanity on failure to pay premium when due. 12 L.R.A.(N.S.) 319; 46 L.R.A.(N.S.) 537.

Effect of express stipulation suspending or avoiding policy in case of nonpayment of premium note at maturity. 5 B. R. C. 389.

Effect of nonpayment of premium note as reviving right to forfeit policy for non-payment of premium. 5 B. R. C. 387.

Does existence of indebtedness from insurer to insured in an amount sufficient to pay premium or assessment prevent forfeiture of policy for nonpayment of premium. 23 L.R.A. (N.S.) 304; L.R.A. 1918D, 1014.

§ 108. - notice of premiums.

Conflict of laws as to. 63 L.R.A. 862; 52 First and last days in computing time for notice. 49 L.R.A. 208.

Consult also L.R.A. Digests of Cases.

Mode of proving mailing of notice of maturity of premiums or assessments. 7 L.R.A.(N.S.) 238.

Necessity that notice of maturity of premiums or assessments sent through the mail be received. 7 L.R.A.(N.S.) 253.

Effect of custom to give insured notice of maturity of premium where insured is not otherwise entitled to notice. L.R.A.(N.S.) 1037.

#### k. Reinstatement,

109. Generally.

Reinstatement of defaulted policy by pay-

ment of premium after death. 14
L.R.A. 283.
First and last days in computing time
of payment for. 49 L.R.A. 208.
Judicial control of discretion as to reinstatement of insured. 40 L.R.A.(N.S.)

Applicability of incontestible clause to false statements made in application for reinstatement. 46 L.R.A. (N.S.) 1056.

Effect of reinstatement on date from which the period to which a defense is limit-ted in life insurance policy is to be computed. L.R.A.1935F, 705.

Provision for nonliability for certain time after reinstatement. L.R.A.1916E, 877.

Waiver of conditions of reinstatement of member of benefit society. L.R.A.1917C,

#### l. Premiums; assessments; rates.

#### 1. In general.

110. Generally.

Options upon default in payment, see supra, § 56.

Forfeiture for nonpayment, see supra, §§! 107, IO8.

Discrimination as to, see infra, § 119. Waiver of forfeiture by accepting or at-

tempting to collect premium, see infra, § 134.

Taxes on insurance premiums. 57 L.R.A. 69; L.R.A.1918D, 958.

Income tax on commissions on renewal premiums. L.R.A.1918A, 501.

Liability of carrier for extra insurance premium which shipper is compelled to pay L.R.A.1918A, because of deviation. 1066.

Duty to account for premiums paid for insurance on the life of a partner. L.R.A.1918B, 336.

Agreement made at inception of policy with respect to payment of premiums as discrimination or rebate. L.R.A.1918D, 194.

Liability of member of benefit society to action for assessment. 23 L.R.A. 435.

Liability of members of mutual fire insurance company to assessment. 32 L.R.A. 496.

Assignability of insurance agent's right to commissions on renewal premiums. 18 L.R.A.(N.S.) 193.

INSURANCE, V. 1, 1-cont'd

Retention of policy as waiver of mistake or fraud of insurer or its agent as to provision as to premiums. 38 L.R.A. (N.S.) 789.

Retention of policy as waiver of mistake or fraud of insurer or its agent as to liability to assessment. 67 L.R.A. 715.

#### § 111. Premium notes.

Failure of executory consideration for note as affecting purchaser of note with knowledge of the character of the consideration. 46 L.R.A.(N.S.) 871.

Promissory note as payment of insurance premium. 5 B. R. C. 365.

Liability of members of mutual fire insurance company on. 32 L.R.A. 483. Failure to pay interest on notes in case of paid-up policy. 15 L.R.A. 452.

Payment of outstanding notes in case of paid-up policy. 15 L.R.A. 452.

Suits on premium notes when foreign corporation has not complied with statute as to doing business in state. 20 L.R.A. 407.

When statute of limitations begins to run against unpaid balance on premium or "stock" notes of mutual insurance company. 1 L.R.A.(N.S.) 914.

Grace for payment of premium after maturity of premium note. L.R.A.1917C, 921.

#### 2. Payment of.

§ 112. Generally.

Forfeiture for nonpayment, see supra, §§ 107, 108. Payment by note, see supra, § 111.

Waiver of forfeiture by accepting, see infra, VII.

Effect of presumption of death from absence upon payment of premiums. L.R.A.1918B, 93.

Effect of recital in policy of receipt of first premium. L.R.A.1918A, 308.

Insurance agent as agent of assured as to payment. 20 L.R.A. 286.

Insurance broker as agent for insured as to payment. 38 L.R.A.(N.S.) 616.

Payment of outstanding premium notes as condition to obtaining paid-up policy. 15 L.R.A. 452.

Priority of claim for premiums against property in hands of receiver. 2 L.R.A. (N.S.) 1051.

Validity of assignment of interest in life insurance policy to one paying premium. 3 L.R.A. (N.S.) 935; 33 L.R.A. (N.S.) 949.

Payment of insurance premium by cancelation of agent's indebtedness. L.R.A.1915A, 686.

Check or draft as payment of insurance premium. L.R.A.1916A, 674.

Liability of mortgagee under mortgage clause for insurance premium. L.R.A. 1917F, 379.

INSURANCE, V. 1, 2-cont'd

When mortgagor is excused from noncompliance with his undertaking to pay insurance premiums. L.R.A.1917D, L.R.A.1917D, 555.

#### § 113. Time of.

First and last days in computing time of payment for reinstatement. 49 L.R.A.

Grace for payment of premium after maturity of premium note. L.R.A.1917C, 921; 5 B. R. C. 434.

Computation of days of grace allowed for payment of insurance premium or as-sessment, where date of payment or expiration of such period falls on Sunday or a holiday. 23 L.R.A.(N.S.) 759.

#### § 114. — after death of insured.

Payment of premium after death to keep insurance in force. 14 L.R.A. 283.

Validity of payment of premium or assessment during period of extension agreed upon, but after insured's death. 2 B. R. C. 191.

Recovery back of premiums or assessments paid after insured's death or disappearance. L.R.A.1918D, 1188.

# § 115. What may be applied on.

Application of accrued benefits upon dues or assessments accruing on a benefit certificate. 55 L.R.A. 605.

Effect of provision that deficiency in assessment may be paid from reserve or emergency fund. 10 L.R.A.(N.S.) 264.

Does existence of indebtedness from insurer to insured in an amount sufficient to pay premium or assessment prevent forfeiture of policy for nonpayment of premium. 23 L.R.A. (N.S.) 304; L.R.A. 1918D, 1014.

Allowance to applicant of agent's commission as payment of premium. 8 L.R.A. (N.S.) 884.

Commercial paper as payment of premium. 35 L.R.A. (N.S.) 84.

#### 3. Return of; recovery back.

#### § 116. Generally.

Action to recover premiums paid on life of adult insured without his consent. 56 L.R.A. 586; L.R.A.1918F, 574.

Right to return of premiums on adjudica-tion of insolvency of insurer. 19 L.R.A. (N.S.) 639.

Repayment of return premiums to members of mutual fire insurance companies. 32 L.R.A. 488.

Liability of members of mutual fire insurance company for return premiums. 32 L.R.A. 488.

Recovery back of premiums or assessments paid after insured's death or disappearance. L.R.A.1918D, 1188.

INSURANCE, V. 1, 3-cont'd

§ 117. Where policy is void or voidable.

proving void for fraud. 3 L.R.A.(N.S.) 114. Return of assessment on benefit certificate

Right of insured to return of premium where policy is void or voidable because of misrepresentations on his part. 32 L.R.A.(N.S.) 298.

Right of holder of policy to recover premiums paid upon the faith of the agent's false representation, notwithstanding part performance. 3 B. R. C. 852.

Right to recover premiums paid on policy which is invalid for want of insurable interest. 3 B. R. C. 839; L.R.A.1917A,

§ 118. On cancelation or rescission of policy.

Return as condition of cancelation, see supra, § 51.

Breach of agreement of insurer to make loan on policy as justifying rescission and recovery of premiums by insured. 30 L.R.A.(N.S.) 1202.

Right of insured to return of premium where insurer seeks rescission ground of misrepresentation by insured. 32 L.R.A. (N.S.) 299.

#### 4. Rates.

§ 119. Generally. Power of legislature to regulate life insurance rates. 37 L.R.A.(N.S.) 778.

Right of mutual benefit society to increase rates. 7 L.R.A.(N.S.) 1154; 31 L.R.A. (N.S.) 417; L.R.A.1916A, 762.

Effect of discrimination among insurants upon the contract of insurance and its incidents. 35 L.R.A.(N.S.) 485; 49 L.R.A. (N.S.) 147.

#### VI. Transfer of policy or interest therein.

# a. Assignment generally.

§ 120. Generally.

Conflict of laws as to. 63 L.R.A. 858; 23 L.R.A. (N.S.) 978; 52 L.R.A. (N.S.)

Transferees of policy or property as members of mutual fire insurance company. 32 L.R.A. 482.

Insanity as affecting condition as to suicide in case of assigned policies. 35 L.R.A.

Variance between assignment of policy and insurer's consent thereto. 42 L.R.A. (N.S.) 173.

Assignment of insurance on animal. 44 L.R.A.(N.S.) 575.

Right of recovery under facility of payment clause in industrial life policy in case of assignment of policy. L.R.A.1916F, 467.

Consult also L.R.A. Digests of Cases.

INSURANCE, VI. a—cont'd
Assignment of policy of life insurance as
affected by death of assignee before in-

sured. L.R.A.1916F, 785.

Assignment of policy of life insurance, in ignorance of the death of the insured, as subject to rescission as having been made under a mistake of fact. 5 B.

R. C. 797.
Right of assignee of policy of life insurance to exercise options. L.R.A.1918C, 570.

121. Assignability.

Effect of consent after loss to assignment of fire policy. L.R.A.1917F, 1042.

122. Validity of assignment.

Validity of assignment of interest in life insurance policy to one paying premiums. 3 L.R.A.(N.S.) 935; premiums. 3 L.R.A 33 L.R.A.(N.S.) 949.

Validity of assignment of life insurance policy to one having no insurable interest where the assignment is not made by way of cover for a wager policy. 6 L.R.A. (N.S.) 128.

Validity of assignment of insurance policies to persons to be named in will. 27 L.R.A. (N.S.) 184.

Voidability of assignment of policy within four months of bankruptcy pursuant to executory agreement antedating such period. 17 L.R.A. (N.S.) 939.

Right of one to whom policy of life or benefit insurance was assigned by insured to proceeds where provisions as to change of beneficiary were not complied with. L.R.A.1916A, 877.

Assignment as collateral security for a debt as within provision against assignment of policy. L.R.A.1918D, 1160.

§ 123. In case of bankruptcy or insolvency.

Assigned life insurance policy as assets of bankrupt. 26 L.R.A.(N.S.) 460.

Life insurance as assets of assignee on his bankruptcy or insolvency. 50 L.R.A.

Policy assigned to other than creditors as assets of insured on bankruptcy or insolvency. 50 L.R.A. 43.

124. To creditor.

Policy assigned to creditor as assets of insured on bankruptcy or insolvency. 50 L.R.A. 37.

Assignment as collateral security to one paying premiums. 3 L.R.A. 951.

### § 125. Effect on assignee of assignor's acts of forfeiture.

Prior acts. 18 L.R.A. 136.

Subsequent acts. 18 L.R.A. 137.
Assignment after loss. 18 L.R.A. 138.

Effect of breach of policy by grantor on rights of mortgagee to whom policy has been assigned. 18 L.R.A.(N.S.) 197.

INSURANCE, VI. a-cont'd

§ 126. Power of insured to destroy rights of beneficiary.

In cases of regular life policies. 49 L.R.A. 737.

In cases of benefit societies. 49 L.R.A. 749.

### b. Change of beneficiary.

§ 127. Generally.

Surrender of policy without beneficiary's consent, see supra, § 54.

Power of insured to destroy rights of beneficiary, see supra, § 126.

Conflict of laws as to. 63 L.R.A. 862.

Statute permitting change of beneficiary as affecting rights of beneficiary under policy previously issued. 8 L.R.A. policy previously issued. (N.S.) 923.

Effect of death of assured before contem-plated change of beneficiary is complete. 34 1915A, 580. 34 L.R.A.(N.S.) 277; L.R.A.

Beneficiary's consent to designation of new beneficiary as affecting his right to question validity thereof. L.R.A.1915A, 872.

Marriage of insured as affecting previous designation of beneficiary. 49 L.R.A.

(N.S.) 141. Rights and remedies of prior beneficiary where insured was mentally incompetent when he made a change of beneficiaries, or a change was accomplished by fraud or undue influence. L.R.A.

128. Right to change.

1916C, 1132.

By will. 4 L.R.A.(N.S.) 939; 42 L.R.A. (N.S.) 1161.

As affected by consideration from beneficiary originally named. 12 L.R.A. (N.S.) 1206; 33 L.R.A. (N.S.) 773; L.R.A. 1918E, 1033.

Constitutionality of statute forbidding change. 49 L.R.A. (N.S.) 487.

Necessity of insurer's consent to change of beneficiary. L.R.A.1915A, 109.

129. Mode of change.

Changing designation in benefit certificate otherwise than in prescribed method. 15 L.R.A. 350.

Right of one to whom policy of life or benefit insurance was assigned by insured to proceeds where provision as to change of beneficiaries was not complied with. L.R.A.1916A, 877.

Right of original beneficiary in ordinary life policy to insist upon compliance with provisions governing change of beneficiary. L.R.A.1918F, 311.

# VII. Estoppel; waiver.

# a. Of insured.

130. Generally.

Waiver of return of unearned premium as a condition of cancelation of insurance. 13 L.R.A. (N.S.) 889; L.R.A.1916F, 446.

Effect of delay in seeking relief from mistake in insurance contract. 28 L.R.A. (N.S.) 890.

INSURANCE, VII. a-cont'd

§ 131. Retention of policy as waiver of mistake or fraud of insurer or its

Generally. 67 L.R.A. 705.

Time of misrepresentation. 67 L.R.A. 706. Mistake or fraud as to terms of policy. 67 L.R.A. 708; 38 L.R.A. (N.S.) 787.

Mistake or fraud as to facts disclosed by the insured. 67 L.R.A. 721.

Mistake or fraud as to matters outside of the policy and application. 67 L.R.A. 738.

Effect of retention by other than insured. 67 L.R.A. 739.

Effect of insured's illiteracy.

Retention with knowledge of defect. L.R.A. 741.

Distinction between action at law and suit in equity. 67 L.R.A. 744.

# b. Of insurer.

#### 1. In general.

132. Generally.

In case of paid-up and non-forfeiting policies of life insurance. 15 L.R.A. 454. Waiver of conditions of reinstatement of

member of benefit society. L.R.A.1917C, 260.

Waiver of forfeiture for nonpayment of

premium note or estoppel to assert it. 5 B. R. C. 410. Refusal to deliver policy as agreed, or repudiation of contract, as waiving right

to insist upon compliance with terms and conditions of usual written policy. 48 L.R.A. (N.S.) 324. Waiver of provision in employers' liability

or other indemnity policies requiring immediate notice of accident, claim, or suit. 3 B. R. C. 723.

Waiver of conditions in policy on animals. 44 L.R.A.(N.S.) 578.

Waiver of provision that the working of mechanics shall avoid the policy. 44 L.R.A.(N.S.) 151.

To deny liability on policy against burglary or theft. 46 L.R.A. (N.S.) 573; L.R.A. 1918B, 574.

Vacancy permit as a waiver of previous vacancy. 47 L.R.A.(N.S.) 619.

Effect of knowledge of agent that prohibited articles were kept on insured premises. L.R.A.1917C, 294.

Furnishing blanks for proofs of loss or claim as a waiver of breaches of con-

dition or forfeiture. L.R.A.1917A, 1065. Waiver of condition as to location of property. 26 L.R.A. 242.

May a breach of an insurance policy which ipso facto terminates it be waived. 25 L.R.A.(N.S.) 78.

Estoppel of mutual benefit society by misrepresentations as to laws of the order. 14 L.R.A. (N.S.) 540.

Waiver by subordinate lodge of right of benefit assocation to insist upon for-feiture of benefit because of violation of laws of association. 10 L.R.A. (N.S.)

INSURANCE, VII. b, 1-cont'd

Waiver of return of unearned premium as a condition of cancelation of insurance. 13 L.R.A.(N.S.) 889.

Of change of beneficiary in otherwise than by prescribed method. 15 L.R.A. 350.

§ 133. By failure to speak or act after notice of breach.

Does failure of the insurer to speak or act after notice of breach of policy constitute a waiver thereof. 25 L.R.A.(N.S.) 1; 51 L.R.A.(N.S.) 261.

§ 134. By acceptance or attempt to collect premium.

Acceptance of premiums as waiver of provision of policy as to form of receipt therefor. 18 L.R.A.(N.S.) 1219.

Unsuccessful attempt to collect premium as waiver of forfeiture. 18 L.R.A.(N.S.) 902; 44 L.R.A.(N.S.) 371.

Waiver of provision as to change of occupation by continued receipt of dues. 27 L.R.A. (N.S.) 446; L.R.A. 1916F, 755.

Effect of acceptance or retention of premium on stipulation that policy shall not become binding unless delivered to assured while in good health. 43 L.R.A. (N.S.) 728; L.R.A.1916F, 176.

Option of insurer to refuse renewal premiums on accident policy as bearing upon effect of receipt of premiums after due as a waiver. L.R.A.1918D, 1129.

- § 135. As to books, papers, and vouch-
- Of condition as to keeping books and vouchers. 51 L.R.A. 702.

Of condition as to production of books and papers. 51 L.R.A. 708.

Of condition as to keeping books and vouchers in safe, or safe place. 51 L.R.A. 713; L.R.A.1915F, 759.

§ 136. As to other insurance.

Waiver of false representations as to previous applications for insurance by receipt of defective answer. 55 L.R.A. 130.

Waiver of forfeiture because of false representations as to previous applications. 55 L.R.A. 134.

Notice from taking previous application as waiver of false representation with respect to previous applications for life or mutual benefit insurance. L.R.A. 1916A, 982.

Pro rata clause as waiver of provision against additional insurance. L.R.A. 1918C, 343.

§ 137. As to arbitration.

Waiver of condition as to arbitration. 15
L.R.A.(N.S.) 1072.

8 138. As to proof of loss.
Waiver of notice and statement of loss. 8
L.R.A. 76\*.

INSURANCE, VII. b, 1—cont'd

§ 139. Conditions at inception of policy.

Effect of nonwaiver agreement on conditions existing at inception of insurance policy. 13 L.R.A.(N.S.) 826.

Waiver of irregularities attending admis-

Waiver of irregularities attending admission to membership in order as affecting action on benefit certificate. 49 L.R.A.(N.S.) 902.

Effect of notice to agent of presence of prohibited articles on premises. 3 B. R. C. 43; L.R.A.1917C, 294.

§ 140. —against policy becoming binding unless delivered to assured while in good health.

Waiver of stipulation in policy that it shall not become binding unless delivered to assured while in good health. 17 L.R.A.(N.S.) 1149; 43 L.R.A. (N.S.) 727; L.R.A.1916F, 171.

#### 2. By agent or officer.

§ 141. Generally.

When insurance agent is agent of assured as to waiver of conditions in policy. 20 L.R.A. 285.

Waiver by officer of subordinate lodge of forfeiture for nonpayment of assessments. 4 L.R.A.(N.S.) 421; 38 L.R.A.(N.S.) 571; L.R.A.1915E, 152.

Power of agent to waive provision in fire policy requiring the keeping of books and vouchers in a safe or safe place. L.R.A.1915F, 760.

§ 142. Forfeitures occurring after issuance of policy and before loss.

Power of agents to bind insurer by oral waiver or estoppel in pais as to forfeitures occurring after issuance of policy and before loss, under policies of insurance requiring consent or waiver to be in writing. 10 L.R.A.(N.S.) 1064.

§ 143. Knowledge, fraud, or mistake of agent.

Effect of knowledge of agent acting in two capacities. 3 L.R.A.(N.S.) 444.

Effect of insurance broker's knowledge of misstatements in application. 38 L.R.A. (N.S.) 634.

Effect of knowledge by insurer's agent of falsity of statements in application. 16 L.R.A. 33.

Effect of agent's insertion in the application of false answers to questions correctly answered by the insured. 4 L.R.A.(N.S.) 607; L.R.A.1915A, 273.

Bad faith of assured as affecting estoppel of insurer to set up falsity of answers in application, because of agent's knowledge of such falsity. 14 L.R.A. (N.S.) 280.

Provisions of insurance policy in respect to vacancy, as affected by agent's representations or knowledge. 4 L.R.A. (N.S.) 758.

Consult also L.R.A. Digests of Cases. 47

INSURANCE, VII. b, 2—cont'd Effect of insurance agent's mistake in designation nating location of property. 2 L.R.A. (N.S.) 548.

Parol evidence rule as affected by waiver or estoppel in case of fraud or mistake of agent preparing application. 16 L.R.A. (N.S.) 1233.

#### 8. Parol-evidence rule.

§ 144. Generally.

The parol-evidence rule as to varying or contradicting written contracts, as affected by the doctrine of waiver or estoppel as applied to policies 16 L.R.A.(N.S.) insurance. 1165.

#### VIII. The loss and its adjustment; remedies.

#### a. Notice and proofs of loss or death.

145. Generally.

Waiver or estoppel as to, see supra, § 138. Under employer's indemnity policy, see infra, § 216.

Conflict of laws as to. 63 L.R.A. 862; 23 L.R.A.(N.S.) 978.

Proof of loss in case of Lloyd's policies. 55 L.R.A. 200.

Admissibility of statements of attending physician as to physical condition of insured. 38 L.R.A. (N.S.) 344.

Admissibility of coroner's finding to show cause of death. 68 L.R.A. 288; 45 L.R.A.(N.S.) 404; L.R.A.1918E, 924.

Fraud or false swearing by agent of insured in making proofs of loss. 52 L.R.A.(N.S.) 1074.

Effect of fraud by agent ex necessitate in making proofs of loss under fire insurance policy. 9 L.R.A.(N.S.) 485.

Furnishing proofs of loss not under oath as substantial compliance with policy requiring proofs under oath. 28 L.R.A. (N.S.) 651.

Waiver of condition as to arbitration by accepting proof of loss. 15 L.R.A.(N.S.)

Furnishing blanks for proofs of loss or claim as a waiver of breaches of condition or forfeiture. L.R.A.1917A, 1065.

When is insured charged with knowledge of accident, so as to require him to give notice thereof, as provided by a policy indemnifying against liability for personal injuries to others. 16 L.R.A. Miscellaneous cases. 32 L.R.A.(N.S.) 461. (N.S.) 400.

Insanity or sickness of insured as excuse for failure to give notice or furnish proofs of loss as required by policy of fire insurance. L.R.A.1917A, 305.

Proofs of loss as waiver of privilege as to communications between physician and patient. 48 L.R.A.(N.S.) 401.

Notice of sickness or death of insured animal. 44 L.R.A.(N.S.) 572.

INSURANCE, VIII. a—cont'd Notice and proofs of loss in case of insurance against burglary and theft. 46 L.R.A. (N.S.) 571; L.R.A.1918B, 573.

\$ 146. Time for; delay.

Waiver by delay, see supra, § 138.

Forfeiture by failure to furnish proofs of loss within a stipulated time. 18 L.R.A. 85.

Effect of failure to give notice or make proof of loss within time required in policy in the absence of forfeiture clause. L.R.A.1915F, 1210.

When delay in giving notice or making proof of death under policy of life insurance is excusable. 41 L.R.A. (N.S.) 285.

When strict compliance with requirement as to time of notice in accident or health policy is excused. 18 L.R.A.(N.S.) 109; 27 L.R.A.(N.S.) 319.

Validity of provision of accident or health policy requiring notice of accident or sickness within specified time. L.R.A.(N.S.) 106.

Nondevelopment of injury as affecting time for giving the notice required by an insurance policy. 14 L.R.A. accident (N.S.) 503.

Delay in giving notice of claim under employers' indemnity policy. 38 L.R.A. (N.S.) 62; 47 L.R.A. (N.S.) 1214.

Effect of presumption of death from absence upon time for filing proofs. 26 L.R.A. (N.S.) 294; L.R.A.1915B, 756; L.R.A. 1918B, 93.

§ 147. Effect on mortgagee of mortgagor's failure to give.

Effect of failure of mortgagor to give notice or proof of loss upon right of mortgagee to recover under the policy. 14 L.R.A. (N.S.) 459.

§ 148. Effect of false swearing in. In general. 32 L.R.A.(N.S.) 453.

Overvaluation of property destroyed. L.R.A. (N.S.) 456.

Title of assured to property destroyed. 32 L.R.A.(N.S.) 457.

Including property not destroyed. 32 L.R.A. (N.S.) 457.

Miscellaneous. 32 L.R.A.(N.S.) 458. Materiality of false statements. 32 L.R.A. (N.S.) 458.

Fraudulent intent. 32 L.R.A.(N.S.) 459. Injury to insurer. 32 L.R.A.(N.S.) 459.

False swearing as to part only of subject of insurance. 32 L.R.A.(N.S.) 460.

§ 149. Conclusiveness of, as against insured or beneficiary.

General rule. 44 L.R.A. 846.

In life insurance. 44 L.R.A. 850. In fire insurance. 44 L.R.A. 856.

§ 150. Duty of insured to submit to examination and furnish information.

Generally. 52 L.R.A. 424.

INSURANCE, VIII. a-cont'd

Validity of the requirement for an examination, and effect of refusal. 52 L.R.A. 425.

Sufficiency of the demand. 52 L.R.A. 425. Place of examination. 52 L.R.A. 426.

Manner of examination; right to have attor-

ney present. 52 L.R.A. 426.
Excuses for failure to submit to examination or to answer questions. 52 L.R.A. 426.

What questions must be answered. 52 L.R.A. 427.

Number of examinations. 52 L.R.A. 427.

# b. Submission to arbitration; adjustment of loss; appraisal.

# 151. Generally.

Waiver of provision as to, see supra, § 137.

Arbitration of claim under policy animals. 44 L.R.A.(N.S.) 579. Effect of failure of arbitration. 4 L.R.A.

(N.S.) 288. Effect of award under terms of policy upon

mortgagee not a party thereto. L.R.A.(N.S.) 740.

Liability of reinsurer in case of adjustment of loss by reinsured. 8 L.R.A.(N.S.) 855.

Valuation and adjustment of claims against insolvent company. 38 L.R.A. 100.

Time within which demand for arbitration, appraisal, inspection, or reinspection must be made. L.R.A.1917A, 1086.

Settlement under accident policy under mistake as to the extent of the injury. L.R.A.1918E, 931.

§ 152. As condition precedent to action on policy.

general. 15 L.R.A.(N.S.) 1055; L.R.A. (N.S.) 104.

Validity of provision. 15 L.R.A.(N.S.) 1055.

Occasion of appraisal or arbitration. L.R.A. (N.S.) 1059.

Requiring compliance with condition. L.R.A.(N.S.) 1067.

Effect of failure of arbitration due to act of insured. 15 L.R.A.(N.S.) 1071. Waiver of condition. 15 L.R.A.(N.S.) 1072.

### § 152a. Right to introduce evidence before appraisers.

Rule where property totally destroyed. 47 L.R.A. (N.S.) 1193.

Where property not totally destroyed. 47 L.R.A. (N.S.) 1194.

Where appraisers are chosen because of pe-47 L.R.A.(N.S.) culiar knowledge. 1196.

Rule as to umpire chosen by appraisers. 47 L.R.A.(N.S.) 1197.

Miscellaneous. 47 L.R.A.(N.S.) 1197.

§ 152b. Qualifications of appraisers. Qualifications of appraisers appointed pursurance policy. 52 L.R.A. (N.S.) 497. Consult also L.R.A. Digests of Cases.

INSURANCE, VIII.—cont'd

c. Risks and causes of loss, injury, or death.

# 1. Under policies covering property.

158. Generally.

Electric between causes of loss in case of property insurance. L.R.A.1918F, 997.

Cause of death of insured animals. 44 L.R.A.(N.S.) 570, 571.

Conclusiveness of statements as to, in proofs of loss. 44 L.R.A. 856.

For what losses or obligations are members. of mutual fire insurance company liable. 32 L.R.A. 483.

Custom to pay certain class of losses as affecting liability of insurer for such a loss not covered by the policy. 19 L.R.A.(N.S.) 421,

Retention of policy as waiver of mistake or fraud of insurer or agent as to provisions as to risks insured against. 67 L.R.A. 711.

Loss by lightning. 26 L.R.A. 267.

Loss caused by excessive heat, smoke, or soot

from heating apparatus without actual ignition. 25 L.R.A. (N.S.) 501.

Meaning of "cyclone," "tornado," or other kind of wind storm, in an insurance policy. 8 L.R.A. (N.S.) 308; L.R.A. 1915B, 1094.

Liability of insurer for fire caused by earthquake. 21 L.R.A.(N.S.) 103.

Loss by theft during fire. 35 L.R.A. (N.S.)

Liability of insurer for property destroyed by mob or during riot. 20 L.R.A. (N.S.)

Scope and effect of provision exempting insurer from loss caused by military or usurped power or order of civil authority, etc. 36 L.R.A. (N.S.) 1155.

Scope and effect of clause in fire insurance policy exempting insurer from liability for loss by fire from or occasioned by locomotive engines. 51 L.R.A. (N.S.) 518.

# § 154. Fall of building.

Fall of building clause in fire insurance policies. 32 L.R.A.(N.S.) 604; L.R.A. 1917F, 1064.

#### § 155. Destruction by insured.

Liability of insurance company in case of intentional destruction of property by insured. 17 L.R.A. (N.S.) 189,

# § 156. Explosion.

Generally. 19 L.R.A. 594; 38 L.R.A.(N.S.) 474.

Express provisions against losses from explosions. 19 L.R.A. 595.

Insurance against explosions. 19 L.R.A. 598.

Marine policies. 19 L.R.A. 598.

Similar cases. 19 L.R.A. 598.

Fire insurance. 38 L.R.A.(N.S.) 475. Explosion clause in fire insurance policy. 32 L.R.A. (N.S.) 607.

suant to statute or provision of fire in- Effect of escape and explosion of gas upon liability of insurer. 20 L.R.A. 359.

INSURANCE, VIII. c, 1-cont'd § 157. Marine insurance.

Risk insured against by policy on profits from marine adventures. L.R.A.1917C, 732.

Liability of insurer for loss caused by explosion. 19 L.R.A. 594; 38 L.R.A. (N.S.) 474.

Right to recover under "sue and labor" clause in policy of marine insurance, for moving cargo overland. 14 L.R.A. (N.S.) 1161.

Liability of insurer under policy of marine insurance for losses arising out of

 state of war. 5 B. R. C. 4.
 Effect of navigating in forbidden waters in case of loss within waters covered by policy. 10 L.R.A.(N.S.) 742.

Retention of policy as waiver of mistake or fraud of insurer or its agent as to voyage covered by marine policy. 67 L.R.A. 723.

§ 158. — effect of voluntary exposure to peril.

In case of life or accident policy, see infra, § 164.

Omission to employ pilot. 1 L.R.A.(N.S.)

Voluntary standing. 1 L.R.A. (N.S.) 1097. Running into danger of capture. 1 L.R.A. (N.S.) 1097.

When peril incurred is prohibited by statute. 1 L.R.A. (N.S.) 1098.

When peril is incurred in obeying govern-mental command. 1 L.R.A. (N.S.) 1098.

When peril incurred was not proximate cause. 1 L.R.A. (N.S.) 1098. Barratrous conduct. 1 L.R.A. (N.S.) 1098.

Miscellaneous cases. 1 L.R.A.(N.S.) 1098. 2. Under life, accident, or health

# policies.

# (a) In general.

§ 159. Generally.

By employer's indemnity policy, see infra, § 214.

Validity and construction of provision requiring the fact or circumstances of loss to be established by evewitness.

51 L.R.A. (N.S.) 221; L.R.A.1918F, 420. Interchangeableness of "or" and "and" in provision in insurance policy relating to cause or circumstances of death. L.R.A.1915E, 695.

Liability under accident policy for condition caused by external infection without cut or abrasion. 42 L.R.A.(N.S.) 140.

Liability for death by drowning. 42 L.R.A. (N.S.) 631.

Previous diseased condition as affecting liability for death or injury from acci-34 L.R.A.(N.S.) 445. dent.

Applicability of provisions in accident policy, exempting insurer or limiting its liability for disability arising from a specified condition, when such condition is itself the result of an accident occurring after the issuance of the policy. 8 L.R.A.(N.S.) 1014; L.R.A.1916B, 621.

INSURANVE, VIII. c, 2, (a)—cont'd Liability under accident policy excepting or limiting liability for loss resulting from disease where diseased condition results from accident. 6 B. R. C. 530.

War casualties as within accident insurance. L.R.A.1918C, 130.

Duty of insured to negative death or accident from excepted cause. 4 L.R.A. (N.S.) 636; 50 L.R.A.(N.S.) 1006.

Admissibility of finding of coroner to show cause of death. 68 L.R.A. 288; 45 cause of death. 68 L.R.A. 288; 45 L.R.A.(N.S.) 405; L.R.A.1918E, 924.

Conclusiveness of proofs of loss as to. 44 L.R.A. 853.

Nature and circumstances of injury as affecting right to share in insurance fund for policeman and firemen. 20 L.R.A. (N.S.) 1176.

Retention of policy as waiver of mistake or fraud of insurer or agent as to provision as to risks insured against. 67 **L.R.A.** 711.

Losses covered by policy providing for payment of sick benefit. L.R.A.1918B, 642.

160. Blood poisoning.

Liability on accident policy for sickness or death caused by. 5 L.R.A. (N.S.) 926; L.R.A.1917A, 1056.

Recovery for, under policy providing for payment of sick benefits. L.R.A.1918B, 645.

161. Sunstroke.

Risks covered by insurance against sunstroke. 6 L.R.A.(N.S.) 609; L.R.A. 1916E, 957.

🖇 161a. Asphyxiation.

Liability of company for death of insured from. 30 L.R.A. 212; 2 L.R.A.(N.S.) 168; L.R.A.1917D, 740.

§ 162. Wrong medical treatment or surgical operation.

Liability under accident policy for death or injury resulting from surgical opera-tion or medical treatment. 26 L.R.A. (N.S.) 1004; L.R.A.1915E, 955.

§ 163. Injury from exertion or strain. Right to compensation on accident policy for injury resulting from exertion or strain. 2 B. R. C. 367.

§ 164. Voluntary exposure to unnecessary danger. In case of marine insurance, see supra,

§ 158.

Exposure to obvious risk of injury or obvious danger within the meaning of accident policy. 50 L.R.A. (N.S.) 1218.

Construction compared with negligence. 40 L.R.A. 432: 22 L.R.A.(N.S.) 779; 27 L.R.A.(N.S.) 1164; 40 L.R.A.(N.S) 135.

Consciousness of danger. 40 L.R.A. 434. Risks incident to duty or necessity. L.R.A. 437.

Unexpected results. 40 L.R.A. 441.

40

INSURANCE, VIII. c, 2 (a) -cont'd What constitutes, particular cases. L.R.A. 442.

Act of coupling cars by one employed by a railroad in some capacity other than that of brakeman as "voluntary expos-ure to unnecessary danger" within meaning of accident insurance policy.

5 B. R. C. 884. Death by drowning as. 42 L.R.A.(N.S.)

634.

Boarding or alighting from moving train as defense under general provision as to exposure to danger. 10 L.R.A.(N.S.)

Proof of, as a defense. 40 L.R.A. 448.

§ 164a. Injury intentionally inflicted by another person.

Accident insurance; provision exempting insurer or limiting its liability in case of an injury intentionally inflicted by another. 48 L.R.A. (N.S.) 524.

#### § 165. External, violent, and accidental means.

External, visible, or violent character of means. 2 B. R. C. 377.

May death or injury from substance taken internally be deemed to have been caused by external means. 30 L.R.A. (N.S.) 1181.

Injury or disability from strain as within provision as to external, violent, and accidental means. 42 LR.A. (N.S.) 562.

Death from suicide as one caused by external, violent, and accidental means. L.R.A.(N.S.) 223.

Does general requirement as to external, violent, and accidental means apply to a separate provision as to liability in case of death or injury from certain specified causes. 27 L.R.A.(N.S.) 480.

When death or injury may be deemed to have been caused by accidental means, though the voluntary act of insured was the primary cause thereof. 5 L.R.A. (N.S.) 657.

What constitutes external and visible signs of injury within exemption provision of accident policy. 49 L.R.A.(N.S.) 1022.

§ 166. What constitutes an accident within accident policy.

30 L.R.A. 206. Definitions; general rules. 30 L.R.A. 207; 48 Intentional injuries. L.R.A. (N.S.) 524.

When death or injury may be deemed to have been caused by accidental means, though the voluntary act of the insured was the primary cause thereof. L.R.A.1915E, 127; L.R.A.1916B, 1021.

Injury to insured by act of his own while asleep, as an accident. 1 L.R.A. (N.S.)

Accident and disease. 30 L.R.A. 209. Drowning as an accident. 30 L.R.A. 211. Consult also L.R.A. Digests of Cases. INSURANCE, VIII. c, 2 (a) -cont'd

Rupture of blood vessel as an accident withaccident insurance policy. L.R.A. (N.S.) 1206.

Death from taking poisonous substance as accident, or accidental means. L.R.A. 1916A, 481.

Liability under accident policy for injury resulting in felon or abscess. 47 L.R.A. (N.S.) 924.

Previous diseased condition as affecting liability for death or injury from acci-52 L.R.A. (N.S.) 1203; 6 B. R. dent. C. 530.

Words "sane or insane" or other words relating to mental condition in suicide clause in policy as referring to pure accident. 17 L.R.A.(N.S.) 261.

#### § 167. Accident on trains or while traveling.

Applicability of provision in accident insurance policy exempting insurer in case of accident on railroad trains. 22 L.R.A.(N.S.) 1255.

Scope of provision exempting insurer, or limiting its liability, when insured is injured on "roadbed" of railroad company. 8 L.R.A.(N.S.) 970.

Boarding or alighting from moving train as defense under general provisions as to exposure to danger. 10 L.R.A. (N.S.)

Scope and construction of provision for indemnity in case of injury while riding in or on a public conveyance. 37 L.R.A. (N.S.) 618; L.R.A. 1915C, 456.

#### § 168. Violation of law or rules of insurer

Necessity that assured's death be reasonable and legitimate consequence of violation of law, in order to relieve in- . surei. 13 L.R.A.(N.S.) 258.

Effect of the execution of insured for crime, on right to recover life or accident insurance. 14 L.R.A.(N.S.) 356; L.R.A. 1918A, 898.

Conflict of laws as to effect of execution of insured for crime or conviction of felony on right to recover life or accident insurance. 52 L.R.A. (N.S.) 284.

Provision against liability in event of death or injury in consequence of violation of law, as applied to death or injury resulting from a personal encounter. L.R.A.1917C, 199.

#### § 169. Effect of contributory negligence.

Effect of condition in accident policy that insured shall use due diligence for his personal safety and protection. 3 L.R.A. 443.\*

Burden of proving breach of condition. 13 L.R.A. 263.\*

Contributory negligence as defense to suit on accident policy. 13 L.R.A. 266.\*

INSURANCE, VIII. c, 2-cont'd

#### (b) Suicide.

§ 170. Generally.

Statute prohibiting defense of. 42 L.R.A. 260.

Power of legislature to forbid defense of suicide in life insurance. 31 L.R.A. 831.

Conflict of laws as to, '63 L.R.A. 867; 23 L.R.A. (N.S.) 981; 52 L.R.A. (N.S.)

. Suicide while sane as a defense to an action on a policy or certificate containing no provision as to effect of suicide. L.R.A. (N.S.) 1124.

Death from suicide as one caused through external, violent, and accidental means. 7 L.R.A.(N.S.) 223.

Necessity that suicide be reasonable and legitimate consequence of violation of law in order to relieve insurer. 13 L.R.A.(N.S.) 261.

Retroactive effect of resolution of mutual insurance company changing period during which policy may be contested for suicide. 12 L.R.A.(N.S.) 504.

Applicability of incontestable clause in case of suicide of insured. 42 L.R.A. 253, 260; L.R.A.1918D, 870.

Conclusiveness of proof of death as to suicide. 44 L.R.A. 853.

Duty of insured to negative. 4 L.R.A. (N.S.) 636; 50 L.R.A. (N.S.) 1008.

Burden of proof as to, in action on life insurance policy. 4 L.R.A.(N.S.) 636.

Evidence of declarations of intent to commit suicide. L.R.A.1916B, 822.

Date from which the period to which de-fense of suicide is limited is to be computed. L.R.A.1915F, 703; L.R.A. 1917B, 105.

Subsequent by-law excluding or reducing liability in case of suicide. 46 L.R.A. (N.S.) 308; L.R.A.1915D, 1095. .

### § 171. Insanity as affecting condition as to suicide.

General rule as to effect on policy. 35 L.R.A.

Degree of insanity which will excuse. 35 L.R.A. 250.

Suicide, sane, or insane. 17 L.R.A. 89; 35 L.R.A. 262; 17 L.R.A.(N.S.) 260.

The pleadings. 35 L.R.A. 263.

Determination as to the existence of insanity. 35 L.R.A. 263.

Presumptions and burden of proof. 35 L.R.A. 263.

Proof as to insanity. 35 L.R.A. 264. Assigned policies. 35 L.R.A. 266.

Liability under accident policy for death during delirium. 46 L.R.A.(N.S.) 543.

Construction and effect of provision against liability for injury to or death of in-sured while or when insane. L.R.A. 1915E, 657.

INSURANCE, VIII.—cont'd

d. Extent of injury, loss, or recovery; release,

#### Insurance on property.

§ 172. Generally.

Right to introduce evidence before appraisers as to, see supra, § 152a.

How far aggregate of several policies is binding as to value of insured property. 26 L.R.A. 107.

Liability of insurer for value of party wall. 20 L.R.A. (N.S.) 226.

Right to deduct indebtedness of insured extrinsic to insurance contract. L.R.A.(N.S.) 556.

Law governing as to extent of recovery on policy. 63 L.R.A.(N.S.) 868. Conflict of laws as to valued policy. 63

L.R.A. 866.

Conclusiveness of statement in proofs of loss as to amount of loss. 44 L.R.A. 856.

Admissibility of books of account to prove amount and value of insured goods. 52 L.R.A. 721.

Considerations of time and place in determining value of personal property. L.R.A.1915E, 489.

Insurance against fire loss as covering loss of profits. L.R.A.1917C, 726.

Extent of recovery on policy insuring against loss of profits. L.R.A.1917C,

Amount of loss and recovery on policy against burglary or theft. 46 L.R.A. (N.S.) 572; L.R.A.1918B, 573.

Amount of recovery on policy on animals. 44 L.R.A.(N.Š.) 576.

Successive losses under same fire policy. 45 L.R.A.(N.S.) 847.

#### § 173. Constructive total loss of insured building.

general. 56 L.R.A. 784; 39 L.R.A. (N.S.) 1182; L.R.A.1915E, 618.

The insurance is upon the building, not the materials. 56 L.R.A. 785.

The rule of loss of identity and specific character. 56 L.R.A. 785.

The rule of substantial part remaining which is reasonably adapted for use in

restoring the building. 56 L.R.A. 788. Total loss although foundations are uninjured. 56 L.R.A. 791.

Effect of local ordinances or regulations preventing repair. 56 L.R.A. 791. Evidence. 56 L.R.A. 792.

Questions of law and fact. 56 L.R.A. 792.

# § 174. Insurer's option to rebuild. Construction and effect of option.

L.R.A. 853. Election final. 26 L.R.A. 855.

Waiver. 26 L.R.A. 855. Time. 26 L.R.A. 856, 857.

Insurer not liable for rent. 26 L.R.A. 856.

INSURANCE, VIII. d, 1-cont'd Right to control election. 26 L.R.A. 856. Estoppel. 26 L.R.A. 857.

Exercise of option a matter of defense. 26 L.R.A. 857.

Suit against builder. 26 L.R.A. 857.

Effect of insurer's election to rebuild, repair, or replace the insured property after a loss. 20 L.R.A.(N.S.) 960.

\$ 175. Marine insurance.

Maritime lien for. 70 L.R.A. 389. Extent of liability of, for losses arising out of state of war. 5 B. R. C. 38.

Does a policy of marine insurance against total loss only. or containing an exception against liability for partial loss, cover a constructive total loss. L.R.A. 1916F, 1171.

#### 176. — abandonment.

Right under policy of marine insurance for losses arising out of state of war to abandon to insurer and recover as for total loss. 5 B. R. C. 38.

#### 2. Insurance on persons.

177. Generally.

Under employer's indemnity policy, see infra, § 215.

Law governing as to damages and interest ex mora. 63 L.R.A. 868.

Amount of recovery in case of paid-up policy. 15 L.R.A. 455.

Representation or estimate as to accumulations, dividends, surplus, etc. L.R.A. 1918F, 343.

Right to deduct indebtedness of insured extrinsic to insurance contract. 37 L.R.A. (N.S.) 556.

When burial insurance and funeral benefits recoverable. 23 L.R.A.(N.S.) 197.

Construction and effect of condition in accident or health policy that assured must be confined to the house to entitle him to indemnity. 23 L.R.A. (N.S.) 350; 42 L.R.A. (N.S.) 700; L.R.A. 1918B, 998.

Subsequent by-law reducing liability in case of suicide. 46 L.R.A. (N.S.) L.R.A.1915D, 1095.

Provision in accident insurance policy for reduction of benefits in event of injury while engaged in more hazardous occupation, or variations of the provision, as applied to occasional or temporary acts. L.R.A.1915D, 312.

Extent of loss or mutilation contemplated by provision as to loss or removal of bodily member or part thereof. L.R.A.1915D, 264.

Liability under accident policy limiting lia-bility for loss resulting from disease where diseased condition results from accident. 6 B. R. C. 530.

Scope, application, and effect of provisions of accident policy that the occurrence or payment of one loss shall terminate the policy or liability. L.R.A. 1918B, 506.

Settlement under accident policy under mistake as to extent of injury. L.R.A. 1918E, 931.

Consult also L.R.A. Digests of Cases.

NISUARNCE, VIII. d, 2-cont'd

§ 178. What constitutes total disability.

In general. 38 L.R.A. 529; 23 L.R.A.(N.S.) 352; 29 L.R.A. (N.S.) 635; 34 L.R.A. (N.S.) 126; L.R.A.1917B, 108.

Ability to do some small act. 38 L.R.A. 529; 23 L.R.A. (N.S.) 353; L.R.A.1917B. 109.

Inability to do anything. 38 L.R.A. 530; 23 L.R.A. (N.S.) 352; L.R.A.1917B, 109.

Ability to attend to part of the business.

38 L.R.A. 531; 23 L.R.A. (N.S.) 353;
L.R.A.1917B, 109.

Ability to work in other occupation. 38

L.R.A. 534; 23 L.R.A.(N.S.) L.R.A.1917B, 111. 356;

Disability of particular members. 38 L.R.A. 535; 23 L.R.A. (N.S.) 358; L.R.A. 1917B, 112.

Lunacy. 38 L.R.A. 537.

Sickness. 38 L.R.A. 537. Old age. 38 L.R.A. 537.

Death. 38 L.R.A. 537; 23 L.R.A.(N.S.) 358; 28 L.R.A.(N.S.) 742.

"Immediately" construed. 38 L.R.A. 538. "Per week" construed. 38 L.R.A. 539. Other matters. 38 L.R.A. 539.

Liability to indemnity against total disa-bility which results from an injury for which an independent indemnity is provided. 28 L.R.A.(N.S.) 730.

179. Right to decrease benefits.

Right of a mutual benefit society to decrease benefits. 31 L.R.A.(N.S.) 423.

§ 180. Release from liability.

Scope of release under policy indemnifying insured against loss of time by sickness or accident. 24 L.R.A.(N.S.) 211.

§ 181. Effect of insurance on amount

of recovery for injury.

Effect of receipt of insurance money to mitigate damages for personal injury. 67 L.R.A. 87; L.R.A. 1915E, 1201.

Effect of receipt of insurance money to mitigate damages for wrongful death. 67 L.R.A. 92.

#### e. Interest in proceeds.

#### 1. Of insurance on property.

§ 182. Generally.

Insurable interest, see supra, §§ 24-26.

Right of principal to proceeds of insurance policy taken by agent in his own name. 13 L.R.A.(N.S.) 152.

Right of owner to benefit of insurance taken out by carrier. 47 L.R.A.(N.S.) 196.

§ 183. Rights of vendor and vendee to proceeds.

Right of purchaser to benefit of insurance taken out by seller or vendor. 37 L.R.A. 150; L.R.A.1918D, 938.

Right of vendor to proceeds of insurance policy in name of vendee. 13 L.R.A. (N.S.) 909.

INSURANCE, VIII. e, 1-cont'd § 184. Rights of creditors generally. Life insurance as assets of bankrupt, see BANKBUPTCY, § 20.

Exemption of proceeds of. 19 L.R.A. 34. Garnishment of claims on unadjusted insurance losses. 59 L.R.A. 366; L.R.A. 1918B, 972.

Law governing right of creditors in proceeds. 63 L.R.A. 862.

#### § 185. Rights of mortgagee.

Notice to mortgagee before canceling policy, see supra, § 51.

Subrogation of insurer to rights of mortgagee, see infra, § 197.

Rights of mortgagee to benefit of insurance taken in the name of mortgagor. 25 L.R.A. 305.

Rights given by attachment of mortgage slip to insurance policy. 25 L.R.A. 679. Right of mortgagee who by mistake is in-

sured as owner or in owner's name, or vice versa. L.R.A.1917C, 110.

Pledge or assignment by mortgagee of his interest in the mortgage debt or property as affecting his right against insurer. L.R.A.1917E, 330.

Effect of settlement between insurer and mortgagor upon rights of mortgagee to whom loss is made payable as his interest may appear. 19 L.R.A. 321. Duty of mortgagee to hold proceeds of in-

surance and apply them on indebtedness as it falls due. 10 L.R.A.(N.S.) 1166.

Interest of mortgagor in insurance secured by mortgagee to protect his own interests. 11 L.R.A.(N.S.) 143.

Right to proceeds of insurance where loss occurs after foreclosure sale but during the period of redemption. 6 L.R.A. (N.S.) 448.

Effect of award under terms of policy upon mortgagee not a party thereto. L.R.A.(N.S.) 740.

Admissibility of extrinsic evidence to extend scope of mortgagee clause. L.R.A. (N.S.) 503.

Effect of failure of mortgagor to give notice or proofs of loss upon right of mortgagee to recover under the policy. 14 L.R.A.(N.S.) 459.

Effect of breach of policy of insurance by mortgagor on rights of mortgagee. 18 L.R.A.(N.S.) 197; 25 L.R.A.(N.S.) 1226; L.R.A.1915C, 758.

#### 2. Of insurance on persons,

#### § 186. Generally.

Insurable interest, see supra, §§ 27-35.

Service by publication to give jurisdic-tion of issue between nonresident and resident claimants to benefits under insurance policy. L.R.A.1917B, 393.

Right of member of benefit society to use a 190. Rights of widow. fund for his own benefit. 25 L.R.A. Widow as heir within life policy. 30 L.R.A. (N.S.) 814.

INSURANCE, VIII. e, 2-cont'd

Right of insurance company to recover back money paid in settlement of policy on life of one erroneously supposed to be dead. 11 L.R.A.(N.S.) 234.

Disposition of fund in mutual benefit society upon failure of beneficiary. L.R.A. (N.S.) 1083; L.R.A.1918A, 1120.

Effect of joining ineligible with eligible beneficiary in benefit certificate. 34 L.R.A. (N.S.) 1192.

Effect of beneficiary in a mutual benefit. certificate becoming self-supporting. 7 L.R.A.(N.S.) 393.

Right of third person to maintain action upon promise of beneficiary to insured to pay all or part of proceeds of policy to such third person. 22 L.R.A. (N.S.) 639.

Who may recover burial insurance and funeral benefits. 23 L.R.A.(N.S.) 199.

Right of adopted children under insurance policy. 17 L.R.A. 438.

Adopted, foster, or stepchild as beneficiary under contract of benefit association. L.R.A.1916B, 905.

Enforceability of promise by beneficiary to pay proceeds of life insurance to third person. 40 L.R.A. (N.S.) 692.

Right of children or representatives of deceased child to share in proceeds of policy of life insurance payable to "children." 41 L.R.A. (N.S.) 250.

Marriage of insured as affecting previous 49 L.R.A. designation of beneficiary. (N.S.) 141.

Right of beneficiary as against insured or v his estate to proceeds of endowment insurance. 52 L.R.A.(N.S.) 689.

§ 187. Who are "heirs" within life

policy. In general. 30 L.R.A. 593.

Other words combined with the word "heirs." 30 L.R.A. 594.

Widow as an heir. 30 L.R.A. 595. Insured as heir of beneficiary. 30 L.R.A. 596.

Conflict of laws as to. 63 L.R.A. 856. Who are legal "heirs" to whom fund is payable. 3 L.R.A. (N.S.) 904.

§ 188. Who are "legal representatives" within life policy. In general. 30 L.R.A. 609; 32 L.R.A. (N.S.)

Other words combined with the words "legal representatives." 30 L.R.A. 610.

189. Bequest of policy.

Validity of bequest of insurance policy, see WILLS, § 46.

Collection of insurance policy during life time of testator as an ademption of a specific legacy thereof. L.R.A.1918D, 540.

595.

INSURANCE, VIII. e, 2—cont'd Widow's right to proceeds of insurance on deceased husband's life payable to himself or his executors or administrators. 35 L.R.A. (N.S.) 964.

Who takes under designation of "husband," "wife" or "widow." 33 L.R.A.(N.S.) 816, 825, 827.

Life insurance policy in favor of married woman or its proceeds as her separate estate. 37 L.R.A.(N.S.) 582.

Widow's right to year's support or allow-ance out of insurance money. 46 L.R.A. (N.S.) 788.

§ 191. - divorce as affecting wife's right to insurance upon husband's

Ordinary policies of life insurance. 50 L.R.A. 552; 3 L.R.A.(N.S.) 478; 39 L.R.A. (N.S.) - 370; L.R.A.1915D, 130.

Benefit certificates. 50 L.R.A. 553; 3 L.R.A. (N.S.) 478; 39 L.R.A.(N.S.) 370; L.R.A.1915D, 130.

Character of divorce. 50 L.R.A. 554.

Effect of divorce on right of trustee in bankruptcy to husband's life insurance policies payable to wife. 41 L.R.A. (N.S.) 125.

192. Rights of creditors.

Insurable interest of creditor, see supra, § 28.

Validity of life insurance to secure debt to insurer, see supra, § 45.

Life insurance as assets of bankrupt, see BANKBUPTCY, § 20.

Exemption of insurance money, see EXEMP-TION, § 6.

Rights of creditors to reach option of insured to receive cash surrender value. 16 L.R.A.(N.S.) 316.

Rights of creditors in endowment or tontine policies. 4 L.R.A. (N.S.) 456.

Extent of creditor's interest in policy where insured becomes bankrupt or insolvent. 50 L.R.A. 41; 46 L.R.A.(N.S.) 148.

§ 193. Effect of murder of insured. Murder of insured as affecting right to insurance. 3 L.R.A.(N.S.) 727; 28 L.R.A.(N.S.) 675; L.R.A.1917B, 671.

194. Option of insurer as to payee. Right of insurance company, in making payment of proceeds of life policy, to rely on clause giving company option as to payee, and making receipt conclusive evidence of payment to proper person. 20 L.R.A.(N.S.) 928.

"Facility of payment" clause in industrial life policies. L.R.A.1916F, 461.

# f. Subrogation; set-off.

§ 195. Subrogation.

Construction and effect of statute giving one who is responsible for the destruction of property by fire the benefit of insurance effected by owners. 52 L.R.A. (N.S.) 203.

Consult also L.R.A. Digests of Cases.

INSURANCE, VIII. f-cont'd

§ 196. — of insurer generally. Right of life or accident insurance company to subrogation. 18 L.R.A. (N.S.) 211.

Right of insurer who has paid a loss to maintain action against the party causing the loss. 2 L.R.A. (N.S.) 922.

Right of insurer which has paid the loss as against insured who has re-covered against or settled with third persons responsible for the loss. 41 L.R.A.(N.S.) 719.

May one who destroys property defeat an action by the owner upon the ground that the right of action is in the insurer. 23 L.R.A.(N.S.) 870; L.R.A. 1918F, 145.

Effect of discharge of person primarily liable for loss of insured property, or of a contractual provision giving him benefit of insurance, upon insured's right of action against insurer. L.R.A.(N.S.) 698.

Constitutionality of statute denying in-surer's right of subrogation against person responsible for destruction of property. 41 L.R.A.(N.S.) 1202.

Settlement between insured and tort feasor as affecting insurer's right to subrogation. L.R.A.1916A, 1282.

197. - of insurer under mortgage clause.

Right of insurer to subrogation to mortgage on payment of mortgage debt from proceeds of insurance on mortgagee's interest. 3 L.R.A. (N.S.) 79.

Right of insurer, upon paying mortgagee under mortgage clause in policy issued to owner of equity of redemption, to be subrogated to rights of mortgagee. L.R.A.1916A, 559.

Rights under subrogation clause in mortgage slip attached to insurance policy. 25 L.R.A. 681.

198. Set-off. See SET-OFF AND COUNTERCLAIM, § 7.

g. Contribution; prorating; apportion-

§ 199. Contribution.

Contribution in case of Lloyd's policies. 55 L.R.A. 201.

§ 200. Prorating; apportionment. Pro rata clause as waiver of provision against additional insurance. L.R.A. 1918C, 343.

Provision in accident policy for prorating in case of other insurance. 1917B, 323.

What constitutes double insurance for purpose of apportionment of loss. L.R.A. 127.

Applicability of provision for prorating where other policy is invalid. 36 L.R.A.(N.S.) 350.

Rights given by prorating clause in mortgage slip attached to policy. 25 L.R.A. 68Ĭ.

\_\_\_\_\_

INSURANCE, VIII. g—cont'd

Jurisdiction of equity to adjust losses between concurrent insurance policies on same property. 32 L.R.A.(N.S.) 941.

Statutory provisions regulating valued policies as affecting provisions of policies as affecting provisions and provisions of policies as affecting provisions of policies as affecting provisions and provisions are provided provisions and provisions and provisions are provided prov

Statutory provisions regulating valued policies as affecting provisions of policy for prorating loss in case of concurrent insurance. L.R.A. 1916F, 997.

Adjustment between blanket and specific fire insurance policies. L.R.A. 1912B, 509.

#### h. Remedies; actions.

# 1. In general.

§ 201. Generally.

Arbitration as condition precedent to action, see supra, § 152.

Equity jurisdiction, see Equity, § 11.
Presumption and burden of proof in action

on policy, see EVIDENCE, § 103a.
Sufficiency of proof in action on insurance

policy, see EVIDENCE, § 311.
What matters concluded by judgment, see JUDGMENT, § 35.

Question for jury, see TRIAL, § 53.

Service by publication to give jurisdiction of issue between nonresident and resident claimants. L.R.A.1917B, 393.

Irregularities attending admission to membership in order as affecting action on certificate. 49 L.R.A. (N.S.) 902.

Transitory character of action. 63 L.R.A. 863.

Procedure to enforce liability of members of mutual fire insurance company. 32 L.R.A. 505.

L.R.A. 505.

Validity of retrospective by-laws or other rule of benefit association as to manner of establishing claim. 24 L.R.A. (N.S.) 1027.

Abatement of action on insurance policy by reason of pendency of action in foreign jurisdiction on the policy. 29 L.R.A. (N.S.) 405.

Effect on right to recover on policy of fire insurance company's noncompliance with statutory regulations. 20 L.R.A. 405.

Suit on benefit certificate after expulsion from society. 25 L.R.A. 149. Action on policy taken out without consent

Action on policy taken out without consent of person whose life was insured. 56 L.R.A. 590; L.R.A.1918F, 574.

Effect of admission to change burden of proof and right to open and close in action on insurance policy. 61 L.R.A. 537, 545.

Pleading and burden of proof as to falsity of statements respecting family history, L.R.A. 1917C, 876.

Sufficiency of proof as to falsity of statements by insured respecting family history and his knowledge of their falsity. L.R.A.1917C, 876.

Waiver by beneficiary of privilege as to communications between physician and patient. 48 L.R.A.(N.S.) 418.

Admissibility of finding of coroner to show cause of death of insured. 68 L.R.A. 288; 45 L.R.A.(N.S.) 405; L.R.A. 1918E, 924.

INSURANCE, VIII. h, 1—cont'd

Admissions or statements by assured outside his application as evidence against his beneficiary. 11 L.R.A.(N.S.) 92; 49 L.R.A.(N.S.) 253.

Admissibility of declarations of insured tending to show good faith regarding statements in his application. L.R.A. 1918F, 271.

Admissibility of books of account to prove amount and value of insured goods. 52 L.R.A. 721.

Admissibility of insurance agent's memoranda or letters as to policies and risks. 37 L.R.A.(N.S.) 1169.

Admissibility of statements or letters by physician as to physical condition of insured. 38 L.R.A.(N.S.) 343.

Action on policy as bar to action to reform it. 12 L.R.A. (N.S.) 907.

Removal, because of separable controversy, of actions relating to insurance and recovery of fire losses paid by insurer. 5 L.R.A.(N.S.) 88.

Right to open default judgment as affected by character of defense. L.R.A.1916F, 853.

Connection with casualty or indemnity company as a proper subject for inquiry on voir dire or as disqualification of a

juror in an action against one insured or indemnified by such company. L.R.A. 1915A, 153.

# § 202. Nature of remedy.

Remedies of insured in case of paid-up or nonforfeitable policy. 15 L.R.A. 454.

Validity of requirement by mutual benefit society that remedies within the order must be exhausted before resort to the civil courts. 8 L.R.A.(N.S.) 916.

Necessity of exhausting remedies within order against decision expelling or suspending a member from a mutual benefit association as condition of action for benefits. 52 L.R.A.(N.S.) 821.

Conclusiveness of decision of tribunal of mutual benefit society expelling or suspending a member in action for benefits. 52 L.R.A.(N.S.) 806.

Conclusiveness of decision of tribunal of mutual benefit associations directly upon claims for benefits; and duty to exhaust remedies within association. 52 L.R.A.(N.S.) 823.

Right to maintain single suit in equity to enforce separate liability of members of an insolvent insurance association. 33 L.R.A.(N.S.) 1057.

Distinction between action at law and suit in equity where insurer or its agent was guilty of fraud, and policy was retained. 67 L.R.A. 744.

Remedy of beneficiary on repudiation of contract by insurer. 14 L.R.A.(N.S.) 1111.

Right of beneficiary to sue insurer for breach of contract other than failure to pay indemnity. 4 L.R.A. (N.S.) 870.

Right of policy holder to an accounting by insurer. 28 L.R.A. (N.S.) 559.

INSURANCE, VIII. h, 1-cont'd Right of insured to return of premium where insurer defends action on the policy on the ground of misrepresentation by insured. 32 L.R.A.(N.S.) 299. Effect of provision that deficiency in assess-

ment may be paid from reserve or emergency fund. 10 L.R.A.(N.S.) 264.

§ 203.—actions on Lloyd's policies. Whether the action must primarily be against the attorney in fact. 55 L.R.A.

Joinder and misjoinder. 55 L.R.A. 198. Several or joint liability. 55 L.R.A. 199. Judgment. 55 L.R.A. 199. Proof of loss. 55 L.R.A. 200.

Powers and duties of agents, attorneys, and brokers. 55 L.R.A. 201.

Risk and contribution. 55 L.R.A. 201. Concealment of facts by the insured. 55 L.R.A. 202.

Warranty. 55 L.R.A. 202. Validity of policy. 55 L.R.A. 203.

8 204. - marine insurance.

Jurisdiction of admiralty as to marine insurance. 66 L.R.A. 200, 234.

Conclusiveness of judgment of foreign court of admiralty on policies of marine insurance. 20 L.R.A. 669.

§ 205. Proper party to bring. Under employer's indemnity policy, see infra, § 217.

Who is real party in interest by whom action on insurance policy must be brought. 64 L.R.A. 615.

Third person's right of action. 25 L.R.A. 274.

Who may recover burial insurance and funeral benefits. 23 L.R.A.(N.S.) 199. Who may maintain action for proceeds of policy taken in mortgagor's name for benefit of mortgagee. 25 L.R.A. 306.

Right of third person to maintain action on beneficiary's promise to insured to pay

all or part of policy to such third person. 22 L.R.A.(N.S.) 639.

Right of beneficiary to sue insurer for breach of contract other than failure to pay indemnity. 4 L.R.A.(N.S.) 870.

#### § 206. Costs and fees.

Conflict of laws as to recovery of attorney's fees. 52 L.R.A.(N.S.) 285.

Validity of statutory provision for attor-ney's fee in actions against insurance companies. 17 L.R.A.(N.S.) 910; L.R.A.1915E, 948.

### 2. Contractual limitation of time.

#### 307. Generally.

Conflict of laws as to contractual limitation. 63 L.R.A. 868; 23 L.R.A. (N.S.) 982; 52 L.R.A. (N.S.) 285.

First and last days in computation of time. 49 L.R.A. 208: 15 L.R.A.(N.S.) 688. Consult also L.R.A. Digests of Cases.

INSURANCE, VIII. h, 2-cont'd

Statute of limitations against liability of members of mutual fire insurance company. 32 L.R.A. 508.

Estoppel to plead defense of limitation to action on insurance policy. 63 L.R.A. 204.

Limitation clause as part of contract of reinsurance. 1 B. R. C. 184.

Waiver of short limitation period in policy by efforts at compromise extending beyoud its termination. 9 L.R.A. (N.S.) 654.

Binding effect on infant of stipulation in policy as to time of suit. 1 L.R.A. (N.S.) 525.

Retention of policy as waiver of mistake or fraud of insurer or its agent as to provision limiting time for action on policy. 67 L.R.A. 714.

Applicability to existing contracts of statute avoiding contractual stipulations limiting time for action. 38 L.R.A. (N.S.) 1016.

# 208. When begins to run.

Fire insurance policies. 47 L.R.A. 697; 48 L.R.A. (N.S.) 907; L.R.A.1918F, 511.

Accident insurance policies. 47 L.R.A. 704: 48 L.R.A. (N.S.) 908; L.R.A.1918F, 511. Life insurance policies. 47 L.R.A. 706; 48 L.R.A. (N.S.) 910; L.R.A.1918F, 512.

Marine and other miscellaneous insurance policies. 47 L.R.A. 708; 48 L.R.A. (N.S.) 911; L.R.A.1918F, 512.

What will prevent or delay the running of the limitation. 47 L.R.A. 709; 48 L.R.A. (N.S.) 911; L.R.A.1918F, 512.

To what actions the limitation applies. 47. L.R.A. 711; 48 L.R.A. (N.S.) 913; L.R.A. 1918F, 513.

# IX. Reinsurance.

§ 209. Generally.

Limitation clause as part of contract of reinsurance. 1 B. R. C. 184.

Proceeds of reinsurance as special fund in case of insolvency. 38 L.R.A. 110.

§ 210. Liability of reinsurer.

In general. 44 L.R.A. (N.S.) 317.

Notice to and acceptance by insured. L.R.A.(N.S.) 318.

Liability as affected by terms of contract. 8 L.R.A.(N.S.) 847; 44 L.R.A.(N.S.) 318.

When liable. 44 L.R.A.(N.S.) 318.

Period within which liability may arise. 8 L.R.A. (N.S.) 857.

When liability begins. 8 L.R.A.(N.S.) 857. Extent of liability. 8 L.R.A.(N.S.) 857; 44 L.R.A.(N.S.) 319.

To whom liable. 8 L.R.A. (N.S.) 862; 44 L.R.A. (N.S.) 319.

Effect of compromise by original insurer upon reinsurer's liability. 6 B. R. C.

# X. Guaranty policies.

# § 211. Generally.

Guaranty of fidelity of employees or corporate officers, see Bonds, § 11.

INSURANCE, X.-cont'd

Guaranty of fidelity of public officers, see Bonds, §§ 12-15.

Contracts for indemnity insurance as champertous. L.R.A.1916E, 72.

Treatment of, as part of overhead charged in public service property valuations. 48 L.R.A.(N.S.) 1051.

What constitutes insurance. 47 L.R.A. (N.S.) 290.

Insurance against injuring property or person of third person as indemnity or liability insurance. 48 L.R.A.(N.S.)

Payment or assumption, by third person, of liability for an injury as a loss within a policy indemnifying against liability for injuries. L.R.A.1916F, 879. Elevator insurance. L.R.A.1918C, 812.

Insurance against liability for automobile 44 L.R.A.(N.S.) 73; accidents. 44 L.R.A.(N.S.) 73; 51 L.R.A.(N.S.) 584; L.R.A.1915E, 580; L.R.A.1917F, 615.

Participation by indemnity insurer in de-fense of suit against insured, as estoppel to assert that latter's liability was predicated on ground not covered by policy. 34 L.R.A.(N.S.) 491.

Waiver of short-limitation period in insurance policy by efforts at compromise extending beyond its termination. 9 L.R.A. (N.S.) 654.

Power of insurer with respect to settlement 6 L.R.A. (N.S.) 562; 52 of claims. L.R.A. (N.S.) 126.

Right of insured under policy indemnifying against liability for damages or injury, to settle the part of a claim in excess of insurer's liability. L.R.A.1917D, L.R.A.1917D, 957.

Giving note as loss or damage within condition of contract of indemnity. 9 L.R.A. (N.S.) 478; 20 L.R.A. (N.S.) 956; 48 L.R.A. (N.S.) 195.

Effect of provision in indemnity policy requiring immediate notice of accident, claim, or suit. 3 B. R. C. 723.

Delay in giving notice required by policy insuring against liability for personal injuries to third person. L.R.A.1918E,

Liability of guaranty members of mutual fire insurance company. 32 L.R.A. 496.

§ 212. Employers' indemnity policy. Champertous contracts. L.R.A.1916E, 72. Question whether employers' indemnity contract constitutes insurance. 47 L.R.A. (N.S.) 294.

Treatment of, as part of overhead charges in public service property valuations. 48 L.R.A.(N.S.) 1051.

Payment or assumption by third person of liability for an injury as a loss within employer's indemnity policy. L.R.A. 1916F, 879.

What employees are covered by indemnity policy. 41 L.R.A. (N.S.) 963.

INSURANCE, X.—cont'd Arrangements by masters with insurance company for indemnification of servants. 11 L.R.A.(N.S.) 194.

Constitutionality of statute forbiddingavoidance of liability to employee or reduction of his damages by relief or indemnity contract. 33 L.R.A.(N.S.)

Contracts requiring servant to elect between acceptance of benefits out of relief fund and a prosecution of his claims in an action for damages. 11 L.R.A.(N.S.) 182; 48 L.R.A.(N.S.) 440.

Retention of policy as waiver of mistake or fraud as to terms of policy. 38 L.R.A. (N.S.) 789.

Liability of insurer carrying workmen's compensation insurance for employer. L.R.A.1917D, 181.

Right of insured to settle the part of a claim in excess of insurer's liability. L.R.A.1917D, 957.

213. — construction.

Construction of bond or policy indemnifying employer against loss from negligence of employee. 31 L.R.A. (N.S.) 775.

§ 214. — injuries covered.

Injuries covered by employer's indemnity policy. 30 L.R.A. (N.S.) 1192; L.R.A. 1915C, 155.

§ 215. — extent of liability.

How far does limitation of liability in policy of indemnity insurance against liability for injuries to employees and others include expenses of litigation. 12 L.R.A.(N.S.) 478; 43 L.R.A.(N.S.) 1128; L.R.A.1918D, 187.

How far does limitation of liability in policy of indemnity insurance against liability for injuries to employees and others include interest and expenses of litigation. L.R.A.1918D, 187.

Liability under policy indemnifying against liability for injuries to compensate insured for expenses incurred in successful defense or compromise of action. 30 L.R.A.(N.S.) 1105; 44 L.R.A.(N.S.) 609.

216. - notice of injury.

Delay in giving notice of claim under employer's indemnity policy. 38 L.R.A. (N.S.) 62; 47 L.R.A.(N.S.) 1213; L.R.A.1918D, 445; L.R.A.1918E, 114.

Effect of provision in employer's liability or other indemnity policies, requiring immediate notice of accident, claim or suit. 3 B. R. C. 723.

When is insured charged with knowledge of accident so as to require him to give notice thereof as provided for policy indemnifying against liability for personal injuries to others. 16 L.R.A. (N.S.) 400.

INSURANCE, X .-- cont'd

§ 217. — employee's right to reach fund.

Injured employee's right to reach fund under employer's liability policy. 7 L.R.A.(N.S.) 958; 48 L.R.A.(N.S.)

#### 🖁 218. Rent insurance,

Rent insurance. L.R.A.1916F, 604.

Contract insuring against loss of rents as insurance contract. 47 L.R.A.(N.S.)

Construction of policy or contract insuring against loss of rents. 16 L.R.A.(N.S.) 1055; 23 L.R.A. (N.S.) 123.

#### § 219. Burial insurance and funeral benefits.

Generally. 23 L.R.A.(N.S.) 197. When recoverable. 23 L.R.A. (N.S.) 197. Who may recover. 23 L.R.A. (N.S.) 199. Duty of receiver of fund to pay funeral ex-

penses. 23 L.R.A.(N.S.) 201.

## XI. Burglary and theft insurance.

#### § 220. Generally.

Insurance against loss by robbery. L.R.A. 1917D, 687.

Indemnity against theft or burglary as insurance. 46 L.I L.R.A.(N.S.) 296. 46 L.R.A.(N.S.) 562; 47

Power to issue burglary insurance. L.R.A.(N.S.) 562.

Right to do business in foreign states. 46 L.R.A.(N.S.) 563.

Making contract. 46 L.R.A.(N.S.) 564; L.R.A.1918B, 565.

Property covered. 46 L.R.A.(N.S.) 564; L.R.A.1918B, 565.

Conditions and warranties. 46 (N.S.) 564; L.R.A.1918B, 565. 46 L.R.A.

Manner of loss and proof thereof. L.R.A.(N.S.) 567; L.R.A.1918B, 568.

Notice and proofs of loss. 46 L.R.A.(N.S.) 571; L.R.A.1918B, 573.

Necessity of showing plaintiff's interest in property lent. 46 L.R.A. (N.S.) 572. Insured's right to replace property. 46

L.R.A.(N.S.) 572.

Amount of less and recovery and proof thereof. 46 L.R.A. (N.S.) 572; L.R.A. 1918B, 573.

Estoppel and waiver. 46 L.R.A.(N.S.) 573; L.R.A.1918B, 574.

Theft of automobile. 44 L.R.A. (N.S.) 75; 51 L.R.A. (N.S.) 584; L.R.A.1915E, 579; L.R.A.1917F, 543.

## XII. Automobile insurance.

#### § 221. Generally.

Insurance covering automobiles, or indemfor injury, caused thereby. 44 L.R.A.(N.S.) 70; 51 L.R.A.(N.S.) 583; L.R.A.1915E, 575; L.R.A. 1917F, 615.

Consult also L.R.A. Digests of Cases.

INSURANCE, XII.—cont'd

Automobile insurance against theft, robbery, and pilferage. 44 L.R.A.(N.S.) 75; 51 L.R.A.(N.S.) 584; L.R.A.1915E, 579; L.R.A.1917F, 543.

#### XIII. Animal insurance.

§ 222. Generally. Insurable interest. 44 L.R.A.(N.S.) 569. Animal's health at the time policy attaches. 44 L.R.A.(N.S.) 569.

Where animal is intentionally killed. 4: L.R.A.(N.S.) 570.

Abuse or negligence by insured. 44 L.R.A. (N.S.) 571.

Destruction by elements. 44 L.R.A.(N.S.) 571.

Notice of animal's sickness or death. 44 L.R.A. (N.S.) 572.

Place where kept. 26 L.R.A. 240; 44 L.R.A.

(N.S.) 574. Sale of animal. 44 L.R.A.(N.S.) 575.

Animals acquired subsequently to issuance of policy. 44 L.R.A.(N.S.) 576. Amount of recovery. 44 L.R.A. (N.S.) 576.

Warranties and representations. 44 L.R.A. (N.S.) 577.

Waiver. 44 L.R.A.(N.S.) 578. Arbitration of claims. 44 L.R.A.(N.S.) 579. Attaching application. 44 L.R.A. (N.S.)

579. Miscellaneous. 44 L.R.A.(N.S.) 579.

#### XIV. Insurance against loss of profits.

## 223. Generally.

Insurance against fire loss as covering loss of profits. L.R.A.1917C, 726.

Loss of profits by hotel keeper or by lessee. L.R.A.1917C, 727.
Loss of royalties. L.R.A.1917C, 728.
Loss of profits of mercantile or manufactur-

ing business. L.R.A.1917C, 728.

Policies against loss of profits by strikes. L.R.A.1917C, 729.

Policies on profits from marine adventures. L.R.A.1917C, 730.

## INSURANCE COMMISSIONER.

Service on, for foreign company. 23 L.R.A. 499.

#### INSURRECTION.

Continuance of constitutional guaranties during war or insurrection. 45 L.R.A. (N.S.) 996.

nifying against injury, or liability Power of governor, in exercise of power to suppress insurrection, to authorize ar-rest and detention of persons without turning them over to the civil authorities. 12 L.R.A.(N.S.) 979.

#### INTANGIBLE PROPERTY.

Situs of, for purpose of taxation, see TAXA-

#### INTANGIBLE VALUES.

Treatment of, in public service property valuations. 48 L.R.A. (N.S.) 1037, 1063, 1092, 1146.

Amortization of, in estimating return of public service corporation for rate-making purposes. 52 L.R.A.(N.S.) 49.

## 4++ INTEGRITY.

Charge of lack of, against officer or candidate for office as libel or slander. L.R.A.1918E, 31.

#### INTELLECTUAL LIFE.

Protection of personal rights relating to. 37 L.R.A. 784.

## INTELLECTUAL PRODUCTIONS.

See LITERARY AND ARTISTIC PROPERTY.

#### INTELLIGENCE.

Test of to be applied in naturalization proceedings. 22 L.R.A.(N.S.) 1041.

#### INTEMPERANCE.

See Drunkenness.

#### INTENT.

I. In general, §§ 1-4. II. Of parties to contract, §§ 5-11.

## I. In general.

§ 1. Generally.

In committing assault, see Assault and Battery, § 11.

As element of crime generally, see CRIM-

INAL LAW, § 6.
Illegal intent of prosecutor as defense to crime, see CRIMINAL LAW, § 21.

Opinion evidence as to, see EVIDENCE, § 197. Relevancy of evidence as to, see EVIDENCE, §§ 255-257.

Sufficiency of evidence as to, see EVIDENCE, § 299.

As element of homicide, see Homicide, § 5. Allegations as to, see Indictment, Infor-MATION, AND COMPLAINT, § 4.

As question for jury, see TRIAL, § 31a. Of testator, see WILLS, §§ 3, 64, 65.

As element in adverse possession. 15 L.R.A. (N.S.) 1205.

Begin with this book on every law question.

INTENT, I.—cont'd

In nonuser of private way. 22 L.R.A. (N.S.)

Of owner of easement neglecting to use same, as indicated by his acts. 18 L.R.A. 538.

Effect of intent to incorporate on partnership liability of stockholders. L.R.A. 554.

Necessity of notice by attorney of intent to withdraw from suit because of client's misconduct. 35 L.R.A. (N.S.) 963.

Necessity of notice to owner of intent to assess his property for supposed benefits from local improvements. 36 L.R.A.(N.S.) 40.

Things placed on land with intent to annex them as fixtures where they are never actually attached. 69 L.R.A. 892.

Necessity of corroboration of admission or

testimony of party to divorce in relation to. 25 L.R.A. (N.S.) 45.
Effect of, on debtor's right of action against

his creditor for collecting debt in another jurisdiction in evasion of exemption laws of their domicil. 47 L.R.A. (N.S.) 689.

Intention to affect conduct as an element of estoppel of assertion of title or in-terest in real property by concealing the same or representing it to be in another. 48 L.R.A.(N.S.) 768.

Good intentions of counsel in making improper argument to jury. L.R.A. 1918D, 104.

§ 2. As to character of real estate of partners.

As to whether real estate shall be considered partnership property. 27 L.R.A. 455; 37 L.R.A.(N.S.) 891.

§ 3. Effect of, on law governing contract.

As to interest and usury. 62 L.R.A. 33; L.R.A.1916D, 751.

Of parties to carrier's contract. 63 L.R.A.

As to where contract of insurance shall be dremed to have been made. 63 L.R.A. 847; 52 L.R.A.(N.S.) 295.

Law governing donee's intent to exercise power of appointment by will. 64 L.R.A. 892.

§ 4. Of legislature. See STATUTES, § 20.

#### II. Of parties to contract.

§ 5. Generally. Presumption and burden of proof as to, see EVIDENCE, §§ 41, 42.

Admissibility of evidence extrinsic to writing to show, see EVIDENCE, §§ 166, 167, 170, 171.

Rule that when terms of agreement have been intended in different sense that sense is to prevail against either party in which he had reason to suppose the other party understood it. 8 L.R.A. (N.S.) 1140. INTENT, II.—cont'd

Relief from mistake of law as to effect of instrument resulting in failure to carry out intent. 28 L.R.A.(N.S.) 811.

Intention of parties in case of contemporary promise of one person to pay where benefit inures to another. 15 L.R.A. (N.S.) 216.

Of parties to contract to adopt standard time. 1 L.R.A. (N.S.) 364; 6 L.R.A. (N.S.) 1046; 35 L.R.A.(N.S.) 611.

In transaction between heir and ancestor as to former's expectancy. 32 L.R.A. 596. Construing unsealed release of one joint tort feasor according to intent of parties as affecting release of other party or otherwise. 58 L.R.A. 298.

To bind and benefit successors in title by agreement to contribute to cost of par-

ty walls. 66 L.R.A. 678. Effect of signatory's intent in executing bond which is delivered without being signed by principal obligor. 12 L.R.A. (N.S.) 1119.

Of parties to lease as fixing term implied by holding over after expiration of lease for a fixed term. 25 L.R.A.(N.S.) 856.

Of debtor as to tolling of limitations or removal of bar by acknowledgment to third person. 25 L.R.A.(N.S.) 811.

As to whether senior mortgage is merged in subsequently acquired title. 39 L.R.A. (N.S.) 837, 843.

As affecting question whether stipulation for damages in building contract is a penalty or liquidated damages. L.R.A.(N.S.) 593.

As determining effect of the use of the word "forfeiture" upon penalty or liquidated ('mages. 50 L.R.A.(N.S.) 890.

As affecting question whether provision in land contract is to be regarded as a penalty or liquidated damages. L.R.A. (N.S.) 9.

As affecting waiver by officer of subordinate lodge of payment of assessments. 38 L.R.A.(N.S.) 575.

Of bankrupt to create a preference as a condition of a voidable preference under § 60b of the bankruptcy act. 33 L.R.A.(N.S.) 558.

6. Of seller of personalty.

Passing of title to personalty by delivery to carrier as affected by conduct indicating

intent to retain title. 22 L.R.A. 420.

As to passing of title under contract for sale of goods to be produced or manufactured. 50 L.R.A.(N.S.) 113.

Of parties to sale as to passing of title on selection or designation of goods sold

out of larger lot. 26 L.R.A.(N.S.) 7.

Provision for payment of instalments of price of article during construction as indicating intent to pass title. 2 B. R.

As test of whether description in sale imports a condition precedent or a warranty. 35 L.R.A.(N.S.) 274.

Intention as determining place of sale of intoxicating liquors. 44 L.R.A.(N.S.)

Consult also L.R.A. Digests of Cases.

INTENT, II.—cont'd

§ 7. Of vendor of land.

fraudulent grantor, see FRAUDULENT CONVEYANCES, § 3.

Prevailing of intention over language of granting clause as to estate passing by deed. 12 L.R.A.(N.S.) 961.

Grantee's right to enforce restrictive covenants in prior conveyance by his grantor of other parcels as affected by grant-or's intent. 37 L.R.A. (N.S.) 624.

Of one giving covenant of title or seisin where granting clause merely purports to convey grantor's interest in the property. 32 L.R.A.(N.S.) 595; L.R.A. 1916E, 905.

8. — in case of conveyance in trust. Of grantor in trust that fee shall pass to trustee without words of limitation. 2 L.R.A. (N.S.) 177.

Effect of expression of intention to make provision for family on estates taken by beneficiaries of trusts in absence of express definition thereof. 17 L.R.A. (N.S.) 1215.

§ 9. Of parties to commercial paper. Intention of parties to indorsement as controlling fiability. 18 L.R.A. 35.

Intent of parties as affecting principal's liability on negotiable paper executed by agent, 21 L.R.A. (N.S.) 1067.

As to ownership of paper payable to director or officers of a corporation. 50

L.R.A. (N.S.) 1116.

§ 10. As to payments.

In payment of debt by volunteer or stran-

ger. 23 L.R.A. 123.

As to extinction of judgment on payment by surety. 58 L.R.A. 570.

On assignment of mortgage with mortgagor's consent to third person after payment of debt originally secured. L.R.A.(N.S.) 111.

Provision for payment of instalments of price of article during construction as indicating intent to pass title. 2 B. R. C. 646.

Intention not to pay for goods purchased by one knowing that he cannot pay for them, 44 L.R.A.(N.S.) 9.

11. Fraudulent intent.

Effect of grantor's intent to defraud creditors, see FRAUDULENT CONVEYANCES, § 3.

Purchaser's participation in seller's fraudulent intent, see FRAUDULENT CONVEY-ANCES, § 14.

Question for jury as to, see TRIAL, § 32.

In obtaining credit. 14 L.R.A. 264. Intention not to pay for goods purchased

by one knowing he cannot pay for them. 44 L.R.A. (N.S.) 9.

Lack of reasonable expectation of being able to pay as equivalent as matter of law to an intention not to pay. 6 L.R.A. (N.S.) 556.

INTENT, II.—cont'd How far fraudulent intent in expression of opinion is essential to fraud. 35 L.R.A.

Relief to party defrauded by fraudulent scheme where he went into it with intent to defraud others. 5 L.R.A. (N.S.)

Effect of fraudulent intent on false swearing in proofs of loss. 32 L.R.A.(N.S.) 459. What intent to defraud will sustain an at-

tachment. 30 L.R.A. 465. Effect of intent on misbranding prohibited by pure food and drugs law. L.R.A.

1916D, 170.

## INTENTIONAL INJURIES.

As accident within insurance policy. L.R.A. 207.

Liability for intentional injury by attractive nuisance. 19 L.R.A. (N.S.) 1107.

Provision exempting insurer or limiting its liability in case of an injury intentionally inflicted by another. 48 L.R.A. (N.S.) 524.

Admissibility of opinion evidence as to whether injuries were self-inflicted.

L.R.A.1915A, 1088.

#### INTENTIONAL KILLING.

Right to recover for intentional killing of person. 46 L.R.A.(N.S.) 930.

## INTERDICTION.

Liability of insurer under policy of marine insurance for loss occasioned by interdiction. 5 B. R. C. 32.

#### INTEREST.

I. In general, § 1.

II. For use of money, \$\$ 2-20. a. In general, \$\$ 2, 3.

b. When recoverable, §§ 4-18.

c. Rate, \$ 19.

d. Compound interest, \$ 20.

## I. In general.

§ 1. Generally.

Effect of, on competency of as witness, see WITNESSES, §§ 23, 24.

Interest which will disqualify one to serve as commissioner or juror in eminent domain proceedings. 47 L.R.A. (N.S.)

Of juror as ground for new trial. 18 L.R.A. 476.

Disqualifying grand juror. 28 L.R.A. 201.

Begin with this book on every law question.

INTEREST, I .-- cont'd

Of subscribing witness as affecting necessity for calling to prove. 35 L.R.A. 33Ğ.

Effect of, on right to take acknowledgment. 33 L.R.A. 332.

Right to maintain bill of review as dependent on. 36 L.R.A. 385.

Who are persons interested entitled to contest will. L.R.A.1918A, 447.

## II. For use of money.

#### a. In general,

§ 2. Generally.

Conflict of laws as to, see CONFLICT OF LAWS, §§ 7, 7a.

Constitutionality of statutes as to, see Cox-STITUTIONAL LAW, § 108.

Sufficiency of tender of payment of, see TENDER, § 3.

Usurious interest, see Usury.

Validity of provision in contract against interest. L.R.A.1916A, 555. Agreement to pay interest on an obligation

for an indefinite period as consideration for an agreement to release the principal. L.R.A.1916C, 387.

Forfeiture or other effect of illegally taking. or reserving, by national banks. 50 L.R.A. 673.

Effect of payment less interest, as an accord. 20 L.R.A. 789; L.R.A.1917A, 723 Addition of clause for, to note as material alteration. 35 L.R.A. 466.

Remission of, for purpose of jurisdiction.

28 L.R.A. 225.

Application, as between principal and interest, of payment made before due. 15 L.R.A. 169.

Accrued interest as part of par value within prohibition against sale of bonds at less then par. 35 L.R.A.(N.S.) 789.

Authority of agent to collect interest where sccurity is not in his possession. 23 L.R.A.(N.S.) 418, 420. Collection of interest by agent as evidence

of authority to collect principle where security is not in his possession. L.R.A.1916B, 861.

Exemption from state taxation of paper given for interest on obligations of Federal government. 5 L.R.A.(N.S.)

Commercial paper as payment of. 35 L.R.A. (N.S.) 85.

Paying interest on forged mortgage as estoppel to question the mortgage. 41 L.R.A. (N.S.) 740.

Payment of interest by devisee of property covered by mortgage, as keeping debt alive against whole estate. 2 B. R. C.

Payment of, on premium notes as condition of obtaining paid-up policy. 15 L.R.A.

Application of dividends or profits to interest in case of paid-up and nonfor-feiting policies of life insurance, 15-L.R.A. 453. INTERST, II. a-cont'd

Conclusiveness of stated or settled account containing inaccuracy or error in computation of interest. 23 L.R.A.(N.S.) 787.

Liability of depositor who requests bank to hold noninterest bearing deposit against a claimant, to reimburse bank for interest which it is compelled to pay to claimant on the legal establishment of his claim to the deposit. L.R.A.1915E, 797.

Negotiability of note providing for interest after maturity. L.R.A.1915B, 1216.

Payment of, or promise to pay, interest as consideration for agreement extending time of payment. 52 L.R.A.(N.S.) 341.

Payment of interest in advance as consideration for agreement of interest in advance as consideration.

ation for agreement extending time of payment of obligation. 52 L.R.A. (N.S.) 353.

Sufficiency of overdue interest to put purchaser of negotiable paper on inquiry. 44 L.R.A.(Ñ.S.) 401; L.R.A.1918F, 1151.

Allowance for interest on cost of public utility plants during construction in estimating value thereof. 48 L.R.A. (N.S.) 1043.

Treatment of interest charges in estimating the return of a public service corporation for rate-making purposes. L.R.A.(N.S.) 57.

Effect of provision for remission of part of the principal or interest if payment is made at maturity. 46 L.R.A. (N.S.)

When instrument drawn "without interest" begins to draw interest. 43 L.R.A. (N.S.) 783.

Exercise of option to retire obligation before maturity as stopping interest. 43 L.R.A. (N.S.) 1146.

Power of court to amend verdict by adding interest. 25 L.R.A.(N.S.) 311.

Federal courts following state decisions as to. 40 L.R.A.(N.S.) 428.

§ 2a. Acceptance of principal sum as affecting right to interest.

Acceptance of principal sum as affecting the right to interest. 40 L.R.A. (N.S.) 588.

§ 3. Default in payment of.

Foreclosure of mortgage on default of, see MORTGAGE, § 65.

Effect of negotiability of bill or note of provision accelerating maturity for failure to pay instalment of. 35 L.R.A. (N.S.) 391; L.R.A.1915B, 472.

## b. When recoverable.

4. Generally.

On advances, see Advances, § 5.

Against stockholders, see Corporations, §

On fines by loan associations. 35 L.R.A. 220.

On withdrawals from building and loan association. 35 L.R.A. 293.

On advancements or their equalization; after donor's death. 14 L.R.A. 716.

Consult also L.R.A. Digests of Cases. 48

INTEREST, II. b-cont'd

On amount due for arrearages of annuity. 63 L.R.A. 629.

On unpaid instalments of alimony. L.R.A.(N.S.) 1006.

On withdrawal from loan association. L.R.A. (N.S.) 1135.

Allowance of, on value of vessel captured as

prize. 18 L.R.A. 453.
Right of accommodation party who is obliged to pay bill or note to recover interest from accommodated party. 37 L.R.A.(N.S.) 788.

Effect on, of dishonor of note transferred after maturity. 46 L.R.A. 799.

Implied right to interest on taxes or assessment. 6 L.R.A.(N.S.) 694.

Liability of auctioneer or clerk of auction for. 35 L.R.A.(N.S.) 483.

Law governing as to interest on insurance policy. 63 L.R.A. 868.

Does guarantor's liability for payment of interest cease at maturity of the obligation. 21 L.R.A.(N.S.) 154.

Issuance of interest-bearing corporate stock. 27 L.R.A. 149.

Liability of public officer for interest received on public money. L.R.A.1918B, 811.

Liability of bank for interest on or profits derived from public funds deposited with it. L.R.A.1918E, 678.

Liability for, under policy insuring against employer's liability. 43 L.R.A.(N.S.) 1130.

How far does limitation of liability in policy of indemnity insurance against liability for injuries to employees and others include interest. L.R.A.1918D,

As element of compensation to be paid public utility company upon taking its plant. 47 L.R.A. (N.S.) 790.

Liability of bank for interest on money deposited with it to secure performance of contract or decree, or to indemnify against losses or claims. 52 L.R.A. (N.S.) 522.

Interest during receivership on claims accruing prior to appointment of receiver. L.R.A.1917D, 1157.

Effect of war between countries of debtor and creditor. L.R.A.1917C, 672.

§ 5. On bonds.

Allowance of, on penalty of bonds. L.R.A. 384. 55

Right to, in action on replevin bond. L.R.A.(N.S.) 370.

Liability of bond of public officer for interest received on public money. 30 L.R.A.(N.S.) 855; L.R.A.1918B, 811.

Right in action on bond to recover interest when total sum is thereby made to exceed the penalty. 19 L.R.A.(N.S.) 84.

Exercise of option to retire obligation before maturity as stopping interest. L.R.A.(NS.) 1146.

§ 6. On sum allowed as damages. On loss by collision, see Collision, § 2. INTEREST, II. b-cont'd

Governing law with respect to interest as damages. 56 L.R.A. 303; 62 L.R.A. 37.

On amount awarded to public utility company upon taking its plant. 47 L.R.A. (N.S.) 790.

Interest on amount allowed mortgagee in possession for repair or improvement of property. 49 L.R.A.(N.S.) 129.

Right to interest in condemnation proceedings. L.R.A.1916C, 1109.

On claim for penalty against national bank for reserving illegal interest. 56 L.R.A. 707.

On amount allowed as damages for injury by damming back water of stream. 59 L.R.A. 897.

Right to interest on allowed claims in bankruptcy. 29 L.R.A. (N.S.) 887; L.R.A 1915B, 884.

For personal injuries. 14 L.R.A. 548; 18 L.R.A. 449.

For injuries to property. 18 L.R.A. 449. Right to interest on unliquidated damages.
28 L.R.A. (N.S.) 1.

On amount recovered by servant for wrongful discharge. 6 L.R.A.(N.S.) 91.

## § 7. On rescinding sale for breach of warranty.

Purchaser's right of interest on breach of warranty on sale of seeds. 37 L.R.A. (N.S.) 88.

Right of purchaser upon rescinding contract for breach of warranty to recover interest. 27 L.R.A.(N.S.) 928.

#### § 8. On judgments.

On judgments. 17 L.R.A. 612.

Conflict of laws as to. 56 L.R.A. 309. Change of interest on judgment as impairment of obligation of contracts. 17 L.R.A. 612.

On amount awarded to public utility company upon taking its plant. 47 L.R.A. (N.S.) 790.

## § 9. On legacies. See WILLS, § 104.

## § 10. Against cotenants.

Liability of cotenant for, on rents and profits. 28 L.R.A. 853; 29 L.R.A. (N.S.) 233.

Liability of cotenants for, on amounts expended for improvements and repairs. 29 L.R.A. 457.

#### § 11. Against copartners. See Partnership, § 28.

# § 12. Against executors, trustees, etc. Rate of. 29 L.R.A. 651.

Personal liability of executor or administrator to distributees for interest where settlement of estate is delayed. 31 L.R.A.(N.S.) 350.

Liability for, of personal representative carrying on business on behalf of estate. 40 L.R.A.(N.S.) 220.

INTEREST, II. b-cont'd

Effect of appointment of debtor as executor or administrator on interest on debt. 26 L.R.A.(N.S.) 416.

Right to recover interest on claim for default of coexecutor. 11 L.R.A.(N.S.) 346.

Personal liability of trustee for interest on money lost through investments. 44 L.R.A.(N.S.) 975.

13. - compound interest.

Origin, growth, and general statement of the doctrine. 29 L.R.A. 622. Principle of the allowance. 29 L.R.A. 623. Option to take interest or profits. 29 L.R.A.

625.
Grounds for allowance. 29 L.R.A. 626.

Improper investment. 29 L.R.A. 637; 44 L.R.A. (N.S.) 975.

Who are chargeable. 29 L.R.A. 646. Jurisdiction to allow. 29 L.R.A. 647.

How computed. 29 L.R.A. 648. What sufficient to release from accountabil-

ity. 29 L.R.A. 656.
Effect of allowance on compensation. 29
L.R.A. 657.

Effect of allowance on costs. 29 L.R.A. 658.

#### 14. Against officers.

Liability of public officers for interest collected on deposits of public funds. 15 L.R.A. 456.

## § 15. Against receiver.

Liability of receiver for interest on funds. 1 B. R. C. 416.

Interest during receivership on claims accruing prior to appointment of receiver. L.R.A.1917D, 1157.

#### § 16. Against state. Claims against state for. 42 L.R.A. 62.

#### § 17. Against county. See Counties, § 11.

## § 18. Against municipality.

Municipal liability for interest as creating indebtedness within meaning of debt limit provisions. 37 L.R.A.(N.S.) 1106; L.R.A.1917E, 455.

## c. Rate.

## § 19. Generally.

Usurious interest, see Usury.

Rate of interest on sum allowed as damages. 18 L.R.A. 457.

Against executors, trustees, etc. 29 L.R.A. 651.

Does lex rei sitæ as to interest and usury necessarily control in action on real estate mortgage. 55 L.R.A. 933.

Constitutionality of statutory discrimination in rates. 2 L.R.A.(N.S.) 813; 27 L.R.A.(N.S.) 898.

Begin with this book on every law question.

INTEERST, II. c-cont'd

Change of interest on judgments as impairment of obligation of contract. L.R.A. 612.

Authority of agent to give paper for loan as to rate of interest. L.R.A.1916C,

Agreement to pay higher rate of interest as consideration for agreement extending time of payment. 52 L.R.A. (N.S.) 350.

Rate of interest allowed by admiralty court in case of marine tort as affected by place of occurrence or suit. 51 L.R.A. (N.S.) 966.

Rate of interest after judgment on contract fixing rate. 3 B. R. C. 169.

Rate of interest during receivership on claims accruing prior to appointment of receiver. L.R.A.1917D, 1168.

Validity and effect of provision in contract for increased rate of interest upon default. L.R.A.1916E, 726.

#### d. Compound interest.

§ 20. Generally.

Against trustees, executors, etc., see supra, § 13.

Validity of agreement, made before interest becomes due to pay interest on interest. 33 L.R.A.(N.S.) 296.

Validity of agreement to pay interest on interest, made after interest has become due. 18 L.R.A.(N.S.) 633.

Right in case of renewal of loan, to compute interest on basis of including accumulated interest as part of principal of renewal. 6 L.R.A. (N.S.) 612.

Agreement to pay compound interest as consideration for agreement extending time of payment of obligation. 52 time of payment of obligation. L.R.A.(N.S.) 366.

## INTEREST-BEARING STOCK.

See Corporations, § 74.

## INTEREST CLAUSE.

Adding to note as material alteration. 35 L.R.A. 466.

#### INTERFERENCE.

In respect to patents, see PATENTS, \$ 10.

#### INTERIOR.

TERTOR.

Consult also L.R.A. Digests of Cases.

#### INTERLINEATIONS.

For alteration of instruments by, see AL-TERATION OF INSTRUMENTS.

In books of account as affecting admissibility in evidence. 52 L.R.A. 575.

### INTERLOCUTORY ORDERS OR DE-CREES.

Conclusiveness of prior decision on appeal as to. 34 L.R.A. 340.

Right to appeal from rest of order after accepting favorable part. 29 L.R.A. (N.S.) 24.

Conclusiveness of interlocutory decree as to validity of patent in other actions between same parties. 6 B. R. C. 729.

#### INTERMARRIAGE.

Of parties divorced, effect on right to alimony or provision in lieu of alimony. 3 L.R.A.(N.S.) 923.

#### INTERMEDIATE INCOME.

Right to intermediate income under bequest to persons who come into existence after death of the testator. L.R.A.1916F, 800.

#### INTERMEDIATE POINT.

Right of shipper to demand a redelivery or to divert the property at an intermediate point. 15 L.R.A. (N.S.) 756; L.R.A.1918B, 79.

#### INTERMENT.

Injunction to prevent or restrain interference with. 3 L.R.A.(N.S.) 486.

## INTERNAL HEMORRHAGE.

As evidence of statutory wounding. L.R.A. (N.S.) 965.

#### INTERNAL IMPROVEMENTS.

Secretary of Interior, see SECRETARY OF IN- Statutes legalizing invalid subscriptions to. 27 L.R.A. 701.

INTERNAL IMPROVEMENTS-cont'd Construction or improvement of highway as an "internal improvement" within the meaning of a constitutional prohibition Jurisdiction over sea. 46 L.R.A. 264. against the state engaging in or aiding internal improvements. L.R.A. 1917C, 1038.

#### INTERNAL REVENUE.

§ 1. Generally.

Federal income tax, see Taxes, § 106.

Effect on rights or interests of innocent persons of seizure of property under internal revenue laws. L.R.A.1916E, 350. Effect on contract of failure to procure

license. 16 L.R.A. 425.

Question relating to, as Federal question. 62 L.R.A. 538.

Criminal or penal liability for act of agent,

partner, or servant. 41 L.R.A. 654. Necessity and sufficiency of statement of grounds in notice of protest required as condition of recovering back internal revenue unlawfully collected. 36 L.R.A.(N.S.) 482.

§ 2. Omission of, or failure to cancel, revenue stamp.

On employee's contract. 4 L.R.A. (N.S.)

707, 711. Forgery of of unstamped instrument. L.R.A. 44.

Unstamped check as subject of larceny or embezzlement. 42 L.R.A.(N.S.) 499.

Effect of omission to stamp an instrument on which the law requires a stamp, or to cancel the stamps on such an instrument. 48 L.R.A. 305.

Want of internal revenue stamp on instrument requiring stamp as affecting criminal prosecution. 46 L.R.A. 454.

Omission of stamp as affecting question whether commercial paper operates as payment of debt. 35 L.R.A.(N.S.) 72.

#### INTERNATIONAL COPYRIGHT.

Sufficiency of compliance with law of origin to secure protection under international copyright act. 1 B. R. C. 785.

#### INTERNATIONAL LAW.

As to private international law, see Cox-PLICT OF LAWS.

As to treaties, see TREATIES.

Duty of conquering state with respect to obligations of conquered state. 5 B. R. C. 906.

Right to recover price of property sold in Interpleader where the original relation is aid of rebellion. 15 L.R.A. 834.

Begin with this book on every law question.

INTERNATIONAL LAW-cont'd Regulation of right of fishery. 39 L.R.A. 582.

Sufficiency of compliance with law of origin to secure protection under international copyright act. 1 B. R. C. 785.

#### INTERNE.

Liability of operating surgeon for negligent act of interne in caring for patient. 27 L.R.A.(N.S.) 1174; L.R.A. 1918C, 134.

#### INTERNMENT.

Of naturalized citizens. 7 B. R. C. 772.

#### INTERPLEADER.

§ 1. Generally.

In respect of deposit money at auction. 35 L.R.A.(N.S.) 484.

Right of wrongdoer to maintain bill of. L.R.A.1918D, 1172. Right of bailee to interplead bailor with

third person claiming paramount title. 33 L.R.A.(N.S.) 681.

Right to interplead different taxing districts claiming right to tax same property. 35 L.R.A. (N.S.) 330.

Removal, because of separable controversy, of bills of. 5 L.R.A. (N.S.) 91.

Determining liability of corporation for unauthorized transfer of stock on its books in proceeding by bill of interpleader filed by the corporation. 45 L.R.A.(N.S.) 1083.

§ 2. Right of representative of decedent's estate to interplead claimants.

Exclusiveness of surrogate's jurisdiction. 37 L.R.A.(N.S.) 986.

Conclusiveness of surrogate's decree. L.R.A.(N.S.) 987.

Indifference of representative. 37 L.R.A. (N.S.) 988.

Interpleading devisee or distributee and his creditor. 37 L.R.A. (N.S.) 989.

Interpleading devisee or distributee and one claiming adversely to, or as creditor of, the estate. 37 L.R.A.(N.S.) 989.

Interpleading distributees. 37 L.R.A. (N.S.) 991.

Interpleading persons claiming to be a named legatee of devisee. 37 L.R.A. (N.S.) 991.

Miscellaneous cases. 37 L.R.A.(N.S.) 991.

§ 3. By one having contract with one of parties defining his rights or obligations as to subject matter.

contractual. 10 L.R.A.(N.S.) 748.

#### INTERPLEADER—cont'd

Interpleader where an independent con-tractual relation exists. 10 L.R.A. (N.S.) 758.

#### INTERPRETATION.

See CONSTRUCTION.

#### INTERPRETER.

Evidence of conversation through, see Evi-DENCE, § 241.

Capacity and competency of interpreter. L.R.A.1916F, 1206.

Improper influence or interference with grand jury, by. 28 L.R.A. 372.

Validity of attestation of will through in-

terpreter. L.R.A.1918B, 691.

#### INTERSECTING VEINS.

In mines. 50 L.R.A. 209.

#### INTERSECTION.

Of mining claims, see MINES, § 7.

## INTERSTATE COMMERCE.

See COMMERCE.

#### INTERSTATE COMMERCE COMMIS-SION.

Jurisdiction of Commission in regard to transit privileges. L.R.A.1918A, 181. Attitude of Commission toward transit

privileges. L.R.A.1918A, 182. Power of state court to review rulings of. L.R.A.1917E, 919.

Action to enforce order of reparation by. L.R.A.1918E, 313.

Injunction to restrain violation of orders of. L.R.A.1918E, 308.

### INTERSTATE CORPORATION.

Extent and limit of state authority over. 24 L.R.A.(N.S.) 769.

### INTERURBAN RAILROADS.

§ 1. Generally.

As to railroads, generally, see RAILBOADS. As to street railways, generally, see STREET RAILWAYS.

See also ELECTRIC RAILWAYS. Consult also L.R.A. Digests of Cases. INTERURBAN RAILROADS-cont'd

Power of municipality over interurban vehicles used for hire. L.R.A.1918B, 891.

Right of witness to express opinion as to

speed of cars. L.R.A.1918A, 702.

Liability of company operating railroad along highway for injury to live stock.

L.R.A.1917E, 770.

Frightening horse on highway by locomotive, car, or train running parallel therewith. 33 L.R.A.(N.S.) 123.

As affected by abrogation of fellow serv-

ant's rule as to railroads. 17 L.R.A. (N.S.) 117.

Applicability of commerce clause or statutes thereunder to. 46 L.R.A.(N.S.)

§ 2. As additional burden. See EMINENT DOMAIN, § 57.

#### § 3. As carrier.

As to carriers, generally, see CARRIERS.

Is an interurban railroad company controlled by the general railroad law as to operation of railroads as carriers of passengers. 67 L.R.A. 637.

Right of municipal corporation to compel interurban cars to stop for passengers.

16 L.R.A.(N.S.) 914.

Duty of, as to accommodations for boarding or leaving car at country crossing. 13 L.R.A.(N.S.) 476.

Duty to provide and keep gate on interurban car closed. 32 L.R.A.(N.S.) 346.

#### § 4. Contributory negligence on tracks of.

Duty to look and listen before crossing tracks of electric road. 15 L.R.A. (N.S.) 254.

Duty to look and listen before crossing interurban electric railway on company's own right of way. 23 L.R.A.(N.S.) 1224.

#### INTERVENING CAUSE.

In general, see Proximate Cause.

Failure of road authority to make repairs as intervening cause relieving from liability for negligence one responsible for the condition of the highway. 3 B. R. C. 1000.

#### INTERVENTION.

In attachment suit, see ATTACHMENT, § 20. In action generally, see Parties, § 38.

Remedy of pretermitted heirs by intervening in administration. 37 L.R.A. (N.S.) 1147.

#### INTIMIDATION.

Of witness as contempt of court. L.R.A. 1915D, 571.

Effect of intimidation during strike on carrier's liability. 35 L.R.A. 627.

Plea of guilty under intimidation. L.R.A. (N.S.) 257.

## INTOXICATED PERSONS.

See Drunkenness; Habitual Drunkards; INTOXICATING LIQUORS.

#### INTOXICATING LIQUORS.

I. In general, § 1.

II. Prohibition and regulation, §§ 2-8a.

III. License; bond, 🖇 9-18.

IV. Unlawful sales; offenses; liquor nuisance, § \$ 19-37.

V. Civil liability and remedies, \$\$ 38-41.

#### I. In general.

Generally.

As to intoxication, see DBUNKENNESS. What intoxication will excuse crime, see CRIMINAL LAW, § 10.

Use of, by insured, see INSURANCE, § 98.

Intoxicating liquor held for illegal purpose as subject of larceny. L.R.A.1918D,

Sale of stock of liquors. L.R.A.1916D, 1010. Sufficiency of selection or designation of part sold out of a larger lot. 26 L.R.A. (N.S.) 36.

Conducting liquor business in violation of law as affecting contract for its sale. 45 L.R.A. (N.S.) 810.

Keeping of, on insured premises. L.R.A. 1917C, 278.

Who is engaged in the liquor business within meaning of insurance contract. 45 L.R.A.(N.S.) 1144.

Validity of insurance on intoxicating liquors as affected by liquor laws. L.R.A.(N.S.) 874.

Scope and effect of provisions in policy forbidding use of intoxicating liquor. 15 L.R.A.(N.S.) 206; 25 L.R.A.(N.S.) 1241

Power of brewing corporation to purchase or lease property to be used by retailers of its products. 47 L.R.A.(N.S.)

Power of corporation organized for the manufacture and sale of liquor to enter into contracts of guaranty or suretyship on behalf of its customers or prospective customers. 27 L.R.A. (N.S.) 186; L.R.A.1918C, 1008.

Voluntariness of confession procured by use of intoxicants. 18 L.R.A. (N.S.)

INTOXICATING LIQUORS, I.—cont'd Intoxicating liquors as a family expense or necessary within statute rendering wife or her property liable therefor. L.R.A. 1917F, 861.

Right of municipal corporation to engage in sale of. 31 L.R.A.(N.S.) 117.

#### II. Prohibition and regulation.

§ 2. Generally.

Regulation of liquors as interference with commerce, see COMMERCE, § 15.

Conflict of laws as to taking liquor into prohibition territory, see CONFLICT OF LAWS, § 36.

Disbarment of attorney for violating liquor law. L.R.A.1918A, 1192.

What is a village within statutes or ordinances in relation to intoxicating liquor. L.R.A.1915C, 898.

Right to inspect liquor records. 27 L.R.A. 85.

On what basis majority essential to adop-tion of high license law is to be computed. 22 L.R.A.(N.S.) 478.

Mandamus to compel public officials to enforce the liquor law. 28 L.R.A. (N.S.)

Injunction against bringing intoxicating liquor into prohibition district. 35 L.R.A.(N.S.) 879; L.R.A.1917D, 1027.

Effect upon lease of property for saloon or passage of prohibitory laws during the term. 19 L.R.A. (N.S.) 964: 23 L.R.A. (N.S.) 497; 34 L.R.A. (N.S.) 773; L.R.A.1917C, 935.

Necessity for indictment or information for sale of intoxicating liquors contrary to prohibitory statute or ordinance stating name of purchaser. 23 L.R.A. (N.S.) 582.

Construction and effect of Webb-Kenyon Act. L.R.A.1917B, 1229.

2a. Constitutionality generally.

Statute or ordinance forbidding or restricting advertisements of intoxicating liquor. L.R.A.1916B, 895.

Constitutionality of Webb-Kenyon Act. L.R.A.1916C, 307; L.R.A.1917B, 1229; L.R.A.1918B, 455.

Power of municipality to prohibit transportation of liquor into its territory. L.R.A.1916E, 926.

Provision in act against giving away of intoxicating liquor where title only prohibits or regulates its sale. 15 L.R.A. (N.S.) 430.

Power of legislature to permit sales of intoxicating liquors. 14 L.R.A. (N.S.)

Validity of municipal ordinance declaring that all or certain classes of offenses denounced by law of state shall be offenses also under the ordinance. 26 L.R.A. (N.S.) 493. Constitutional right of state to declare cer-

tain liquor intoxicating irrespective of its intoxicating character as a matter

of fact. 6 L.R.A.(N.S.) 186.

Begin with this book on every law question.

INTOXICATING LIQUORS, II.—cont'd Federal courts following state decisions as to validity of ordinances respecting traffic in. 40 L.R.A.(N.S.) 442.

§ 8. Constitutionality of prohibition.

Constitutionality of statute forbidding carrying of liquors into prohibition district. 17 L.R.A.(N.S.) 299.

Exceptions in constitutional prohibition as limitation upon legislative power. 36 L.R.A.(N.S.) 173.

Municipal ordinance for punishment of sale which is prohibited by statute. 17 L.R.A. (N.S.) 49.

Power to prohibit the manufacture or production of liquor for one's own use. L.R.A.1918A, 419.

Power to prohibit manufacture of alcohol or liquor for uses other than as a beverage. 49 L.R.A.(N.S.) 182.

Power to prohibit the keeping of intoxicating liquor, irrespective of any intention to sell it in violation of law. 24 L.R.A.(N.S.) 173; 26 L.R.A.(N.S.) 394; L.R.A.1915D, 172; L.R.A.1917D, 938.

Constitutional right to prohibit sale of intoxicating liquor. 15 L.R.A. (N.S.) 908.

Power of state to prohibit solicitation of orders for intoxicating liquors by mail sent from another state. 36 L.R.A. (N.S.) 443.

§ 4. — against non-intoxicating liquors. Constitutional power to prohibit or regulate sale of nonintoxicating alcoholic liquor. 26 L.R.A.(N.S.) 872.

Power of municipality to regulate the sale of nonintoxicating alcoholic beverages. 26 L.R.A. (N.S.) 890.

Power to prohibit or regulate the sale of "soft" drinks. 34 L.R.A. (N.S.) 890.

Right of state to declare certain liquor intoxicating irrespective of its intoxicating character as matter of fact. 6 L.R.A. (N.S.) 186.

## § 5. Conditions of business.

Validity of ordinance excluding persons from saloon during hours of closing. 4 L.R.A.(N.S.) 109.

Special penalty for violation of Sunday closing act. 15 L.R.A. (N.S.) 646.

As to statute making possession of liquor prima facie evidence of illegal intent to violate the law. 1 L.R.A.(N.S.) 626.

Regulations affecting privacy or attractiveness of premises where liquor is sold. 50 L.R.A. (N.S.) 1156.

## § 6. — exclusion from saloons.

Power to exclude women from saloons. 18 L.R.A.(N.S.) 657.

Validity of statutes regulating admission of minors to saloons. 22 L.R.A. (N.S.) 1007.

Consult also L.R.A. Digests of Cases.

INTOXICATING LIQUORS, II.—cont'd-Validity of ordinance excluding persons from saloon during hours of closing. 4 L.R.A.(N.S.) 109.

7. — screens.

Validity and construction of regulations as to. 50 L.R.A. (N.S.) 1158.

Municipal power as to screens in barrooms. 24 L.R.A. 768.

Effect of temporary screening during prohibited hours. 21 L.R.A.(N.S.) 136.

#### § 8. Local option.

Prosecution under general liquor law for sale in local-option territory. 3 L.R.A. (N.S.) 620.

Must indictment or information for sale of intoxicating liquors in local option district state name of purchaser. 23 L.R.A.(N.S.) 582.

Tie vote at local option election. 49 L.R.A. (N.S.) 1204.

§ 8a. - constitutionality of.

Local-option laws as unconstitutional delegation of legislative power. 1 L.R.A. (N.S.) 483.

Discrimination as between different localities, in respect to the right to sell intoxicating liquor. 8 L.R.A.(N.S.) 362.

Local option law as affecting existing power to regulate liquor traffic under charter of municipality located within local option district. 32 L.R.A.(N.S.) 534.

#### III. License; bond.

§ 9. Generally.

As to licenses generally, see Licenses, Il.

Consent of infant or incompetent, or his guardian, committee, or agent, to a license for the sale of intoxicating liquors. L.R.A.1916D, 819.

Power of city to extend exercise of licensing power beyond the corporate limits. L.R.A.1918C, 528.

Applicability of license laws to vessels. L.R.A.1915F, 1142.

Remedy in equity for wrongful issuance of license. L.R.A.1915E, 408.

Necessity of license for the sale of stock of liquors. L.R.A.1916D, 1010.

Privilege or license to sell as subject of taxation. 37 L.R.A.(N.S.) 455.

Quo warranto to test validity of liquor license. 24 L.R.A. (N.S.) 555.

Running two saloons in one building under single license. 2 L.R.A.(N.S.) 488.

Power of municipality to make constituent elements or operations of business independent subjects of license tax. 5 L.R.A.(N.S.) 619.

Liability for privilege tax on illegal business or business illegally conducted.

22 L.R.A. (N.S.) 949.

Must indictment or information for sale of intoxicating liquors without license state name of purchaser. 23 L.R.A. (N.S.) 582.

INTOXICATING LIQUORS, III.—cont'd What constitutes hotel or tavern within liquor license law. 20 L.R.A.(N.S.) 107.

Criminal liability for sale of liquor by copartner, servant or agent without li-cense. 41 L.R.A. 664.

First and last days in computing time for notice of application for license. L.R.A. 246.

Is scope of license fixed by statute, application, or terms of license. 35 L.R.A. (N.S.) 376.

Validity of new contract based on sale without a license. 9 L.R.A. (N.S.) 568.

Power to make use of property for sale of, conditional on consent of neighbors. 8 L.R.A.(N.S.) 978.

Burden of proof as to license or permit in prosecution for sale of intoxicating liquor without a license. 36 L.R.A. (N.S.) 98.

Liquor license as asset. 4 L.R.A. (N.S.) 626.

Right to recover price of liquor sold without license. 16 L.R.A. 424.

#### § 10. Amount of fee.

Amount of liquor-license fee as characterizing the statute or ordinance imposing it as prohibitory or regulative. 14 L.R.A.(N.S.) 794.

Amount of liquor-license fees as characterizing statute or ordinance imposing it as an exercise of the police power or of the taxing power. 14 L.R.A.(N.S.) 788.

Right to discriminate between parts of a city as to amount of license fees for sale of intoxicating liquor. 21 L.R.A. (N.S.) 192.

#### § 11. Petition for or remonstrance against.

Right to withdraw names from petition for or remonstrance against license. 11 L.R.A. (N.S.) 372; 35 L.R.A. (N.S.) 1113.

## § 12. Qualifications of licensee.

Constitutionality of requirement that holder of license must be resident of the state. 16 L.R.A.(N.S.) 1033.

Control by mandamus of decision of licensing officer as to fitness of applicant. 27 L.R.A.(N.S.) 1195.

### 18. Discretion as to granting. General doctrine. 21 L.R.A. 580.

Implied from statutory construction. L.R.A. 581.

The limit of discretion. 21 L.R.A. 581. Control of such discretion. 21 L.R.A. 583. State statutes. 21 L.R.A. 585.

Discretion of local authorities as to the number of licenses to be granted for the sale of intoxicating liquors. L.R.A.(N.S.) 386.

Begin with this book on every law question.

INTOXICATING LIQUORS, III .-- cont'd § 13a. Constitutionality of laws.

License or tax as contrary to a constitutional provision prohibiting or restricting traffic in intoxicating liquor. L.R.A.1915C, 101.

Delegation of power as to license. L.R.A. 722.

Constitutionality of requirement that holder of liquor license must be resident of the 16 L.R.A.(N.S.) 1033. state.

Amount of liquor-license fees as characterizing the statute or ordinance imposing it, as an exercise of the police power, or of the taxing power. 14 L.R.A. (N.S.) 788.

Amount of license fee as characterizing the statute or ordinance imposing it as prohibitory or regulative. 14 L.R.A. (N.S.) 794.

#### § 14. - discrimination.

Equal privileges, and immunities as to sale

of. 14 L.R.A. 582.

Validity of police regulation discriminating in favor of saloons already established. 6 L.R.A.(N.S.) 722.

Discrimination as between different localities, in respect to the right to sell. 8 L.R.A. (N.S.) 362.

Right to discriminate between parts of a city as to amount of license fees. 21 L.R.A.(N.S.) 192.

Discrimination against nonresidents statute or ordinance as to license. 40 L.R.A.(N.S.) 284.

Discrimination against women in granting licenses to sell. 49 L.R.A. 111.

#### § 15. Cancelation; revocation; feiture.

Liability for damages for wrongful revoca-tion of liquor license. 15 L.R.A.(N.S.)

## § 15a. — constitutionality of provision

Constitutionality of statute by which conviction of violation of liquor law entails revocation of license and prohibition of sale of liquor. 30 L.R.A. (N.S.) 1004.

Validity of statute or ordinance providing for forfeiture of liquor license upon conviction of licensee irrespective of appeal. 29 L.R.A.(N.S.) 417.

## § 16. Recovery back of license fee.

Recovery of unearned liquor-license fee. 16 L.R.A.(N.S.) 512.

Recovery of unearned liquor license fee upon revocation of license for misconduct of licensee. 45 L.R.A.(N.S.) 593.

Right to recover liquor license fee or unearned portion thereof upon adoption of legislation or regulation inimical to the sale of intoxicating liquor. L.R.A.(N.S.) 519; L.R.A.1918C, 241.

INTOXICATING LIQUORS, III.—cont'd 17. Bond.

Must indictment or information for sale of intoxicating liquors without giving pre-scribed bond state name of purchaser. 23 L.R.A.(N.S.) 582.

Liquor bond as affected by invalidity of license. 47 L.R.A.(N.S.) 1031.

§ 18. — liability on.

Effect of insertion of unauthorized provisions in. L.R.A.1917B, 990.

Liability of liquor dealer's bond for acts other than the sale of liquor. L.R.A.1916E, 272.

When liability on liquor dealer's bond ex-

hausted. 43 L.R.A.(N.S.) 76. Survival of cause of action on liquor dealer's bond after death of licensee. L.R.A.(N.S.) 183.

Effect on liability under liquor dealer's bond of his ignorance of purchaser's intoxication. 25 L.R.A. (N.S.) 801.

Effect upon surety of judgment against principal. 40 L.R.A. (N.S.) 747; L.R.A.

1918E, 822.

Liability of sureties under civil damage act where sales causing injury were not confined to the period covered by their bonds. 25 L.R.A.(N.S.) 585.

#### IV. Unlawful sales; offenses; liquor nuisance.

ß 19. Generally.

Interstate commerce in, see COMMERCE,

Conflict of laws as to, see Conflict or LAWS, § 31.

Sale by druggists, see DRUGS AND DRUG-CISTS, § 4.

Presumption and burden of proof in prosecution for, see EVIDENCE, § 117.

Sufficiency of evidence as to, see EVIDENCE,

Sale to habitual drunkard, see HABITUAL DRUNKARD, § 2.

Indictment for sale, see Indictment, Infor-MATION, AND COMPLAINT, § 22.

Disbarment of attorney for violating liquor law. L.R.A.1918A, 1192.

Injunction against bringing liquor into prohibition territory. 35 L.R.A. (N.S.) 879; L.R.A.1917D, 1027.

Validity of statutory provision for attorney's fee in proceeding by statute to abate a liquor nuisance. L.R.A.1915E,

Sale of stock of liquors. L.R.A.1916D, 1010. Applicability of liquor laws to vessels. L.R.A.1915F, 1140. Purchasing or procuring liquor for another

as a substantive offense. 45 L.R.A. (N.S.) 957.

Criminal responsibility of purchaser of intoxicating liquors illegally sold. 46 L.R.A.(N.S.) 409.

Consult also L.R.A. Digests of Cases.

INTOXICATING LIQUORS, IV .-- cont'd

Instigation or consent to violation of liquor statute as a defense to prosecution. 30 L.R.A.(N.S.) 946; 51 L.R.A.(N.S.) 825. Social treating as an offense. 21 L.R.A.

(N.S.) 134.

Constitutionality of statute making possession of liquor prima facie evidence of illegal intent to violate it. 1 L.R.A. (N.S.) 626.

Who is entitled to invoke certiorari to review a decree or order affecting the sale of intoxicating liquors. 19 L.R.A. (N.S.) 610.

Several offenses growing out of same facts.
31 L.R.A. (N.S.) 707, 712, 725.
Criminal responsibility of corporations for offenses against liquor laws. 2 B. R. C. 251.

Proof of corpus delicti in prosecution for sale of. 68 L.R.A. 55, 70.

Evidence of other crimes in prosecution for violation of liquor law. 62 L.R.A. 230, 290, 325.

Necessity and sufficiency of description of offense in bail bond or recognizance. 38

L.R.A. (N.S.) 317, 321, 325. Embezzlement of proceeds of liquor sold in violation of law. 27 L.R.A. (N.S.)

Sufficiency of delivery of intoxicating liquors sold out of larger lot. 26 L.R.A. (N.S.) 36.

§ 20. What constitutes a sale.

Manufacturing under contract as a sale. L.R.A.1917B, 606.

Loan as. 8 L.R.A. (N.S.) 937: 31 L.R.A. (N.S.) 417; L.R.A.1915C, 648.

Dividing consignment of liquor as. L.R.A. (N.S.) 872.

Procuring liquor for another on physician's prescription for self as an illegal sale. 21 L.R.A. (N.S.) 1008.

Effect of participating in purchase and di-vision of quantity of liquor to render one guilty of an unlawful sale. L.R.A.(N.S.) 560.

Is one who obtains liquor for, and delivers it to another, using the latter's money, guilty of selling same. 24 L.R.A. (N.S.) 268; 28 L.R.A. (N.S.) 334; L.R.A.1917D, 1020.

Delivery by express agent to addressee and collection of price of intoxicating liquor sent C. O. D. as a sale thereof by the agent. 2 B. R. C. 467.

Serving liquor with meals by proprietor of hotel. restaurant, or boarding house are a sale thereof. 25 L.R.A.(N.S.) 943-52 L.R.A.(N.S.) 722.

Is serving liquor by a club to its members a "sale." L.R.A.1915C, 878.

## 21. — sale at retail.

What amounts to retail sale as distinguished from wholesale. 32 L.R.A. (N.S.) 622; L.R.A.1915B, 389.

Criminal liability of collector of draft at tached to bill of lading of liquor. 46 Right to rely on physician's certificate in L.R.A. (N.S.) 1139. 821a. Sale on physician's certificate in selling. 21 L.R.A. 449.

INTOXICATING LIQUORS, IV.—cont'd Procuring liquor for another on physician's prescription for self as an illlegal sale. 21 L.R.A. (N.S.) 1008.

Obtaining liquor upon physician's prescription for another's use as a sale. 24 L.R.A. (N.S.) 273.

§ 22. Sale by club.

Applicability of liquor laws to social club dispensing liquors to members. 12 L.R.A. (N.S.) 519; 20 L.R.A. (N.S.) 1095; 23 L.R.A. (N.S.) 192; 38 L.R.A. (N.S.) 101; L.R.A.1915C, 876.

§ 23. Sales by partner, servant, agent. etc.

Criminal liability for violation of liquor law by. 41 L.R.A. 660; 16 L.R.A. (N.S.) 786; 20 L.R.A.(N.S.) 321; 33 L.R.A. (N.S.) 419.

Criminal responsibility of lessor of place for illegal sale of intoxicating liquors.

44 L.R.A.(N.S.) 864.

Burden of proof as to license or permit in prosecution for sale without license of intoxicating liquors by agents or servants. 36 L.R.A. (N.S.) 100.

Knowledge necessary to charge owner with conduct of tenants or others in selling intoxicating liquor on premises in violation of injunction. 25 L.R.A. (N.S.) 602.

Penal liability for sale of intoxicating liquor to minor acting as agent for an adult. 3 L.R.A.(N.S.) 1196; 25 L.R.A.(N.S.)

Obtaining liquor for and delivering it to another with latter's money as a sale. 24 L.R.A. (N.S.) 268; 28 L.R.A. (N.S.) 334; L.R.A.1917D, 1020.

24. Prohibited hours and days.

Effect of temporary screening of bar during prohibited hours. 21 L.R.A.(N.S.)

Opening saloon during prohibited hours for purposes other than sale of liquor. 36 L.R.A.(N.S.) 167.

On what holidays unlawful. 19 L.R.A. 317.

25. — Sundays.

Duty of innkeeper as to furnishing liquor to traveler on Sunday. 2 B. R. C. 687. Criminal liability for sale on Sunday by co-

partner, servant, or agent. 41 L.R.A. 670.

§ 26. Place of sale.

Intention. 44 L.R.A.(N.S.) 437.

Statutes purporting to fix the place of sale. 44 L.R.A.(N.S.) 437. Place where order is taken as place of sale.

44 L.R.A.(N.S.) 439.

Executory contract; place of acceptance of order as place of sale. 44 L.R.A.(N.S.) 442.

Place of delivery to carrier as place of sale.

44 L.R.A.(N.S.) 450.
Where delivery is made without aid of common carrier. 44 L.R.A. (N.S.) 463.

When exact place of sale involved; sale on premises. 44 L.R.A.(N.S.) 466.

Begin with this book on every law question.

INTOXICATING LIQUORS, IV.—cont'd Right of retail liquor dealer to deliver within license district, but outside of place designated in his license. 14 L.R.A. (N.S.) 1142.

Shipment C. O. D.; when and where does title pass. 2 L.R.A.(N.S.) 383; 24 L.R.A.(N.S.) 143.

Must indictment or information for sale of liquor within prohibited distance state name of person to whom sale is made? 23 L.R.A. (N.S.) 582.

§ 27. — church; school.

Liability on liquor dealer's bond for sale within prohibited distance of church. L.R.A.1916E, 277.

What is a school or church, within a stat-ute forbidding traffic in intoxicating liquors within given distance of such a building. 22 L.R.A.(N.S.) 194; 43 building. 22 L.R. L.R.A. (N.S.) 1142.

Sale by others than retail saloon keepers as violation of statute forbidding sale within given distance of school or church. 39 L.R.A. (N.S.) 615.

§ 28. Sales to minors.

Penal liability for sale of liquors to minor acting as agent for adult. 3 L.R.A. (N.S.) 1196; 25 L.R.A.(N.S.) 178.

Criminal liability for sale of liquor to minors by partners, agents or servants. 41 L.R.A. 666.

Validity, construction, and effect of statutes regulating admission of minors to saloons. 22 L.R.A. (N.S.) 1007.

§ 29. — ignorance of minority.

Seller's ignorance of minority of purchaser as defense to prosecution for sale of intoxicating liquor to minor. 25 L.R.A.

(N.S.) 669. Effect on liability under liquor dealer's bond of his ignorance of purchaser's minority. 25 L.R.A. (N.S.) 801.

30. Character of liquor.

Power to regulate or prohibit sale of nonintoxicating drinks, see supra, § 4. Judicial notice as to intoxicating character

of liquor, see EVIDENCE, § 15.

What liquors are within statutory restrictions as to the sale of "spirituous," "vinous," "fermented," and other intoxicating liquors. 20 L.R.A. 645.

Right of jurors to act on their own knowledge as to. 31 L.R.A. 496.

Judicial notice of intoxicating character of mixed drink. 19 L.R.A. (N.S.) 848.

Constitutional right of state to declare certain liquor intoxicating irrespective of its intoxicating character as a matter of fact. 6 L.R.A. (N.S.) 186.

Is allegation or proof of the sale of "beer" or "lager beer" sufficient to sustain a conviction under statutes prohibiting the sale of spirituous, vinous, distilled, malt, fermented or intoxicating liquors. 7 L.R.A.(N.S.) 195; 25 L.R.A.(N.S.) 446; 48 L.R.A.(N.S.) 308.

INTOXICATING LIQUORS, IV.—cont'd Alcoholic liquids not ostensibly intended for beverages. L.R.A.1917F, 244.

Wines intended for sacramental purposes. L.R.A.1918F, 266.

Do statutes forbidding the sale of a certain class of liquor include nonintoxicating liquor. 20 L.R.A.(N.S.) 1146; 26 L.R.A.(N.S.) 895; 46 L.R.A.(N.S.) 759; L.R.A.1918B, 974.

## § 31. — mistake in beverage as defense.

Mistake in beverage as defense to charge of Illegal liquor sale. 6 L.R.A. (N.S.) 477; 21 L.R.A. (N.S.) 525; L.R.A. 1916D, 266.

# § 32. Responsibility of carrier for transporting.

In general. 46 L.R.A. 417.

The question of knowledge. 46 L.R.A. 419. What is a transportation or conveyance. 46

L.R.A. 419. Evidence to support conviction. 46 L.R.A. 420.

Sufficiency of indictment or complaint. 46 L.R.A. 422.

Duty of carrier to accept liquor for transportation to points where its sale is prohibited or restricted. 40 L.R.A. (N.S.) 798; 45 L.R.A.(N.S.) 120.

What is sufficient to terminate interstate transportation of liquor. 11 L.R.A. (N.S.) 550; 23 L.R.A. (N.S.) 1020; 29 L.R.A. (N.S.) 745.

Constitutionality, construction, and effect of Webb-Kenyon Act. L.R.A.1916C, 301; L.R.A.1918B, 455.

#### § 33. — effect of mistake.

Ignorance of contents of package as defense to carrier in prosecution for transporting intoxicating liquor into prohibition territory. 18 L.R.A.(N.S.) 1182.

## § 34. Seizure and destruction.

Right of private citizen to destroy liquor illegally kept for sale. 26 L.R.A. (N.S.)

Right to compensation for intoxicating liquor seized under a warrant. 19 L.R.A. 197.

Effect of, on rights or interests of innocent persons. L.R.A.1916E, 350, 354.

#### 🖁 35. Punishment.

Convict: n or acquittal of sale of liquor as a bar to a prosecution for sales made prior to the first indictment. 45 L.R.A. (N.S.) 977.

Prosecution and punishment of distinct offenses committed by single sale of intoxicating liquor. 45 L.R.A. 858.

Municipal ordinance for punishment of sale which is prohibited by statute. 17 L.R.A. (N.S.) 49.

Cruel and unusual punishment for. 35 L.R.A. 574; L.R.A.1915C, 567.

#### § 36. Injunction against sale. See Injunction, § 28. Consult also L.R.A. Digests of Cases.

INTOXICATING LIQUORS, IV.—cont'd § 37. Liquor nuisance.

Injunction against, see INJUNCTION, § 28.

Municipal regulation of, as a nuisance. 39 L.R.A. 525.

Conviction of keeping a common liquor nuisance upon proof of a single sale. L.R.A.1917F, 1110.

#### V. Civil liability and remedies.

#### 38. Generally.

Validity of restrictive agreement ancillary to sale of saloon business. 24 L.R.A. (N.S.) 928; L.R.A.1916C, 630.

Effect of landlord's knowledge that tenant intends to use property for illegal sale of. 19 L.R.A.(N.S.) 662.

Right of one who intends to make an illegal use of liquors to invoke aid of court for recovery from one who has wrongfully taken the same. 39 L.R.A.(N.S.) 1093. Right of citizen or taxpayer to maintain

Right of citizen or taxpayer to maintain proceedings in aid of enforcement of liquor laws. 14 L.R.A.(N.S.) 1156.

Right of action in absence of civil damage act, for injury or death following unlawful sale of liquor. 34 L.R.A.(N.S.) 1036; 44 L.R.A.(N.S.) 299.

## § 39. Levy on.

Right to levy legal process on. 20 L.R.A. (N.S.) 1118.

## § 40. Liability for purchase price.

Right to recover for price of liquor sold for illegal uses. 15 L.R.A. 836.

Liability of purchaser on illegal sale of intoxicating liquors. 24 L.R.A. 212.

Conflict of laws as to. 61 L.R.A. 417.

Right to recover price of liquor sold without license. 16 L.R.A. 424.

## § 41. Civil damage act.

Liability of liquor dealer on bond, see supra, § 18.

Proximate cause of injury, see PROXIMATE CAUSE, § 21.

Wife's right of action at common law against one selling liquor to husband. 40 L.R.A.(N.S.) 360.

Necessity to sustain a recovery under civildamage act, that the intoxication be the proximate cause of the injury. 13 L.R.A.(N.S.) 1158; 50 L.R.A.(N.S.) 858.

Competency of wife to testify as to misconduct of husband in action under civil damage act. 39 L.R.A.(N.S.) 316.

Basis for determining earning capacity in action under. L.R.A.1918F, 654.

Excessive damages under civil damage act for death through intoxication. L.R.A. 1916D, 943.

#### INTOXICATION.

See DRUNKENNESS.

#### INVALID CLAIM.

As subject of valid compromise. 25 L.R.A. (N.S.) 275.

#### INVENTIONS.

In general, see PATENTS.

Specific performance of contract as to. L.R.A.1918E, 617.

Payment for corporate stock with. 16 L.R.A.(N.S.) 520.

Right of public to benefit of inventions made by officer or employee. L.R.A.1917B, 1183.

#### INVENTORY.

On assignment for creditors, see Assignment for Creditors, § 6.

Requirements of iron-safe clause in policy as to, see INSURANCE, § 79.

## INVERSE ORDER OF ALIENATION.

See MARSHALING ASSETS AND SECURITIES, § 2.

#### INVESTIGATION.

Effect of attempted investigation on right to rely on representations. 37 L.R.A. 600.

### INVESTMENT.

Of public money, see Public Money, § 1a. By trustee, see TRUSTS, § 26a.

Scheme for investment of small sums as constituting insurance. 47 L.R.A. (N.S.) 296.

Liability of executor or trustee for loss of funds through failure of bank. 14 L.R.A. 103.

Liability of executors, trustees, etc., for compound interest for failure to invest. 29 L.R.A. 636.

Direction to executor in will to continue investment of stocks, bonds, or notes as determining whether bequest is general or specific. 11 L.R.A.(N.S.) 83.

eral or specific. 11 L.R.A.(N.S.) 83. Effect of investment by husband in his own name of wife's separate property in real estate to create trust in her favor. 6 L.R.A.(N.S.) 381; 26 L.R.A.(N.S.) 161.

Liability of corporate directors for loss by making. 55 L.R.A. 762.

Liability of bank directors in case of bad loans or investments. 55 L.R.A. 751; 39 L.R.A. (N.S.) 173. INVESTMENT—cont'd

Creation of partnership by provision for taking profits from investment of capital as compensation. 18 L.R.A.(N.S.) 1047.

Deduction from state tax on national banks for investments. 45 L.R.A. 757.

#### INVESTMENT SECURITIES.

Constitutionality of Blue Sky Laws. L.R.A. 1917F, 524.

#### INVITATION.

Invitation to violate injunction as justification for so doing. 9 L.R.A.(N.S.) 304.

#### INVITEES.

Liability of landlord for injury to invitees of tenant, see LANDLORD AND TENANT, IV. d, 4.

Duty to, generally, see Negligence, I. b, 3.

### INVOLUNTARY EVIDENCE.

See EVIDENCE, IX.

#### INVOLUNTARY INTOXICATION.

As excuse for crime. 36 L.R.A. 484.

#### INVOLUNTARY PAYMENTS.

Recovery back of, see Assumpsit, § 4.

#### INVOLUNTARY SERVITUDE.

Restraint on freedom of child as involuntary servitude. 18 L.R.A.(N.S.) 893. Statute creating prima facie rules of evidence in criminal case as infringement against constitutional prohibition against involuntary servitude. L.R.A. 1915C, 725.

#### IRONICAL ARTICLE.

As libel. 4 L.R.A.(N.S.) 861.

Begin with this book on every law question.

#### IRON MILL.

What is, within meaning of workmen's compensation act. L.R.A.1916A, 201.

#### IRON-SAFE CLAUSE.

See INSURANCE, § 79.

#### IRON WORKS.

Servants in, as fellow servants. 50 L.R.A.

## IRREGULAR INDORSER.

See BILLS AND NOTES, § 29.

#### IRRELIGIOUS WORKS.

Common-law rights in. 51 L.R.A. 360.

#### IRREPARABLE INJURY.

As ground for injunction, see Injunction, 8 5.

#### IRRESISTIBLE IMPULSE.

As an excuse for crime, see CRIMINAL LAW, 8 9.

Suicide under irresistible impulse as within words "sane or insane" or other words relating to mental condition in suicide clause in policy. 17 L.R.A.(N.S.) 264.

## IRRIGATION.

See WATERS, §§ 92-97.

## JACKS.

Right of municipality to prohibit the keeping, standing, or exhibiting of. 11 L.R.A.(N.S.) 736.

Express warranty as to, as excluding implied warranty. 33 L.R.A.(N.S.) 505.

Master's liability for injury by defects in lifting jack. 51 L.R.A.(N.S.) 339.

Consult also L.R.A. Digests of Cases.

## IRRIGATION COMPANY.

State regulations of rates of. 12 L.R.A. (N.S.) 711; L.R.A.1915D, 1205.

Right of stockholder in mutual irrigation company to maintain action against the company for negligent failure to furnish water. L.R.A.1915D, 292.

Mandamus to enforce the right of a stockholder to water. 24 L.R.A. (N.S.) 372.

#### IRRITATION.

Of accused as affecting voluntariness of confession. 18 L.R.A.(N.S.) 790.

#### ISLANDS.

Title to, see WATERS, §§ 23, 44.

## ISOLATED TRANSACTION.

By toreign corporation as doing business within state. 10 L.R.A.(N.S.) 693.

#### ISOLATION.

Of infected persons. 26 L.R.A. 489.

## ISSUE.

Rights of, under rule in Shelley's Case, see DEEDS, § 30; WILLS, § 82.

Presumption and sufficiency of evidence as to death without issue. 4 B. R. C. 632.

Doctrine as to possibility of issue extinct as affecting property rights. 48 L.R.A.(N.S.) 865.

## ITINERANT VENDERS.

Discrimination against nonresidents by statute or ordinance as to license. 40 L.R.A. (N.S.) 286.

#### JACKSCREW.

Master's liability for injury by defect in. 13 L.R.A.(N.S.) 679.

#### JAIL BOND.

When discharge of principal in bankruptcy will release surety on. 14 L.R.A.(N.S.) 511.

#### JAILER.

Service on, for prisoner. 46 L.R.A. 708. Liability for detention of person improperly arrested. 42 L.R.A. (N.S.) 74.

#### JAILS AND PRISONS.

#### § 1. Generally.

Reformatories, see REFORMATORIES.

Imprisonment in penitentiary as cruel and unusual punishment. 35 L.R.A. 564; L.R.A.1915C, 560.

Delay of prosecution as ground for discharge of accused who is in penitentiary. 56 L.R.A. 534. Right to lease prison. 27 L.R.A. 608. Validity of decree of divorce obtained on

Right to lease prison. 27 L.R.A. 608.
Validity of decree of divorce obtained on publication or service out of state where defendant was confined in prison. 19 L.R.A. 816, 821.

§ 2. Liability for injury to person in. Liability of municipality for tort in connection with. 25 L.R.A.(N.S.) 98. Liability of county or municipality for in-

Liability of county or municipality for injury to one employed in or about a jail, prison, or other house of detention maintained by it. 23 L.R.A.(N.S.) 910.

### § 3. — unfit condition.

Right of action for imprisonment in unhealthful or unfit prison or jail. 36 L.R.A. 293: 2 L.R.A.(N.S.) 95.

§ 4. Liability for tort of keeper or inmate of.

Liability of municipality for negligence or other tort of keeper or inmate of municipal prison. 25 L.R.A.(N.S.) 180; 52 L.R.A.(N.S.) 943.

## § 5. Injury to neighboring property from.

Liability of municipal corporation for injury to neighboring property from maintenance of prison. 34 L.R.A. (N.S.) 461.

§ 6. Escape from.

When imprisonment wholly illegal and void. 15 L.R.A. 190.

Imprisonment on suspicion, etc. 15 L.R.A.

Informality of commitment. 15 L.R.A. 191.

Innocence of accused as an element. 15
L.R.A. 191.

Justification of prison breach. 52 L.R.A. (N.S.) 369.

Liability of county for. 39 L.R.A. 60.
Right of peace officer to enter dwelling to
recapture escaping prisoner. 16 L.R.A.

One accepting aid to escape from jail as accomplice of person giving aid. 24 L.R.A.(N.S.) 625.

Begin with this book on every law question.

#### JAILS AND PRISONS—cont'd

Constitutionality of statute punishing escape by reimprisonment for term dependent upon length of original term. 22 L.R.A. (N.S.) 1123.

#### JAMAICA GINGER.

Judicial notice of intoxicating character of. 48 L.R.A. (N.S.) 307.

#### JANITORS.

Applicability to school janitors of Workmen's Compensation Acts. L.R.A. 1918F, 192.

#### JAPAN.

Jurisdiction and powers of consul in Japan in civil cases. 45 L.R.A. 486.

#### JEALOUSY.

Responsibility for crime committed in fit of. 10 L.R.A.(N.S.) 1032.

#### JEOPARDY.

Former jeopardy, see CRIMINAL LAW, \$\$ 59-64.

#### JERKS.

Injury to passenger by, see CARRIERS, §\$ 66, 67.

#### JIM CROW CARS.

See CARRIERS, § 43.

## JITNEY BUSSES.

Person or company operating passenger automobile for hire as a common carrier. L.R.A.1918F, 468.

Regulation of jitney busses. L.R.A.1915F, 840: L.R.A.1916B, 1156; L.R.A. 1918B, 912: L.R.A.1918F, 475. As to lights. L.R.A.1918B, 828.

Power of municipality over interurban vehicles used for hire. L.R.A. 1918B, 891.

# JOBBERS.

Unlawful combination of, see Monopoly and Combinations, § 9.

JOBBERS-cont'd

Validity of agreement in restraint of trade ancillary to sale of jobbing business as affected by its territorial scope. L.R.A. 1916C, 631.

#### JOINDER.

Of actions, see Action on Suit, §§ 18, 19. Of indictments, see Indictment, Informa-TION, AND COMPLAINT, § 31. Of parties, see Parties, §§ 25, 36.

Joining in petition for local improvement as estoppel to deny benefits. 36 L.R.A. (N.S.) 41.

Lease as encumbrance or conveyance within statute requiring joinder of spouse. 39 L.R.A.(N.S.) 675.

#### JOINT ACCOUNTS.

In savings banks. 31 L.R.A. 454.

### JOINT ACTIONS.

See PAR. 1E6, §§ 25, 36.

## JOINT ADVENTURE.

Effect of secret advantage to one member of a joint adventure. 50 L.R.A. (N.S.)

Effect of failure to aid in joint enterprise to exclude from participation in the profits thereof. L.R.A.1918B, 678.

Imputed negligence of passenger riding in automobile driven by another in case of joint enterprise. L.R.A.1915B, 955.

## JOINT BENEFIT.

Purchase for, at judicial sale as suppression of competition. 42 L.R.A. (N.S.) 1206.

## \*\*\* JOINT BONDS.

Effect of delivery of joint bond without being signed by principal obligor. 12 L.R.A. (N.S.) 1118.

## JOINT CONTRACTS.

See Joint CREDITORS AND DEBTORS, § 2.

## JOINT CREDITORS AND DEBTORS.

I. In general, §§ 1-7.

II. Release of one joint debtor, §\$ 8-11.

Consult also L.R.A. Digests of Cases.

#### I. In general.

§ 1. Generally.

Joint liability of trustees, see TRUSTS, § 27.

Condition as to execution of contract by others. 45 L.R.A. 321.

Power of one of several joint purchasers at judicial sale to bind others. 35 L.R.A. (N.S.) 1139.

Payment acknowledgment, or promise to pay by joint debtor as agent of codebtor as suspending or tolling statute of limitations as to himself. 38 L.R.A. (N.S.) 685.

By whom action to be brought in case of joint obligees. 64 L.R.A. 603.

Effect of death of one of several joint creditors upon the remedy by execution. 61 L.R.A. 386.

Necessity of exhaustion of remedy as to

joint debtors as condition precedent to creditor's bill. 23 L.R.A.(N.S.) 75. Effect of transfer by one joint debtor or contractor without indorsement of worthless check or note to third person. 10 L.R.A.(N.S.) 549.

Due process in service on joint debtors. 50 L.R.A. 595.

Liability of several persons whose independent wrongs of the same kind contribute to enhance degree or extent of injury sustained by plaintiff. 40 L.R.A. (N.S.) 102.

Validity and effect, as against defendant not personally served within the state, of a judgment in personam against joint debtors. 35 L.R.A.(N.S.) 312. Binding effect of judgment against actual

tort-feasor upon one who is constructively responsible for his torts. L.R.A. 1918E, 232.
Rights of individual tort-feasors against

whom a joint verdict has been obtained, as to new trial and appeal. 27 L.R.A. (N.S.) 209; L.R.A.1918C, 970.

Curing separate verdicts rendered in action for joint tort. 10 L.R.A.(N.S.) 191. Set-off in bankruptcy cases. 55 L.R.A. 41. Removal, because of separable controversy, of actions based upon joint or joint and several liability. 5 L.R.A. (N.S.)

Form of judgment under statute permitting action to proceed upon service of less than all the joint debtors sued. 43 L.R.A. (N.S.) 540.

Liability of sureties on bond in judicial proceedings where judgment is in favor of one principal and against another. 51 L.R.A. (N.S.) 655.

Right of client to recover from third person for services rendered by attorney which benefit both. L.R.A.1915B, 856.

Effect of waiver or tolling of statute of limitations or nonclaim by personal representative of one joint debtor upon liability of other joint debtors. L.R.A. 1915B, 1049.

§ 2. Joint liability on contract.

Indorsement by one of two joint pavers or indorsees of a bill or note. 18 L.R.A. (N.S.) 630.

Whether liability on Lloyd's policy several or joint. 55 L.R.A. 199.

Fixing the extent of liability of the several obligors to an agreement as making it joint and several or several. L.R.A. 1915B, 221.

#### § 3. Joint liability for torts or negligence.

Joint liability of municipality and others for injury due to defect in street, see HIGHWAYS, § 94.

Joint liability of master and servant, see

MASTER AND SERVANT, § 199.

Joint liability for pollution of stream. 22 L.R.A.(N.S.) 282.

Joint tort by pollution of stream for mining purposes. 24 L.R.A. 66.

Under what circumstances will the wrongful levy of several attachments render the attaching creditors jointly liable. 6 L.R.A.(N.S.) 598.

Joint liability of master and person installing machinery to employee injured during installation. 30 L.R.A. (N.S.) 734.

Character of the liability of several persons whose independent wrongs of the same kind contribute to enhance the degree or extent of the injury sustained by plaintiff. 10 L.R.A.(N.S.) 167.

Provisions in lease, license, or other con-tract as to railroad for joint liability for injuries caused by negligence. 44 L.R.A. 754.

Removal, because of separable controversy, of actions in tort based on joint liability. 5 L.R.A.(N.S.) 92.

Joint liability of successive owners of property for nuisance maintained thereon. 46 L.R.A.(N.S.) 1187.

Liability of joint employers for torts of the employees. 51 L.R.A.(N.S.) 866.

Joint liability under workmen's compensation acts of employer and third person whose negligence causes the injury. L.R.A.1916A, 101.

Liability of co-owners L.R.A. 1916E, 1301. of automobile.

Liability of joint owners of automobile or carriage for torts of common servant. 51 L.R.A.(N.S.) 1116.

Joint liability for injury resulting from failure to prevent contact of wires carrying electric current. 52 L.R.A. (N.S.)

## 4. Several liability for tort.

Liability in damages of one of several polluters of a stream. 24 L.R.A.(N.S.) 1185.

#### \$ 5. Joint and several liability for tort.

Of partnership. 51 L.R.A. 495.

Removal, because of separable controversy of actions in tort based on joint and several liability. 5 L.R.A.(N.S.) 92.

#### § 6. Contribution between joint tort feasors.

See Contribution, § 2.

Begin with this book on every law question.

JOINT CREDITORS AND DEBTORS, I.— | JOINT CREDITORS AND DEBTORS, I. cont'd

> § 7. Recovery over against one tort feasor.

> Recovery over by municipality for injury due to defect in street, see HIGHWAYS, § 95.

> Liability over, generally, to person seconds arily liable, see INDEMNITY, §§ 2, 3.

Right of one constructively liable for tort to indemnity from one actually responsible for its commission. 40 L.R.A. (N.S.) 1147.

Right of employer who has been held liable for tort of, or upon, servant or contractor, to recover over from actual wrongdoer. 40 L.R.A.(N.S.) 1158.

Assignment of a claim ex delicto to one against whom it was asserted as enabling him to maintain action thereon against third person. 7 L.R.A.(N.S.) 534.

Right of action of one legally responsible for another's death against a third person whose negligence caused the death. 36 L.R.A.(N.S.) 60.

Judgment against one as prima facie evi-dence of amount of damages against another, liable over, who had no notice of original suit. 16 L.R.A.(N.S.) 911.

#### II. Release of one joint debtor.

8. Generally.

Effect of payment of one joint debtor to extinguish judgment. 68 L.R.A. 514.

Effect of release of one joint tort feasor on liability of the other. 58 L.R.A. 293; L.R.A.1918F, 363.

Release of employer by acceptance of benefit of relief fund as affecting other tortfeasor. 48 L.R.A.(N.S.) 450; L.R.A. 1918A, 996.

Effect of release of one person from lia-bility for tort to release another, where former was not in fact or law liable. 14 L.R.A.(N.S.) 322; L.R.A.1918D, 183.

Effect of covenant not to sue one joint tort feasor as a release of other. 24 L.R.A. (N.S.) 451.

Previous release of joint tort feasor by servant executing release on accepting benefits of relief fund. 11 L.R.A. (N.S.) 201.

Taking note of one joint debtor as payment. 35 L.R.A.(N.S.) 61.

Effect of payment of joint judgment on commercial paper by surety. L.R.A. 562.

Effect of voluntary discharge of one of two or more sureties or guarantors on liability of cosureties or guarantors. L.R.A.1918E, 95.

Effect of discharge of one surety by failure to comply with his demand to proceed in the enforcement of the obligation to release cosureties. L.R.A.1918Ć, 24, 50.

§ 9. Reservation of rights against others.

Effect, in release of one joint tort feasor, of reservation of right as against others. 19 L.R.A.(N.S.) 618; L.R.A.1915E, 800. JOINT CREDITORS AND DEBTORS, II.—

Effect of reservation of right against other sureties in case of covenant not to sue one of two or more sureties or guarantors. L.R.A.1918E, 99.

Right to show by extrinsic evidence that payment of judgment against, or consideration for release of, alleged joint tort feasor was not a satisfaction of claim. 14 L.R.A.(N.S.) 329; 33 L.R.A. (N.S.) 983.

Effect on pre-existing judgments of statutes permitting release of one joint judgment debtor without affecting the others. 9 L.R.A.(N.S.) 1066.

# § 10. Effect of judgment against one debtor or tort feasor.

Effect of judgment against one joint tort feasor upon liability of the other.
58 L.R.A. 410: L.R.A. 1918D. 308.

58 L.R.A. 410; L.R.A.1918D, 308. Effect of judgment in an action against part of the obligors on a joint or joint and several contract to release or limit the liability of other obligors. 43 L.R.A. 161.

Conclusiveness of judgment against a constructive tort feasor in a subsequent action for contribution or indemnity.

40 L.R.A.(N.S.) 1172.

## \$ 11. Effect of judgment or verdict in

favor of one debtor or tort feasor. Effect of judgment in favor of one defendant charged with negligence, on liability of codefendant. 2 L.R.A.(N.S.) 764.

Effect of verdict for servant in an action against master and servant for servant's negligence or misfeasance. 9 L.R.A.(N.S.) 880; 30 L.R.A.(N.S.) 404; L.R.A.1917E, 1029.

Availability of judgment in favor of immediate actor in alleged wrong as estoppel in favor of one whose wrong, if any, was derivative. 16 L.R.A.(N.S.) 677.

#### JOINT DEBTORS.

See Joint Creditors and Debtors.

## JOINT DEFENDANTS.

See CODEFENDANTS.

#### JOINT DEPOSIT.

Effect of deposit of funds belonging to the depositor in a bank account in the name of himself and another. L.R.A.1917C, 550.

As gift to codepositor. 12 L.R.A.(N.S.) 355.

Payment of money deposited on joint action. L.R.A.1915D, 920.

Consult also L.R.A. Digests of Cases. 49

#### JOINT EMPLOYERS.

Liability of joint employers for torts of the employees. 51 L.R.A.(N.S.) 866.
Liability of joint owners of automobile or carriage for joint torts of common servant. 51 L.R.A.(N.S.) 1116.

## JOINT ENTERPRISE.

See JOINT ADVENTURE.

#### JOINT ESTATES.

Operation and effect of rule in Shelley's Case in case of joint estates. 29 L.R.A. (N.S.) 995.

Devise or bequest to one and his children as giving the children an estate jointly or in common with the parent. L.R.A. 1917B, 49.

Conveyance to one and his children as giving the children an estate jointly or in common with the parent or a remainder upon a life estate in the parent L.R.A.1917B, 76.

# JOINT EXECUTORS AND ADMINISTRATORS.

Power of one of two or more personal representatives to waive or toll statute of limitations or nonclaim as to an indebtedness of the estate. L.R.A.1915B, 1039.

## JOINT FINDERS.

Of lost property. 37 L.R.A. 120. Rights inter se. 19 L.R.A. (N.S.) 1201.

## JOINT LIABILITY.

See Joint Creditors and Debtors.

#### JOINT LIENS.

May two or more vessels be subjected to a joint maritime lien. L.R.A.1917E, 529.

## JOINT MAKERS.

Presentment of note to. 36 L.R.A. 703.

## JOINT OFFENSE,

Against fishery laws. 39 L.R.A. 590.

#### JOINT OWNERS.

See Co-owners.

#### JOINT PURCHASERS.

Power of one of several joint purchasers at judicial sale to bind others. 35 L.R.A. (N.S.) 1139.

Effect of secret advantage to one of several joint purchasers. 43 L.R.A.(N.S.) 934.

#### JOINT RESOLUTION.

Effect of. 2 L.R.A. 612.\*

## JOINT-STOCK COMPANY.

Legality of, at common law. 6 L.R.A. (N.S.) 665.

JOINT TENANTS.

See COTENANCY.

### JOINT TORT FEASORS.

See JOINT CREDITORS AND DEBTORS.

## JOINT TRESPASSERS.

See Joint Creditors and Debtors.

## JOINT UNDERTAKINGS.

Applicability to suretyship of death as termination of joint undertakings. B. R. C. 950.

Between initial and connecting carrier. 31 · L.R.A.(N.S.) 44.

JOINTURE.

See Dower.

#### JOINT USE.

Liability for injury to servants arising from joint use of premises by several employers. 46 L.R.A. 94.

By different factions of religious society. 3 L.R.A.(N.S.) 878.

#### JOINT WILLS.

See WILLS, §§ 6, 35, 49. Begin with this book on every law question.

#### JOLTS.

Injury to passenger by, see CARRIERS, §§ 66, 67.

#### JOURNALS.

Legislative journals, see STATUTES, §§ 11,

#### JOY RIDE.

Liability of owner for injuries caused by automobile while being used by servant or third person for his own business or pleasure. 1 L.R.A. (N.S.) 214; 9 L.R.A. (N.S.) 1035; 14 L.R.A. (N.S.) 216; 21 L.R.A. (N.S.) 93; 26 L.R.A. (N.S.) 382; 33 L.R.A. (N.S.) 79; 37 L.R.A. (N.S.) 834; 47 L.R.A. (N.S.) 662; L.R.A.1916A, 957.

#### JUDGE PRO TEM.

Authority of, as to bills of exceptions and cases made. 42 L.R.A.(N.S.) 616.

#### JUDGES.

§ 1. Generally.

Conduct of judge as ground for reversal, see APPEAL AND ERBOR, § 38.

Contempt of, see Contempt, §§ 6, 7. Recall of, see Initiative, Referendum, and

RECALL, § 2.

Sickness of, see SICKNESS, § 3.

Absence of, during trial, see TRIAL. § 3.

Communication between judge and jury, see TRIAL, § 5.

Competency of, as witness, see WITNESSES, § 16.

Cross-examination of witness by, see WIT-NESSES, § 32.

Libel or slander by imputing misconduct to. L.R.A.1915D, 579.

Imputation by attorney, in course of legal proceedings of prejudice to court or judge as ground for disbarment or suspension. L.R.A.1918D, 450.

Reliance upon judge for information as to time of trial or hearing as ground of relief from judgment. L.R.A.1917C. 1197.

Power of legislature to add to or vary the constitutional method of selecting

judges. L.R.A.1916E, 834.

Constitutionality of statute providing for election of judicial officers by separate ballot. 44 L.R.A.(N.S.) 712.

Unconstitutionality of statute as defense to mandamus to compel its enforcement by judicial officers. 47 L.R.A. 516.

JUDGES—cont'd

Court attendant as public officer. 17 L.R.A.

Presence of, at view by jury. 42 L.R.A. 381.

Injunction against judgment for matters as to judges. 31 L.R.A. 204.

Admissibility in evidence of communications to. 67 L.R.A. 923.

Certification of copies of records by, for use in evidence in other state. 5 L.R.A. (N.S.) 959.

Comparison of handwriting by. 62 L.R.A. 867.

Personal liability of executor or administrator for interest where settlement of estate is delayed by illness of judge. 31 L.R.A.(N.S.) 359.

Judge's interest as affecting validity of acts done by executor or administrator under letters subsequently revoked or held invalid. 21 L.R.A. 150. Purchase by judge at judicial sale. L.R.A.

1918C, 157.

Presence of judge in grand jury room as affecting indictment. L.R.A.1916D, 1126. Statute requiring particular locality to bear part of judge's salary as violating con-

stitutional requirements of uniformity of taxation. L.R.A.1917D, 797.

2. Eligibility to office of.

Eligibility of suspended or disbarred attorney to judicial office. L.R.A.1917B, 803.

Right of woman to hold judicial office. 38 L.R.A. 209.

Right of person to hold two judicial positions at the same time. 8 L.R.A. (N.S.) 1107.

§ 3. Disqualification.

In case involving validity of initiative or referendum election. L.R.A.1917B, 32. Effect on judgment of disqualification of a part of the p L.R.A.1918D, 244. participating judges.

Effect of fact that judge otherwise disqualified is only one who has power to decide case. L.R.A.1915E, 858.

Belief in guilt or innocence of accused as disqualification of judge in criminal case. 45 L.R.A.(N.S.) 511.

Participation by judge in movement to enforce criminal law on particular subject as disqualifying him to preside at trial. 45 L.R.A. (N.S.) 519.

Participation in a judicial capacity in other proceedings against accused as disqualifying judge to preside at trial. 45 L.R.A. (N.S.) 525.

Political affiliations as ground for disqualification of judge. 19 L.R.A. (N.S.) 602. Membership in bar association as disqualification of judge to preside at disbarment proceedings instituted by asso-

39 L.R.A.(N.S.) 116. ciation. By relationship to attorney in case. L.R.A.(N.S.) 1172; L.R.A.1918F, 1036.

Right of judge who may be affected by the result to hear election cases. I R.A.(N.S.) 788.

Consult also L.R.A. Digests of Cases.

JUDGES-cont'd

Qualification of judge to sit on trial of one for contempt consisting of reflection upon himself. 11 L.R.A.(N.S.) 619.

4. — by prior connection with case.

Statutory disqualification of judge, from having been counsel in the cause. 25 L.R.A. 114.

Disqualifications without regard to statute, from having been of counsel in the cause. 25 L.R.A. 117.

Disqualification from having tried the case before. 25 L.R.A. 118.

§ 5. Number of.

Statute reducing number of presiding judges at criminal trial as ex post facto law. 37 L.R.A.(N.S.) 567.

§ 6. Powers and duties of.

Delegation of power to, see Constitution-AL LAW, § 16.

Power to act as determined by place of performance. 33 L.R.A. 87; L.R.A. 1917E, 361.

Power of court to call and examine witnesses. 57 L.R.A. 875; L.R.A.1916A, 1191.

Constitutional power to appoint officers. 16 L.R.A. 737.

Power of legislature to impose upon judges the duty to assist in drawing jurors. 23 L.R.A.(N.S.) 1115.

May judges of municipal or police courts be vested or burdened with powers or duties of a nonjudicial character. 19 L.R.A. (N.S.) 615.

7. — after expiration of term.

Mandamus to compel judge to sign bills of exceptions, etc., after expiration of term. 36 L.R.A.(N.S.) 1087.

8. Liability of.

Liability for false imprisonment, see FALSE IMPRISONMENT, § 7.

Libel or slander by. L.R.A.1915E, 1051; 7 B. R. C. 241.

Liability of judicial officer to civil action for acts of judicial nature. 14 L.R.A. 138; 27 L.R.A. 92; 44 L.R.A. (N.S.) 164.

Exemption of consul from liability for judicial acts. 45 L.R.A. 588.

Effect of bad motive on liability of judge acting without or in excess of jurisdiction. 62 L.R.A. 721.

#### JUDGMENT.

I. In general, § 1, II. Rendition; entry; form; substance, §§ 2-19.

a. In general, §§ 2, 3.

b. By default or confession, \$\$ 4-6.

JUDGMENT, II.—cont'd

c. Form and substance, §§ 7-13.

d. Entry; record; docketing; amendment, §§ 14-18.

e. Motion in arrest, \$ 19.

III. Effect and conclusiveness, § \$ 20-57.

a. In general, §§ 20-27.

b. Judgments by default, consent, confession, on demurrer or of dismissal, \$\$ 28-31a.

o. Effect of death or insanity, §§ 32, 33.

d. What matters concluded, \$\$ 34-40.

e. As to parties, §§ 41-50.

f. Collateral attack, §§ 51-57. 1. In general, §§ 51-53. 2. Grounds, \$\$ 54-57.

IV. The lien, §\$ 58-65.

a. In general, \$\$ 58-60.

b. Priority of, \$\$ 61-64.

c. On what property, § 65. V. Foreign judgments, \$\$ 66-73.

a. In general, \$ 66.b. Effect and conclusiveness, \$\$ 67-70.

c. Collateral attack on, §§ 71,

d. Enforcement, § 73.

VI. Payment; discharge; assignment, \$\$ 74-78.

.a. Payment; discharge; satisfaction, \$\$ 74-77.

b. Assignment, § 78.

VII. Revival; enforcement, \$\$ 79-86. a. Revival; scire facias, §§ 79, 80.

b. Enforcement, §§ 81-86. VIII. Relief from; setting aside, \$\$ 87-97.

a. In general, §§ 87-92.

b. Grounds, §§ 93-97.

#### I. In general.

1. Generally.

Reversible error as to, see APPEAL AND Error, § 40.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 184.

Disobedience of, as a contempt, see Con-TEMPT, §§ 8, 9. Recovery of, as a condition precedent to

equitable relief of creditors, see CREDItors' Bill, § 2.

Dismissal or discontinuance, see DISMISSAL AND DISCONTINUANCE, § 6.

Judicial notice of, see EVIDENCE, § 8. Presumption from, see EVIDENCE, § 88. Interest on, see Interest, § 8.

Relief granted in mandamus proceedings, see

MANDAMUS, § 21. Merger into, see MERGER, § 2.

On the pleadings, see Pleadings, § 6. Relief under pleadings, see PLEADINGS, § 7. Mode of pleading judgment, see PLEADING,

Subrogation to rights under, see Subroga-TION, § 9.

Taxation of, see Taxes, § 19.

§ 35.

Begin with this book on every law question.

JUDGMENT, I.—cont'd

Nonsuit, see TRIAL, §§ 56-59. Effect of usury on, see USURY, § 10.

On appeal, see APPEAL AND ERROR, §§ 41-44. In attachment suit, see ATTACHMENT, § 16. In action on note, see BILLS AND NOTES, §

71.

In criminal prosecution, see CRIMINAL LAW,

In divorce suit, see DIVORCE AND SEPARA-TION, §§ 13-19. In ejectment, see EJECTMENT, §§ 9, 10.

In garnishment proceeding, see Garnish-Ment, §§ 14, 20. On habeas corpus, see Habeas Corpus, § 7.

In injunction suit, see Injunction, §§ 89,

On foreclosure, see Mortgage, § 74.

In proceedings in rem, see PROCEEDINGS IN REM, § 3.

In replevin suit, see REPLEVIN, § 15.

In suit for specific performance, see Specif-IC PERFORMANCE, §§ 27-29.

Against incompetent person, see INCOMPETENT PERSONS, § 20.

In favor of, or against infants, see INFANTS, §§ 35, 36.

Against partnership, see Partnership, § 56. justice's court, see JUSTICE OF THE PEACE, § 7.

Sufficiency of service to sustain judgment, see Writ and Process.

Effect of condonation of matrimonial offense on judgment entered in pending suit. 6 B. R. C. 639.

Situs as between different states or countries of judgments for purposes of property taxation. L.R.A.1915C, 944. Liability of judicial officer for proceedings

after. 14 L.R.A. 146; L.R.A.1915C, 944. Right of national bank to interest on judgment. 56 L.R.A. 682.

Denial of, on information and belief. L.R.A. (N.S.) 780.

As condition precedent to equitable remedies of creditors. 23 L.R.A.(N.S.) 10. Sufficiency of judgment as a condition prec-

edent to equitable remedies of creditors. 23 L.R.A.(N.S.) 20.

Moral obligation as a consideration for promise to refund excess, when judg-

ment excessive. 53 L.R.A. 365.

Burden of proof as to consideration for judgment taken by wife against hus-band. 56 L.R.A. 841.

Allowing vendor reasonable time to perfect title by decree for specific performance. 30 L.R.A.(N.S.) 25.

Municipal declaration of forfeiture of street franchise or privilege for breach of conditions, as a judicial determination. 4 L.R.A. (N.S.) 321.

Taking of property in legal proceedings from bailee as defense to him as against the bailor. 33 L.R.A.(N.S.) 689.

Recovery of judgment for exempt claim pending garnishment proceedings in another state. 35 L.R.A.(N.S.) 1154.

Right of action of third person for fraud inducing him to submit to a judgment less favorable to him than he was entitled to. 46 L.R.A.(N.S.) 110.

#### JUDGMENT-cont'd

## II. Rendition; entry; form; substance.

#### a. In general.

## Generally.

Relief obtainable in equity on failure to establish equitable jurisdiction, see EQUI-TY, § 24.

Extent of relief in attachment against nonresident served constructively. L.R.A. 583.

Liability of attorney to client for mistake in drafting decree. 52 L.R.A. 891.

First and last days in computing time for rendition. 49 L.R.A. 224.

Judgment as lien from time of rendition. 38 L.R.A. 247.

Power of attorney to bind client by consent decree. 46 L.R.A.(N.S.) 750.

#### § 3. Jurisdiction.

Necessity of personal service to authorize personal judgment, see infra, § 10.

Effect of judgment on unauthorized appearance by attorney, see infra, § 24.

Jurisdiction to grant decree of divorce, see

DIVORCE AND SEPARATION, §§ 7-12.

Jurisdiction to grant decree of divorce upon

constructive service, generally, Divorce, § 10.

Sufficiency of service to sustain judgment, see WRIT AND PROCESS, IL.

Jurisdiction of court to enter final judgment upon dismissal or nonsuit. 26 L.R.A. (N.S.) 914.

Notice of application by guardian for leave to sell infant's real estate as jurisdictional. 8 L.R.A.(N.S.) 1215.

Extraterritorial effect of decree of divorce rendered upon constructive service. 18 L.R.A. (N.S.) 647; L.R.A.1917B, 1032.

## b. By default or confession.

## § 4. By default.

Effect of, see infra, § 28. Relief from, see infra, §§ 90, 91, 97.

Power of defendant's attorney to withdraw answer and permit default judgment. 33 L.R.A. 515.

Necessity of jury to compute damages on default judgment. 15 L.R.A. 614; 20 L.R.A. (N.S.) 1.

Effect of entry of second judgment without vacation or reversal of former judgment by default. 44 L.R.A.(N.S.) 344.

§ 5. By confession. Effect of, see infra, §§ 30, 68. Relief against, see infra, § 89.

Confession of judgment by personal repre-sentative as waiver of statute of limitations as to an indebtedness of the estate. L.R.A.1915B, 1049.

Revival of partnership debt by one partner confessing judgment. 15 L.R.A. 660. Consult also L.R.A. Digests of Cases.

JUDGMENT, II. b-cont'd

Validity at common law of warrant of attorney to con (N.S.) 956. to confess judgment. 40 L.R.A.

Presumption as to time of alteration in warrant of attorney to confess judgment. 39 L.R.A.(N.S.) 106.

Effect on surety of judgment by confession against principal. 40 L.R.A.(N.S.) against principal. 747.

Injunction against judgments entered on confession. 30 L.R.A. 235.

#### § 6. — confession on warrant of attorney.

In what cases authorized. 13 L.R.A. 796. Form and validity of warrants. 13 L.R.A. 796.

Strict construction. 13 L.R.A. 797.

Blanks and omissions. 13 L.R.A. 797.

Who authorized to make confession and where. 13 L.R.A. 797.

Effect of insanity or death of party. L.R.A. 797; 49 L.R.A. 156.

Entry by executors or administrators. 13 L.R.A. 798.

Against whom entered. 13 L.R.A. 798.

In whose favor. 13 L.R.A. 798.

When entry may be made. 13 L.R.A. 798. Contingencies, unadjusted claims. 13 L.R.A. 799. equities,

For what amount; variance; misdescription. 13 L.R.A. 799.

Proof necessary. 13 L.R.A. 800. Consolidation. 13 L.R.A. 800.

Setting aside; correcting. 13 L.R.A. 800. Law governing warrant of attorney to con-

fess judgment. 38 L.R.A.(N.S.) 814. Validity at common law of warrant of attorney to confess judgment. 40 L.R.A. (N.S.) 956.

Collateral attack on judgment entered by authority of warrant of attorney, for fraud not affecting the jurisdiction. 36 L.R.A. (N.S.) 988.

Effect in other states, of judgment confessed on warrant of attorney. 3 L.R.A. (N.S.) 449.

#### c. Form and substance.

## § 7. Generally.

Omission of dollar sign or word "dollars" from verdict or judgment, 35 L.R.A. (N.S.) 653.

Against partnership in firm name. L.R.A.(N.S.) 282.

Relief granted in action for specific performance of contract for sale of corporate stock. 50 L.R.A. 512; 31 L.R.A. (N.S.) 502.

Form of relief granted in suit in equity affecting real property in another state or country. 69 L.R.A. 694.

Form and substance of judgment in action to enforce liability of heirs for obliga-tions of ancestor. 21 L.R.A. 94.

Form and substance of judgment in garnishment against executor or administrator. 47 L.R.A. 364.

JUDGMENT, II. e-cont'd

Effect of qualifying words "as executor," 15 "as administrator," in judgment. L.R.A. 852.

Form of judgment on penal bonds. L.R.A. 427.

Decree on foreclosure for part of mortgage debt. 37 L.R.A. 743.

Power of equity, upon enjoining unfair com-petition or infringement of trademark, tradename, patent, or copyright, to require defendant to pay damages sustained by complainant as distinguished from profits realized by defendant. 21 L.R.A. (N.S.) 526.

Form of judgment under statute permitting action to proceed upon service of less than all the partners or joint debtors sued. 43 L.R.A.(N.S.) 540.

§ 8. Form of, in case of liability to pay in coin.

On contract to pay coin. 29 L.R.A. 593. On contracts for coin or equivalent. L.R.A. 594.

For coin converted or misapplied. 29 L.R.A.

For damages in other cases. 29 L.R.A. 595. For obligations created by law. 29 L.R.A. 596,

For costs. 29 L.R.A. 596.

Pleadings and procedure. 29 L.R.A. 597.

#### § 9. Personal judgment.

Effect of judgment in personam, see infra, § 23.

In action to enforce mechanics' lien, see MECHANICS' LIENS, § 31.

Deficiency decree in foreclosure suit, see MORTGAGE, § 84.

Deficiency decree in action to foreclose vend-

or's lien. 13 L.R.A.(N.S.) 874. Personal liability of property owner to pay assessments for local improvement. 35 L.R.A. 58; 18 L.R.A.(N.S.) 1259; 29 L.R.A.(N.S.) 770.

Injunction against execution sales on personal judgment against executors or administrators. 30 L.R.A. 123.

Action to recover personal judgment for unlawful seizure of property by chattel mortgagee assuming to act under mortgage. L.R.A.1915E, 196.

#### § 10. — necessity of personal service to authorize.

See WRIT AND PROCESS, § 19.

## 11. Amount.

For what amount judgment may be confessed on warrant of attorney. L.R.A. 799.

Extent of recovery in ejectment by tenants in common against stranger. 6 L.R.A. (N.S.) 710; 51 L.R.A.(N.S.) 50. Relief in action for improper use of union

label as affected by extent of use. 39 L.R.A.(N.S.) 1201.

## 12. Conformity to pleadings.

Effect of default judgment beyond scope of Amendment in the trial court. 67 L.R.A. relief asked. 11 L.R.A.(N.S.) 803.

Begin with this book on every law question.

JUDGMENT, II. c-cont'd

§ 73. Non obstante veredicto.

Right to judgment non obstante veredicto because of failure of proof. 12 L.R.A. (N.S.) 1021; L.R.A.1916E, 828.

Effect of motion for judgment non obstante veredicto after entry of judgment on entry of second judgment without vacation or reversal of the first. 34 L.R.A.(N.S.) 348.

d. Entry; record; docketing; amendment.

§ 14. Generally.

Judgment as a lien from time of entry. 38 L.R.A. 248.

Entry of judgment by confession by personal representative. 13 L.R.A. 798.

In whose favor judgment confessed on war-rant of attorney to be entered. 13 L.R.A. 798.

Against whom judgment confessed on warrant of attorney to be entered. 13 L.R.A. 798.

Right to enter decree of divorce against objection of the spouse aggrieved. 22 L.R.A. (N.S.) 999.

Power to amend decree of divorce by adding provision for alimony or support of children. L.R.A.1917D, 325.

Territorial extent of lien of Federal judgment as limited by state recording acts. 47 L.R.A. 475.

### § 15. What entry or record necessary to complete.

Index as part of record. 14 L.R.A. 393. Necessity of entry or record generally. 28 L.R.A. 621.

How made and what constitutes. 28 L.R.A. 623.

For the purpose of terminating the power of the court to change. 28 L.R.A. 625.

As between the parties. 28 L.R.A. 626. For the purpose of appeal. 28 L.R.A. 627. For the purpose of being effective as a lien. 28 L.R.A. 632.

For the purpose of enforcement. 28 L.R.A. 633.

For the purpose of putting the statute of limitations in motion. 28 L.R.A. 634. For the purpose of vesting title. 28 L.R.A. 634.

For the purpose of evidence. 28 L.R.A. 635. To prevent collateral attack. 28 L.R.A. 637. To constitute a bar to another action. 28 L.R.A. 637.

Judgments of justices of the peace. L.R.A. 638.

Certainty and accuracy necessary in respect to Christian names or initials in record or index relied on as imparting constructive notice. 7 L.R.A.(N.S.) 415: 25 L.R.A.(N.S.) 1211; L.R.A.1915D, 1211.

§ 16. Amendment of record to cure defect for which motion in arrest has been made.

179.

JUDGMENT, II. d—cont'd Amendment in the appellate court, 67 L.R.A. 185.

§ 17. Time of.

When entry may be made on judgment confessed on warrant of attorney. L.R.A. 798.

Entry of, on holidays. 19 L.R.A. 318.

First and last days in computing time for docketing. 49 L.R.A. 224.

Injunction against judgment void or without jurisdiction on account of time of rendition. 31 L.R.A. 202.

18. — entry nunc pro tunc. Power to render. 20 L.R.A. 143.

As to time. 20 L.R.A. 144.

As to evidence in obtaining a judgment nunc pro tunc. 20 L.R.A. 145.

As to nunc pro tunc entry in criminal cases. 20 L.R.A. 146.

As to nunc pro tunc judgments affecting third parties. 20 L.R.A. 146.

As to nunc pro tune judgments made in vacation. 20 L.R.A. 147.

As to change in statute or charter. L.R.A. 147.

As to notice. 20 L.R.A. 147.

As to delay or negligence of party. L.R.A. 148.

As to death of party before entry of final judgment. 20 L.R.A. 148.

Right to enter judgment nunc pro tune as of the date of rendition, so as to affect intervening rights of third persons. 15 L.R.A.(N.S.) 682.

#### e. Motion in arrest.

§ 19. Generally.

Amendment of record to cure defect for which motion in arrest has been made, see supra, § 16.

In criminal cases, see CRIMINAL LAW, § 58.

Objecting to jurors who have served in same or similar case by motion in arrest. 68 L.R.A. 884.

Sufficiency on motion in arrest of judgment of allegations of facts in regard to defects in street or highway in action against municipality for injury reagainst municipality for injury received therefrom. 21 L.R.A.(N.S.) 48.

Motion in arrest of judgment against gar-nishee on ground of invalidity of judgment against principal because of lack of jurisdiction. 51 L.R.A. (N.S.) 599.

## III. Effect and conclusiveness.

## a. In general.

\$ 20. Generally.

Of foreign judgment, see infra, § 67.

Effect and conclusiveness of decision on appeal, see APPEAL AND ERROR, §§ 43, 44. Recovery for part of claim as bar to further suit, see ACTION OR SUIT, § 17

In action to remove cloud on title, see CLOUD ON TITLE, § 6.

In divorce suit, see DIVORCE AND SEPARATION, §§ 14, 15.

In injunction suit, see Injunction, § 90. In garnishment proceedings, see GARNISH-MENT, § 14.

Consult also L.R.A. Digests of Cases.

JUDGMENT, III. a-cont'd

Admissibility of judgment in evidence, see EVIDENCE, §§ 131, 132.

Weight of, as evidence, see EVIDENCE, § 306. Effect of fraud on, see FRAUD AND DECEIT, § 28a.

Effect of judgment against one or more of the parties liable, to release others, see JOINT CREDITORS AND DEBTORS, § 10.

Effect of judgment against nonresident, see Nonresidents, § 4.

Availability of defense of res judicata under general denial or a plea of the general issue in action of ejectment. L.R.A. 1918F, 258.

Effect of subsequent statute on executory judgment. L.R.A.1918D, 253.

Effect on judgment of disqualification of a part of the participating judges. L.R.A.1918D, 244.

Entry or record necessary to constitute judgment a bar to another action. 28 L.R.A. 637. -

Validity of preference to creditor by. 22 L.R.A. 808.

Conclusiveness of judicial admission as to strangers. 28 L.R.A. (N.S.) 327; L.R.A. 1915A, 200.

Situs of judgment for purposes of administration. 24 L.R.A. 687.

Waiver of junior lien by failure to assert it in foreclosure proceedings. 68 L.R.A. 323.

Municipal liability on judgment as creating indebtedness within meaning of debt limit provisions. 37 L.R.A. (N.S.) limit provisions. 1107; L.R.A.1917E, 455.

Conclusive effect of judgment on which action to set aside conveyance as fraudulent is based. 67 L.R.A. 593. Effect of, to render title unmarketable. 38

L.R.A. (N.S.) 32.

Effect of decree granting rights to percolating waters. 19 L.R.A. 99.

Effect of judgment against husband and wife for wife's libel or slander. 30 L.R.A. 530.

Effect of judgment on Lloyd's policy of insurance. 55 L.R.A. 199.

Effect of adjudication of insolvency of corporation upon its right of action. 15 L.R.A. 627.

Binding effect of judgment refusing discharge in bankruptcy or insolvency. 13 L.R.A.(N.S.) 629; 30 L.R.A.(N.S.) 1164.

Termination of bastardy proceedings as bar to subsequent case. 1 L.R.A. (N.S.) 470.

Effect upon lien of mortgage, of entry of judgment upon bond or note secured thereby. 24 L.R.A.(N.S.) 1095.

Equitable conversion of realty into personalty by land contract where judgment has been entered against one of parties thereto. 57 L.R.A. 644.

Effect of judgment in adverse suit for lodes or veins within placer claims. L.R.A. 294.

Liability for tort in doing acts authorized by judgment afterwards reversed. 45 L.R.A. 800. JUDGMENT, III. a-cont'd

The judgment on which action to set aside Right to reinstatement of mortgage released conveyance as fraudulent as to creditors is based, considered as 67 L.R.A. 590.

evidence. 67 L.R.A. 590. Conclusiveness of judgment as affected by subsequent events disproving the ground on which it rested. 39 L.R.A. (N.S.) 972.

Refusal to restore money or property secured under judgment subsequently reversed or set aside as contempt. L.R.A.(N.S.) 1100.

Federal courts following state decisions as to nature and effect. 40 L.R.A. (N.S.) 435.

Final judgment in state court as bar to action under Federal employers' liability act. 47 L.R.A.(N.S.) 79.

Effect of decree under the Torrens Law. L.R.A.1916D, 50.

Allowance or disallowance of claim by bankruptcy court as res judicata in a suit or proceeding on the claim in another court. 43 L.R.A.(N.S.) 950.

Rate of interest after judgment on contract fixing rates. 3 B. R. C. 169.

Judgment as change of interest or title, or violation of provision requiring sole and unconditional ownership. L.R.A. (N.S.) 1164.

Acquittal in criminal court as bar to expulsion of member of association for same acts. 50 L.R.A.(N.S.) 579.

Construction of decree for alimony in real property as regards the nature of the estate provided for. L.R.A.1918B, 868.

Right of plaintiff in a suit in which a decree of sale was rendered to assert, as against a purchaser thereunder, a title or interest not litigated in the suit. L.R.A.1917C, 888.

§ 20a. Effect of entry of second judgment without vacation or reversal of first.

General rule. 44 L.R.A.(N.S.) 338. Judgments by default. 44 L.R.A. 44 L.R.A. (N.S.)

Effect of granting new trial. 44 L.R.A. (N.S.) 346.

Dismissal of case after judgment. L.R.A.(N.S.) 347.

Motions for judgment non obstante veredicto. 44 L.R.A. (N.S.) 348. Miscellaneous. 44 L.R.A. (N.S.) 348.

§ 21. Decrees of particular tribunals. Decision of city council as to election of city officer as res judicata. 26 L.R.A.(N. S.) 209.

Conclusiveness of decisions of tribunals of associations or corporations. 49 L.R.A.

Conclusiveness of decisions of the Land Department. L.R.A.1918D, 597.

§ 22. Decrees in equity.

Judgment in suit in equity affecting real property in another state or country. 69 L.R.A. 694.

JUDGMENT, III. a-cont'd

under mistake as to effect of decree. 58 L.R.A. 788; L.R.A.1917E, 1055.

§ 23. Judgments in personam.

Foreign judgments, see infra, § 67. In action to enforce mechanics' lien, see MECHANICS' LIENS, § 31.

Effect of judgment in personam requiring conveyance of land in another state or country. 23 L.R.A.(N.S.) 924.

Recovering personal judgment against own-er as waiver of mechanics' lien. 32 L.R.A.(N.S.) 1073.

§ 24. Effect of judgment obtained upon unauthorized appearance by attorney.

General doctrine of authority. 21 L.R.A. 848.

Domestic judgments. 21 L.R.A. 849. Proof necessary to establish relief.

L.R.A. 853. Nature of such judgments. 21 L.R.A. 853.

Relief in equity. 21 L.R.A. 854.

Fraud or collusion. 21 L.R.A. 854. Several defendants. 21 L.R.A. 855. Third parties. 21 L.R.A. 856.

Laches, negligence, etc. 21 L.R.A. 857. Foreign and sister state judgments. L.R.A. 857.

Statutory provisions. 21 L.R.A. 860.

§ 25. Conclusiveness of probate as res judicata.

Conclusiveness of probate in other state, see infra, § 69.

Nature of the decree. 21 L.R.A. 680. Jurisdictional conclusiveness of decree. 21 L.R.A. 681.

Conclusiveness, generally. 21 L.R.A. 682. With respect to real estate. 21 L.R.A. 683. Facts established by the decree. 21 L.R.A. 684.

In ejectment. 21 L.R.A. 685. In chancery. 21 L.R.A. 686.

Notice of proceedings. 21 L.R.A. 686. Under state statutes. 21 L.R.A. 686.

Collateral attack on probate for fraud not. affecting the jurisdiction. 36 L.R.A. (N.S.) 986.

§ 26. Habeas corpus decree as to custody of infant as res judicata. In general. 67 L.R.A. 783; 49 L.R.A. (N.S.)

Former judgment only conclusive upon same state of facts. 67 L.R.A. 784.

Conclusiveness as to issues involved. L.R.A. 787.

Parties or persons concluded. 67 L.R.A. 787.

Foreign judgment as res judicat L.R.A. 788; 49 L.R.A. (N.S.) 84. iudicata. Dismissal of writ without decision or prejudice. 67 L.R.A. 788.

§ 27. Judgment as a contract. Generally. 17 L.R.A. 611.

Begin with this book on every law question.

JUDGMENT, III. a-cont'd Change of interest on judgment. 17 L.R.A. 612.

Constitutional provisions as to impairment of obligations. 17 L.R.A. 613.

Obligations created by judgment. 17 L.R.A. 614.

#### b. Judgments by default, consent, confession, on demurrer, or of dismissal.

§ 28. Judgment by default.

Effect of judgment by default against dead person. 49 L.R.A. 161.

Effect of default judgment beyond the scope of the relief asked. 11 L.R.A.(N.S.)

Collateral attack for fraud not affecting jurisdiction on judgment by default. 36 L.R.A. (N.S.) 983.

## § 29. Judgment by consent.

Admissions and waivers by consent decrees by representatives of infant. 32 L.R.A. 675.

Collateral attack for fraud not affecting jurisdiction on judgment by consent. 36 L.R.A. (N.S.) 983.

## § 30. Judgment by confession.

Judgment confessed in other state, see infra, § 68.

By fiduciaries, effect as admission or waiver. 32 L.R.A. 690.

As fraud to sustain attachment. 30 L.R.A. 486.

Effect of judgment by confession against dead person. 49 L.R.A. 156.

Collateral attack on judgment by confession for fraud not affecting jurisdiction. 36 L.R.A.(N.S.) 982.

\$ 31. Judgment on demurrer. Collateral attack for fraud not affecting jurisdiction on judgment on demurrer. 36 L.R.A.(N.S.) 984.

#### § 31a. Judgment of dismissal or nonsuit.

Dismissal of writ of habeas corpus to determine custody of infant without decision or prejudice. 67 L.R.A. 788.

Collateral attack for fraud not affecting jurisdiction on judgment of dismissal. 36 L.R.A.(N.S.) 984.

Collateral attack on judgment of nonsuit for fraud not affecting the jurisdiction. 36 L.R.A.(N.S.) 986.

Dismissal of action by agreement as bar to subsequent action. L.R.A.1918B, 525.

### c. Effect of death or insanity.

#### § 32. Effect of judgment entered against a dead person.

Judgments against parties dying before in-49 L.R.A. 153. stitution of suit.

Judgments on confession. 13 L.R.A. 797; 49 L.R.A. 156.

Consult also L.R.A. Digests of Cases.

JUDGMENT, III. e-cont'd

Void judgments. 49 L.R.A. 158. Voidable judgments. 49 L.R.A. 160. Void judgments.

Where death occurs at certain stages of the

action. 49 L.R.A. 161. Judgment by relation back to time prior to death. 49 L.R.A. 167.

Death of party pending appeal. 49 L.R.A.

Judgments in rem. 49 L.R.A. 168.

Classification by states where death occurs after suit is brought. 49 L.R.A. 170. Effect of judgment rendered on appeal after

death of party without revivor. 41 L.R.A.(N.S.) 1053.

## § 33. Insanity as affecting judgments. Effect of insanity on judgment confessed on warrant of attorney. 13 L.R.A. 797; 49 L.R.A. 156.

Validity and effect of judgments against insane persons. 39 L.R.A. 775; 35 L.R.A.(N.S.) 1090.

#### d. What matters concluded.

#### § 34. Generally.

In divorce suit, see DIVORCE AND SEPARA-TION, §§ 14, 15.

As to liability for damming back waters of

stream. 59 L.R.A. 890. In suit to abate nuisance as bar to action for damages therefor. 58 L.R.A. 735.

Recovery by physician as bar to action for malpractice. 45 L.R.A. 541.

Judgment in favor of employee after wrongful discharge, as bar to subsequent action for wages. 5 L.R.A.(N.S.) 449.

Employer's agreement to pay employee during disability, or his contribution to insurance, as affecting or affected by recovery against him for personal injuries. L.R.A.1917B, 1160.

Effect of setting up defects in articles purchased as a counterclaim in an action for one instalment of the purchase price upon the right to set up a like counterclaim in subsequent actions. 10 L.R.A. (N.S.) 734.

Judgment in original action as bar to action by defeated party against the adverse party for perjury in procuring it. 23 L.R.A.(N.S.) 134.

Right to go behind judgment against county or municipality in mandamus proceedings to enforce same. 9 L.R.A. (N.S.) 1002.

Effect of adjudication of bankruptcy based on preference of creditor by judgment, as conclusive adjudication against such creditor in other proceedings. 1 L.R.Λ. (N.S.) 386.

Conclusiveness of surrogate's decree on right of personal representative to interplead claimants. 37 L.R.A.(N.S.) 986.

Conclusiveness as to issues involved of habeas corpus decree as to custody of infant. 67 L.R.A. 787; 49 L.R.A. (N.S.)

JUDGMENT, III. d-cont'd

Acquittal in criminal court as bar to expulsion of member of association for

same acts. 50 L.R.A.(N.S.) 579.

Recovery by physician as bar to action for malpractice. 46 L.R.A.(N.S.) 219.

Decree against infringer of patent as affecting right of patentee to proceed against purchasers of the infringing articles. L.R.A.1915F, 1101.

Judgment as to validity of patent as res judicata between same parties in actions for infringement. 6 B. R. C. 724.

Judgment in action for personal injury as abatement of action for death or

vice versa. L.R.A.1915E, 1152.

Judgment in action for seduction as bar to action for breach of promise. L.R.A. 1918A, 366.

Conviction or acquittal of one of the substantive offenses embraced in a con-spiracy as a bar to prosecution for another on theory of res judicata. L.R.A. 1918A, 589.

§ 35. In action on insurance policy. Action on policy as bar to action to reform it. 12 L.R.A.(N.S.) 907.

Conclusiveness of coroner's finding as to cause of death in action on insurance policy. 68 L.R.A. 284; 45 L.R.A. (N.S.)

§ 36. In replevin suit.

Judgment in replevin action as affecting right of purchaser to recover purchase money paid on seller's retaking the property. 38 L.R.A.(N.S.) 898.

Determination in action in replevin as bar to second action of replevin for recovery of the property replevied. 8 L.R.A. (N.S.) 224.

§ 37. As to real property. Conclusiveness of judgment or order in condemnation proceedings as a settlement of rival claims to the award. L.R.A. 1917A, 690.

Effect of judgment enjoining use of real property in a certain manner upon the right of subsequent occupants to use the property in the same manner. 13 L.R.A. (N.S.) 462.

Judgment dismissing bill to set aside tax deed as a cloud on title as res judicata in action under tax deed to recover possession of property. 25 L.R.A. (N.S.) 1011.

Effect of judgment in partition upon rights of defendants as between themselves, which were not brought to the attention of the court. 14 L.R.A.(N.S.) 333.

Right as between successful plaintiff and evicted defendant to crops unsevered at time of final judgment. 23 L.R.A. (N.S.) 531; L.R.A.1918A, 550.

§ 37a. — action involving boundaries. Judgment against plaintiff in action involving boundary as establishing boundary claimed by defendant. 38 L.R.A. (N.S.) 1020.

JUDGMENT, III. d-cont'd

§ 37b. — in ejectment.

Effect of judgment in ejectment against the tenant upon a landlord not a party, or vice versa. 26 L.R.A. (N.S.) 595.

Conclusiveness of judgment as to claim of title previously acquired but not in issue. 4 L.R.A.(N.S.) 295.

Judgment dismissing bill to set aside tax deed as cloud on title as res judicata in action under a tax deed to recover possession of property. 25 L.R.A.(N.S.)

§ 38. Judgment on which action to set aside conveyance as fraudulent, is based.

Conclusive effect of judgment on which action to set aside conveyance as fraudulent is based. 67 L.R.A.

§ 89. Judgment in criminal action. Judgment in criminal action as res judicata in civil action. 11 L.R.A. (N.S.) 653; 31 L.R.A. (N.S.) 670.

§ 40. By decision of ecclesiastical tribunal. See COURTS, § 12.

#### e. As to parties.

§ 41. Generally.

In garnishment proceeding, see GARNISH-MENT, § 14.

Effect of judgment against one joint debtor or tort feasor, see JOINT CREDITORS AND DEBTORS, § 10.

Effect of judgment in favor of one joint debtor or tort feasor, see JOINT CREDITORS AND DEBTORS, § 11.

Party affected by dismissal of action by agreement. L.R.A.1918B, 527.

Effect of decree in proceedings under the Torrens Law. L.R.A.1916D, 50.

Right of judgment creditor to question validity of attachment. 35 L.R.A. 768.

Judgment as res judicata between codefendants or coplaintiffs as to matters which were, or might have been, adjudicated in the prior suit. 27 L.R.A.(N.S.) 650.

Effect of judgment in favor of party charged with negligence, on liability of codefendant for the same act of negligence. 2 L.R.A. (N.S.) 764.

Availability of judgment in favor of immediate actor in alleged wrong as estoppel in favor of one whose wrong if any was derivative. 16 L.R.A. (N.S.) 677.

Judgment in attachment as res judicata against chattel mortgagee. 64 L.R.A.

Who bound by habeas corpus decree as to custody of infant. 67 L.R.A. 787; 49 L.R.A.(N.S.) 83.

Ecgin with this book on every law question.

JUDGMENT, III. e-cont'd

Liability of reinsurer where judgment is taken against reinsured. 8 L.R.A.(N. S.) 856.

Is a judgment in a suit to set aside a fraudulent conveyance, which purports to devest entirely the title of the grantee, res judicata, as between the grantor and grantee or their privies. 21 L.R.A. (N.S.) 481.

Judgment in a suit by one taxpayer as res judicata in a suit by another. L.R.A.(N.S.) 108.

Decree in taxpayers' suit restraining district from performing contract, as binding upon contractor. 37 L.R.A. (N.S.)

Binding effect of judgment against actual tort feasor upon one who is constructively responsible for his torts. L.R.A. 1918E, 232.

Conclusiveness of judgment against a constructive tort feasor in a subsequent action for contribution or indemnity. 40 L.R.A.(N.S.) 1172. Recovery by bailor as bar to action by

bailee for damage to or conversion of

bailed property. 3 B. R. C. 404. Judgment in favor of one or more sureties and against others in action by obligee as res judicata between sureties. 51 L.R.A.(N.S.) 797.

Conclusiveness as between lessor lessee or licensor and licensee of railroad, of judgment in action for injuries caused by negligence of the lessee or licensee. L.R.A.1918E, 272.

Acquitta! of one of the parties to a sexual offense as a bar to prosecution of the other. 49 L.R.A.(N.S.) 479.

42. Persons not parties nor notified. Validity and effect of a judgment against parties designated in an action as unknown. L.R.A.1917F, 609.

Effect of attachment and sale of stranger's property. L.R.A.1917B, 400.

Decree in proceedings under the Torrens
Law. L.R.A.1916D, 50.

Law. L.R.A.19161, 50.
Effect of judgment in ejectment against vice versa. 26 L.R.A.(N.S.) 595.

Effect of judgment establishing title to property seized under execution, as against officer making seizure, who was not a party thereto. 14 L.R.A. (N.S.) 530.

Judgment against one as prima facie evidence of amount of damages against another liable over, who had no notice of the suit. 16 L.R.A.(N.S.) 911.

Judgment against trustee in mortgage or deed of trust to secure debt as affecting beneficiary not a party. 35 L.R.A. (N.S.) 196.

Effect of judgment declaring husband's title to estate to be that of mortgagee on dower right of wife who was not a party to the action. 13 L.R.A.(N.S.) 723.

Action against agent as bar to one against principal undisclosed when action first commenced. 6 L.R.A.(N.S.) 729.

Consult also L.R.A. Digests of Cases.

JUDGMENT, III. e-cont'd

Necessity of demand or request upon covenantor to defend in order to bind him by decree against grantee. 13 L.R.A.(N. S.) 732.

Failure of covenantee to give notice of pendency of action as affecting his right to rely upon an adverse judgment to show breach of covenant. L.R.A.1918B,

§ 43. Person not a party or privy conducting defense.

Where the one assuming the defense is acting as agent of the defendant. L.R.A. (N.S.) 963.

Conclusiveness upon an attorney who has charge of the defense. 37 L.R.A. (N.S.)

Actions against officers. 37 L.R.A. (N.S.)

Actions upon notes. 37 L.R.A.(N.S.) 965. Conclusiveness as to questions of liability. 37 L.R.A. (N.S.) 965.

Patent and trademark cases. 37 L.R.A. (N.S.) 966.

§ 44. Employer and employee.

Estoppel of servants by judgment as to validity of patent in suit against master. 6 B. R. C. 727.

Judgment in favor of employee as bar to recovery against employer for employee's act or default. 54 L.R.A. **6**49.

Effect of verdict for servant in action against master and servant for latter's negligence or misfcasance. 9 L.R.A. (N.S.) 880; 30 L.R.A. (N.S.) 404; L.R.A.1917E, 1029.

§ 45. Husband and wife. Conclusiveness of judgment in wife's suit for personal injuries, in husband's action for loss of services and expenses. 10 L.R.A. (N.S.) 140.

Effect of judgment declaring husband's title to an estate to be that of mortgagee, upon dower right of wife, who was not a party to the action. 13 L.R.A.(N.S.) 723.

§ 46. Corporations and stockholders. Necessity of notice to stockholder to bind him by an order for unpaid stock subscription in insolvency proceedings. 36 L.R.A.(N.S.) 177.

Conclusiveness of order in domicil of cor-poration of assessment against stockholders outside thereof. 33 L.R.A. (N.S.) 910.

§ 47. Principal and surety.

Effect upon surety of judgment against principal. 40 L.R.A.(N.S.) 698; L.R.A.1918E, 814.

Official bonds. 52 L.R.A. 165; 40 L.R.A.(N.S.) 704; L.R.A.1918E, 816.

§ 48. Principal and agent.

Action against agent as bar to one against principal undisclosed when first action commenced. 6 L.R.A.(N.S.) 729.

Commencing action or taking judgment against either an undisclosed principal

JUDGMENT, III. e-cont'd

or his agent as a bar to a subsequent action against the other. 21 L.R.A.(N. S.) 786.

Judgment between principal and a third person as res judicata in an action between the latter and an agent. L.R.A. (N.S.) 37.

§ 49. Persons not in being.

Devestiture of estates of persons not in being. 8 L.R.A.(N.S.) 49.

l 50. Mortgage cases.

Judgment against trustee in mortgage or deed of trust to secure a debt as affecting beneficiary who was not a party. 35 L.R.A.(N.S.) 196.

Conclusiveness on bond holders of decree in suit by trustee in mortgage or deed of 16 L.R.A.(N.S.) 1009.

## f. Collateral attack.

## 1. In general,

#### § 51. Generally.

On foreign judgment, see infra, §§ 71, 72. Judgment in action to remove cloud on title, see CLOUD ON TITLE, § 6.

On decree of divorce, see DIVORCE AND SEP-ARATION, §§ 16-19.

What is a collateral, and what a direct, attack upon a judgment, within the rule that a judgment that is not void cannot be attacked collaterally. L.R.A. 1918D, 470.

On judgment against parties designated in an action as unknown. L.R.A.1918F,

639.

On adjudication in lunacy proceeding for lack of notice. 23 L.R.A. 743.

On decree in proceedings under the Torrens

Law. L.R.A.1916D, 50.
Collateral impeachment of findings as to jurisdictional facts on which administration of a decedent's estate is based. 18 L.R.A. 242.

Presumption that attorney appearing in action has full authority to do so. 21 L.R.A. 848.

Presumption as to jurisdiction when record shows defence. 1 L.R.A.(N.S.) 740.

Collateral attack on proceedings of magistrate committing witness for contempt. 1 L.R.A.(N.S.) 1143.

On judgment against insane person.

L.R.A. 779; 35 L.R.A.(N.S.) 1093. On decisions or findings of the Land Department. L.R.A.1918D, 597.

52. Who may attack judgment.

Right of parties to adoption proceedings or their privies to attack decree of adop-30 L.R.A. (N.S.) 159.

Right of garnishee to attack judgment against principal defendant for lack of jurisdiction. 51 L.R.A. (N.S.) 597.

§ 53. — alleged fraudulent grantee from judgment debtor.

Status of the grantee as affecting his right to attack the judgment. 67 L.R.A. 610.

Begin with this book on every law question.

JUDGMENT, f-cont'd

The sufficiency of the judgment pleaded, to support the action. 67 L.R.A. 611.

#### 2. Grounds.

§ 54. Generally.

Decree of divorce, see DIVORCE AND SEPARA-TION, §§ 16-19.

Disqualification of a part of the participating judges. L.R.A.1918D, 244. Insanity of party. 39 L.R.A. 779.

Insufficiency of pleadings. L.R.A.1916E,

Unauthorized appearance of attorney. 21 L.R.A. 854.

Perjury. 10 L.R.A. (N.S.) 242; L.R.A. 1916B, 893.

Collateral attack on lunacy proceedings for want of notice to the lunatic. L.R.A. (N.S.) 895; 26 L.R.A. (N.S.) 237.

Collateral attack on probate where the decree or the will affirmatively shows that the will is invalid. 42 L.R.A. (N.S.) 454.

Right in a collateral proceeding to raise the question of the validity of a statute or ordinance upon which a proceeding in a criminal case is based. L.R.A. 1918D, 1007.

#### § 55. Fraud.

As ground for attacking foreign judgment, see infra, § 72.

Decree of divorce, see DIVORCE AND SEPARA-TION, §§ 16, 17.

As ground for attack on decree in proceedings under the Torrens Law. L.R.A. 1916D, 53.

By alleged fraudulent grantee on judgment on which action to set aside conveyance as fraudulent is based. 67 L.R.A. 605.

Character and kinds of judgments and orders within the rule that judgments and orders cannot be collaterally attacked for fraud not affecting the jurisdiction. 36 L.R.A. (N.S.) 980.

#### § 56. Decision against constitutional right.

Denial of due process of law or other constitutional right of procedure. L.R.A. 449.

Conviction for violating unconstitutional statute or ordinance. 39 L.R.A. 454.

Judgment on unconstitutional contract. 39 L.R.A. 457.

Other cases. 39 L.R.A. 458.

#### § 57. Judgment on which action to set aside conveyance as fraudulent is based.

Attack for fraud or collusion. 67 L.R.A. 605.

Attack for irregularity. 67 L.R.A. 608. Unintentional default in the original action. 67 L.R.A. 609.

How the objection to the judgment must Attack for matters arising since the judgment. 67 L.R.A. 611. ment. 67 L.R.A. 609. ment. 67 L.R.A. 609.

JUDGMENT-cont'd

IV. The lien.

#### a. In general.

§ 58. Generally.

What entry or record is necessary to secure lien, see supra, § 15.

Power of attorney to bind client by discharge of lien of judgment before payment or

satisfaction. L.R.A.1918D, 809. Personal liability of a trustee for losses to trust estate from loaning money on security of judgment lien on real estate. 44 L.R.A.(N.S.) 897.

Discharge of liability of one spouse on judgment against both as affecting lien on estate by entireties. L.R.A.1916D, 115. Effect of judgment as lien. 17 L.R.A. 345. Effect of filing of creditor's bill on lien of judgment. 17 L.R.A. 345. Effect on, of deed in partition. 57 L.R.A.

340.

Effect on, of discharge in bankruptcy. 42 L.R.A.(N.S.) 294

Effect upon existing judgment lien of proceedings to renew, revive, or extend the judgment. 53 L.R.A. 702.

Judgment against vendor or vendee as lien on property which is the subject of a land contract. 57 L.R.A. 644.

Position of judgment creditors of partner-ship. 28 L.R.A. 170.

Necessity of keeping alive judgment against municipal corporation. 2 L.R.A. (N.S.)

§ 59. Of judgment of Federal court. Similarity of liens of Federal judgments, to those of judgments in state courts. 47 L.R.A. 469.

Derivation of liens. 47 L.R.A. 470. Territorial extent of lien. 47 L.R.A. 473. Time of attaching. 47 L.R.A. 478. Statutes of limitations. 47 L.R.A. 478. Suspending the lien. 47 L.R.A. 479. Judgments rendered in another state. L.R.A. 479.

Priority of judgment in favor of United States. 47 L.R.A. 479.

Decree in admiralty. 47 L.R.A. 480.

§ 60. Continuing lien of judgment opened or set aside to permit a de-

Distinction between opening and setting aside or vacating judgment. 41 L.R.A. 222.

Power to continue lien on opening judgment. 41 L.R.A. 223.

The Pennsylvania and Ohio rules. 41 L.R.A.

Effect of continuance of lien. 41 L.R.A. 225. The second or final judgment. 41 L.R.A.

The final enforcement or collection. 41 L.R.A. 227.

Consult also L.R.A. Digests of Cases.

JUDGMENT, IV.—cont'd

#### b. Priority of.

§ 61. Generally.

May priority between judgments, the liens of which have attached simultaneously, be obtained by priority of execution proceedings. L.R.A.1916D, 669.

Priority of judgment of Federal court in favor of United States. 47 L.R.A. 479. On future crops as against purchaser or mortgagee. 23 L.R.A. 466.

mortgagee. 23 L.R.A. 466. Superiority of lien of local assessment. 35 L.R.A. 372.

Pre-existing debt as consideration for mortgage as against judgment. 33 L.R.A.

Federal courts following state decisions as to priority of judgment. 40 L.R.A.(N. S.) 435.

62. As to unrecorded conveyance.

In absence of express statutory definition. 16 L.R.A. 668.

Priority of judgment by virtue of statutes. 16 L.R.A. 668.

Effect of notice on rank of lien of judgment. 16 L.R.A. 670.

Priority of right of purchaser at sale under judgment. 16 L.R.A. 671.

When judgment creditor purchases at sale. 16 L.K.A. 671.

Effect of notice to purchaser at judgment sale. 16 L.R.A. 672.

Priority as between unrecorded deed or mortgage of real estate and judgment lien acquired by attachment. LR.A. 1918A, 1089.

63. Over conveyance made after beginning of term. English rule. 38 L.R.A. 243.

American comments on English rule. 38 L.R.A. 245.

States in which the judgment relates back. 38 L.R.A. 246.

General American rule. 38 L.R.A. 247.

Judgment with stay of execution. 38 L.R.A.

Special cases. 38 L.R.A. 250.

64. On after-acquired property. Enumeration of the different rules. L.R.A. 209.

Rule that liens attach equally. 42 L.R.A. 210.

Rule that original priority is retained. 42 L.R.A. 212.

Rule that lien does not attach. 42 L.R.A. 212.

## c. On what property.

§ 65. Generally.

Priority of lien on property, see supra, §§ 61-64.

Against property sold in action to enforce contribution to cost of party wall by or against grantees or successors in title. 66 L.R.A. 698.

JUDGMENT, IV. c-cont'd

Judgment against individual as lien on interest of tenant by entirety. 9 L.R.A. (N.S.) 1026; 42 L.R.A. (N.S.) 555; L.R.A.1918C, 1015.

Money decree for permanent alimony or separate maintenance as lien on real property. 25 L.R.A. (N.S.) 132; L.R.A. 1916B, 651.

Dedication as affecting lien of judgment. 31 L.R.A.(N.S.) 1028.

Interest of vendee under an executory contract for the purchase of real property. L.R.A.1915B, 340.

Judgment on antecedent debt as lien on property to which exemption law has attached in the meantime. 37 L.R.A. (N.S.) 156.

Lien of judgment against one having legal title to land belonging to another. 22 L.R.A. 258.

Lien on judgment on real property permitted to stand in debtor's name. 30 L.R.A. (N.S.) 10; 46 L.R.A. (N.S.) 1097.

#### V. Foreign judgments.

#### a. In general.

66. Generally.

Jurisdiction to render decree of divorce against nonresident, see DIVORCE AND SEPARATION, §§ 7-12.

Impeaching foreign decree of divorce, see DIVORCE AND SEPARATION, § 17.

Garnishment of judgment rendered in another state. 43 L.R.A.(N.S.) 531. Law governing right to interest on foreign

judgment. 56 L.R.A. 309.

Lien of judgment of Federal court rendered in another state. 47 L.R.A. 479.

Copies of records of, for evidence in other state. 5 L.R.A. (N.S.) 938. Sufficiency of foreign judgment as condition

precedent to equitable remedies of creditors. 23 L.R.A. (N.S.) 22.

## b. Effect and conclusiveness of.

§ 67. Generally.

In divorce suit, see DIVORCE AND SEPARA-TION, § 15.

Decision under full faith and credit provision as a Federal question. 62 L.R.A. 529.

Consideration by Federal Supreme Court of questions relating to full faith and credit provision in reviewing judgment of state court. 63 L.R.A. 580.

Foreign judgments in rem. 20 L.R.A. 668; 32 L.R.A. 236.

Judgments in personam. 20 L.R.A. 674. Judgments of the courts of the Confederate states. 20 L.R.A. 681.

Foreign habeas corpus decree as to custody of infant as res judicata. 67 L.R.A. 788: 49 L.R.A. (N.S.) 83.

Effect of assessment on stockholders under order of court in another state as res judicata. 34 L.R.A. 694. Begin with this book on every law question.

JUDGMENT, V. b-cont'd

Effect in third state of decree upholding a foreign judgment. 2 L.R.A. (N.S.) 325. Effect of foreign judgment obtained on unauthorized appearance by attorney. 21 L.R.A. 857.

Effect in other state of judgment based on local or peculiar law affecting the merits of the cause of action or defense. L.R.A.1915F, 984.

Judgments of courts of state in which insurance company is incorporated as binding in other states. L.R.A.1916A,

Judgment in one state in an action for death as affecting action in another state for the same death. L.R.A.1915F, 737.

Extraterritorial effect of judgment fixing domicil. L.R.A.1917C, 185.

68. Judgment by confession.

Effect in other states, of judgment confessed on warrant of attorney. 3 L.R.A. (N. S.) 449.

§ 69. Effect of probate of will in another state.

Conclusiveness of foreign probate decrees. 20 L.R.A. 673.

As to personal property. 48 L.R.A. 131. Wills of real estate. 48 L.R.A. 133. Presumption. 48 L.R.A. 136.

As to full faith and credit. 48 L.R.A. 136. Conclusiveness of decree of probate from another state. 48 L.R.A. 137.

Classification by states. 48 L.R.A. 142. Conclusiveness of foreign probate as affecting real property. 6 L.R.A.(N.S.) 617.

§ 70. Against executor or administra-

The general rule. 27 L.R.A. 101.
In proceedings commenced in decedent's lifetime. 27 L.R.A. 105.
Reasons for the rule. 27 L.R.A. 106.

The effect of the United States Constitution and act of Congress. 27 L.R.A. 108.

How affected by state statute. 27 L.R.A. 109.

As evidence of indebtedness. 27 L.R.A. 111. Exceptions to the general rule. 27 L.R.A. Ĭ12.

English decisions. 27 L.R.A. 116.

## c. Collateral attack on.

§ 71. Generally.

On decree of divorce, see DIVORCE AND SEP-ARATION, § 17.

Attack on foreign judgment on ground that appearance of attorney unauthorized. 21 L.R.A. 857.

72. On ground of fraud.

Right of surety to relief against judgment, see PRINCIPAL AND SUBETY, § 25.

Right to question judgment of court of sister state upon ground that defendant was induced by fraud to go within its jurisdiction. 12 L.R.A.(N.S.) 941.

JUDGMENT, V. c-cont'd

Right to resist judgment of sister state on the ground of fraud. 32 L.R.A. (N.S.) 905.

## d. Enforcement.

§ 73. Generally.

Decree for alimony, see DIVORCE AND SEPA-B...ION, § 45.

Action in one state upon a judgment recovered under a penal statute in another. 12 L.R.A. (N.S.) 873.

Right of domiciliary administrator to sue on judgment in other state. 39 L.R.A. (N.S.) 430.

-Judgment upon judgment of sister state as merger of the original. 42 L.R.A. (N.S.) 360.

#### VI. Payment; discharge; assignment.

#### a. Payment; discharge; satisfaction.

\$ 74. Generally.

Exemption of property from liability to satisfy, see EXEMPTIONS.

Judgment against infant, see INFANTS, § 36.

Release of one joint debtor from judgment, see Joint CREDITORS AND DEBTORS, II.

Payment of part of judgment, or promise or agreement to pay, as consideration for agreement extending time of payment. 52 L.R.A.(N.S.) 368. Payment by volunteer. 23 L.R.A. 130.

Satisfaction of judgment on which action to set aside conveyance by judgment debtor is based. 67 L.R.A. 610.

Sheriff's duty as to adverse claims to proceeds of judgments in his hands. 47 L.R.A. 737.

Right of town, county, or municipality to compromise valid judgment on partial payment thereof. 19 L.R.A. (N.S.) 320.

Right of alleged fraudulent grantee of judgment debtor to show payment of claim on which judgment based. 67 L.R.A. 599.

75. Who may receive payment.

Right of next friend to receive payment of, and satisfy, judgment recovered in behalf of infant. 3 L.R.A. (N.S.) 72; 11 L.R.A. (N.S.) 913; L.R.A.1918C, 55.

Satisfaction by guardian ad litem or his attorney, of judgment in favor of minor. 3 L.R.A.(N.S.) 72.

76. Effect of.

Effect of release of one joint judgment debtor, see Joint CREDITORS AND DEBTORS,

Extinguishment of judgment against principal by surety's payment, see Principal by surety's payment, see PAL AND SURETY, § 28.

Payment by defeated party as estoppel to appeal therefrom. 29 L.R.A. (N.S.) 22. Right of one who has collected part of judgment to appeal from the rest. 29 L.R.A. (N.S.) 15.

Consult also L.R.A. Digests of Cases.

JUDGMENT, VI. a-cont'd

Right to show upon extrinsic evidence that payment of judgment against, or consideration for release of, alleged joint tort feasor was not a satisfaction of the claim. 14 L.R.A.(N.S.) 329.

Right to new trial after satisfaction of judgment. 68 L.R.A. 136.

Title of purchaser at judicial sale where judgment was satisfied before sale. 21 L.R.A. 44.

Payment, as ground for injunction against judgment. 30 L.R.A. 563.

Effect of judgment against one joint tort feasor and satisfaction thereof wholly or partly on liability of other. 58 L.R.A. 421.

Discharge of liability of one spouse on judgment against both as affecting lien on estate by entireties. L.R.A.1916D, 115.

77. Cancelation of; recovery back. Right of creditor to have satisfaction of

judgment canceled where the property levied on, or its proceeds, is returned to the debtor as exempt, or to a third person who establishes a claim thereto. 11 L.R.A.(N.S.) 396.

When does limitation commence to run against action to recover money paid on a judgment subsequently reversed or modified. 25 L.R.A. (N.S.) 31.

Recovery of payment on judgment as made under duress of real property. L.R.A. 1915B, 501.

## b. Assignment,

§ 78. Generally.

Assignability of decree for alimony.

L.R.A. (N.S.) 179.

Assignment of judgment as transfer of inci-

dental rights. 1 L.R.A.(N.S.) 149. Set-off against judgment in hands of assignee. 23 L.R.A. 335; L.R.A.1917F, 1010.

Right to injunction against enforcement of judgment as aid to equitable set-off of claim as against assignee of judgment. 35 L.R.A.(N.S.) 143.

Assignment of judgment as affecting attorney's lien thereon. 37 L.R.A. (N.S.) 226.

Effect of death of one of the parties after assignment upon remedy by execution. 61 L.R.A. 359.

#### VII. Revival; enforcement,

#### a. Revival; scire facias.

§ 79. Generally.

affect of new promise or payment on barred judgment. 8 L.R.A.(N.S.) 440.

Effect on existing judgment lien of proceedings to revive judgment. 53 L.R.A. 702.

Effect of resolution to pay iudgment against city to excuse creditor's failure to revive judgment during statutory period. 2 L.R.A. (N.S.) 855. JUDGMENT, VII. a-cont'd

Revival of judgments in favor of the state. 47 L.R.A.(N.S.) 905.

Expiration of period for revival of dormant judgment as bar to an action thereon L.R.A.1916E, 738.

Right of garnishee on scire facias on judgment against him to attack judgment against principal defendant for lack of jurisdiction. 51 L.R.A.(N.S.) 600.

## § 80. Service of notice in proceedings

In general. 37 L.R.A.(N.S.) 1162.

Mode and sufficiency of service, generally. 37 L.R.A.(N.S.) 1162.

Directing process to other county. L.R.A.(N.S.) 1163.

Service on nonresident of state. 37 L.R.A. (N.S.) 1163.

#### b. Enforcement.

§ 81. Generally.

Of foreign judgment, see supra, § 73. Injunction against, see Injunction, §§ 47-60.

Set-off of, or against, see SET-OFF AND COUNTERCLAIM, §§ 22-24.

Effect of war on judgment recovered by

alien enemy. 5 B. R. C. 589. Entry or record necessary for the purpose of enforcing judgment. 28 L.R.A. 633.

Right to sue upon domestic judgment upon which execution may be issued. L.R.A. 1917A, 189.

Of judgment against insane person. L.R.A. 778; 35 L.R.A. (N.S.) 1093.

Final enforcement or collection of judgment opened or set aside to permit a

defense. 41 L.R.A. 227.

Judgment in suit in equity affecting real property in another state or country. 69 L.R.A. 694.

Enforcement of judgment against municipality for property destroyed by mob. 24 L.R.A. 602.

Power of Federal court to enforce its own judgment against a decedent's estate. 12 L.R.A.(N.S.) 154.

Enforceability of judgment cusury. 3 L.R.A. (N.S.) 715. containing

Effect of death of one of the parties after, upon remedy by execution. 61 L.R.A. 353.

Injunction in favor of judgment creditors against sale under other process. 30 L.R.A. 127.

Liability for procuring judgment on spurious claim and enforcing the same against the property of the judgment debtor. 36 L.R.A.(N.S.) 1112.

§ 82. Who may enforce. Who is real party in interest by whom action on judgment must be brought. 64 L.R.A. 608.

#### § 83. - right of surety who has paid judgment to enforce it. At law. 16 L.R.A. 115.

Begin with this book on every law question.

JUDGMENT, VII. b-cont'd In equity. 16 L.R.A. 117. Under statutes. 16 L.R.A. 118.

§ 84. Mode of enforcement.

By execution or levy, see EXECUTION; LEVY AND SEIZURE.

Equitable remedy to subject chose in action to judgment after return of no property found. 63 L.R.A. 673; 15 L.R.A. (N.S.) 976.

Exhausting remedies at law as a condition of right of judgment creditor to procure a receivership. 33 L.R.A. 546.

Enforcing orders and decrees of court by imprisonment for debt. 34 L.R.A. 661; L.R.A.1915B, 649.

Right to set up judgment in other court by amendment or supplemental complaint in pending action. 49 L.R.A. 285. Provability of judgments in bankruptey. 54 L.R.A. 369.

Necessity of notice of default to bind guarantor of judgment. 20 L.R.A. 259.

Right to mandamus to compel inferior court to execute or enforce its judgment or decree. 24 L.R.A. (N.S.) 886.

§ 85. Effect of dormancy of judgment. Attack for dormancy, on judgment on which action to set aside conveyance as fraudulent is based. 67 L.R.A. 609.

Dormancy of, as ground for injunction against execution. 30 L.R.A. 142.

Expiration of period for revival of dormant judgment as bar to an action thereon. L.R.A.1916E, 738.

§ 86. Limitation of action to enforce. Conflict of laws as to limitations of actions on. 48 L.R.A. 632.

Effect of bar of limitations against action to enforce judgment on right to isssue execution thereon. 23 L.R.A. (N.S.) 1096.

running of statute against judgment postponed until expiration of time for appeal or motion to avoid. 47 L.R.A. (N.S.) 145.

Absence from state as affecting running of statute of limitations against judgment. 51 L.R.A.(N.S.) 883.

#### VIII. Relief from; setting aside.

## a. In general.

§ 87. Generally.

Appealability of judgment, see APPEAL AND ERROR, §§ 1, 2.

Loss of right to appeal, see APPEAL AND ER-ROR, §§ 8, 8a.

Relief from award of arbiters, see ARBITRA-TION, § 6.

From decree of divorce, see DIVORCE AND

SEPARATION, §§ 16-19.

Modification of decree for alimony, see DIVORCE AND SEPARATION, § 46.

Injunction against judgment, see INJUNC-TION, §§ 47-60.

JUDGMENT, VIII. a-cont'd

General equitable jurisdiction in regard to injunctions against judgments, see In-JUNCTION, § 47.

Negligence as bar to injunction, see In-JUNCTION, § 57.

As to bill of review, see REVIEW.

Continuing lien of judgment opened or set aside to permit a defense, see supra, s 60.

Right to have void judgment reviewed by appellate court as affecting right to equitable relief. 50 L.R.A.(N.S.) 1055.

Relief from decree in proceedings under the Torrens Law. L.R.A.1916D, 50. Assignment of right to set aside. 15 L.R.A.

813. Relief from, when rendered on publication

of process. 16 L.R.A. 361.

Opening, setting aside, and vacating decrees obtained by publication. 19 L.R.A.

· 817. Reversal, setting aside, or superseding of judgment as ground for injunction. 30

L.R.A. 563. Knowledge of the pendency of an action as affecting right to equitable relief from judgment rendered without personal jurisdiction over defendant. 9 L.R.A. (N.S.) 1062.

May judgment against two or more tort feasors be set aside as to some and allowed to stand as to the rest. 27 L.R.A. (N.S.) 209.

Relief from judgment against insane person. 39 L.R.A. 780; 35 L.R.A.(N.S.) 1094. Removal for separable controversy of action by school district to cancel judgments. 5 L.R.A.(N.S.) 87.

Elimination of usury after judgment fixing amount of debt or lien. 3 L.R.A. (N.S.) 715.

Effect of failure to object before judgment to unauthorized appearance by an attorney upon right to relief from judgment. L.R.A.1918B, 899.

88. Defenses.

Right to open default as affected by character of defense. L.R.A.1916F, 839. Defense of statute of limitations. 61 L.R.A. 746; L.R.A.1916F, 856.

Defense of usury. 12 L.R.A.(N.S.) 659; L.R.A.1916F, 859.

Necessity of showing defense to cause of action on which judgment based as a condition of maintaining suit in equity to set the same aside upon ground that it was obtained without jurisdiction. 14 L.R.A.(N.S.) 213.

Necessity of affidavit of meritorious defense, and necessity of showing such defense, in order to vacate a judgment rendered without jurisdiction of the person of defendant. 18 L.R.A. (N.S.) 405.

Necessity of showing meritorious defense as prerequisite to relief from divorce decree. L.R.A.1917B, 427.

89. Judgment by confession. Injunction against judgment by confession, sce Injunction, § 59.

Consult also L.R.A. Digests of Cases. 50

JUDGMENT, VIII. a-cont'd

Right of third person to have judgment on confession set aside. 54 L.R.A. 758. Setting aside judgment confessed on war-

rant of attorney. 13 L.R.A. 800.

§ 90. Judgment by default.

Grounds for relief, see infra, § 97.

Right to open default as affected by character of defense. 61 L.R.A. 746; L.R.A. 1916F, 839.

Opening decrees of divorce taken by default. L.R.A.1917B, 472.

Reliance upon receiving notice from opposing counsel as excuse for default. L.R.A. (N.S.) 196.

Waiver of right to appeal from opening of default by acceptance of favorable part. 29 L.R.A.(N.S.) 26.

§ 91. — availability to privies.

Is remedy of party to open a default judgment available to his privies. 20 L.R.A. (N.S.) 1063.

§ 92. Who may have judgment against other parties set aside.

Who entitled to appeal, see APPEAL AND ER-BOR, §§ 7, 7a.

Right of third person to have decree of divorce set aside. 54 L.R.A. 758; L.R.A. 1917B, 497.

Is remedy to open default judgment available to his privies. 26 L.R.A. (N.S.)

Right of distributee who had no notice and did not appear, to have decree of accounting opened. 63 L.R.A. 98.

Remedy of pretermitted heirs to have probate set aside. 37 L.R.A.(N.S.) 1144.

Who may ask for relief from judgment against insane person. 35 L.R.A. (N.S.) 1096.

Judgments on confession. 54 L.R.A. 758. Matters of administration, probate, heirs, guardian. 54 L.R.A. 761.

Assignment for creditors. 54 L.R.A. 762. Garnishment. 54 L.R.A. 763.

Foreclosure of mortgage. 54 L.R.A. 763. Judgments against partners. 54 L.R.A. 763.

Judgments against corporations. 54 L.R.A. 763.

For death of party. 54 L.R.A. 764.

For usury. 54 L.R.A. 765.
Application by surety or guarantor. L.R.A. 765.

Application by party claiming property affected. 54 L.R.A. 766.

Application by creditors seeking relief. 54 L.R.A. 768.

Application by other persons. 54 L.R.A.

Who is entitled to invoke certiorari to review a decree or order affecting sale of intoxicating liquor. 19 L.R.A. (N.S.) 610.

Right of creditor to attack a judgment against debtor in favor of another creditor on the ground of accident or mistake. 29 L.R.A.(N.S.) 1190.

JUDGMENT, VIII.-cont'd

#### b. Grounds.

§ 93. Generally.

For relief from decree of divorce, see Di-VORCE AND SEPARATION, §§ 16-19.

Invalidity or want of jurisdiction as ground for injunction, see Injunction, § 48.

Errors and irregularities as ground for injunction, see Injunction, § 49.

Matters arising subsequent to rendition of judgment, as ground for injunction, see Injunction, § 50.

Defenses existing prior to rendition of judgment, as ground for injunction, see INJUNCTION, § 51.

Disqualification of a part of the participating judges. L.R.A.1918D, 244.

Relief from judgment obtained on unauthorized appearance by attorney. 21 L.R.A. 854.

Relief against judgment rendered against insane person. 39 L.R.A. 780.

Relief from judgment suffered in reliance upon a promise which was not observed. 13 L.R.A.(N.S.) 579.

Judgment entered upon warrant of attorney in contract made on Sunday. 44 L.R.A. (N.S.) 727.

Opening or setting aside consent decree entered by consent of attorney. 46 L.R.A. (N.S.) 753.

## § 94. Mistake, inadvertence, surprise, or excusable neglect.

Accident, sickness, or death, as ground for injunction, see Injunction, § 54.

Mistake as ground for injunction, see In-JUNCTION, § 55.

Surprise or duress as ground for injunction, see Injunction, § 56.

Negligence as ground for injunction, see IN-JUNCTION, § 57.

Right of creditor to attack judgment against debtor in favor of another creditor on ground of accident or mistake. 29 L.R.A.(N.S.) 1190.

Delay of mail or train, or loss of mail, as accident or surprise for which judgment by default may be set aside. 30 L.R.A. (N.S.) 740.

Lack of actual notice in case of constructive service as ground for relief, under a statute permitting opening of a judgment for mistake, inadvertence, surprise, or excusable neglect. 31 L.R.A.(N.S.) 1068.

Mistake in name or description of corporation as affecting judgment by default against it. L.R.A.1916F, 728.

Relief from default judgment because of failure of agent upon whom writ was served to notify defendant. L.R.A. 1916E, 103.

1s neglect of counsel to be imputed to party, under statute providing for relief from judgment for mistake, inadvertence, surprise, or excusable neglect. 27 L.R.A.(N.S.) 858.

JUDGMENT, VIII. b-cont'd

Reliance upon clerk or judge for information as to time of trial or hearing as ground of relief from judgment. L.R.A. 1917C, 1193.

Accident or mistake as ground for relief from divorce decrees. L.R.A.1917B, 459.

## § 95. Fraud and collusion.

Fraud as ground for relief from judgment JUNCIION, § 52.

Fraud as ground for relief from judgment for purchase money. 31 L.R.A. 753.

Fraud or collusion as ground for relief from judgment obtained on unauthorized appearance by attorney. 21 L.R.A. 854.

Relief from judgment suffered in reliance upon a promise which was not observed. 13 L.R.A.(N.S.) 579.

Concealment of evidence as ground for relief against judgment. 26 L.R.A. (N.S.) 536.

Fraud as ground of attack upon a judgment entered upon stipulation or compromise. 45 L.R.A.(N.S.) 1159.

Fraud as defense justifying opening of default judgment. L.R.A.1916F, 853.

As ground for relief from decree in proceedings under the Torrens Law. L.R.A. 1916D, 50.

As ground of attack on divorce. L.R.A. 1917B, 441.

## § 96. Perjury.

Perjury as ground for injunction, see In-JUNCTION, § 53.

Perjury as ground for relief against judgment. 10 L.R.A.(N.S.) 216; 23 L.R.A.(N.S.) 564; 25 L.R.A. (N.S.) 574; L.R.A.1916B, 890.

Perjury as ground of attack upon a judgment entered upon stipulation or compromise. 45 L.R.A.(N.S.) 1159.

Perjury as ground for relief from divorce decree. L.R.A.1917B, 429.

### § 97. Judgment by default.

Opening decree of divorce taken by default. L.R.A.1917B, 472.

Delay of mail or train or loss of mail, as accident or surprise for which judgment by default may be set aside. 30 L.R.A.(N.S.) 740.

Reliance upon receiving notice from opposing counsel as excuse for default. 4 L.R.Λ.(N.S.) 196.

Mere forgetfulness as ground for setting aside default. 43 L.R.A. (N.S.) 930. Mistake in name or description of corpora-

Mistake in name or description of corporation as affecting judgment by default against it. L.R.A.1916F, 728.

Relief from default judgment because of failure of agent upon whom writ was served to notify defendant. L.R.A. 1916E, 103.

## JUDGMENT IN PERSONAM.

See JUDGMENT, §§ 9, 10, 23.

#### JUDICIAL MATTERS.

Time in relation to, see TIME, § 2.

#### JUDICIAL NOTICE.

See EVIDENCE, II.

## JUDICIAL POWER.

Delegation of, generally, see Constitution-AL LAW, V.

## JUDICIAL PROCEEDINGS.

Bond given in, see Bonds, § 8. Validity of contract procured by threats of,

see CONTEACTS, § 91.

Privileged nature of report of, see LIBEL AND SLANDER, §§ 28-30.

Mistake in, see MISTAKE, § 18.

On Sunday, see SUNDAY, § 3.

Opinion gained from newspaper reports of, as disqualification of juror in criminal case. 35 L.R.A.(N.S.) 1007.

Necessity of, to effect escheat. 15 L.R.A. (N.S.) 379.

Voluntariness of payment of license fee after commencement of. 22 L.R.A. (N.S.) 874.

Voluntariness of payment of license fee under threats of. 22 L.R.A.(N.S.) 875.

Apprehension or possibility of, as affecting voluntariness of payment of license fee. 22 L.R.A. (N.S.) 876.

Uncontradicted statement in presence of accused in, as confession or admission. 25 L.R.A. (N.S.) 562; 42 L.R.A. (N.S.)

#### JUDICIAL RECORDS.

See RECORDS AND RECORDING LAWS, §§ 7,

#### JUDICIAL SALE.

I. In general, § 1.

II. The sale generally, \$\$ 2-7a.

III. Effect; validity; deed, §§ 8-10. IV. Purchasers and their rights, duties,

and liabilities, §§ 11-16. V. Confirmation; setting aside; collateral attack on, §§ 17, 18.

VI. Redemption, § 19.

Consult also L.R.A. Digests of Cases.

JUDICIAL SALE-cont'd

#### I. In general,

§ 1. Generally.

As to auctions, see AUCTIONS.

Of property in custody of law, see CustoDY OF LAW, § 3.

Sale by personal representative, see EXECU-TORS AND ADMINISTRATORS, § 59.

Sale by guardian of ward's land, see GUARD-IAN AND WARD, §§ 7, 14.

Sale of infant's lands generally, see In-FANTS, §§ 27-29.

Injunction against, see Injunction, §§ 41a-44.

Sale on foreclosure of mortgage, see MORT-GAGE, §§ 77-82.

Partition sale, see Partition.

Sale by pledgee, see PLEDGE AND COLLAT-

ERAL SECURITY, §§ 11-14.
Sale by receiver, see RECEIVERS, § 28. Sale for taxes, see Taxes, §§ 72-81a.

Measure of restitution where property is sold under a judgment or order subsequently reversed without intervening supersedeas or stay. L.R.A.1917C, 1179.

Effect of rule against maintenance. L.R.A.

1916E, 74.

Right of officer conducting judicial sale to his fee, where property is bid in by person at whose instance sale was made. 48 L.R.A.(N.S.) 542.

When statute begins to run against action by private person based on breach of duty by public officer in connection with judicial sale. 52 L.R.A.(N.S.) 710.

Personal liability of officer or referee to sell property for broker's services. 38 L.R.A. (N.S.) 777.
Right of foreign sheriff to maintain action

in respect of a sale made by him while in office. 29 L.R.A. (N.S.) 792.

Presumption as to time of erasure in order of sale. 39 L.R.A.(N.S.) 115.

Federal courts following state decisions as to matters relating to. 40 L.R.A.
(N.S.) 436.
Acceptance by debtor of surplus arising

from sale under a decree as affecting his right to appeal from the decree. L.R.A. 1918E, 106.

## II. The sale generally.

3 2: Generally.

Right to withdraw property after it has been offered. 57 L.R.A. 789; L.R.A. 1917A, 74.

Right of officer conducting a sale to make bids. 20 L.R.A. 503.

Irregularity in. as ground for injunction

against sale. 30 L.R.A. 138.

Title of purchaser as affected by irregularities in notice of sale. 21 L.R.A. 42.

Modification prior to sale of terms or conditions imposed upon judicial sale of property. L.R.A.1915A, 699.

§ 3. Time.

First and last days in computing time for. 49 L.R.A. 233.

JUDICIAL SALE, II.—cont'd 4. — on other than appointed date. In general. 38 L.R.A.(N.S.) 248. Sale on adjourned or postponed date. 38 L.R.A.(N.S.) 249.

Loss of priority of execution by consent of creditor to delay or postponement of

sale. 27 L.R.A. 374. Sufficiency of notice of postponement of judicial sale. L.R.A.1915B, 640.

5. Place. Place of. 33 L.R.A. 92.

§ 5a. Notice.

Place for posting notice of judicial or public

sale. L.R.A.1916E, 1143. Notice of postponement of sale. 1915B, 640.

6. Of what property. Of property in custody of law, see Custody of Law, § 3.

What may be sold under levy on partner-ship property for debt of partner. 46 L.R.A. 485, 499.

Of trademark. 1 L.R.A. (N.S.) 717.

Of collateral bonds and commercial paper. 53 L.R.A. 863.

Of land held adversely. 35 L.R.A.(N.S.)

§ 7. — corporate franchise or property

necessary for its enjoyment. In general. 20 L.R.A. 737; 31 L.R.A. (N.S.) 636.

Private corporations. 20 L.R.A. 737; 31 L.R.A. (N.S.) 637.

Quasi-public corporations. 20 L.R.A. 737; 31 L.R.A.(N.S.) 637.

Corporate property. 20 L.R.A. 737; 31 L.R.A. (N.S.) 637, 639.

What property is necessary to the franchises. 20 L.R.A. 739.

Equity sales. 20 L.R.A. 739; 31 L.R.A. (N.S.) 638.

Enjoining sale. 20 L.R.A. 740.

Legislative authority. 20 L.R.A. 740. Effect of sale. 20 L.R.A. 740.

Property not necessary to operation of franchise. 31 L.R.A. (N.S.) 638.

Right to sell property separate from franchise. 31 L.R.A. (N.S.) 642.

## § 7a. Bids.

Release of purchaser from, on annulling judicial sale. 69 L.R.A. 33.

Chilling of, at judicial sale. (N.S.) 1198.

Contract for sale of bid at judicial sale as suppression of competition. 42 L.R.A. (N.S.) 1206.

Rights and remedies of one whose bid at a judicial sale is ignored or disregarded. 47 L.R.A.(N.S.) 896.

Power to extend time for compliance with | Cases holding the contrary. bid. 43 L.R.A.(N.S.) 671.

JUDICIAL SALE—cont'd

## III. Effect; validity; deed.

§ 8. Effect and validity.

Effect of fraud at, see FRAUD AND DECEIT, § 20.

Effect of judicial sale of insured property, see INSURANCE, § 71.

Validity of tax sale, see TAXES, § 75. Effect of tax sale, see Taxes, § 76.

Officer's return upon judicial sale as a memorandum satisfying the Statute of Frauds. L.R.A.1917E, 899.

Effect of attachment and sale of stranger's property. L.R.A.1917B, 400.

Validity of, as against persons not in being. 8 L.R.A. (N.S.) 72.

Devestiture of estate of persons not in being by. 42 L.R.A. (N.S.) 443.

Effect of sale of corporate franchise or property necessary for its enjoyment. 20 L.R.A. 740.

Effect of sale of lands under execution against husband upon wife's right of dower. 18 L.R.A. 78.

Effect of sale under execution of part of tract of land to create easement. 26 L.R.A.(N.S.) 343.

Effect of purchase of real property at, to work an equitable conversion of a cor-responding part of the purchaser's personal estate into realty. 16 L.R.A. (N.S.) 859.

Sale on execution against one cotenant as basis of adverse possession against other. 32 L.R.A.(N.S.) 710.

Effect of void proceedings under which real property is sold, to start statute of limitations running in favor of purchaser in possession. 8 L.R.A.(N.S.) 354.

As violation of covenant in lease against assignment or sale. 14 L.R.A. (N.S.) 1203.

Remedy for mistake of law as to effect of. 28 L.R.A.(N.S.) 906.

Effect of judicial sale of leased premises to transfer reversion. L.R.A.1915C, 204.

Purchase by vendor at sheriff's sale of land in suit for instalment of purchase price as bar to vendor's recovery of other unpaid instalments. L.R.A.1916C, 897.

Sale under execution as a transfer of property by the debtor within § 60, subds. a and b of the bankruptcy act. 43 L.R.A.(N.S.) 427.

Remedy of holder of mechanics' lien, after judicial sale of property under a prior or contemporaneous lien, and before distribution of fund. L.R.A. (N.S.) 706.

9. — necessity of change of possession as against creditors of former owner.

Cases holding that change of possession is unnecessary. 36 L.R.A. (N.S.) 1019.

(N.S.) 1021.

JUDICIAL SALE, III.—cont'd § 9a. — suppression of competition. General rule. 42 L.R.A. (N.S.) 1198.

As to result of express or implied contract.

42 L.R.A.(N.S.) 1199.
Conspiracy to suppress competition as ground for avoiding sale. 42 L.R.A. (N.S.) 1206.

Collateral attack. 42 L.R.A.(N.S.) 1207. Effect of statements or conduct of pur-chaser at sale, which had a tendency to chill bidding. 42 L.R.A. (N.S.) 1207.

Statements and conduct of officer conducting sale as ground for avoiding sale. 42 L.R.A.(N.S.) 1211.

## 10. Deed.

Tax deed, see TAXES, § 81.

Substitute conveyances. 44 L.R.A. (N.S.) 858.

Deed made by deputy officer in his own name. 19 L.R.A. 179.

Presumption as to time of alteration in sheriff's deed, 39 L.R.A.(N.S.) 115.

#### IV. Purchasers and their rights, duties, and liabilities.

§ 11. Generally.

Rights of purchaser at auction, see Auc-TION, § 5.

On foreclosure, see Mortgage, §§ 80-82.

Rights of purchaser in partition suit, see PARTITION, § 11.

Right of purchaser at sale of pledged property, see Pledge and Collateral Se-CURITY, § 14.

Of purchaser at tax sale, see TAXES, §§ 78, 79.

Subrogation of purchaser, see Subrogation, § 3.

Purchase by judge at judicial sale. L.R.A. 1918C, 157.

Effect of misrepresentation to purchasers by sheriff. 18 L.R.A. 88.

Rights of purchaser at execution sale in fraud of creditors. 67 L.R.A. 900.

Right of purchaser on execution to set aside fraudulent conveyance. 15 L.R.A. 784.

Rights and position of purchaser of partnership real estate under execution against firm. 28 L.R.A. 173.

Under execution against partner. L.R.A. 173.

Position of partner purchasing partnership property at sheriff's sale. 28 L.R.A.

Priority of right of purchaser at sale under judgment over prior unrecorded conveyance. 16 L.R.A. 671.

Action by purchaser at judicial sale, to remove cloud on title. 12 L.R.A.(N.S.)

Right of purchaser under judgment against insane person. 35 L.R.A.(N.S.) 1092.

Power of one of several joint purchasers at er of one of several joint purchasers at Release from bid. 69 L.R.A. 33.
a judicial sale to bind the others. 35 Release from bid and return of deposit. L.R.A. (N.S.) 1139.

Consult also L.R.A. Digests of Cases.

JUDICIAL SALE, IV .-- cont'd

Does the fact that a sale of part of a tract of land is involuntary, prevent implication of a way by necessity over the remainder. 12 L.R.A.(N.S.) 482.

Purchase by tenant at judicial sale during

tenancy. 53 L.R.A. 937.

Right of one cotenant to purchase the property in his own right at a sale under an encumbrance created by one through whom the cotenants derive title. L.R.A.(N.S.) 591.

Validity of agreement to purchase property at judicial sale for joint benefit. 38

L.R.A.(N.S.) 719.

Effect of agreement between landlord and tenant for removal of fixtures by latter on rights of purchaser at execution sale. L.R.A.1915E, 829.

Right of dower in improvements made by purchaser at judicial sale. 3 B. R. C. 961.

Dower in land subject purchase money mortgage sold on execution against husband. 52 L.R.A.(N.S.) 549, 551.

Right of seller of chattel retaining title or lien as against purchaser at judicial sale of realty to which it is affixed by owner. 49 L.R.A.(N.S.) 401.

Mandamus to compel transfer of corporate stock purchased at judicial sale. 48 L.R.A.(N.S.) 854.

Right of one who redeems from judicial sale as against purchaser, where title fails. 48 L.R.A.(N.S.) 481.

Allowing reasonable time to examine title. 52 L.R.A.(N.S.) 751.

Issuance of writ of assistance to put purchaser at execution sale in possession. 52 L.R.A. (N.S.) 697.

Right of plaintiff in a suit in which a decree of sale was rendered to assert, as against a purchaser thereunder, a title or interest not litigated in the suit. L.R.A.1917C, 888.

Right of purchaser at execution sale of land subject to mortgage to question validity of mortgage. L.R.A.1917C. 838.

## § 12. How far purchaser protected as bona fide purchaser.

Who is a bona fide purchaser. 21 L.R.A. 33.

Records and want of notice. 21 L.R.A. 33. Title of purchaser as affected by irregularities. 21 L.R.A. 39.

Title acquired. 21 L.R.A. 45.

Compelling the purchaser to complete the purchase. 21 L.R.A. 45. Subrogation. 21 L.R.A. 48; 69 L.R.A. 42.

Reimbursement. 21 L.R.A. 50; 69 L.R.A.

21 L.R.A. 51. Recour**se.** Reversal. 21 L.R.A. 52.

#### § 13. Relief of purchaser on annulling sale.

69 L.R.A. 36.

JUDICIAL SALE, IV.—cont'd

Relief by reimbursement or subrogation. 69 L.R.A. 39.

Reimbursement. 21 L.R.A. 50; L.R.A. 39.

Subrogation. 21 L.R.A. 48; 69 L.R.A. 42.

Relief by action against the debtor. 69 L.R.A. 55.

Relief by action against the creditor. 69 L.R.A. 56.

Relief by action against the sheriff. L.R.A. 58.

§ 14. Title acquired.

Title acquired by purchaser. 21 L.R.A. 45. Title as affected by irregularities. 21 L.R.A. 39.

Nature of the title or estate of the holder of a sheriff's certificate before obtaining a deed. 15 L.R.A. 68.

Insanity of judgment debtor as affecting title of purchaser. 39 L.R.A. 776.

Rights of seller of fixtures to retain title thereto or lien thereon as against pur-chaser at judicial sale. 1 B. R. C. 669. Quitclaim deed from purchaser at a judi-

cial sale as passing title subsequently completed. 35 L.R.A.(N.S.) 1190.

## § 15. Abatement or return of purchase price.

Reimbursement of purchaser at void sale. 21 L.R.A. 50; 69 L.R.A. 39.

Injunction against judgment for purchase money under court sales. 31 L.R.A.

Right of purchaser of land at judicial sale to abatement of purchase price for deficiency in quantity. 28 L.R.A.(N.S.)

Liability of execution creditor for return of purchase price upon failure of title to property sold on execution. 36 L.R.A.(N.S.) 1218.

§ 16. Liability of purchaser.

Officer's return upon judicial sale as a memorandum satisfying the Statute of

Frauds. L.R.A.1917E, 899.
Liability of purchaser of property charged with the payment of a legacy. 30 L.R.A.(N.S.) 820.

Right of creditor, to enforce promise of one allowed to secure property at judicial sale upon faith of his promise to pay owner's debts. 15 L.R.A.(N.S.) 399. Liability of undisclosed principal of bidder

at judicial sale for purchase price or for deficiency upon resale of property. 46 L.R.A.(N.S.) 887.

Right of officer conducting judicial sale to his fee where property is bid in by person at whose instance sale was made. 48 L.R.A.(N.S.) 542.

Purchaser of leasehold at judicial sale as an assignee liable for rent. 52 L.R.A. (N.S.) 988.

Right of purchaser at execution sale of land subject to mortgage to question validity of mortgage. L.R.A.1917C, 838.

JUDICIAL SALE—cont'd

## V. Confirmation; setting aside; collateral attack on.

16a. Confirmation.

Lapse of time as bar to confirmation. 43 L.R.A.(N.S.) 630.

Right of bidder at judicial sale to be heard upon question of its confirmation. L.R.A.1918C, 1179.

17. Setting aside.

Mistake as ground of relief from purchase. 34 L.R.A.(N.S.) 927.

Statements and conduct of officer conducting sale as ground for. (N.S.) 1211. 42 L.R.A.

For conspiracy to suppress competition. 42 L.R.A.(N.S.) 1206. On ground that judge who ordered the sale

became the purchaser thereat. L.R.A. 1918C, 157.

## § 18. Collateral.attack.

On sale by guardian without giving bond. 33 L.R.Ā. 763.

Suppression of competition as ground for. 42 L.R.A.(N.S.) 1207.

## VI. Redemption.

§ 19. Generally.

From foreclosure sale, see MORTGAGE, §§ 85-91.

From tax sale, see Taxes, §§ 82-85.

First and last days in computing time for. 49 L.R.A. 236.

Extension of time for when last day falls

on Sunday. 14 L.R.A. 122.

Applicability to existing purchasers, of changes in law relating to redemption from judicial sales. L.R.A.1915C, 414.

Recovery of money paid to redeem as made under duress of real property. L.R.A.

1915B, 501.

Right of one who redeems from judicial sale as against purchaser where title fails. 48 L.R.A.(N.S.) 481.

Liability of property redeemed by judg-ment debtor or his grantee to satisfy deficiency on indebtedness for which it was originally sold. 47 L.R.A.(N.S.) 1048.

#### JUNCTIONS.

Carrier's liability for baggage at junctions. 36 L.R.A. 787.

Duty and liability of connecting carriers to passengers at. L.R.A.1918F, 433.

#### JUNIOR.

Effect of use of term in connection with name. 14 L.R.A. 691,

## JUNIOR ENCUMBRANCER.

As necessary party to suit for foreclosure of senior mortgage. 36 L.R.A. (N.S.)

#### JUNIOR LIEN.

Waiver by failure to assert on foreclosure, see Mortgage, § 64.

#### JUNIOR MORTGAGE.

Rights of holder of, to foreclose prior mortgage, see Mortgage, § 67. Junior mortgagee as necessary party to foreclosure suit, see MORTGAGE, § 70.

#### JUNK.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 111.

License of, see LICENSE, § 31.

Municipal control over, see MUNICIPAL COR-PORATIONS, § 48.

Duty of master to inspect junk to be handled by employees. 40 L.R.A.(N.S.)

#### JUNKET.

Expenses incurred by public officers or employees in attending conventions, etc., as a proper charge on public funds. L.R.A.1917E, 332.

## JURISDICTION.

Acquiring jurisdiction by appearance, see APPEARANCE, § 4.

In admiralty, see ADMIRALTY, §§ 2, 3.

On appeal, see APPEAL AND ERROR.

Of attachment suit, see ATTACHMENT, § 11. Of proceedings in bankruptcy, see BANK-

RUPTCY, § 8.

Over national bank, see BANKS, § 48. Of highest court to grant certiorari, see CERTIORARI, § 3.

Of consul, see Consul, § 2.

Of courts, generally, see Courts.
Of courts of equity, see DISCOVERY AND IN-SPECTION; EQUITY; INJUNCTION; SPE-CIFIC PERFORMANCE.

Ouster of, see COURTS, § 3. Effect of lack of, see COURTS, § 4.

Of divorce suit, see DIVORCE AND SEPARA-TION, §§ 7-12.

In mandamus proceedings, see MANDAMUS,

To annul marriage, see MARRIAGE, § 17. Of partition suit, see PARTITION, §§ 2, 3. Consult also L.R.A. Digests of Cases. JURISDICTION—cont'.

In patent cases, see PATENTS, § 5.

In quo warranto proceedings, see Quo WAR-

BANTO, § 2.

To appoint administrator, see EXECUTORS AND ADMINISTRATORS, § 4.

To appoint receiver, see RECEIVERS, § 3. Of action of trover, see TROVER, § 5. Over waters, see WATERS, §§ 4-7.

Of action to construe will, see EQUITY, § 13. Sufficiency of service of process to confer, see WRIT AND PROCESS.

Necessity of, to protect judical officer. 14 L.R.A. 139.

Conclusiveness of determination by judge of question of. 14 L.R.A. 140; 44 L.R.A. (N.S.) 164.
Of ecclesiastical tribunals. 49 L.R.A. 390.

Impeachment of certificate of acknowledg-

ment because of lack of jurisdiction of officer. 41 L.R.A.(N.S.) 1175.

Extraterritorial effect of statute limiting jurisdiction in which action may be

brought. L.R.A.1916D, 688.
Right of party who invoked jurisdiction to raise on appeal objection to lack of

jurisdiction. L.R.A.1916B, 803.

Motion attacking, as extending time to plead. 47 L.R.A.(N.S.) 855.

Of action by carrier to recover difference between rate charged shipper and proper rate. 49 L.R.A. (N.S.) 99.

#### JURISDICTIONAL AMOUNT.

In general, see Courts, §§ 27-29. On appeal, see APPEAL AND ERROR. § 6. In injunction suit, see Injunction, § 81. In justice's court, see JUSTICE OF THE PEACE, § 5.

## JURY.

I. In general, §§ 1, 2.

II. Right to jury trial, §§ 3-7.

II. Engine III. Impaneling; selection tency, \$\$ 8-14. selection; compe-

a. In general, \$\$ 8-10. b. Qualifications and competency of jurors, \$\$ 11-14.

IV. Number and agreement of jurors necessary to verdict, § 15.

#### I. In general.

§ 1. Generally.

Instructions to, see APPEAL AND ERROR, § 36; TRIAL, §§ 60-68.

Reversal for matters as to jury, see APPEAL AND ERROR, § 39.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 185.

Matters as to jury in criminal cases, see CRIMINAL LAW, §§ 36-38.

Separation of, in criminal case, see CRIMINAL LAW, § 37.

JURY, I.—cont'd

Discharge of, see CRIMINAL LAW, § 63; TRIAL, § 74.

Right of juror to act on own knowledge, see EVIDENCE, § 17.

Experiments in presence of, see EVIDENCE, § 158.

Experiments by, see EVIDENCE, § 158a. View by, see EVIDENCE, § 159.

Interference with, as ground for new trial, see New Trial, §§ 7, 8.

Right of juror to impeach his own verdict,

see New Trial, § 13. Sickness of juror, see Sickness, § 4. Questions for, see Trial, III.

As to deliberation and conduct of jurors,

see TRIAL, VII. Verdict of, see TRIAL, VIII.

Communication by judge with, see TRIAL, §

Withdrawal of juror, see TRIAL, § 18a. As to grand jury, see GRAND JURY.

Libel or slander by jurors. L.R.A.1915E, 1055.

Libel or slander by imputing misconduct to juror. L.R.A.1915D, 586.

Employment of person to watch jury to guard against their being tampered with. 48 L.R.A.(N.S.) 540.

Misconduct toward juror as contempt. 46 L.R.A.(N.S.) 517; L.R.A.1916D, 1193.

Self-executing constitutional provisions as to jury. 16 L.R.A. 283. Discrimination as to jurors as ground for removal of cause. 53 L.R.A. 574.

Who may raise objection of discrimination by statute relating to composition of juries. 32 L.R.A.(N.S.) 957.

Right of member of, to maintain action for libel or slander in relation to verdict rendered. 23 L.R.A.(N.S.) 728.

Invalidity of matters relating to, as affecting perjury. 54 L.R.A. 521.

Effect of fact that jury was not sworn on liability for perjury. 40 L.R.A.(N.S.)

Charging jury on Sunday. L.R.A.1915D,

## § 2. County charge for services or supply to.

What services or supplies to jurors are proper subjects of county charge. 21 L.R.A.(N.S.) 200.

## II. Right to jury trial,

## § 3. Generally.

In quo warranto proceedings, see Quo WABranto, § 6.

Compulsory reference as denial of, see Ref-ERENCE, § 2.

Effect of admission of state into the Union upon provisions of ordinance of 1787 as to. 52 L.R.A.(N.S.) 311.

Is issue upon grounds of attachment for court or jury. L.R.A.1918B, 344. Right to jury as affected by compulsory evi-

dence against one's self. 29 L.R.A. 819. Begin with this book on every law question.

JURY, II.—cont'd

Right of property owner to have amount of assessment for public improvement fixed by jury. 60 L.R.A. 236.

Right to jury in proceedings for registra-tion of land titles. 41 L.R.A.(N.S.)

1044.

Right to jury to determine disputed questions in summary proceedings to compel attorney to surrender money or property. L.R.A.1918D, 831.

Right to trial by jury in inquisition of insanity. L.R.A.1918A, 348.

Right to jury before revocation of conditional pardon or parole for condition broken. L.R.A.1915F, 541.

## § 4. To assess damages on default. Necessity of, to compute damages on default judgment. 15 L.R.A. 614; 20 L.R.A. (N.S.) 1.

§ 5. In criminal prosecutions.

Question whether suit for statutory pen-alty is a civil or criminal prosecution as affecting right to jury. 27 L.R.A. (N.S.) 745.

Right of accused to full panel from which to select jury. L.R.A.1916A, 814.
Right upon plea of guilty to sentence accused without intervention of jury. 35 L.R.A.(N.S.) 1146.

Restraint on freedom of child as deprivation of right to jury trial. 18 L.R.A. (N.S.) 890.

Validity of waiver of jury trial in criminal action. 11 L.R.A.(N.S.) 1136.

Effect of statutory declaration that murder committed by certain means, or while engaged in commission of felony, shall be murder in the first degree, upon right of jury to pass upon degree. L.R.A. (N.S.) 935; L.R.A. 1916D, 610.

§ 6. In equity case.

Constitutional right to trial by jury in equitable cases on account of demand for damages. 15 L.R.A. 287.

Effect on right to trial by jury of statutes enlarging equitable jurisdiction to remove cloud on title. 12 L.R.A.(N.S.)

§ 6a. Denial or infringement of right. By statute entitling women to serve as jurors. L.R.A.1918E, 773.

Denial of jury trial simply because matters in issue are complicated. L.R.A. (N.S.) 45.

Preliminary injunction which would have effect of transferring possession of property from defendant to plaintiff as denial of trial by jury. 39 L.R.A. (N.S.) 32.

Compulsory reference as affected by constitutional right to jury. 25 L.R.A. 67; 13 L.R.A. (N.S.) 146.

Civil service laws as violating constitutional right of trial by jury. 34 L.R.A. (N.S.) 482.

Constitutionality of provision for separate trial of different issues in same case. 40 L.R.A.(N.S.) 138.

JURY, II.—cont'd

Jury trial on appeal as satisfying the constitutional right to trial by jury. 15 L.R.A. 441.

The Torrens Law as infringing the right to

trial by jury. L.R.A.1916D, 22.
Statute making prima facie rule of evidence for criminal cases as denial of right to jury trial. L.R.A.1915C, 724.

Workmen's compensation act as infringing right to trial by jury. L.R.A.1916A, 426; L.R.A.1917D, 56.

Granting new trial because of excessive verdict as interference with constitutional right to jury trial. 51 L.R.A. (N.S.)

### § 7. Loss or waiver.

Validity of waiver of jury trial in criminal action. 11 L.R.A.(N.S.) 1136.

III. Impaneling; selection; competency.

## a. In general.

8. Generally.

Effect of failure to swear jury. L.R.A. 1917D, 399.

Irregularities of, as ground for new trial. 18 L.R.A. 476.

Impaneling of jury on proceeding with trial without arraigning defendant as placing him in jeopardy. 27 L.R.A.(N.S.) 137.

Power of legislature to impose upon judges the duty to assist in drawing jurors. 23 L.R.A.(N.S.) 1115.

Summoning biased or otherwise improper jurors or talesmen as a contempt. 20 L.R.A. (N.S.) 1013.

Constitutional right to serve as juror. 14 L.R.A. 581, 584.

Mistake as to name of juror in criminal case as ground for arrest of judgment, new trial, or reversal. 47 L.R.A. (N.S.)

Right of accused in criminal case to full panel from which to select jury. L.R.A.1916A, 814.

## § 8a. Examination.

Connection with casualty or indemnity company as a proper subject of in-quiry on voir dire, or as disqualification of a juror in an action against one insured or indemnified by such company. L.R.A.1915A, 153.

🖇 9. Challenges.

Statute affecting challenges to the jury as ex post facto. 31 L.R.A.(N.S.) 820. Right of accused to full panel when making peremptory challenges. L.R.A.1916A, 828.

10. Exemption from jury duty. Right conferred by statutory exemption of firemen from jury or militia duty. 8 L.R.A. (N.S.) 498.

Exemption of consul from. 45 L.R.A. 587. Consult also L.R.A. Digests of Cases. JURY, III.—cont'd

b. Qualifications and competency of jurors.

§ 11. Generally.

Disqualification of jurors as ground for new trial, see New TRIAL, § 9.

Interest which will disqualify one to serve as commissioner or juror in eminent domain proceedings. 47 L.R.A. (N.S.)

Connection with casualty or indemnity company as disqualification of a juror in an action against one insured or in-demnified by such company. L.R.A. 1915A, 153.

Bias as ground for new trial. 18 L.R.A. 476. Membership in a religious society or denomination as a disqualification to serve as juror in a case involving its rights. 25 L.R.A. (N.S.) 992.

Constitutionality of statute requiring jurors to be taxpayers. 32 L.R.A.(N.S.) 414.

Constitutionality of statute entitling women to serve as jurors. L.R.A.1918E, 773.

Effect of discharge of jury on the discovery of disqualification of one or more of their number to sustain a plea of former jeopardy. 14 L.R.A.(N.S.) 548; L.R.A.1916E, 1273.

Waiver of property qualification of juror. 39 L.R.A. (N.S.) 967.

 8 11a. Relationship.
 Relationship of juror to party as ground for new trial. 18 L.R.A. 477; 50 L.R.A. (N.S.) 968.

Relationship to private corporation or association for profit which will disqualify a juror in a civil action in which it is interested. 40 L.R.A. (N.S.) 978.

Relationship to private corporation or association for profit, interested in a criminal prosecution which will disqualify juror. 40 L.R.A.(N.S.) 973.

Competency as juror of employee or relative of employee, of party or person interested in an action. 40 L.R.A. (N.S.) 982.

§ 12. Opinions gained from newspapers as disqualifying in criminal case.

General rule. 35 L.R.A. (N.S.) 988.

Statutes. 35 L.R.A.(N.S.) 993.
Disqualifying "newspaper opinions,"
general. 35 L.R.A.(N.S.) 998.

Newspaper opinions which it will require evidence to remove. 35 L.R.A. (N.S.) 1000.

Opinions based on newspaper reports of judicial proceedings. 35 L.R.A. (N.S.) 1007.

Opinions based on newspaper reports of confessions. 35 L.R.A.(N.S.) 1014. Opinions other than as to guilt. 35 L.R.A.

(N.S.) 1014. Appellate review. 35 L.R.A.(N.S.) 1015. JURY, III. b-cont'd

§ 18. Personal knowledge of facts to be proved as affecting competency. Early law as to knowledge of jurors. 63 L.R.A. 807.

What knowledge will disqualify. 63 L.R.A.

§ 14. Jurors who have served in same or similar case.

Where the issues and parties are the same. 68 L.R.A. 871.

Where the same question of fact is involved, and one of the parties is the same in both cases. 68 L.R.A. 873.

Where the same question of fact is involved in both cases, and the parties are different. 68 L.R.A. 875.

Where the transactions are connected, and affect the same party, but the issues are different. 68 L.R.A. 879.

Where the cases are similar, and the parties are the same. 68 L.R.A. 880.

Where the cases or facts are similar, and the parties are different. 68 L.R.A.

Time and manner of making the objection. 68 L.R.A. 882.

Unknown disqualification of juror who had served on former trial as ground for new trial. 50 L.R.A. (N.S.) 971.

## IV. Number and agreement of jurors necessary to verdict.

§ 15. Generally.

Common-law doctrine. 43 L.R.A. 34. Adoption of common-law doctrine. L.R.A. 36.

Meaning of the terms "jury" and "jury trial." 43 L.R.A. 48.

In criminal matters. 43 L.R.A. 49. In civil actions. 43 L.R.A. 53. The power of the legislature. 43 L.R.A. 56.

The question of consent and waiver. L.R.A. 59.

In criminal case. 43 L.R.A. 61; 46 L.R.A. (N.S.) 38.

Absent, sick, or unqualified juror. 43 L.R.A

Constitutional and statutory provisions. 43 L.R.A. 69.

Showing of the record. 43 L.R.A. 72. Distinction between courts of record and not of record. 43 L.R.A. 75.

Jury of more than twelve. 43 L.R.A. 75.

The question of demand of jury of twelve.

43 L.R.A. 76. Agreement of the jury. 43 L.R.A. 77. Constitutionality of verdict by less than all the jurors. 24 L.R.A. 272.

## JURY DUTY.

Begin with this book on every law question.

Exemption from, see JURY, § 10.

#### JUSTICE.

Guaranty of, see Constitutional Law, § 29c Obstructing of, see Obstructing Justice.

## JUSTICE OF THE PEACE.

§ 1. Generally.

Competency of, as witnesses. 31 L.R.A. 465. Place at which may act. 33 L.R.A. 90; L.R.A.1917E, 361.

Admissibility of secondary evidence to identify records of. 2 L.R.A. (N.S.) 652. Right to hold other judiciary position at same time. 8 L.R.A.(N.S.) 1107.

Libel or slander by imputing misconduct to. L.R.A.1915D, 581.

Power of legislature to add to or vary the constitutional method of selecting.

L.R.A.1916E, 850. Validity of acts of de facto justice of the peace. L.R.A.1918D, 1079.

Right of public prosecutor to have preliminary examination before magistrate dismissed. L.R.A.1918C, 209.

§ 2. Qualifications.

Right of woman to be. 38 L.R.A. 209.

§ 3. Powers of.

Power of, to punish for contempt, see Con-TEMPT, § 11.

Power of, to order post mortem examination. 31 L.R.A. 543.

Power to grant immunity to witness. L.R.A.1918A, 376.

Authority to admit to bail in capital case. 39 L.R.A. (N.S.) 758.

4. Liability of.

Liability to civil action for acts of judicial nature. 44 L.R.A.(N.S.) 164.

Personal liability for exceeding jurisdiction. 14 L.R.A. 138; 27 L.R.A. 92.

Liability for false imprisonment, of magistrate failing to have prisoner brought before him. L.R.A.1917F, 429.

§ 5. Jurisdictional amount.

Voluntary credits to bring claim within jurisdiction. 28 L.R.A. 221.

§ 6. Pleading and procedure.

Necessity of pleading the statute of frauda in justice's court. 49 L.R.A. (N.S.) 28. Practice before justice for obtaining of continuance for illness of party. L.R.A.(N.S.) 669.

Number of jurors necessary to verdict in justice's court. 43 L.R.A. 51.

Consent and waiver as affecting number

and agreement of jurors necessary to verdict on appeal. 43 L.R.A. 69.

§ 7. Judgment of.

Entry or record of judgments of. 28 L.R.A.

JUSTICE OF THE PEACE—cont'd

Conviction by justice of the peace which has been reversed or set aside as probable cause which will defeat action for malicious prosecution. (N.S.) 958. 34 L.R.A.

8. Appeal from.

Waiver of failure to serve, or defects in service of, process, by appeal from justice's court to court where trial must be de novo. 34 L.R.A.(N.S.) 661.

## JUSTIFICATION.

§ 1. Generally.

For assault and battery, see Assault and BATTERY, §§ 3-6.

For contempt, see CONTEMPT, § 3. Of prison breach, see ESCAPE, § 2.

For homicide, see Homicide, §§ 19-30.

For libel, see LIBEL AND SLANDER, IV.

Presumption and burden of proof as to justification in a civil action for intentional killing of another. L.R.A. 1918A, 359.

May entry on land which would otherwise constitute a trespass be justified by private necessity. 20 L.R.A.(N.S.) 152.

JUSTIFICATION—cont'd

Invitation or solicitation to violate injunction or consent or acquiescence therein as justification for so doing. 9 L.R.A. (N.S.) 304.

Abandonment of suit before entry as affecting justification under writ in defense of action for false imprisonment. 4 L.R.A.(N.S.) 451.

2. For discharge of servant. See MASTER AND SERVANT, § 41.

§ 3. For strike.

System of work as justification for strike.
37 L.R.A.(N.S.) 179.

Forcing discharge of foreman or coemployee as justification for strike. 42

L.R.A.(N.S.) 1048. Controversy over "open" or "closed" shop as justification for means employed to aid strike. 17 L.R.A.(N.S.) 162; L.R.A.1917F, 760.

#### JUVENILE OFFENDERS.

Tribunal for; validity of statutes establishing. 3 L.R.A. (N.S.) 564; 45 L.R.A. (N.S.) 908.

## K

#### KEEPER.

Who is keeper of dog. 431; L.R.A.1917E, 520.

Certification of copies of records by, for evidence in other state. 5 L.R.A. (N.S.) 955.

## KEEPING DOWN DAMAGES.

See Damages, §§ 3-11.

## KEEPING TENDER GOOD.

See TENDER, § 7.

## KEG.

Master's liability for injury by defects in. 51 L.R.A.(N.S.) 338.

## KEROSENE.

Keeping of, on insured premises. 1917C, 278.

Consult also L.R.A. Digests of Cases.

## KEY.

17 L.R.A. (N.S.) | Transfer of key to receptacle as delivery of possession sustaining gift of contents. 40 L.R.A.(N.S.) 901.

## KIDNAPPING.

See ABDUCTION AND KIDNAPPING.

## KILN.

Landlord's liability to third person as to condition of. 26 L.R.A. 201. Operation of, as nuisance. 2 L.R.A.(N.S.) 92.

Municipal power over brick and lime kilns as nuisances. 38 L.R.A. 654.

## KIND.

L.R.A. | Effect of sale with particular description of kind. 35 L.R.A.(N.S.) 258.

## KINDERGARTEN.

Power of school authorities to adopt kindergarten system. 47 L.R.A. (N.S.)

## KINDRED.

In general, see DESCENT AND DISTRIBUTION. Degrees of kinship. 15 L.R.A. 302.

#### KISSING.

Mental anguish as element of damages for kissing woman against her will. 33 L.R.A. (N.S.) 98.

#### KLEPTOMANIA.

As a defense to theft. 18 L.R.A. 229; 43 L.R.A. (N.S.) 150. As a defense to burglary. 43 L.R.A. (N.S.)

#### KNIFE.

As a deadly weapon. 21 L.R.A. (N.S.) 502. As a weapon within statute against carrying conceale (N.S.) 1176. concealed weapons.

#### KNOWLEDGE.

Of person claiming estoppel, see ESTOPPEL, § 7a.

Of one making untrue representations, see FRAUD AND DECEIT, § 5.

Effect on servant's assumption of risk of knowledge of danger, see MASTER AND SERVANT, § 113. See also Notice.

Effect of master's lack of knowledge of criminal offense by servant on master's liability therefor. 43 L.R.A.(N.S.) 12. Effect of fiancee's knowledge of conveyance

of property before marriage. 48 L.R.A. (N.S.) 516, 522.

#### LABELS.

§ 1. Generally.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 113. Labeling of food, see Food, § 3.

As trademarks. 17 L.R.A. 130.

Police regulations as to labeling articles of commerce. 1 L.R.A.(N.S.) 184; 17 L.R.A.(N.S.) 684; 40 L.R.A. (N.S.) 875.

§ 2. Union labels.

Indictment for infringement of, see In-DICTMENT, etc., § 21a.

Label or trademark of labor organization. 29 L.R.A. 200.

Law as to union labels. 39 L.R.A. (N.S.) 1190.

Protection of trade union labels. 29 L.R.A. 200.

## LABOR.

See WORK AND LABOR.

#### LABORERS.

1. Generally. Rights of, under contractors' bonds, see Bonds, § 10. Organizations of, see LABOR ORGANIZATIONS.

Begin with this book on every law question.

LABORERS—cont'd Lien of, see LIENS, 11, 12; MECHANICS' LIENS.

Rights in fund retained pursuant to contract for public work to insure payment of their claims. 37 L.R.A.(N.S.) 575.

Loss of time as element of damages for destruction or loss of use of implements or tools of. 25 L.R.A. (N.S.) 625.

§ 2. Preference to.

Constitutionality of statutes giving priority to claims of certain laborers. 21 L.R.A. 797.

Who are laborers, employees, or servants within meaning of statutes giving them preferences. 18 L.R.A. 305.

#### LABOR LAWS.

Criminal responsibility of corporation for violation of. 2 B. R. C. 250.

## LABOR ORGANIZATION.

Conspiracy by, see Conspiracy, §§ 4-8. Strike by members of, see Conspiracy, §§ 6-8. LABOR ORGANIZATIONS—cont'd Constitutionality of statutes as to, see Constitutional Law, § 87.

Label of, see LABELS, § 2. Picketing by, see PICKETING.

Obligation of members of labor union as to political matters. 5 L.R.A.(N.S.) 891; 1 B. R. C. 90.

Master's liability for injury to servant as affected by restriction upon his freedom of selection and superintendence of employees. 3 L.R.A.(N.S.) 1105.

Right of action against unincorporated association. 2 L.R.A. (N.S.) 789.

Manner of bringing suit against unincorporated trade union. 1 B. R. C. 852. Right of labor union to enforce rules as to the minimum number of employees. L.R.A.1918C, 817.

Constitutionality of statute forbidding employer to exact agreement from employee not to join. 7 L.R.A.(N.S.) 282; L.R.A.1915C, 960.

Constitutionality of statute restricting remedy by injunction in labor disputes. L.R.A.1916F, 836.

Duty of labor union to notify employer of change of wage scale. L.R.A.1915E, 1006.

Agreements between employer and trade union. 45 L.R.A.(N.S.) 184.

Validity of contract to employ union labor only. 45 L.R.A.(N.S.) 564.

Right of municipality or other public body to discriminate in favor of organized labor. 23 L.R.A. (N.S.) 815; 52 L.R.A. (N.S.) 728.

Relief of member of labor union from unlawful fine or suspension. 45 L.R.A.(N.S.) 353.

#### LACHES.

Estoppel by, generally, see ESTOPPEL, §§ 18-26.

As bar to action, see Limitation of Actions, §§ 6-12.

## LACK OF FUNDS.

As defense against liability of township for injury by defects in highway. 13 L.R.A.(N.S.) 1269.

#### LADDER.

Master's liability for injury by, see Mas-TER AND SERVANT, § 83.

Nondelegability of duty to protect servant from defects in. 54 L.R.A. 72.

Doctrine of attractive nuisance as applied to. L.R.A.1915D, 170.

Consult also L.R.A. Digests of Cases.

#### LAGER BEER.

See Intoxicating Liquors, \$ 30.

#### LAKES.

As boundary between states, see Bounda-RIES, § 2a.

Jurisdiction over, see Waters, § 5. In general, see Waters, §§ 81-85.

Duty and obligation of vessel on, in respect to sick or injured member of crew. 35 L.R.A.(N.S.) 199.

L.R.A. (N.S.) 199.

Public right of fishing in bays of Great
Lakes. L.R.A.1918A, 1147.

## LAME PERSONS.

Care due to, in absence of contract relation. 69 L.R.A. 532.

#### LAMPS.

Duty of bicyclists to carry. 47 L.R.A. 295.

#### LAND ASSOCIATION.

Distribution of parcels of land by chance as a lottery. 23 L.R.A.(N.S.) 626; 27 L.R.A.(N.S.) 827.

## LAND CONTRACT.

In general, see VENDOR AND PURCHASER, I. Provision in, as to penalty or liquidated damages, see DAMAGES, § 40.

#### LAND DEPARTMENT.

Disposal of public lands through, see Public Lands, §§ 7-19.

Conclusiveness of decisions or findings of, L.R.A.1918D, 597.

## LANDINGS.

Right to use for ferry. 59 L.R.A. 535.

## LANDLORD AND TENANT.

 In general, § 1.
 Oreation and existence of relation; attornment, §§ 2, 3. LANDLORD AND TENANT-cont'd III. Leases, §§ 4-38.

a. In general, §§ 4-14.

b. Covenants, §§ 15-22. 1. In general, §§ 15-20a. 2. Implied covenants, §§ 21, 22.

holding o. Terms; renewal; over, \$\$ 23-26.

d. Termination; forfeiture, §§ 27-35.

e. Assignment and transfer;

subletting, \$\$ 36-38.

IV. Rights, duties, and liabilities of parties, §§ 39-76.

a. In general, §§ 39-41.

b. Rights of tenant, \$\$ 42-54.
1. In general, \$\$42-47.

2. As to fixtures and property on premises, §§ 48-54.

c. Duty and liability of tenant, §§ 55-57.

d. Duty and liability of landlord or his agent, §\$ 58-72.

1. In general, § 58.

2. To third persons generally, \$\$ 59-63.

3. To tenant and his family, \$\$ 64-71.

n general, §§ 64, 65. (a) In

(b) Injuries to person, \$\$ 66-69.

(c) Injuries to, or conversion of, property, §§ 70, 71.

4. To tenant's guests and servants and persons expressly or impliedly invited on premises, from defects in prem-

ises, § 72.
c. Liability of contractor for injuries to tenant, § 73.

f. Proper party to maintain action affecting rights, \$\$ 74-76.

V. Rent or other compensation; lien, §\$ 77-98.

a. In general, §§ 77-87.

b. Landlord's lien, §\$ 88-90. c. Distress, §§ 91-93.

VI. Recovery of possession; re-entry, §§ 94, 95.

VII. Liability for ejecting tenant, § 96.

VIII. Sale of leased property, \$ 97.

## I. In general.

§ 1. Generally.

Contract for use of leased premises in viola-

tion of law, see CONTRACTS, § 76.
Destruction of leased property, see DE-STRUCTION, § 3.

Interference with easements of light, air, and prospect on leased premises, see FASEMENTS, § 21.

Landlord's choice of remedies, see Election | Leases as affected by statute of frauds, see OF REMEDIES, § 5.

LANDLORD AND TENANT, I.—cont'd

Effect of tenant's acts on landlord's rights under insurance policy, see INSUBANCE, § 81.

Authority of agent authorized to lease property to contract for services of other persons. L.R.A.1918F, 13.

Vacancy during change of tenants as violation of vacancy clause in fire policies covering rented premises. L.R.A.1915B, 844.

Possession of land by tenant as notice of title. 13 L.R.A.(N.S.) 96.

Vesting title to leasehold in lessee's trus-tee in bankruptcy as dependent upon acceptance by trustee. 33 L.R.A. (N.S.) 745.

Relation between the lessor and servants of the lessee. 37 L.R.A. 65.

Effect of landlord's knowledge that tenant intends to use premises in violation of law. 19 L.R.A.(N.S.) 662; 39 L.R.A. (N.S.) 1104.

Right of water company to refuse to deal with tenant. 33 L.R.A.(N.S.) 1015.

Right to shut off water from whole building because of one tenant's delinquency. 61 L.R.A. 115; 39 L.R.A.(N.S.) 814.

Tenant's possession as adverse within the rule against conveyance of land held adversely. 35 L.R.A. (N.S.) 752.

Right to preliminary injunction which would have effect of transferring possession of property from defendant to plaintiff in suit between landlord and tenant. 39 L.R.A.(N.S.) 35.

Effect of judgment in ejectment against tenant upon a landlord not a party, or vice versa. 26 L.R.A.(N.S.) 595.

Interpleader between landlord and tenant. 10 L.R.A. (N.S.) 751.

Removal for separable controversy of joint action against. 5 L.R.A. (N.S.) 97.

## II. Creation and existence of relation; attornment.

2. Generally.

Effect of stipulation that vendee or mortgagor shall, on default, become a tenant. 49 L.R.A. 435.

Effect of tax sale to create relation of landlord and tenant between purchaser and prior lessee. 6 L.R.A.(N.S.) 260.

Occupation of premises as a servant and as a tenant. 4 L.R.A.(N.S.) 698.

🖁 3. Attornment.

Effect of subsequent attornment on conveyance of land held adversely. 35 L.R.A. (N.S.) 740.

Attornment by lessee, to avoid eviction, to stranger entitled to immediate possession, as defense in an action for rent. 18 L.R.A.(N.S.) 396.

Liability for damages to landlord by inducing tenant to attorn to third person. L.R.A.1918D, 393.

#### III. Leases.

## a. In general,

🖇 4. Generally.

. CONTRACTS, §§ 42, 58.

LANDLORD AND TENANT, III. a-cont'd | LANDLORD AND TENANT, III. a-cont'd Lease of mines, see MINES, §§ 30, 32, 35-

Railroad leases, see RAILROADS, §§ 6, 7.

Applicability of rule excluding parol evidence to vary a written lease in favor of or against a stranger to the contract. L.R.A.1916A, 595, 606.

Conflict of laws as to. L.R.A.1916A, 1047. Antedating lease as affecting priority of landlord's lien. L.R.A.1916F, 450.

Right of agent to lease in his own behalf property which he was under no duty to lease for his principal. 47 L.R.A. (N.S.) 567.

Necessity of pleading statute of frauds in action involving lease. 49 L.R.A.

(N.S.) 37. Agreement to comply with lease as consideration for new promise. 34 L.R.A. 36.

Lease of public buildings for private uses. 33 L.R.A. 118.

Validity of lease made in violation of law. 12 L.R.A.(N.S.) 605.

First and last days in computing time on contracts of. 49 L.R.A. 210.

Alteration of lease after delivery. L.R.A.(N.S.) 289; L.R.A.1918B, 490.

Presumption as to time of alteration in lease. 39 L.R.A.(N.S.) 100.

Liability for breach of contract to lease building when completed. 35 L.R.A. (N.S.) 426.

Right of one leasing property to another to claim title against the latter's vendees or creditors. 25 L.R.A.(N.S.) 779.

When may lease be admitted to probate or otherwise be given effect as a will. 41 L.R.A.(N.S.) 43.

Federal courts following state decisions as to construction and effect of leases. 40 L.R.A.(N.S.) 414.

## § 5. What is a lease.

Distinction between a lease and a license. 18 L.R.A. 491.

When instrument creating right in minerals in land is to be regarded as a lease as distinguished from a license. 26 L.R.A. (N.S.) 614.

## § 6. Lease as conveyance.

Lease of land as conveyance. 11 L.R.A. (N.S.) 99.

Within statute requiring joinder or consent of spouse. 39 L.R.A. (N.S.)

Within meaning of recording statutes. 24 L.R.A. (N.S.) 879.

#### 7. Nature of leaschold interest.

Leasehold interest in real estate as partner-

ship's property. 27 L.R.A. 483. Leasehold estate as subject of levy under execution or attachment. 17 L.R.A. (N.S.) 841; 29 L.R.A.(N.S.) 886.

Leasehold interest as subject of taxation. 15 L.R.A. 297.

Consult also L.R.A. Digests of Cases.

Character of estate created by grant, lease, or devise of property to person so long as he shall desire to live upon it, or devote it to a particular use. L.R.A.(N.S.) 575.

Nature of tenancy created by entry under lease void under statute of frauds. 42 L.R.A.(N.S.) 648.

§ 8. — liability to taxation. Property leased by public as subject of taxation. 35 L.R.A.(N.S.) 167; 52 L.R.A. (N.S.) 991.

## 9. Power to make.

Implied power of cashier of bank to lease property. 31 L.R.A.(N.S.) 737.

Right of trustee to execute lease to extend beyond termination of trust. 13 L.R.A. (N.S.) 496.

Prohibitions in grant of public lands as including lease. 37 L.R.A.(N.S.) 686. Infants as lessees. 47 L.R.A.(N.S.) 543.

Power of brewing company to lease prop-. erty to be used by retailers of its products. 47 L.R.A.(N.S.) 898.

Power of courts to authorize lease of trust property for a longer period than was contemplated by the creator of the trust. 48 L.R.A.(N.S.) 1004.

## § 10. — partner.

Power of partner to make lease of partnership real estate. 28 L.R.A. 97.

Right of surviving partner to lease firm real property. 28 L.R.A. 135.

## § 11. — municipality.

Power of municipality to lease ferry. 59 L.R.A. 523.

Right of municipality to lease public building for private purposes. 31 L.R.A. (N.S.) 580.

Power of municipality to lease space on street or sidewalk for business purposes. 25 L.R.A.(N.S.) 400.

#### § 12. - board.

Power of board to make lease extending beyond its own term. 29 L.R.A. (N.S.) 655.

#### 13. Effect of lease.

Effect of lease on marketability of title. 38 L.R.A.(N.S.) 32.

Lease of property dedicated for square, park, or common as a diversion. 25 L.R.A.(N.S.) 986.

Leasing land as waiver of purchaser's right to rescind contract for its purchase. 30 L.R.A.(N.S.) 878.

Effect of second lease before expiration of term of prior lease to a third party. 41 L.R.A. (N.S.) 395.

Effect at law of entry under lease void under statute of frauds. 42 L.R.A. (N.S.) 654.

Damages for breach of warranty by existence of unexpired lease. 35 L.R.A. (N.S.) 779.

Relief from mistake of law as to effect of lease. 28 L.R.A.(N.S.) 801, 826.

14. Construction.

What constitutes damages "by the ele-ments" within meaning of lease. 53 L.R.A. 673.

#### b. Covenants.

## 1. In general.

§ 15. Generally.

Rights and liabilities of transferee of reversion as to, see infra, § 97.

In leasing of prisons and of labor of convicts therein. 27 L.R.A. 608.

Landlord's liability for injury to tenants

from defects in premises under warranty of condition. 34 L.R.A.(N.S.) 805.

Reservation of right of re-entry as affecting liability on covenant to pay taxes. 42

L.R.A.(N.S.) 1088. Right of lessor to maintain an action for possession against his covenant not to disturb lessee's possession, when the covenant is repugnant to the estate granted. L.R.A.1915D, 467.

Provision in lease as to use of property as condition subsequent or special limitation. 52 L.R.A. (N.S.) 718.

Effect of express covenant to pay rent on liability of lessee after assignment. 52 L.R.A.(N.S.) 971.

Covenants with respect to "theater," "drama," etc., as including motion pictures. L.R.A.1918F, 393.

§ 15a. For purpose of assuring to lessee exclusive right to conduct a certain business on premises owned by lessor.

Restraint of trade. L.R.A.1915C, 855. Lessor transacting the prohibited business. L.R.A.1915C, 855.

Covenant in terms assuring the exclusive right. L.R.A.1915C, 856. Sale of the reversion. L.R.A.1915C, 857.

Illustrations of broken covenants. L.R.A.

1915C, 858. Breadth of the covenant not to rent or let for the prohibited purposes, etc. L.R.A. 1915C, 859.

Actions by assignees. L.R.A.1915C, 860. Persons liable other than the lessor. L.R.A. 1915C, 861.

Provision against using or leasing other property for competing business. L.R.A. 1918E, 665.

§ 16. To leave in good condition.

Tenant's obligation under express covenant to leave premises in good condition. 64 L.R.A. 652.

Liability of tenant for negligent destruction of premises as affected by exception in covenant for return of premises in good condition. L.R.A.1918A, 369.

17. As to repairs and improvements. Measure of damages for tenant's breach of covenant to repair, in action brought after expiration of term. 16 L.R.A. (N.S.) 210.

LANDLORD AND TENANT, III. a—cont'd LANDLORD AND TENANT, III. b, 1 cont'd

> Right of transferee of reversion to enforce lessee's covenant as to. L.R.A.1915C,

§ 17a. — by landlord. Liability for injury to tenant's property through breach of, see infra, § 71.

Liability of transferee of reversion on covenants in lease. L.R.A.1915C, 220, 226. Construction of landlord's covenant to re-

pair. 34 L.R.A. 826.

Lessor's covenant to repair as obligating him to rebuild. 3 B. R. C. 352.

Covenant of lessor to pay for repairs or improvements as one running with the land. 4 L.R.A. (N.S.) 466.

Landlord's liability to third person for nuisance where tenant covenants to repair.

26 L.R.A. 198.

Liability of landlord who had contracted to keep in repair the leased premises for personal injuries to guest or in-vitee of tenant. L.R.A.1916F, 1106.

Liability under express agreement to repair for injury to tenants from defects in premises. L.R.A.1916D, 1227; L.R.A. 1918E, 219.

Landlord's breach of covenant to repair or make improvements as defense to action for rent, or justification for abandonment. 34 L.R.A.(N.S.) 977, 984; L.R.A.1915C, 649.

Is destruction by decay rendering premises untenantable, within landlord's covenant to repair, or statute relieving tenant from rent, in case of destruction by act of God or elements. 21 L.R.A. (N.S.) 130.

§ 18. To pay for improvements made by tenant.

Lessor's covenant to pay for improvements as one running with the land. 4 L.R.A. (N.S.) 466.

Right of tenant to compensation for improvements under covenant by landlord to pay at expiration of term, where the lease is forfeited for default of tenant. 24 L.R.A.(N.S.) 1082.

Right of tenant to recover for improvements under a landlord's covenant to pay at expiration of term, where the tenancy is terminated by voluntary act of the parties or event not within control of either. 24 L.R.A.(N.S.) 1090.

§ 18a. As to payment of taxes or assessments.

Construction and effect of covenants in lease, sublease, or assignment of lease as to payment of taxes and assessments. L.R.A.1915A, 334.

Covenant as to payment of taxes and assessments as one running with the land. L.R.A.1915C, 221.

19. Against assignment or sale. What amounts to violation of. 14 L.R.A. (N.S.) 1200.

Effect of covenant against assignment without consent on assignee's right to assign. 2 B. R. C. 806.

cont'd

§ 20. Against encumbrances.

Effect of purchaser's knowledge of lease in action for breach of covenant against encumbrances. 4 L.R.A.(N.S.) 313.

Covenant to renew lease as one running with the land. L.R.A.1915C, 219.

20a. For renewal.

Does general provision that renewal shall contain all the covenants of original lase include covenant for renewal. 14 L.R.A.(N.S.) 829.

Validity and effect of stipulation to renew on terms to be agreed upon. 32 L.R.A.

(N.S.) 201.

Right of assignee of portion of leased premises to enforce covenant for renewal. 2 B. R. C. 830.

Covenant to renew lease as affected by conveyance of property. 41 L.R.A. (N.S.) 387.

## 2. Implied covenants.

§ 21. Generally.

Leases as within statute declaring that there shall be no implied covenants in conveyances of real property. 44 L.R.A. (N.S.) 1110.

Effect of implied covenant to pay rent on liability of lessor after assignment of lease. 52 L.R.A.(N.S.) 970.

Implied obligation of tenant to leave premises in good condition. 64 L.R.A. 649. As to landlord keeping premises safe. L.R.A. 825.

Liability of landlord under implied covenant for quiet enjoyment for damages to tenants in consequence of acts of third persons affecting the leased premises. 42 L.R.A.(N.S.) 775.

## § 22. As to fitness of premises for purposes intended.

Premises other than furnished houses or apartments. 33 L.R.A. 449.

Furnished houses or apartments. 33 L.R.A.

## c. Terms; renewal; holding over.

23. Terms.

Effect of covenant for lease, the term of which is not specified. 5 B. R. C. 867. Character of tenancy created by a letting until the happening of a specified event.

34 L.R.A.(N.S.) 1069. Effect of provision that term of lease shall commence in future. 15 L.R.A.(N.S.)

Duration of tenancy as affecting rights of tenants where property is taken by eminent domain. 21 L.R.A. 222.

24. - where tenant holds over.

Does each holding over by a tenant after expiration of a term for years constitute a new and separate term, distinct from that which preceded or followed. 25 L.R.A.(N.S.) 847.

Consult also L.R.A. Digests of Cases. 51

LANDLORD AND TENANT, III. b, 1- | LANDLORD AND TENANT, III. c-cont'd Rent period as the criterion of the term implied by holding over after the expiration of a lease for a fixed term. 25 L.R.A.(N.S.) 855.

§ 25. Renewal.

Covenant for, see supra. § 20a.

Right of assignor of lease as against the assignee to the renewal of the lease upon the expiration of the term. L.R.A. 1918C, 1051.

Renewal of lease to partnership. 27 L.R.A.

483.

Power of partner to renew lease of partnership real estate. 28 L.R.A. 97.

Right of partner to take renewal of lease in his own name and exclude copartner. 32 L.R.A.(N.S.) 869.

Effect of renewing tenancy without reserving right to remove fixtures. 1 L.R.A. (N.S.) 1192; 17 L.R.A.(N.S.) 1135; 48 L.R.A. (N.S.) 294.

Holding over after expiration of lease with option for renewal without formally exercising option. 29 175; L.R.A.1916E, 1232. 29 L.R.A. (N.S.)

Equitable relief against forfeiture of estate for nonrenewal of lease.

846.

Renewal of lease under option as extending performance of the contract. 41 L.R.A. (N.S.) 423-425.

Necessity of executing new lease upon exercising option for additional term. L.R.A.1916E, 1237.

§ 26. Holding over.

Term created by holding over, see supra, § 24.

Presumption as to adverse possession by tenant holding over. 53 L.R.A. 949.

Duty of tenant holding over to leave premises in good condition. 64 L.R.A. 661.

Compensation in case of holding over under lease invalid under statute of frauds. 25 L.R.A. 802.

Liability of cotenant holding over to account for use and occupation or rents and profits. 29 L.R.A.(N.S.) 228; L.R.A.1918B, 607.

Holding over after expiration of lease, with option for extension or renewal, without formally exercising option. 29 L.R.A. (N.S.) 174; L.R.A. 1916E, 1232.

Effect of holding over pending unsuccessful negotiations for a new lease. 40 L.R.A.

(N.S.) 498.

Holding over after original term by one who has attained majority to ratify lease made when under age. 47 L.R.A. (N.S.) 548.

Effect of holding over after notice of intention to quit. L.R.A.1915A, 235. Tenant holding part only of premises after

expiration of term. L.R.A.1918C, 120.

## LANDLORD AND TENANT, III.—cont'd

## d. Termination; forfeiture.

§ 27. Generally.

Disaffirmance of lease by infant, see IN-FANTS, § 21.

Covenant in lease as to right to terminate tenancy as one running with the land. L.R.A.1915C, 221, 226.

L.R.A.1915C, 221, 226.

Construction of provision in lease as to termination of leasehold in case of sale of premises. L.R.A.1915C, 234.

First and last days in computing time. 49 L.R.A. 210.

Effect of transfer of reversion to terminate lease. L.R.A.1915C, 190.

Effect upon lease of dissolution of lesses corporation. 3 B. R. C. 627.

Effect of death of lessor or lessee. 2: L.R.A. 707; 45 L.R.A. (N.S.) 350.

Effect of provision allowing lessor to terminate tenancy if he desires to build. 47 L.R.A.(N.S.) 949.

Termination of estate of uncertain duration as affecting right of sublessee to remove trade fixtures. 46 L.R.A.(N.S.) 947.

Tenant's right to recover for improvements under landlord's covenant to pay at expiration of term, where tenancy is terminated by voluntary act of parties or event not within control of either. 24 L.R.A. (N.S.) 1090.

## § 28. Abandonment of premises.

Remedy of landlord upon abandonment of premises by tenant. 13 L.R.A.(N.S.) 398.

Landlord's liability for injury to tenants from defects in premises where former abandons work or repairs before completing same. 34 L.R.A.(N.S.) 806.

Landlord's breach of covenant to repair or

Landlord's breach of covenant to repair or make improvements as justification of abandonment of premises. 34 L.R.A. (N.S.) 984; L.R.A.1915C, 649.

Right of tenant who has abandoned or vacated premises to increased rent on releasing by landlord. L.R.A.1917D, 612.

#### § 29. Surrender.

Effect of surrender of original lease on rights of sublessee. 7 L.R.A.(N.S.) 221.

Effect on liability of tenant's surety of surrender of lease containing an option to purchase. 9 L.R.A.(N.S.) 557.

Abatement of rent by surrender of premises after destruction of leased building. 22 L.R.A. 615.

## 30. — acceptance.

Caring for and making repairs to premises by landlord as acceptance of tenant's surrender. 35 L.R.A.(N.S.) 1132.

Power of agent for renting or collecting rents to accept surrender of lease. 37 L.R.A.(N.S.) 93.

LANDLORD AND TENANT, III. d—cont'd § 31. Reletting.

Reletting of premises by landlord on abandonment by tenant. 13 L.R.A. (N.S.) 398.

Right of tenant who has abandoned premises to increased rent on reletting by landlord. L.R.A.1917D, 612.

Liability of landlord to third person for nuisance in case of reletting. 26 L.R.A. 198.

## § 32. Eviction.

Effect of eviction on liability for rent, see infra, § 83.

Loss of profits as element of damages for. 53 L.R.A. 102.

Measure of damages for forcing cropper from premises. 38 L.R.A.(N.S.) 714.

Right of landlord to render tenement uninhabitable under provision of lease reserving right of re-entry for condition broken. 17 L.R.A.(N.S.) 672.

Effect of tenant's holding over after expiration of term for years on right to evict. 25 L.R.A.(N.S.) 851.

Attornment by lessee to avoid eviction, to stranger entitled to immediate possession, as defense to action for rent. 18 L.R.A.(N.S.) 396.

## 33. — what constitutes.

Vacating premises as condition of constructive eviction. L.R.A.1918D, 1177.

Constructive eviction by character or misconduct of other tenants. L.R.A.1918D, 396.

Eviction by interference with sublessee. L.R.A.1918C, 61.

Failure to furnish heat. 37 L.R.A.(N.S.) 1217; L.R.A.1916E, 742.

Discontinuance of or interference with elevator service. 21 L.R.A. (N.S.) 38.

Closing or opening windows or other apertures in party wall an an eviction. 49 L.R.A.(N.S.) 369.

Admitting inconsistent business into building. 5 L.R.A. (N.S.) 855.

Discrimination by landlord as to persons who shall use premises, as an eviction. 27 L.R.A.(N.S.) 637.

By enforcement by public officials of restrictions on the use of the premises. 2 L.R.A.(N.S.) 973.

Effect upon lease of property for saloon, of passage of prohibitory laws during the term. 19 L.R.A. (N.S.) 964; 23 L.R.A. (N.S.) 497; 34 L.R.A. (N.S.) 773; L.R.A.1917C, 935.

## § 34. Forfeiture.

Forfeiture of oil and gas lease, see MINES, § 38.

Equitable relief against forfeiture for nonpayment of rent. 69 L.R.A. 844. Equitable relief against forfeiture of estate

for nonrenewal of lease. 69 L.R.A. 846.

LANDLORD AND TENANT, III. d-cont'd | LANDLORD AND TENANT, III. e,-cont'd Tenant's right to compensation for improvements under covenant by landlord to pay at expiration of term, where the lease is forfeited for default of tenant. 24 L.R.A.(N.S.) 1082.

Forfeiture for breach of covenant to pay taxes and assessments. L.R.A.1915A,

358.

Right of lessor as against receiver or assignee for creditors of lessee, to declare forfeiture for breach of conditions or covenants prior to appointment. L.R.A.1915B, 998.

## § 35. — waiver of.

Of forfeiture of oil and gas lease. L.R.A. 673.

Delay of landlord in enforcing forfeiture as 24 L.R.A. (N.S.) waiver of breach.

Acceptance of rent accruing after cause for forfeiture, with knowledge of such cause, as waiver of forfeiture. 11 L.R.A.(N.S.) 831.

Of right of lessor as against receiver or assignee for creditors of lessee to declare forfeiture for breach of conditions or covenants prior to appointment. L.R.A. 1915B, 1000.

## e. Assignment and transfer; subletting,

36. Assignment and transfer.

What amounts to a violation of covenant against, see supra, § 19. Liability for rent after assignment, see in-

fra, § 80.

Effect of assignment of oil and gas lease, see MINES, § 37.

Assignment of lease. 15 L.R.A. 754. Duty of assignee of leasee to leave premises in good condition. 64 L.R.A. 662.

Assignment to cotenant as breach of covenant not to assign without license. 2 B. R. C. 816.

Effect of performance to take parol assignment of lease out of statute of frauds. 42 L.R.A.(N.S.) 162.

Reservation of right of re-entry as affecting character of instrument as assignment or sublease. 42 L.R.A.(N.S.) 1084.

Effect of the destruction of premises after execution of an assignment of a leasehold, but before possession of premises is given thereunder. 25 L.R.A.(N.S.) 609.

Construction and effect of covenants in assignment of lease as to payment of taxes and assessments. L.R.A.1915A, 334.

Right of assignee to sue on covenant in lease the purpose of which is to assure lessee an exclusive right to conduct a certain business on premises owned by lessor. L.R.A.1915C, 860.

Right of assignor of lease as against the assignee to the renewal of the lease fering with tenant. L.R.A.1918D, 393. upon the expiration of the term Loss of profits as elements of damages for L.R.A1918C, 1051. Loss of profits as elements of damages for breach of contract. 53 L.R.A. 97.

Consult also L.R.A. Digests of Cases.

Enforcement of landlord's consent to assignment of lease. 25 L.R.A. (N.S.) 1173.

Right of assignee of portion of leased premises to enforce covenant for renewal. 2 B. R. C. 830.

Assignment to cotenant as breach of covenant not to assign without license. 2 B. R. C. 816.

Waiver of condidtion in lease against assignment as waiver of condition as to business to be carried on. 24 L.R.A. (N.S.) 1067.

Waiver of provision for consent to assignment of lease. 36 L.R.A.(N.S.)

37. — assignee's right to assign.

Effect of proviso in lease against assignment without consent upon right of assignee to assign. 2 B. R. C. 803.

## § 38. Sublease.

Liability for rent after sublease, see infra, § 80.

Tenant's right to sublet premises. 4 L.R.A. (N.S.) 707.

Right of tenant to lease wall of building for advertising purposes. 13 L.R.A. (N.S.) 587.

Enforcement of landlord's consent to sublet.

25 L.R.A.(N.S.) 1173. Effect of surrender of original lease on rights of sublessee. 7 L.R.A. (N.S.) 221.

Estoppel of subtenant to question original landlord's title. 7 L.R.A.(N.S.) 930.

Reservation of right of re-entry as affect-ing character of instrument as assignment or sublease. 42 L.R.A. (N.S.) 1084.

Landlord's liability for injury to servants by condition of premises in case of a sub-lease. 46 L.R.A. 93. Termination of estate of uncertain dura-

tion as affecting right of sublessee to remove trade fixtures. 46 L.R.A.(N.S.) 947.

Construction and effect of covenants in sublease as to payment of taxes and assessments. L.R.A.1915A, 334.

Eviction by interference with sublessee. L.R.A.1918C, 61.

## IV. Rights, duties, and liabilities of parties.

## a. In general.

\$ 39. Generally.

Relative rights of landlord and tenant as to improvements, fixtures, and property on leased premises, see infra, §§ 48-

Measure of damages to leasehold from change of grade. L.R.A.1917C, 428.

Liability for damages to landlord by inter-

Duty of party to lease to minimize damages due to a breach of contract by other party thereto. L.R.A.1918C, 910.

Interference by owner of soil with removal of minerals or timber during term fixed by lease or sale, as extending time for removal. 34 L.R.A. (N.S.) 120.

Taxation of land under perpetual lease or ground rent. 46 L.R.A. (N.S.) 284.

Effect upon character of sum agreed upon for breach of agreement as penalty or liquidated damages of single or multiple stipulations in contract. L.R.A. 1915E, 380, 392.

Consideration for secondary agreement between landlord and tenant abrogating altering prior contract. 1915B, 62.

Sale or mortgage of crops by landlord. L.R.A.1917C, 33.

## § 40. Mechanics' lien for improve-

Mechanics' liens on buildings erected by lessees upon lessor's land. 62 L.R.A.

Power of lessee to subject owner's interest to mechanics' lien. 23 L.R.A.(N.S.) 601; L.R.A.1917D, 577.

Mechanics' lien on landlord's interest for labor and materials furnished tenant for building or improvement removable by tenant. 6 L.R.A. (N.S.) 485.

Agreement between landlord and tenant for removal of fixtures by latter as affecting mechanics' lien. L.R.A.1915E. 826.

## 41. Tax on improvements.

To whom improvements removable by tenant at expiration of term are taxable.

37 L.R.A.(N.S.) 1166.
Who is responsible for taxes on improvements removable by tenant at end of term. 32 L.R.A.(N.S.) 368.

## b. Rights of tenant.

## 1. In general.

§ 42. Generally.

Abandonment of premises by, see supra,

Rights of tenant as against transferee of reversion, see infra, § 97.

In eminent domain proceedings, see EMI-NENT DOMAIN, § 37.

Right of lessee to dedicate property. 31 L.R.A.(N.S.) 1024.

Insurable interest of tenant in leased property. 42 L.R.A.(N.S.) 135.

Insurance against loss of profits by lessee. L.R.A.1917C, 727.

Rights of one in possession under an agreement for a lease which is not executed. 20 L.R.A. 33.

Lessee's right to wharfage charges under lease. 70 L.R.A. 206.

Right of tenants to use walls for advertising purposes. 39 L.R.A.(N.S.) 350; L.R.A.1915B, 1057.

LANDLORD AND TENANT, IV. a-cont'd | LANDLORD AND TENANT, IV. b, 1cont'd

> Rights of tenants under the Torrens Law. L.R.A.1916D, 60.

> Right of lessee to sign petition for public improvements. 44 L.R.A.(N.S.) 696.

> Right of tenant to notice to redeem from tax sale. 44 L.R.A.(N.S.) 675.

Right of tenants to enforce provision as to crossing in deed from lessor to railroad of right of way. 48 L.R.A. (N.S.) 387. Right of a tenant for years to recover from

a municipality for change of grade in street. 48 L.R.A.(N.S.) 899.

May a tenant of one close acquire an easement in an adjoining close of his landlord against the latter or another of his tenants. 4 B. R. C. 998.

## § 43. Tenant's easements of light and air.

Tenant's easement of light and air. 22 L.R.A. 540; 23 L.R.A. 158.

Does lease carry right to light and air on adjoining premises of landlord. 13 L.R.A.(N.S.) 333; L.R.A.1918B, 475.

## 44. Acquisition of title by tenant.

Adverse possession by tenant, see Adverse Possession, § 6.

Estoppel of tenant to dispute landlord's title, see Estoppel, § 36.

Right of tenant to acquire title not inconsistent with landlord's title at commencement of tenancy. L.R.A. 934.

Right of tenant to acquire tax title. L.R.A. 1916F, 206.

## 45. Tenant's right to possession. Adverse possession by tenant, see ADVERSE Possession, § 6.

Right of personal representative of lessee to possession of leased premises under a lease to commence in futuro. 22 L.R.A. (N.S.) 301.

Implied duty of lessor to put lessee in possession of leased premises. 9 L.R.A. (N.S.) 1127; 21 L.R.A.(N.S.) 239.

Lessee's remedy to secure possession. L.R.A. 1918A, 54.

Acceptance of premises by lessee after contract time as waiver of damages for failure of lessor to put him in possession. 9 L.R.A.(N.S.) 1131.

Right to possession of rooms on destruction

of leased building. 22 L.R.A. 613. Tenant's right to building constructed in place of leased building which has been destroyed. 22 L.R.A. 613.

## 46. - lessee of life tenant.

Right of lessee of life tenant to possession and emblements upon death of his lessor. 11 L.R.A.(N.S.) 688.

#### § 47. Rights as to entrances.

Right of tenant to have entrances kept open. 4 L.R.A.(N.S.) 565; 30 L.R.A. (N.S.) 926.

2. As to fixtures, property, and improvements on premises.

§ 48. Generally.

Covenants by landlord as to improvements, see supra, § 17a.

Covenant to pay for improvements made by

tenant, see supra, § 18. Mechanics' lien for improvements, see supra, § 40.

Tax on improvements, see supra, § 41.

What are fixtures as between landlord and tenant, see FIXTURES, § 3.

Privity of estate between landlord and tenant in party wall. 66 L.R.A. 683.

Effect of making improvements under oral lease void under statute of frauds. 3 L.R.A. (N.S.) 852.

Right of tenant to remove improvements as affecting lien on the property improved. 41 L.R.A.(N.S.) 298.

Rights and remedies of landlord and owner of timber after expiration of time stipulated for removal of same. 29 L.R.A. (N.S.) 547.

Scope of provision that lessee shall leave alterations, improvements, additions, etc., on the premises. 42 L.R.A.(N.S.) 546; L.R.A.1915A,

Agreement in lease for determination of value of improvements by arbitration. 47 L.R.A.(N.S.) 387.

Right of landlord to compensation for improvements made by tenant who subsequently condemns the land. 1916F, 991.

Mortgage on buildings upon leased premises. 21 L.R.A. 347.

§ 49. Fixtures generally. What are fixtures, see FIXTURES, § 3.

Tenant's rights as to removal of fixtures. 64 L.R.A. 662.

Nonpayment of rent as affecting right to remove trade fixtures. L.R.A.1918A,

Tenant's duty as to fixtures under expresscovenants as to leaving premises in good condition. 64 L.R.A. 662.

Right of tenant to compensation for fix-tures in building taken under eminent domain proceedings. L.R.A.1915D, 494.

Agreement between landlord and tenant for removal of fixtures by latter as afthird persons. L.R.A. fecting 1915E, 822.

Third person claiming a mechanics' lien. 45 L.R.A. (N.S.) 100; L.R.A.1915E, 826.

Termination of estate of uncertain duration trade fixtures. 46 L.R.A.(N.S.) 947. Consult also L.R.A. Digests of Cases.

LANDLORD AND TENANT, IV. b-cont'd | LANDLORD AND TENANT, IV. b, 2cont'd

Is the right, as between landlord and tenant, to remove trade fixtures, conditional upon their susceptibility to removal without injury to themselves. 18 L.R.A.(N.S.) 423.

Right of tenant to remove electric chandeliers, etc. 3 L.R.A.(N.S.) 69.

§ 50. — effect of renewing tenancy without reserving right to remove. general. 1 L.R.A.(N.S.) 1192; 17 L.R.A.(N.S.) 1135; 48 L.R.A.(N.S.)

New lease as implied surrender of rights under old tenancy. (N.S.) 1193. 1 L.R.A.

Effect of special covenants in new lease. 1 L.R.A.(N.S.) 1199.

Construction of leases and agreements, intention of parties. 1 L.R.A.(N.S.) 1200.

Renewal or extension of old term. L.R.A.(N.S.) 1202.

§ 51. Manure and straw.

Rights of landlord and tenant in respect to manure on leased premises. 31 L.R.A.

Right of tenant to remove straw or manure. 18 L.R.A.(N.S.) 572.

§ 52. Crops.

Right of tenant to maintain replevin for

crops. L.R.A.1917C, 1114.
Rights of mortgagor's lessee to crops as against purchaser of land on foreclosure. L.R.A.1917C, 45.

Sale or mortgage of crops by tenant. 23 L.R.A. 468; L.R.A.1917C, 33. Levy on interests of, in crops. 23 L.R.A.

Time allowed tenant for removal of crop. 35 L.R.A.(N.S.) 707.

Right of tenant at will to crops. 41 L.R.A. (N.S.) 404.

Right of tenant who maintains his possession by means of wrongful injunction to crops grown on the leasehold. 12 L.R.A.(N.S.) 194.

Tenant's abandonment of crop as affecting rights and interests therein. 46 L.R.A. (N.S.) 55.

§ 53. Accretions.

Leaseholder's right to accretions to shore lands. 58 L.R.A. 210.

§ 54. Right of tenant to cut wood for

fires or fences. To what extent timber may be taken. 68 L.R.A. 641.

Place of use. 68 L.R.A. 645. Persons who may use wood. 68 L.R.A. 647. Kind of timber. 68 L.R.A. 648.

Common of estovers. 68 L.R.A. 649. as affecting right of sublessee to remove | Injunction to prevent cutting of timber by tenant. 43 L.R.A. (N.S.) 267.

## LANDLROD AND TENANT, IV.—cont'd

#### c. Duty and liability of tenant.

§ 55. Generally.

Tenant's liability as to rent, see infra, V. Imputing tenant's negligence to landlord, see Negligence, § 49.

Liability of one in possession under agreement for lease which is not executed. 20 L.R.A. 33.

Liability of lessee for safety of wharf or dock. 61 L.R.A. 953.

Lessee's liability for removal of lateral

support to subjacent land. 68 L.R.A.

Right of landlord held liable for tort to contribution or indemnity from lessee responsible for its commission or vice versa. 40 L.R.A. (N.S.) 1148.

Duty of tenant to protect crops from back-water. 49 L.R.A. (N.S.) 760.

Joint liability of landlord and tenant for nuisance maintained on property. L.R.A.(N.S.) 1189.

Parts of building used in common by all tenants as part of works and ways of particular tenant within employers' liability act. 44 L.R.A.(N.S.) 1123.

Duty of tenant to repair premises used in common. L.R.A.1917C, 389.

Arson by tenant. L.R.A.1918E, 484.

## 56. Waste by tenant.

Infecting premises with contagious disease as waste. 30 L.R.A.(N.S.) 474.

## § 57. Tenant's duty to leave premises

in good condition.
The implied obligation. 64 L.R.A. 649. The obligation under express covenants.

64 L.R.A. 652. Liability of tenant for negligent destruction of premises as affected by exception in covenant for return of premises in good

condition. L.R.A.1918Å, 369.
Liability to rebuild on destruction of leased building. 22 L.R.A. 615.

## d. Duty and liability of landlord or his

#### In general,

§ 58. Generally.

Effect of transfer of reversion on, see infra, § 97.
Imputing landlord's negligence to tenant,

see Negligence, § 49.

Validity of statute or ordinance making property or property owner liable for water or light furnished tenant. L.R.A. (N.S.) 198; L.R.A.1918D, 364.

Liability of agent of leased premises for injuries due to defects therein. L.R.A. 1917C, 83.

Effect of making repairs to impose on landlord implied duty to keep the leased premises in repair. L.R.A.1917F, 998.

Begin with this book on every law question.

## LANDLORD AND TENANT, IV. d, 1-

§ 58a. Criminal liability.
Criminal responsibility of lessor of disorderly house. 44 L.R.A.(N.S.) 859.
Is landlord's negligence in relation to premises imputable to tenant, or vice versa, so as to prevent a recovery from a negligent third person. 19 L.R.A. (N.S.) 498.

## 2. To third persons generally.

## § 59. Generally.

Liability for injury to person in street, see Highways, §§ 85, 86.

Utilization of party wall by lessee as affecting lessor's duty to contribute to cost thereof. L.R.A.1917B, 960.

Landlord's interference with business relations between tenant and third persons. L.R.A.1916B, 815.

Liability of agent of leased premises for injuries due to defects. L.R.A.1917C,

Liability of landlord furnishing premises with power, for injury resulting therefrom. 6 B. R. C. 961.

Liability of lessor for injuries to licensee or trespasser. L.R.A.1916F, 1132. Liability of landlord to servants of third

person visiting premises on business. 46 L.R.A. 93.

Rights of one who has been prohibited from entering a passenger elevator but who does so for purpose of doing business with tenant. 14 L.R.A. (N.S.) 350.

## § 59a. Where property is leased for public purpose.

Injury to employee, patron, or customer of lessee, see infra, IV. d, 4.

Liability of lessor of property to be used for a public purpose, for personal injuries to third persons. L.R.A. 1915B, 364.

Where the defect was in a portion of the premises intended only for private use. L.R.A.1915B, 387.

## § 60. For condition of premises in possession of tenant.

Property leased for a public purpose, see supra, § 59a.

Liability to tenants' guests, servants, etc., see infra, IV. d, 4.

Liability of landlord to third person not in privity with tenant for condition of premises in possession of 50 L.R.A.(N.S.) 286. tenant.

Liability of landlord for injuries to third persons caused by coal holes, areaways, or other excavations under or near sidewalk. 50 L.R.A.(N.S.) 305.

Liability of landlord to third persons for snow and ice or obstructions upon the sidewalk. 50 L.R.A.(N.S.) 300.

cont'd

Liability of landlord to third persons for injuries or damages by things falling because of condition of leased premises. 50 L.R.A.(N.S.) 312.

Liability for safety of wharf or dock as between owner and lessee. 61 L.R.A.

952.

## § 61. For acts of tenant or his serv-

Liability of ferryman for acts of lessee, etc. 68 L.R.A. 160.

Liability of lessor of railroad for injuries caused by negligence of lessee company. 44 L.R.A. 737; L.R.A.1918E, 255.

Responsibility of grantee of public fran-chises for acts of servant of lessee in possession under authorized contract. 37 L.R.A. 83.

Knowledge necessary to charge owner with conduct of tenants or others in selling intoxicating liquor on premises in violation of injunction. 25 L.R.A. (N.S.) 602.

§ 62. For nuisance.

General rule as to landlord's liability to third person for nuisance. 50 L.R.A. (N.S.) 288.

Particular conditions within principles governing landlord's liability to third person for nuisance. 50 L.R.A. (N.S.) 296.

Landlord's liability to third person for nuisance where tenant covenants to repair. 26 L.R.A. 198.

Coal hole, areaway, or other excavation under or near sidewalk as nuisance per se. 50 L.R.A.(N.S.) 310.

Joint liability of landlord and tenant for nuisance maintained on property. L.R.A.(N.S.) 1189.

Holding over by tenant after expiration of term for years as affecting liability for nuisances and defects on leased premises. 25 L.R.A.(N.S.) 849.

§ 63. For injury to property.

Liability of lessor for removal of lateral support to subjacent land. 68 L.R.A. 695.

Landlord's liability for injury to adjoining property from cause arising during tenancy. 5 L.R.A. (N.S.) 316.

## 8. To tenant and his family.

## (a) In general.

§ 64. Generally.

Liability for ejecting tenant, see infra, § 96.

Proximate cause of injury to tenant, see
PROXIMATE CAUSE, § 17.
Duty and liability as to stairway, see

STAIBWAY, § 3.

Liability of landlord for damages to tenant in consequence of acts of third persons affecting the leased property. 42 L.R.A. (N.S.) 774.

Consult also L.R.A. Digests of Cases.

LANDLORD AND TENANT, IV. d, 2-1 LANDLORD AND TENANT, IV. d, 3 (a) -cont'd

Duty of lessor to reimburse lessee for amount which latter contributes to cost of party wall. 24 L.R.A.(N.S.) 293.

Duty and liability of landlord of apartments as to heating. 37 L.R.A. (N.S.) 1213.

Liability of landlord on destruction of leased building. 22 L.R.A. 616.

§ 65. As to repairs.

Landlord's covenant as to repairs and im-

provements, see supra. § 17a. Liability for injury to tenant, through failure to repair, see infra, § 67.

Liability for injury to tenant's property through breach of covenant as to, see infra, § 71.

Duty to repair portion of building remaining in landlord's possession. 14 L.R.A. 238.

Duty of landlord to keep plumbing in proper repair for tenant's use. L.R.A.(N.S.) 907.

## (b) Injuries to person.

§ 66. Generally.

Liability for injury to tenant through failure to repair, see infra, § 67.

Liability for injury to tenant's property through breach of covenant as to, see infra, § 71.

Contributory negligence of tehant, see NEG-LIGENCE, § 35.

Landlord's liability for work of independent contractor which is dangerous to tenants. 65 L.R.A. 855.

§ 67. From defect in premises.

Liability of landlord for injury to tenants from defects in premises. 34 L.R.A 824; 34 L.R.A.(N.S.) 798; 48 L.R.A.(N.S.) 917; L.R.A. 48 L.K.A. (N.S.) 917; L.R.A. 1916D, 1224; L.R.A.1918E, 218.

Injuries received through landlord's breach of contract to repair. 11 L.R.A. (N.S.) 504; 34 L.R.A. (N.S.) 804; 48 L.R.A. (N.S.) 919; L.R.A. 1916D, 1227; L.R.A.1918E, 219.

Liability for injuries caused by lack or insufficiency of fire escapes. L.R.A.1917C, 1153.

Liability of landlord to tenant for sickness due to unsanitary condition of premises. L.R.A.1917A, 994.

Liability for injury from fall of leased building. 34 L.R.A. 562.

Duty and liability of landlord as to premises upon which has existed a contagious disease. 6 L.R.A.(N.S.) 977. Liability of landlord for personal injury

to wife of lessee. L.R.A.1916F, 1152.

Liability of landlord for personal injury to member of lessee's family other than wife. L.R.A.1916F, 1159.

cont'd

68. For injuries from defects in portions of building remaining in his possession.

Liability for injury to tenant from defect in portion of premises not included in lease. 14 L.R.A. 238; L.R.A.1916D, 1225.

Liability of landlord to tenant for sickness due to unsanitary condition of premises to which the lessor retained possession. L.R.A.1917A, 995.

§ 69. As to part of premises not controlled by tenant.

Liability of landlord for injury to tenants from defects in premises where landlord retains control of property. 23 L.R.A. 155; 48 L.R.A.(N.S.) 920; L.R.A.1916D, 1226; L.R.A.1918E, 218.

Liability for injury in common passageway. 23 L.R.A. 155; 3 L.R.A. (N.S.) 316.

Duty of landlord to light common hall or stairway. 1 B. R. C. 107.

Private action for violation of statutory duty to light halls and stairways. L.R.A.1915E, 545.

Liability of landlord for injuries from defective condition of foundation, walls, chimneys, or roof of a building, the different floors of which are let to different tenants. 4 L.R.A.(N.S.) 1142.

Liability of landlord for defect in porch or steps used in common by different tenants, or giving access to common hall. L.R.A.1915B, 98.

## (c) Injury to, or conversion of, property.

§ 70. Generally.

Liability of landlord for acts of independent contractor. 65 L.R.A. 855; 66 L.R.A. 154.

Liability of landlord where tenant's property is damaged through interference with party wall by adjoining owner under agreement with landlord. 24 L.R.A. (N.S.) 424.

Liability of landlord for injury done by one tenant to the goods of another through negligence in the maintenance of the leased property. 12 L.R.A.(N.S.) 1025.

Liability of landlord for loss of tenant's property by fire. 42 L.R.A.(N.S.) 363.

Liability of landlord to tenant for damage by water. 15 L.R.A. (N.S.) 545; L.R.A.1917B, 225.

For damage due to faulty construction. L.R.A.1917B, 236.

For loss due to bursting water pipes. L.R.A.1917B, 244.

Liability of landlord or his agent for conversion of tenant's goods by one put in possession of the premises before the expiration of the tenancy. 24 L.R.A. (N.S.) 226.

LANDLORD AND TENANT, IV. d, 3 (b) - | LANDLORD AND TENANT, IV. d, 3 (e) -cont'd

> § 71. Due to breach of covenant to repair.

> Liability of landlord for injury to tenant's property from breach of his covenant to repair. 16 L.R.A. (N.S.) 738.

Damage by water. L.R.A.1917B, 226.

4. To tenant's guests and servants and persons expressly or impliedly invited on premises, from defects in premises.

§ 72. Generally.

Contributory negligence of guests or servants, see Negligence, § 35.

Liability of landlord for personal injuries to persons in privity with tenant. L.R.A.1916F, 1081.

Liability of landlord for injury to employee of tenant. 34 L.R.A. 609; 46 L.R.A. 17 L.R.A.(N.S.) 1161; L.R.A. 86; 1916F, 1140.

Assumption by tenant's employee of risk of unsafe portions of building remaining in landlord's possession. 3 L.R.A. (N.S.) 1097.

Liability generally for injury to tenant's guest. 34 L.R.A. 609; 17 L.R.A. (N.S.) Ĭ161.

Liability of landlord to guest or invitee of lessee for injury caused by structural defect in the leased premises. L.R.A.1916F, 1100.

Liability of landlord who had contracted to keep in repair the leased premises for personal injuries to guest or invitee of tenant. L.R.A.1916F, 1106.

Liability of landlord of office building for injury to person calling on ten-ant on business. L.R.A.1916F, 1118.

Liability of lessor of place of amusement for safety of patrons. 14 L.R.A. (N.S.) 284; 32 L.R.A.(N.S.) 715; 42 L.R.A.(N.S.) 1073; L.R.A.1915F, 696.

Liability of lessor of premises leased for business, public, or amusement purpose, for personal injuries to customer or patron. L.R.A.1916F, 1123.

Liability of lessor for personal injuries to person on the leased premises to secure employment. L.R.A.1916F, 1136.

Liability of landlord furnishing premises with power, for injury resulting therefrom. 6 B. R. C. 961.

Defects in porch or steps used in common by different tenants or giving access to common hall. L.R.A.1915B, 101.

#### e. Liability of contractor for injuries to tenant.

§ 73. Generally.

Liability of contractor to tenant for injury caused by defects in building. L.R.A.(N.S.) 477.

·LANDLORD AND TENANT, IV .-- cont'd |

# f. Proper party to maintain action affecting rights.

#### § 74. Generally.

Which is real party in interest by whom action must be brought. 64 L.R.A. 611.

## § 75. Landlord.

Right of landlord to maintain trespass quare clausum fregit. 30 L.R.A. (N.S.) 248.

Right of owner to recover damages to property from nuisance not of a permanent character, while in possession of tenant. 3 L.R.A.(N.S.) 1060.

#### § 76. Tenant.

Right of tenant to sue for injury by damming back water of stream. 59 L.R.A. 899.

Right of tenant to maintain trespass quare clausum fregit. 30 L.R.A.(N.S.) 265.

Lessee's right to maintain suit to enjoin huisance. 3 L.R.A.(N.S.) 448.

V. Rent or other compensation; lien.

## a. In general,

## § 77. Generally.

Effect of transfer of reversion on rights and liabilities as to, see infra, § 97.

Rental of areaway, see AREAWAYS, § 2. Rent under oil and gas lease, see MINES, § 36.

Rights and liabilities of parties to mortgage as to, see MORTGAGE, § 33.

Right to rents on foreclosure, see MORT-GAGE, § 79a.

Rentals charged by public or public service corporations, see RENTAL.

Rent as a family expense or necessary within statute rendering wife or her property liable therefor. L.R.A.1917F, 862.

Right of tenant who has abandoned or vacated premises to increase rent on releasing by landlord. L.R.A.1917D, 612.

Are taxes which lessee covenants to pay to be regarded as a part of the rent. L.R.A.1915A, 355.

Tax on rent as within covenant in lease as to payment of taxes and assessments. L.R.A.1915A, 343.

L.R.A.1915A, 343.

Lessee's liability for rent where governmental prohibition of residence of alien enemies in specified areas renders his occupancy of the demised premises illegal. 7 B. R. C. 814.

Right to rents on lease of intestate's property. 40 L.R.A. 321.

Liability for, of personal representative carrying on business on behalf of estate. 40 L.R.A.(N.S.) 220.

Adverse possession of tenant in case of nondemand and nonpayment of rent. 53 L.R.A. 950.

When action for use and occupation of premises will lie. 14 L.R.A. 156; 26 L.R.A. 802.

Consult also L.R.A. Digests of Cases.

LANDLORD AND TENANT, V. a—cont'd Who is real party in interest by whom action for, must be brought. 64 L.R.A. 620.

Stipulation that vendee or mortgagor shall on default become a tenant, as affecting liability for rent. 49 L.R.A. 436.

ing liability for rent. 49 L.R.A. 436. Effect on liability of tenant's surety of surrender of lease containing option to purchase. 9 L.R.A. (N.S.) 557.

Equitable relief against forfeiture for nonpayment of rent. 69 L.R.A. 844.

Effect of taking of property by eminent domain on liability for rent. 21 L.R.A. 213, 222.

Landlord's breach of covenant to repair or make improvements as defense to action for rent. 34 L.R.A.(N.S.) 977; L.R.A.1915C, 649.

Right of tenant to counterclaim damages to his property by water in action by landlord for rent. L.R.A.1917B, 234, 246.

Liability of lessee for rent during part of term remaining after death of person whom he agreed to support. 33 L.R.A. (N.S.) 347.

Effect of re-entry by landlord after bankruptcy of, or assignment for creditors by, tenant, upon latter's liability for subsequent rent. L.R.A.1917A, 208.

Reservation of right of re-entry as affecting liability for rent. 42 L.R.A.(N.S.) 1087.

Right to reduction in rent of farm because part of it is not tillable. 36 L.R.A. (N.S.) 555.

Constitutionality of statute providing for imprisonment for breach of contract of labor or rental. 21 L.R.A.(N.S.) 242.

Effect of payment of rent after termination of landlord's title on tenant's right to show that the landlord has parted with such title. 38 L.R.A. (N.S.) 866.

Set-off in case of bankruptcy. 55 L.R.A. 50, 54, 67.

Proof of claim based on lease as fixed liability under bankruptcy act. 54 L.R.A. 374.

Provability of claim under covenant indemnifying against loss of rent, or accelerating future rent, in event of default. 31 L.R.A.(N.S.) 270.

Acceptance of partial allowance by United States of claim for rent as an accord and satisfaction. 42 L.R.A.(N.S.) 115.

Effect of admission to change burden of proof and right to open and close in action on lease. 61 L.R.A. 538.

Admissibility of entries as to receipt of rent in books of account. 53 L.R.A. 516.

Power of agent for renting or collecting rent to accept surrender of lease. 37 L.R.A.(N.S.) 93.

Liability for rent as affected by fact that property cannot be devoted to use intended without alteration to conform to police regulations. 39 L.R.A.(N.S.) 894.

LANDLORD AND TENANT, V. a-cont'd | LANDLORD AND TENANT, V. a-cont'd Loss of, as damages for breach of contract to install elevator or other equipment incidental to use of building. L.R.A.(N.S.) 1130.

Setting off on mortgage foreclosure. L.R.A. 324.

Duty of cotenant to account for. 28 L.R.A. 831; 29 L.R.A. (N.S.) 224; L.R.A. 1918B, 606.

Liability of purchaser who takes possession under parol contract of sale in action for rents or for use and occupation where vendor refuses to perform. L.R.A.1915E, 405.

Provisions in lease accelerating maturity of future rents and giving lessor right to take possession upon default in payment of rentals or upon insolvency of lessee as alternative or concurrent. L.R.A.1916B, 1101.

Effect of holding over after notice of intention to quit. L.R.A.1915A, 235.

Liability for use of leased premises by one seizing tenant's goods or chattels. 43 L.R.A.(N.S.) 527.

Liability of infant lessee for rent. 47 L.R.A. (N.S.) 544.

Infant's recovery back of rent paid. L.R.A.(N.S.) 546. 47

Determination of the value of the use or rental of property. 44 L.R.A. (N.S.) 499.

Failure of consideration for bill or note given for future rent as affecting purchaser with knowledge of the character of the consideration. 46 L.R.A.(N.S.) 869.

Provision in lease for determination by arbitration or appraisement rents payable. 47 L.R.A. (N.S.) 387.

Right to retain rent paid in advance in event of termination of the lease. 50 L.R.A.(N.S.) 1034.

Nonpayment of rent as affecting right to remove trade fixtures. L.R.A.1918A, 835.

## 78. Who entitled to rent.

Right to rents on lease of intestate's property, see EXECUTORS AND ADMINISTRA-TORS, § 15.

Right to rent as between vendor and purchaser, see VENDOR AND PURCHASER,

Right to rent from private persons or corporations making special or unusual use of public records. L.R.A.1918E,

Right to rental of real estate sold on con-35 L.R.A.(N.S.) 1066; tract. L.R.A. (N.S.) 420.

Right as between life tenant and remainderman to rents from lease of property. 36 L.R.A.(N.S.) 637.

Apportionment of rent upon death of life beneficiary between distribution periods. 27 L.R.A.(N.S.) 450.

Right to, after foreclosure decree and before purchaser's title is perfected. L.R.A.(N.S.) 1079.

Power of equity in jurisdiction where mortgage does not convey the title, to impound rents and profits of mortgaged property pending foreclosure. 7 L.R.A. (N.S.) 1001.

Application of rents received by mortgagee in possession. 4 B. R. C. 829.

§ 79. What constitutes payment of rent.

Acceptance of commercial paper as payment of rent. 35 L.R.A. (N.S.) 106.

§ 80. Liability of lessee, sublessee or assignee of leasehold for rent after assignment or sublease.

In general. 52 L.R.A.(N.S.) 969. Of lessec. 52 L.R.A. (N.S.) 969. Of sublessee. 52 L.R.A.(N.S.) 976. Of assignee. 52 L.R.A.(N.S.) 978.

§ 82. Compensation when lease invalid under statute of frauds.

General doctrine. 26 L.R.A. 799.
Tenants from year to year. 26 L.R.A. 800.
Use and occupation. 26 L.R.A. 801. Holding over. 26 L.R.A. 802.

Distress. 26 L.R.A. 802.

§ 83. Effect of eviction on liability. As to what constitutes eviction, see supra, § 33.

Effect of partial eviction. 17 L.R.A. 275; 41 L.R.A. (N.S.) 430.

Eviction of tenant so as to relieve him from payment of rent by reason of enforcement by public officials of restrictions on use of premises. 2 L.R.A. (N.S.) 973.

Attornment by lessee, to avoid eviction, to stranger entitled to immediate possession, as defense in action for rent. 18 L.R.A. (N.S.) 396.

after destruction of § 84. Liability leased building.

Continuance of rent for apartments and rooms. 22 L.R.A. 613.

Continuance of rent for building. L.R.A. 613.

Rent ceasing by terms of lease. 22 L.R.A. 614.

Abatement of rent by surrender of premises. 22 L.R.A. 615.

Destruction of premises as affecting rent paid or payable in advance. 33 L.R.A. (N.S.) 540.

Is destruction by decay rendering premises untenantable within statute relieving tenant from rent in case of destruction by act of God or elements. 21 L.R.A.(N.S.) 130.

Determination of proportional part of rent to be abated upon destruction of premises. L.R.A.1916F, 277.

of § 85. Availability exemptions against claim for rent. Statutory lien for rent. 24 L.R.A. 812. Waiver of exemption. 24 L.R.A. 812. Equitable lien. 24 L.R.A. 812.

LANDLORD AND TENANT, V. a—cont'd § 86. Liability for rent of premises occupied by receiver or assignee for creditors.

Liability of receiver or assignee. 59 L.R.A. 673.

Liability of lessee. 59 L.R.A. 695.

Liability of third person. 59 L.R.A. 696. Priority of claim for rent against property in hands of receiver over recorded liens. 41 L.R.A.(N.S.) 700, 710.

§ 87. Guaranty or insurance of rent. Insurance against loss of rents, see INSUR-ANCE, § 218.

Necessity of notice in order to bind guarantor of lessee. 20 L.R.A. 259.

Power of corporation organized for the manufacture and sale of liquor to guarantee rent of its customers or prospective customers. L.R.A.1918C, 1008.

## b. Landlord's lien.

\$ 88. Generally.

Equitable lien for rent. 24 L.R.A. 812. Landlord's lien for rent; personal liability of purchaser of property subject to. 59 L.R.A. 737.

Efficacy of chattel mortgage on fixtures as against landlord. 15 L.R.A. 56.

Stipulation that vendee or mortgagor shall on default become a tenant, as affecting right to a lien. 49 L.R.A. 437.

Injunction to protect lien of landlord against execution sale. 30 L.R.A. 129. Failure of landlord to take possession of collateral covered by lien as release of

surety. 37 L.R.A.(N.S.) 709.

Attempt to enforce lien under clause in a lease giving landlord a lien on crops and chattels as election preventing its enforcement as a chattel mortgage. 20 L.R.A.(N.S.) 259.

Priority of claims for leases and rental against property in hands of receiver over recorded liens. 2 L.R.A.(N.S.) 1030, 1044, 1060, 1066.

Antedating lease as affecting priority of landlord's lien. L.R.A.1916F, 450.

Right to statutory lien on property of third person for rental of personal property to contractor for use in work of a lienable nature. 16 L.R.A.(N.S.) 585.

§ 89. Lien of cotenant.

Lien of one cotenant for rents and profits received by cotenant. 29 L.R.A.(N.S.) 236; L.R.A.1918B, 609.

§ 90. Waiver of lien. Waiver of landlord's lien by attachment. 50 L.R.A. 717.

#### c. Distress.

§ 91. Generally.

First and last days in computing time for proceedings to distrain. 49 L.R.A. 239.

Necessity for change of possession to uphold, as against creditors of former owner, sale of goods under distress for rent. 36 L.R.A.(N.S.) 1021.

Consult also L.R.A. Digests of Cases.

LANDLORD AND TENANT, V. c—cont'd Use of distress warrant to enforce payment of compensation for use of property other than land. 11 L.R.A.(N.S.) 836.

92. Right to.

Possession by tenant of chattels of third person as affecting the landlord's right to distress. 25 L.R.A.(N.S.) 792, 796. Where lease is invalid under statute of

frauds. 26 L.R.A. 802.

Effect of tenant's holding over after expiration of term for years on right to distrain. 25 L.R.A.(N.S.) 851.

Stipulation that vendee or mortgagor shall, on default, become a tenant as affecting right to maintain distress proceedings. 49 L.R.A. 437.

§ 93. Liability for wrongful distress. Landlord's liability for wrongful act of agent in distraining for rent. 27 L.R.A. 173.

## VI. Recovery of possession; re-entry.

§ 94. Generally.

Liability of landlord who brings an unfounded action to dispossess tenant. L.R.A. 1918C, 323.

Effect of re-entry by landlord after bankruptcy of, or assignment for creditors by tenant, upon latter's liability for subsequent rent. L.R.A.1917A, 208.

First and last days in computing time for proceeding to dispossess. 49 L.R.A. 239.

Landlord's right to render tenement uninhabitable under provision of lease reserving right of re-entry for condition broken. 17 L.R.A. 672.

Stipulation that vendee or mortgagor shall on default become a tenant, as affecting right to recover possession of premises. 49 L.R.A. 438.

Reservation of right of re-entry as affecting the character of instrument as an assignment or sublease. 42 L.R.A.(N.S.) 1084.

Injunction as to judgment by or against surety in summary proceedings. 31 L.R.A. 63.

Injunction against dispossession by summary proceedings. 30 L.R.A. 129.

Right to prove fraud in title in summary proceedings to recover possession of property. 11 L.R.A.(N.S.) 260.

Right of lessor to maintain an action for possession against his covenant not to disturb lessee's possession, when the covenant is repugnant to the estate granted. L.R.A.1915D, 467.

Provisions in lease accelerating maturity of future rents, and giving lessor right to take possession upon default in payment of rentals or upon insolvency of lessee as alternative or concurrent. L.R.A.1916B, 1101.

§ 95. Notice to quit.

Right of tenant receiving proper notice to quit where property is taken by eminent domain. 21 L.R.A. 222. LANDLORD AND TENANT VI.-cont'd Denial of tenancy as waiver of notice to quit, or of demand of possession. 25 L.R.A.(N.S.) 104.

## VII. Liability for ejecting tenant.

§ 96. Generally.

Liability of landlord who brings an unfounded action to dispossess tenant. L.R.A. 1918C, 323.

Liability of landlord to tenant for forcible expulsion after termination of tenancy. 16 L.R.A. 798; 11 L.R.A. (N.S.) 468.

Liability of landlord for personal injuries inflicted in attempting to dispossess tenant. 42 L.R.A.(N.S.) 392.

Liability of property owner for compelling removal of sick person. 17 L.R.A. (N.S.) 510.

## VIII. Sale of leased property.

§ 97. Generally.

Transfer of reversion. L.R.A.1915C, 190. Effect of sale of the reversion on rights and liabilities under covenant the purpose of which is to assure lessee an exclusive right to conduct a certain business on premises owned by lessor. L.R.A.1915C, 85/.

Right of transferee of reversion as to breaches of covenant occurring before transfer. L.R.A.1915C, 245.

Construction of provision in lease as to termination of leasehold in case of sale of premises. L.R.A.1915C, 234.

## LANDOWNERS.

Doctrine of equitable conversion as affecting one's right to sign consent or remonstrance as landowner. 50 L.R.A. (N.S.) 32.

#### LANDS.

Valuation of public utility lands. 48 L.R.A. (N.S.) 1196.

#### LANE.

Extent of right confered by grant or reservation in conveyance of lot of right to use lane or alley. 3 B. R. C. 533.

#### LANGUAGE.

In what publication made, see Publica-TION, § 3.

Foreign, publication of official notice in. 14 L.R.A. 64.

Power to prescribe teaching of, in public schools. 47 L.R.A.(N.S.) 203. Begin with this book on every law question. LAPSE.

Of legacy, see WILLS, § 120.

## LARCENY.

§ 1. Generally.

Of animals, see Animals, § 4.
Of other spouse's property, see HUSBAND
AND WIFE, § 46. Insurance against theft, see INSURANCE, §

220. See also RECEIVING STOLEN PROPERTY.

Statutes infringing freedom to deal with one's property enacted in order to prevent larceny. L.R.A.1915B, 213.

Validity and enforceability of contract to compensate the owner of property stolen in absence of duress or agreement, express or implied, to stifle prosecution. L.R.A.1915E, 139.

Criminal liability for agent's act in. L.R.A. 652.

Criminality of solicitation to commit. L.R.A. 437.

Homicide in attempting to prevent. L.R.A. 537.

Title of one who takes money from thief or embezzler. 25 L.R.A.(N.S.) 631; L.R.A.1917A, 707.

When larceny deemed continuous. 7 L.R.A. (N.S.) 520.

Valuation of commercial paper for purposes of graduating offense of larceny. 23 L.R.A.(N.S.) 1063.

Stealing property from different owners at the same time as distinct offenses. 42 L.R.A.(N.S.) 967.

Prosecution for larceny of one who receives or sells within the state property actually stolen with his connivance by another in another state. (N.S.) 207. 42 L.R.A.

Production of bill of sale as repelling presumption of guilt from possession of recently stolen property. 39 L.R.A. (N.S.) 320.

Liability of the government or other public body for its own obligations stolen from it. 39 L.R.A.(N.S.) 444.

Truth of charge of, as a defense to a civil action for libel or slander. 31 L.R.A. (N.S.) 144.

Loss by, during fire. 35 L.R.A.(N.S.) 892. Necessity and sufficiency of description of offense in bail bond or recognizance. 38 L.R.A.(N.S.) 314, 320.

Necessity of instruction as to law on cir-cumstantial evidence on prosecution for. 69 L.R.A. 195, 198, 206.

§ 2. What constitutes.

Corpus delicti in larceny. L.R.A.1916B, 846.

What law defines larceny for purposes of a statute against bringing stolen property into the state. 15 L.R.A. 722; 14 L.R.A.(N.S.) 556.

LARCENY—cont'd

Larceny or embezzlement as affected by belief in right to property taken.
41 L.R.A.(N.S.) 549.

Taking of proferty by general owner for purpose of defeating a lien thereon as larceny. 12 L.R.A.(N.S.) 94.

Sale of another's property as larceny. 10 L.R.A. (N.S.) 816.

Wrongful sale of pledged property or collateral as. 31 L.R.A.(N.S.) 999.

Larceny by taking away greater quantity of purchased article than was paid for. 1 B. R. C. 1004.

Failure to account for fund to one jointly interested therein as theft, larceny, or embezzlement. 31 L.R.A. (N.S.) 822.

By obtaining money by trick. 1 L.R.A. (N.S.) 862.

Larceny by abstracting money or other property from letter given one to mail. 47 L.R.A. (N.S.) 852.

Larceny by fraudulent race or game. 1 L.R.A.(N.S.) 862; 20 L.R.A.(N.S.) 1164; 42 L.R.A.(N.S.) 735.

Making or procuring fraudulent orders on public funds. 32 L.R.A.(N.S.) 234.

Fraudulent conversion of property by one legally in charge or custody thereof. 2 L.R.A.(N.S.) 249.

Conversion of proceeds of property acquired by defendant under an agreement to sell the same and turn over proceeds, as larceny. 52 L.R.A.(N.S.) 1222; L.R.A.1918A, 318.

Intent or offer to return, or actual return of, property as affecting charge of larceny. 52 L.R.A.(N.S.) 1013.

Appropriation by bailee of articles accidentally coming into his possession as subject of bailment. L.R.A.1915C, 712.

Obtaining property by means of promise to pay, or give security, for same, without intent to do so. L.R.A.1916E, 769.

§ 3. What constitutes asportation.

Circumstances held sufficient to show asportation. 29 L.R.A. (N.S.) 38.

Circumstances held insufficient to show asportation. 29 L.R.A.(N.S.) 40.

The Texas cases. 29 L.R.A.(N.S.) 40.

Killing animal and carrying away part of the carcass as larceny of the animal. L.R.A.1915E, 848.

§ 4. Of what property.

Of property delivered by mistake, see MISTAKE, § 19.

Check as subject of. 42 L.R.A.(N.S.) 498. Taking of fish or game as larceny. L.R.A. 1918A, 547.

Property held for an illegal purpose as subject of. L.R.A.1918D, 690.

Water, gas, and electricity as subjects of. L.R.A.1918C, 580.

Of money or property delivered by mistake. 52 L.R.A. 136.

Of dog. 40 L.R.A. 514. Of bees. 40 L.R.A. 689.

Consult also L.R.A. Digests of Cases.

LARCENY—cont'd

Appropriation of articles of value concealed in goods purchased or in waste matter. 22 L.R.A.(N.S.) 1133.

Larceny of property found. 37 L.R.A. 121; r 30 L.R.A. (N.S.) 339; L.R.A.1916A, 468. Larceny or embezzlement by one spouse of the other's property. 29 L.R.A. (N.S.) 830.

Real property or things savoring of realty as the subject of larceny. 49 L.R.A.(N.S.) 965.

§ 5. By children. Criminal liability of children for. 36 L.R.A. 201.

§ 6. By officer.

Liability of officer acting under writ of execution for. 3 L.R.A.(N.S.) 508.

§ 7. By corporation. Criminal responsibility of corporation for. 2 B. R. C. 249.

§ 8. Defenses.

What intoxication will excuse. 36 L.R.A. 469.

Kleptomania as a defense to larceny. 18 L.R.A. 229; 43 L.R.A.(N.S.) 150. Effect of owner's conduct in intentionally

Effect of owner's conduct in intentionally facilitating the taking. 7 L.R.A.(N.S.) 756.

Instigation of offense as a defense. 25 L.R.A. 343; 30 L.R.A.(N.S.) 950; 51 L.R.A.(N.S.) 827.

Effect of consent of bailee, agent. or servant to taking of property. 7 L.R.A.(N. S.) 1149.

Purpose of applying property on debt as affecting. 32 L.R.A.(N.S.) 420.

§ 9. Running of limitations against prosecution for.

Running of statute of limitations against action to recover stolen property. 29 L.R.A.(N.S.) 120; 34 L.R.A.(N.S.) 621.

§ 10. Indictment for.

See Indictment, Information, and Complaint, § 23.

§ 11. Evidence in prosecution for. Proof of corpus delicti in. 68 L.R.A. 40, 48,

Proof of corpus delicti in. 68 L.R.A. 40, 48, 54, 56, 65; 28 L.R.A. (N.S.) 536; L.R.A. 1916B, 846.

Evidence of other crimes in prosecution for. 62 L.R.A. 231, 281, 315, 322; 43 L.R.A. (N.S.) 776.

Evidence of character of accused to rebut presumption from possession of stolen goods. 20 L.R.A. 614.

Right of one to testify as to his intent. 23 L.R.A.(N.S.) 390.

Possession of recently stolen property as evidence of. 12 L.R.A. (N.S.) 199.

Validity of statute making possession of stolen property proof of guilt. L.R.A. 1915C, 734.

LARCENY-cont'd

Husband or wife as witness against the other in prosecution for. L.R.A.1917E, 1133.

§ 12. Punishment for.

Cruel and unusual punishment for. L.R.A. 573, 577; L.R.A.1915C, 567.

§ 13. Civil liability for, or in respect to.

As affecting liability on official bond. 22 L.R.A. 449.

Of property bailed; presumption and burden of proof as to care or negligence. 43 L.R.A.(N.S.) 1179. Liability of bailee (other than a common

carrier or innkeeper) for theft com-

mitted by servant. 4 B. R. C. 562.
Liability of sleeping car company for theft of baggage or personal effects of passenger. 41 L.R.A. (N.S.) 799; L.R.A.1915B, 621.

Liability of carrier for theft of hand baggage or other effects in the custody or control of passenger. L.R.A.1915B, 608. Liability for stolen mail. L.R.A.1915A, L.R.A.1915A,

374.

Liability of hospital for loss or theft of property of patient. L.R.A.1918A, 1157. Existence of a trust in property stolen. L.R.A.1915B, 442.

Legality of contract to pay thief for return of stolen property. 7 L.R.A.(N.S.) 175. Civil action against thief to recover stolen property or its value. 41 L.R.A. (N.S.) 255.

## LASCIVIOUS COHABITATION OR CONDUCT.

See Adultery; Disorderly Houses; Forni-CATION; ILLICIT COHABITATION; INCEST; LEWDNESS; PROSTITUTION; SE-DUCTION.

Proof of corpus delicti in prosecution for. 68 L.R.A. 45.

#### LAST CLEAR CHANCE.

See NEGLIGENCE, §§ 50-52.

## LAST SICKNESS.

What is "last sickness" permitting noncupative will. 13 L.R.A.(N.S.) 1092.

#### LATENT AMBIGUITIES.

As to land in will, correction of. 6 L.R.A. (N.S.) 942; L.R.A.1915E, 1008. Begin with this book on every law question.

#### LATENT DEFECTS.

Injury by generally.
 Landlord's liability for injury to tenants from. 34 L.R.A. (N.S.) 799; 48 L.R.A. (N.S.) 918; L.R.A.1916D, 1225.
 Liability of religions of the property for injury to the property of the property

Liability of railroad company for injury to passenger by latent defect in car. L.R.A.(N.S.) 790; L.R.A.1915D, 305.

§ 2. Injury in street by. Municipal liability for injury by, in streets. 2 L.R.A.(N.S.) 159; 20 L.R.A.(N.S.) 513.

Contributory negligence of person injured by latent defects in street. 21 L.R.A.(N.S.) 635; 48 L.R.A.(N.S.) 633.

§ 3. Injury to servant by. Servant's assumption of risk of, see MASTER AND SERVANT, § 113.

Latency of defect as affecting res ipsa loquitur. L.R.A.1917E, 50.

Employer's liability to servant injured by. 41 L.R.A. 83.

Applicability to, of rule imputing to master notice of defects in original construction. 17 L.R.A.(N.S.) 104.

§ 4. In property sold. In property bought for special purpose, implied warranty against. 22 L.R.A. 193. Effect of provision in contract of sale that claim for, must be made within certain time. 11 L.R.A. (N.S.) 245.

## LATENT EQUITIES.

Protection of quitclaim purchasers against. 29 L.R.A. 33.

#### LATERAL RAILROADS.

What is within charter power to build. 12 L.R.A. (N.S.) 326.

## LATERAL SUPPORT.

Generally.

Measure of damages for removing, see DAM-AGES, § 72.

Right to, passing by deed, see DEEDS, § 23. Removal of as a taking of property, see EMINENT DOMAIN, § 43.

Subjacent support, see SUBJACENT SUPPORT.

Express agreements or covenants for lateral support. 48 L.R.A.(N.S.) 474.

Right to remove lateral support by dredging water bed. 64 L.R.A. 275.

Removal of, as damage or injury in eminent domain case. 5 L.R.A. (N.S.) 1086; L.R.A.1917E, 576.

Condemnation or grant of land for rail-road right of way as carrying right to lateral and subjacent support. 32 L.R.A.(N.S.) 155.

LATERAL SUPPORT-cont'd

Liability of railroad company in constructing its roadway, for removal of lateral support to adjoining property. 2 L.R.A.(N.S.) 318; L.R.A.1918D, 714.

2. For land in natural state. Liability for removal of. 68 L.R.A. 673.

§ 3. For buildings.

Measure of damages for removing, see DAM-AGES, § 72.

Use of party wall as lateral support as rendering adjoining owner liable to contribute to cost. 6 B. R. C. 458.

Right by prescription to lateral support for buildings. 20 L.R.A. 730.

Express agreements or covenants for. 48 L.R.A. (N.S.) 474.

Creation of easement for support of land and buildings by severance of tract with apparent benefit existing. 26 L.R.A. (N.S.) 364; L.R.A.1915C, 353.

Liability for injuries to buildings on adjoining land by negligent removal of lateral support of the soil. 6 L.R.A.(N.S.)

Effect of destruction of building to terminate adjoining owner's easement of. 19 L.R.A.(N.S.) 883; 46 L.R.A.(N.S.) 1021.

4. By or for highway or street.

Right to lateral support as against public by adverse possession of highway or city street. 18 L.R.A. 150.

Liability of municipal corporation for injury to lateral support in making street improvements. 12 L.R.A.(N.S.) 696.

Duty of abutting owner to preserve lateral support to highway. 20 L.R.A. (N.S.) 287.

§ 5. Liability for independent contractor's interference with.

Liability of employer for injury to, by independent contractor. 65 L.R.A. 849.

Employer's duty to avoid independent contractor's interference with right of. 66 L.R.A. 148.

## LATERAL TRACK.

See Spur Tracks and Sidings.

## LAUDATORY ARTICLE.

As libel. 4 L.R.A. (N.S.) 861.

## LAUNDRIES.

Gathering laundry in one state, performing services thereon in another, and returning to owners as interstate commerce. L.R.A.1917B, 343.

Consult also L.R.A. Digests of Cases.

LAUNDRIES—cont'd

Municipal power over, as nuisance. 38 L.R.A. 651.

Validity of agreement in restraint of trade ancillary to sale of laundry business as affected by territorial scope. 24 L.R.A. (N.S.) 930; L.R.A.1916C, 631.

Power to make use of property for, conditional upon consent of neighbors. 8 L.R.A.(N.S.) 978.

## LAW.

Conflict of, see Conflict of Laws. Custody of, see Custody of Law. Judicial notice of, see Evidence, §§ 2, 3. Presumptions and burden of proof as to, see EVIDENCE, §§ 19, 20. As to statutes, see STATUTES.

Violation of, see Violation of Law.

Mistake as to law of another state or country as one of law or of fact. 46 L.R.A. (N.S.) 174.

False representation of foreign law as basis for fraud action. L.R.A.1915A, 675. Homicide by authority of. 67 L.R.A. 292.

## LAW BOOKS.

As evidence. 40 L.R.A. 572.

## LAWFUL HEIRS.

Extrinsic evidence to identify person intended by testator using term. 47 L.R.A. (N.S.) 533.

## LAWFUL MONEY.

Validity and effect of statutes requiring wages to be paid in. 28 L.R.A. 273.

## LAW OF PLACE.

See CONFLICT OF LAWS.

## LAW OF THE CASE.

Judgment affirming a nonsuit as the law of the case. 48 L.R.A.(N.S.) 464. On second appeal. 34 L.R.A. 321.

#### LAWYERS.

See ATTORNEYS.

#### LAYMEN.

Champertous contracts of. L.R.A.1916E, 68.

## LEADING QUESTIONS.

See WITNESSES, § 27.

## LEAKAGE.

Provision exempting carrier from liability for loss by leakage as extending to loss caused by negligence. 6 B. R. C. 128.

#### LEARNING.

Exemption from taxation of institutions of, see Taxes, §§ 24-26.

## LEASE.

In general, see Landlord and Tenant, III. Of mine, see Mines, §§ 30, 32, 35-38. Of railroad, see Railroads, §§ 6, 7.

Bicycle as subject of. 47 L.R.A. 305. As a conveyance within recording statute. 24 L.R.A. (N.S.) 879.

Contract exempting railroad company from liability for burning building placed on leased portion of right of way. 44 L.R.A.(N.S.) 1127.

Lease of its property as affecting liability of foreign corporation to franchise tax or tax upon privilege of doing business within the state. L.R.A.1917D, 1073.

Effect of carriers' leasing defective car on liability for damages to freight because of defects. L.R.A.1917C, 519.

## LEASEHOLD.

In general, see LandLORD AND TENANT.

Personal liability of a trustee for losses to trust estate from investing funds on security of leasehold property. 44 L.R.A. (N.S.) 917.

Law governing validity of testamentary disposition of leasehold property. 7 B. R.

Measure of damages to leasehold from change of grade. L.R.A.1917C, 428.

## LEAVE.

Necessity for leave to file bill of review for newly discovered evidence. 30 L.R.A. (N.S.) 1031.

Leave of court to executor or administrator to purchase at his own sale. L.R.A. 1918B, 49.

LEAVE—cont'd

Necessity of leave of court for enforcement of order of Public Service Commission against receiver operating utility. L.R.A.1918E, 315.

#### LECTURES.

Applicability of Sunday laws to. 30 L.R.A. (N.S.) 467.
Use of public school building for. 31 L.R.A. (N.S.) 589.

#### LEDGER.

Admissibility of, in evidence. 52 L.R.A. 581.

#### LEGACY.

In general, see WILLS, V. Interest on, see WILLS, § 104.

#### LEGAL BENEFICIARIES.

Who are, within meaning of Workmen's Compensation Statutes. L.R.A.1918F, 485.

## LEGAL EXPENSES.

Treatment of, as part of overhead charges in public service property valuations. 48 L.R.A. (N.S.) 1049.

## LEGAL HEIRS.

Extrinsic evidence to identify person intended by testator using term. 47 L.R.A. (N.S.) 533.

#### LEGAL PAPERS.

Typewritten, printed, or stamped signature of. L.R.A.1917B, 285.

Measure of damages for loss or destruction

of. 8 L.R.A. (N.S.) 369.

## LEGAL PROCEEDINGS.

Bonds given in, see Bonds, § 8.
Injunction against, see INJUNCTION, §§ 40-60.

Effect of admission of state into the Union upon provisions of ordinance of 1787 as to. 52 L.R.A.(N.S.) 311.

Extension of time for, when last day falls on Sunday. 14 L.R.A. 122.

Sitting of court on holidays. 19 L.R.A. 317. Validity of court business transacted on leval holiday. 10 L.R.A.(N.S.) 791.

Does standard or solar time govern in. 1 L.R.A.(N.S.) 364; 6 L.R.A.(N.S.) 1046; 35 L.R.A.(N.S.) 611.

## LEGAL REPRESENTATIVES.

See also EXECUTORS AND ADMINISTRATORS.

Meaning of term in life insurance policy. 30 L.R.A. 609; 32 L.R.A.(N.S.) 247.

#### LEGAL SERVICES.

In general, see ATTORNEYS.

Conclusiveness of expert opinion as to value of. 42 L.R.A. 768; 45 L.R.A. (N.S.) 181.

Liability of infant for. 44 L.R.A.(N.S.) 411.

#### LEGAL TENDER.

Question relating to, as Federal question. 62 L.R.A. 537.

Application of legal tender act to specific contracts for coin. 29 L.R.A. 512.

#### LEGAL TITLE.

Effect of fraudulent conveyance on, see FRAUDULENT CONVEYANCES, § 4.

## LEGATEES.

In general, see Wills, V.

As real party in interest by whom action

must be brought. 64 L.R.A. 611.
Right to avoid sale of decedent's property to executor or administrator. L.R.A. 1918B, 30.

Injunction against execution sales to protect. 30 L.R.A. 123.

Assessment on decedent's estate against. 56 L.R.A. 645.

Duty of executor to inform legatee of terms of legacy. 6 B. R. C. 104.

Ornamental articles as fixtures as between legatees, devisees, heirs, personal representatives, and life tenants. 6 B. R. C. 162.

## LEGISLATIVE AUTHORITY.

As defense to one maintaining nuisance, see Nuisances, § 28.

#### LEGISLATIVE DIVORCE.

---

See DIVORCE AND SEPARATION, § 3. Consult also L.R.A. Digests of Cases.

## LEGISLATIVE JOURNALS.

See STATUTES, §§ 11, 12.

#### LEGISLATURE.

I. In general, §§ 1, 2. II. Powers, \$ 3.

## I. In general.

§ 1. Generally.

Appropriations by, see APPROPRIATIONS. Committee of, see COMMITTEE, § 2.

Constitutionality of legislation generally,

see Constitutional Law. Enactment of statutes by, see Constitution-AL LAW; STATUTES, §§ 3-6.

Relation of courts to legislature, see Courts,

§§ 15, 16. Divorce by, see DIVORCE AND SEPARATION,

§ 3. Legislative functions of municipality, see

MUNICIPAL CORPORATIONS, V, c. Authority of, as defense to one maintaining

nuisance, see NUISANCES, § 28.
Records of, see RECORDS AND RECORDING
LAWS, § 6.

Construing statute according to intent of, see STATUTES, § 20.

Effect of admission of state into the Union upon provisions of ordinance of 1787 as to proportionate representation of the people in the legislature. 52 L.R.A.(N.S.) 311.

Members of state legislature as public of-ficers. 17 L.R.A. 247.

Right of women to legislative office. 38 L.R.A. 210.

Legislative days. 17 L.R.A. 66.

Signing bills as legislative act. 37 L.R.A. 391.

Validity of contract for services to procure legislation. 30 L.R.A. 737; 4 L.R.A. (N.S.) 213.

Validity of contract by municipal corporation or governmental body to pay for services in promoting or defeating legislation. L.R.A.1917B, 358.

Appropriation for expenses of legislative committee to attend public function. 1 L.R.A.(N.S.) 409.

Suit for alimony after divorce by. L.R.A. 679.

Necessity for legislative sanction to consolidation of corporations. 52 L.R.A. 370. Extra session. 15 L.R.A. 847.

Power of governor as to adjournment of. 22 L.R.A. 716.

Need of legislative authority to empower municipality to compel change of grade of railway in street. 70 L.R.A. 850.

## § 2. Privilege of members.

Privileges of members as to service of process. 23 L.R.A. 632.

#### LEGISLATURE—cont'd

#### II. Powers.

§ 3. Generally.

Constitutional powers of, generally, see Con-STITUTIONAL LAW.

Delegation of legislative power, see Consti-TUTIONAL LAW, V.

Usurpation of powers of or by, see Constitutional Law, VI.

Local self government, see Constitutional Law, VII.

Power to pass statutes affecting rights of persons and property, see Constitu-TIONAL LAW, IX.

Power to pass em post facto law, see Con-

STITUTIONAL LAW, § 7.
Power to pass retrospective statute, see Con-STITUTIONAL LAW, §§ 8-10.

Power to abridge court's power to punish for contempt, see CONTEMPT, § 12 Power of, over courts, see Courts, § 13.

Power to grant pardon, see CRIMINAL LAW, § 87.

Power as to licenses, see LICENSE, § 13. Legislative control over municipality, see MUNICIPAL CORPORATIONS, §§ 3-5.

Authority of, as defense against liability for nuisance, see Nuisances, §§ 28, 29.

Implied restrictions on the power of. 17 L.R.A. 838.

Exception in constitutional prohibition as limitation upon legislative power. 36 L.R.A. (N.S.) 73.

Power of state legislatures with respect to naturalization. 30 L.R.A. 761.

Power of legislature, or branch thereof, to appoint a committee to sit after close of session. 10 L.R.A. (N.S.) 172; L.R.A. 1915E, 496.

Power of legislature to add to or vary the constitutional method of selecting judges. L.R.A.1916E, 834.

Power of legislature to prescribe subjects to be taught in public schools. 47 L.R.A. (N.S.) 200.

Legislative power to forbid marriage. 52 L.R.A.(N.S.) 778.

Power of legislative body to punish for contempt. L.R.A.1917F, 288.

Power to repeal or amend initiative or referendum legislation. 50 L.R.A. (N.S.) 208; L.R.A.1917B, 24.

#### LEGITIMACY.

See ILLEGITIMACY.

## LEGITIMATION.

## LENDERS.

Constitutionality of legislation as to, see Constitutional Law, § 121.

License of, see LICENSE, § 32.

Municipal control over money lenders, see MUNICIPAL CORPORATIONS, § 45.

#### LETTERHEAD.

Matter in letterhead as part of contract or as notice affecting the rights of the parties. L.R.A.1916D, 1072.

#### LETTER OF CREDIT.

What is. 7 L.R.A. 209.\*

#### LETTER PRESS COPIES.

Competency of letter-press copy as standard for comparison. 63 L.R.A. 438. As originals. 12 L.R.A. (N.S.) 343.

#### LETTERS.

Admissibility of, in evidence, see EVIDENCE,

Of administration, see EXECUTORS AND AD-MINISTRATORS, §§ 9, 16. Of credit, see LETTER OF CREDIT.

Common-law rights in respect to. 51 L.R.A.

Forgery of letters of introduction. 1 L.R.A. (N.S.) 730.

Time and place of consummating contract when offer by letter is accepted by telegram, or vice versa. 6 L.R.A. (N.S.) Ĭ016.

Sufficiency of letter as will. 15 L.R.A. 635; 17 L.R.A.(N.S.) 1126.

Unlawfulness of mailing obscene letters. 24 L.R.A. 112.

nction against publication of. L.R.A.(N.S.) 944. Injunction

Duty of railroad to one who goes on station grounds to mail. 24 L.R.A.(N.S.) 535.

Necessity of proof of genuineness of reply letter. 17 L.R.A.(N.S.) 229.

Larceny by abstracting money or other property from letter given one to mail. 47

L.R.A. (N.S.) 852.

Presumption as to receipt of letter sent through mail. 49 L.R.A. (N.S.) 458. Time and place of consummation of contract

when offer by letter is accepted by telegram or vice versa. L.R.A.1916A, 1302.

Of illegitimate child, see ILLEGITIMACY, § 3 Parin with this book on every law question.

#### LEVEES.

As public improvement, see Public Im-PROVEMENTS, § 6.

Right to condemn land for, see EMINENT DOMAIN, § 19.

What property other than realty may be assessed for the construction and maintenance of levees. L.R.A.1917F, 1003. Right to build. 25 L.R.A. 530.

Assessment for improvements made before property was included within levee district. 39 L.R.A.(N.S.) 543.

Right to compensation for property taken or damaged in construction of. L.R.A 1916F, 1187.

Immunity of levee district from liability for damages. L.R.A.1918B, 1010.

## LEVY AND SEIZURE.

I. In general, § 1.

II. What property subject, §§ 2-7.

a. In general, §§ 2-5.

b. Property in custody of law, \$§ 6, 7.

III. Mode and sufficiency, §§ 8, 9.
IV. Rights, duties, and liabilities growing out of levy, §§ 10-15.
V. Forthcoming bond, § 16.

## I. In general.

§ 1. Generally.

As condition precedent to equitable remedy of creditors, see CREDITORS' BILL, § 2. Effect of death of one of parties after judgment, see EXECUTION, § 14.

Injunction against, see Injunction, § 42. Sale of property levied on, see JUDICIAL SALE.

Of assessment, see TAXES, IV.

Presumption as to time of alteration in officer's writ. 39 L.R.A.(N.S.) 115.

Release of indorser of note from liability by failure to levy execution against maker. 18 L.R.A. (N.S.) 547.

Extension of time for levying execution as discharge of surety. 5 L.R.A. (N.S.)

Creditor's right to have satisfaction of judgment canceled where the property levied on, or its proceeds, is returned to the debtor as exempt, or to a third person who establishes a claim thereto. 11 L.R.A.(N.S.) 396.

## II. What property subject.

## a. In general.

§ 2. Generally.

What property exempt from levy, see Ex-EMPTIONS, §§ 4-8.

Property subject to garnishment, see GARNISHMENT, §§ 10, 11.
Bills and notes, see BILLS AND NOTES, § 4.

Growing crop, see CROPS, § 3.

Consult also L.R.A. Digests of Cases.

LEVY AND SEIZURE, II. a—cont'd Property held by the curtesy, see Curtesy,

Intoxicating liquor, see Intoxicating Liquons, § 39.

What property subject to judicial sale, see JUDICIAL SALE, § 6.

Pew. 22 L.R.A. 215.

Foreign railroad car. 64 L.R.A. 501; 16 L.R.A.(N.S.) 1026; L.R.A.1915D, 838.

Heating apparatus. 1 B. R. C. 986. Liability of alimony for debts. 32 L.R.A. (N.S.) 270.

Levy upon contents of sealed package or locked receptacle. 41 L.R.A.(N.S.) 764. Right to levy legal process upon intoxicating liquors. 20 L.R.A.(N.S.) 1118.

Right of creditors to levy on insurance policy or its cash surrender value. 16 L.R.A.(N.S.) 318, 319.

Liability of promissory note to levy and seizure under attachment or execution. 14 L.R.A.(N.S.) 1235.

Leasehold estate as subject of levy under attachment or execution. 17 L.R.A.(N. S.) 841; 29 L.R.A.(N.S.) 886.

Levy under execution against tenant on fixtures placed by him on premises under agreement for right of removal. L.R.A.1915E, 829.

Statutory authority to levy on and sell franchise and property of quasi public corporation. 31 L.R.A.(N.S.) 639.

Liability of claim or interest in public land for debts contracted before issuance of a patent. 34 L.R.A.(N.S.) 405.

Right of creditors levying on goods sold for cash but delivered without payment.

13 L.R.A. (N.S.) 697; 29 L.R.A. (N.S.)

709; 47 L.R.A. (N.S.) 173.

Right of one's creditors to make or control election for or against a will, or between different provisions of a will or a statute. 11 L.R.A.(N.S.) 379.

May provision in will for support of person which is made a lien or charge upon property devised or bequeathed to others be reached by his creditors. 23 L.R.A.(N.S.) 526.

Option of cestui que trust to require a conveyance or otherwise terminate the trust subjecting the same to the claims of creditors. 25 L.R.A.(N.S.) 236.

Taking possession of chattels before levy as curing failure to take possession immediately upon sale. 28 L.R.A.(N.S.) 214.

Interest of vendee under an executory contract for the purchase of real property as subject of lien of judgment, execution, or attachment against him. L.R.A.1915B, 340.

§ 3. Corporate stock and bonds. Shares of stock in foreign corporation. 55 L.R.A. 796.

Validity of pledge or other transfer of corporate stock when not made in corporate books as against executions. 20 L.R.A.(N.S.) 996.

LEVY AND SEIZURE, II. a--cont'd Corporate bonds as subject of attachment as tangible property. 36 L.R.A.(N.S.) 421.

§ 4. Expectant and contingent interests in real property. General rule. 23 L.R.A. 642; 30 L.R.A. (N.

S.) 115.

Interest of an heir in his ancestor's lands. 23 L.R.A. 643.

Reversion, remainders, and executory devises. 23 L.R.A. 643; 30 L.R.A.(N.S.) 115, 116, 118. Right of dower. 23 L.R.A. 647; 30 L.R.A.

(N.S.) 117.

Tenancy by curtesy initiate. 23 L.R.A. 648; 30 L.R.A. (N.S.) 118.

§ 5. Levy on partnership property for debt of partner.

Possession. 46 L.R.A. 481

What may be sold. 46 L.R.A. 485.

Levy on specific articles. 46 L.R.A. 487. Trespass in making a levy. 46 L.R.A. 489. Ascertaining the interest of the judgment debtor. 46 L.R.A. 490.

Injunction against interfering with partnership property. 46 L.R.A. 491. Other equitable relief. 46 L.R.A. 494.

Priority of firm creditors as against a levy for an individual debt. 46 L.R.A. 494.

Real estate. 46 L.R.A. 494. Executions against both partners. L.R.A. 495.

Statutory provisions. 46 L.R.A. 496. English and Canadian cases. 46 L.R.A. 498. Individual property of one partner for fraud of his copartner. 25 L.R.A. 645.

#### b. Property in custody of law.

6. Generally.

Money in court, see Money in Court, § 2.

Property in hands of receiver. 20 L.R.A. 392

Right to attach fund in the hands of officer of court after he has been ordered to pay the same to the party. 13 L.R.A. (N.S.) 758; 30 L.R.A. (N.S.) 720.

Attachment of proceeds of execution sale in the hands of the sheriff. 43 L.R.A. (N. S.) 571.

Seizure of property of individual under judgment purporting to be against a corporation, upon theory that there was no such corporation. 45 L.R.A. (N.S.) 189.

§ 7. Property in hands of assignee for creditors.

Valid assignments. 26 L.R.A. 593.

Proceeds of assigned property. 26 L.R.A.

Choses in action. 26 L.R.A. 593.

Acknowledgment and record. 26 L.R.A. 594.

Acts of assignee—qualifying—inventory. 26 L.R.A. 594.

Possession. 26 L.R.A. 594. Estoppel. 26 L.R.A. 595.

Begin with this book on every law question.

LEVY AND SEIZURE, II. b-cont'd

Fraudulent and void assignments. L.R.A. 595.

Statutory rights of assignee. 26 L.R.A. 596.

When assent of creditors is required. L.R.A. 599.

Partnership assignments. 26 L.R.A. 600.

## III. Mode and sufficiency.

8. Generally.

Irregularities in levy, as ground of injunction. 30 L.R.A. 136.

Conditions precedent to equitable remedies of creditors as to property subject to levy. 23 L.R.A.(N.S.) 26.

Right in action on forthcoming bond given by execution debtor or claimant to question legality of levy or authority of officer making it. 4 L.R.A.(N.S.) 1020.

Estoppel by giving forthcoming bond to question legality of levy under execution. 51 L.R.A.(N.S.) 635.

Sufficiency of levy upon, and custody of, property in car or other vehicle of common carrier. L.R.A.1915F, 1184.

§ 9. On crops.

Proper mode of levying on growing crop.
16 L.R.A. (N.S.) 1047.

Crops as personal property for purpose of levy. 23 L.R.A. 258.

General doctrine. 23 L.R.A. 258.

Sufficiency of sheriff's possession. 23 L.R.A

Position of the purchaser. 23 L.R.A. 259. Crops held upon shares. 23 L.R.A. 260. State decisions. 23 L.R.A. 261.

## IV. Rights, duties, and liabilities growing out of levy.

§ 10. Generally.

Measure of damages for wrongful levy, see DAMAGES, §§ 16a, 55.

Levy upon property as including subsequent increase thereof. L.R.A.1917B, 944.

Right of creditors levying on goods sold for cash but delivered without payment. 13 L.R.A.(N.S.) 705; 29 L.R.A.(N.S.) 709.

Taking property from bailee by legal proceeding as defense to him against bailor. 33 L.R.A.(N.S.) 689.

Levy of execution, on insured property as change in interest, title or possession. 24 L.R.A.(N.S.) 803.

Removal by accused defendant of property levied upon, as larceny. 41 L.R.A.(N. S.) 553.

Admissibility of declarations of defendant in execution or attachment proceedings made while in possession against his own interest and in favor of ownership 49 L.R.A. of claimant of property. (N.S.) 702.

Assault in resisting seizure of property under process. L.R.A.1916B, 957.

LEVY AND SEIZURE, IV.—cont'd § 11. Liability of officer issuing writ. Liability of judicial officer for issuing attachment. 14 L.R.A. 142; 44 L.R.A. (N.S.) 172.

# § 12. Duty and liability of officer making levy.

Loss of profits as element of damages for seizure under wrongful execution. 52 L.R.A. 57.

Sheriff's duty as to adverse claims to proceeds of judgments in his hands, except in cases of rival executions. 47 L.R.A. 737.

Duty of sheriff to pursue property which escapes from his custody. 32 L.R.A. (N.S.) 132.

Liability of officer for larceny while acting under writ of execution. 3 L.R.A.(N. S.) 508.

Right to maintain action to recover property in specie against officer who has levied thereon. 18 L.R.A.(N.S.) 1272.

Effect of judgment establishing title to property seized under execution, as against officer making seizure, who was not a party thereto. 14 L.R.A. (N.S.)

Exemplary damages against officer, in action for abuse of process in suing out attachment for collection of debt. 29 L.R.A. (N.S.) 280.

Liability of officer levying writ on tenant's goods or chattels for use of leased premises. 43 L.R.A.(N.S.) 528.

Liability of officer for destruction of, or damage to, property seized under writ or process. L.R.A.1915A, 193.

# § 13. Liability of creditors.

Under what circumstances the wrongful levy of several attachments will render attaching creditors jointly liable. L.R.A. (N.S.) 598.

Right to maintain action to recover property in specie against creditor while property is in hands of levying officer. 18 L.R.A.(N.S.) 1274.

# § 14. Effect of levy under void or voidable judgment.

In general. 55 L.R.A. 280.

Right to replevy property from levying officer. 55 L.R.A. 281.

# § 15. Loss of priority.

Of execution by consent of creditor to delay or postponement of sale. L.R.A. 374.

Waiver of lien of chattel mortgage by attachment or execution. 24 L.R.A.(N. 8.) 490; 51 L.R.A.(N.S.) 1068.

Priority as between true owner and execution creditors of one in whose name he has placed stock on the books of the corporation. 49 L.R.A. (N.S.) 1159.

Consult also L.R.A. Digests of Cases.

# LEVY AND SEIZURE-cont'd

## V. Forthcoming bond.

#### § 16. Generally.

Effect of insertion of unauthorized provision in. L.R.A.1917B, 1012.

Condition that forthcoming bond shall not take effect until signed by others. 45 L.R.A. 334.

Right, in suit on forthcoming bond given by execution debtor or claimant, to question the legality of the levy or the authority of the officer making it. L.R.A.(N.S.) 1020.

Right to maintain action to recover property in specie against officer who has restored property on forthcoming bond. 18 L.R.A.(N.S.) 1273.

Effect upon surety of judgment against principal. 40 L.R.A. (N.S.) 746; L.R.A. 1918E, 814.

Estoppel by giving forthcoming bond to question legality of levy under an execution. 51 L.R.A.(N.S.) 635.

Effect of bond or receipt given to secure surrender of property by officer as an estoppel after it has been returned to officer. L.R.A.1916F, 942.

#### LEWDNESS.

Actionability of charge of, see LIBEL AND SLANDER, § 12.

See also Adultery; Disorderly Houses; FORNICATION; ILLICIT COHABITATION; INCEST; LASCIVIOUS COHABITATION; LEWDNESS; PROSTITUTION; SEDUCTION.

Proof of corpus delicti in prosecution for. 68 L.R.A. 45.

Recovery for goods sold for use in aid of. 15 L.R.A. 835.

# LEX FORI.

See Conflict of Laws.

## LEX LOCI CONTRACTUS.

See Conflict of Laws.

# LEX LOCI SOLUTIONIS.

See CONFLICT OF LAWS.

# LIBEL AND SLANDER.

I. In general, § 1. II. Who liable, \$\$ 2-5.

a. In general, \$ 2.

b. Responsibility for libel or slander by another, §§ 3-5. LIBEL AND SLANDER-cont'd III. What actionable, \$\$ 6-33.

a. In general, §§ 6-9.

- b. Charging lewdness. character, crime, etc., §§ 10-13.
- c. Injury in business or pro-fessional relations, §§ 14-
- d. Words about officials or candidates; as to campaign funds, § 21.
- 6. Privileged communications,
  - \$\$ 22-30. 1. In general, §§ 22, 23.
  - 2. In course of duties or business, §§ 24-27.
  - 3. In judicial proceedings, §§ 28-30.
- f. Slander of title, § 31.
- g. Publication, §§ 32, 33. ions; defenses; justification, IV. Actions; \$\$ 34-44.
  - a. In general, § 34.
  - b. Who may recover, §§ 35, 36.
  - c. Defenses; justification, 37-39.
- d. Pleading; evidence; province of jury, \$\$ 40-44. V. Criminal responsibility, § 45.

## I. In general.

§ 1. Generally.

Damages for, see DAMAGES, §§ 9, 16b, 56. Sending defamatory matter through the mails, see Postoffice, § 11.

As to right of privacy, see Privacy.

Right of action for, as asset in bankruptcy. 43 L.R.A. (N.S.) 942. Testamentary libels. 49 L.R.A. (N.S.) 897.

Libel laws as infringement of freedom of press. 32 L.R.A. 831.

Common-law rights of author of libelous work. 51 L.R.A. 360.

Right to compel publisher of libel to disclose source of information. 12 L.R.A. (N.S.) 630.

Injunction against publishing or circulating statements relative to industrial disputes by labor union. 32 L.R.A. (N.S.) 1013.

## II. Who liable.

# a. In general.

2. Generally.

Liability for libelous telegram, see TELE-GRAPHS, see §§ 23, 24.

Liability of insane person for libel or slander. 26 L.R.A. 154; 42 L.R.A.(N.S.)

Liability of telegraph company for handling libelous message. 9 L.R.A. (N.S.) 140; 37 L.R.A. (N.S.) 861.

Criminal responsibility of corporation for. 2 B. R. C. 249.

Intoxication of defendant as affecting liability for libel or slander. 51 L.R.A. (N.S.) 1198.

Begin with this book on every law question.

LIBEL AND SLANDER, II.—cont'd

b. Responsibility for libel or slander by another.

§ 3. Generally.

Master's liability for slander by servant. see Master and Servant, § 174.

Criminal liability for agent's act. 41 L.R.A. 653.

Liability of corporation for slander by an agent or employee. 21 L.R.A.(N.S.) 873; L.R.A.1916E, 774; 6 B. R. C. 681.

Liability of officers of a corporation for its

libelous publications. 28 L.R.A. 427. Liability of one who procures defamatory testimony to be given. 4 B. R. C. 986.

§ 4. Liability of newspaper proprietor, manager or editor for libel published without his knowledge or consent.

Liability of proprietor. 26 L.R.A. 779. Liability of editor or manager. 10 L.R.A. (N.S.) 332; L.R.A.1918F, 287.

§ 5. Liability of husband and wife for wife's libel or slander.

The common-law doctrine. 30 L.R.A. 521. Effect of state legislation. 30 L.R.A. 522; L.R.A.1915A, 491.

The question of the husband's presence and coercion. 30 L.R.A. 526.

Joinder of parties and actions. 30 L.R.A. 527.

Necessity of service upon wife. 30 L.R.A. 529.

Effect of death pending action. 30 L.R.A. 529.

Husband and wife as witnesses. 30 L.R.A. **529.** 

Damages and evidence in mitigation. L.R.A. 529.

Effect of a judgment in such cases. L.R.A. 530. 30

Action on bail bond in such cases. L.R.A. 530.

# III. What actionable.

### a. In general.

§ 6. Generally.

Effect of stating the facts upon which charge is made to limit the ordinary meaning of the words used. L.R.A.1918F, 152. Statements concerning property. 16 L.R.A.

Right of action for statements affecting value of personal property, other than goods sold or manufactured, or of real property, other than those relating to title. 6 B. R. C. 509.

Words used as mere words of abuse. L.R.A. 1917D, 205.

Applying vile epithets to man. 28 L.R.A. (N.S.) 85.

Defamation of deceased person. L.R.A. 1917C, 615.

Placing scurrilous or defamatory matter upon outside covering of mail as offense against postal laws. 33 L.R.A. (N.S.) 800.

LIBEL AND SLANDER, III. a—cont'd Laudatory or ironical article as libel. L.R.A.(N.S.) 861.

Is article susceptible of libelous meaning rendered nonlibelous by the fact that it would not be understood in a libelous sense by those acquainted with the plaintiff. 18 L.R.A. (N.S.) 622.

Liability for refusing sacraments. L.R.A.

1916D, 374.

Comment upon public production as libel. 3 B. R. C. 503.

Defamation of occupants of house by imputing to it : disorderly character. 48 L.R.A.(N.S.) 256.

Impugning claim or good faith of claimant. L.R.A.1915E, 275.

Libel by falsely ascribing matter to another. L.Ř.A.1917F, 1093.

Where "sting" is due to race or religious prejudices or antagonisms. L.R.A. Ī916**E, 679**.

7. Publication of photograph.

Libel by publication of photograph as that

of another person. 6 L.R.A.(N.S.) 919. Publication of one's photograph in connection with scandalous matter concerning another. 35 L.R.A.(N.S.) 595.

Right of action for use of photographs or name for advertising purposes. 24 L.R.A.(N.S.) 991; 34 L.R.A.(N.S.) 1137; L.R.A.1915C, 839.

§ 8. Expressions or comments without misstating facts.

28 L.R.A. 667. Rules and principles. Illustrative cases. 28 L.R.A. 669.

§ 9. Charging one with having negro blood.

Insulting passenger by suggesting that he belongs in colored compartment as an actionable wrong. 32 L.R.A. (N.S.) 206.

Stating that a white person is a negro, or of negro blood. 36 L.R.A.(N.S.) 974; L.R.A.1916E, 679.

b. Charging lewdness, bad character, crime, etc.

§ 10. Generally.

Imputing sedition or disloyalty. L.R.A. 1917D, 861.

Charges against character of public officer or candidate. L.R.A.1918E, 21.

11. Crime.

Charging solicitation to crime. 25 L.R.A. 435.

Informal communication with respect to criminal charge. 4 L.R.A.(N.S.) 149; 32 L.R.A.(N.S.) 740; L.R.A.1915E, 413. Charge of blackmailing or extortion as ac-

tionable per se. 6 B. R. C. 481. Imputation of crime to public officer or candidate. L.R.A.1918E, 27.

12. Unchastity.

Actionable character of epithets that im-(N.S.) 560.

Consult also L.R.A. Digests of Cases.

LIBEL AND SLANDER, III. b-cont'd Slander and libel in charging woman with unchastity. 24 L.R.A.(N.S.) 577; 48 L.R.A. (N.S.) 615.

Charging sexual intercourse with negroes. L.R.A.1916E, 679.

Truth of charge of adultery or fornication, as a defense to a civil action for libel or slander. 31 L.R.A.(N.S.) 146.

§ 13. Bastardy. Charging bastardy. 1 L.R.A. 599.\*

c. Injury in business or professional relations.

§ 14. Generally.

Written charge with reference to plaintiff's business. 4 L.R.A. (N.S.) 977.

Expressions or comments as to public professional men without misstating facts. 28 L.R.A. 674.

Blacklisting dealer as libel. 49 L.R.A. 612; 8 L.R.A. (N.S.) 783.

Slander in charging woman with unchastity causing loss of business. 24 L.R.A.(N. S.) 598.

Charging one with exacting excessive compensation for goods or services. L.R.A.(N.S.) 79.

Disparaging quality of goods sold or manufactured. 48 L.R.A. (N.S.) 1214.

Insinuation of misconduct by teacher with pupils. 49 L.R.A.(N.S.) 1033.

Right to recover for slander or libel affecting one in his business or professional capacity, as affected by his own violation of law in respect thereof. 33 L.R.A.(N.S.) 90.

Liability to individual for general reflections upon the business in which such individual is engaged. 5 L.R.A. (N.S.)

Right of one not specially named to maintain action for libel or slander based on charges against group to which he belongs. 23 L.R.A. (N.S.) 729; 25 L.R.A. (N.S.) 382.

Right of corporation to maintain an action for libel affecting its property. 52

L.R.A. 526.

Truth as defense to civil action for libel or slander injurious to business. 31 L.R.A.(N.S.) 143; 50 L.R.A.(N.S.) 1043.

§ 15. Criticism.

Criticisms of writings. 28 L.R.A. 670; 48 L.R.A. (N.S.) 1221.

Comment upon public production as libel. 3 B. R. C. 503.

Art criticism. 28 L.R.A. 672.

§ 16. Charges affecting financial stand-

Measure of damages for libel or slander reflecting on integrity or responsibility of merchant. 44. L.R.A.(N.S.) 351.

Oral charge of insolvency against a merchant. 4 L.R.A. (N.S.) 973.

pute immorality to a woman. 4 L.R.A. Is imputation of insolvency against lawyer actionable per se. 3 B. R. C. 61.

LIBEL AND SLANDER, III. c—cont'd Charging one with refusal to pay debt as. 3 L.R.A.(N.S.) 339; L.R.A.1915E, 455.

Imputing to one not in business nonpayment of debts or want of credit. 42 L.R.A.(N.S.) 515.

Stating that one has been sued or judgment recovered against him. 51 L.R.A. (N.S.) 894.

By filing lien. 16 L.R.A. 625.

# § 17. — by mercantile agency. Privilege as to, see infra, § 26.

Giving one an indefinite rating, or refusal to give any rating, in a mercantile agency, as a libel. 25 L.R.A.(N.S.) 1021.

Stating that one has been sued or judgment recovered against him. 51 L.R.A. (N.S.) 894.

# § 18. Imputing incompetency to physician.

Imputing incompetency to. 26 L.R.A. 325. Right of physician to maintain action for libel or slander based on charges against group to which he belongs. 23 L.R.A.(N.S.) 729; 25 L.R.A.(N.S.) 382.

## § 19. Against clergyman.

What words uttered concerning clergyman are actionable per se. 28 L.R.A.(N.S.) 152; L.R.A.1917F, 551.

Expressions or comments without misstating facts. 28 L.R.A. 674.

# § 20. As to character or reputation of servant.

Privileged communication as to, see infra, \$ 27.

Liability growing out of the giving or refusing of information. 4 L.R.A.(N.S.) 1092.

# d. Words about officials or candidates; as to campaign funds.

## § 21. Generally.

Expressions or comments without misstating facts. 28 L.R.A. 672.

Distinction between libel and slander, L.R.A. 1918E, 24.

Imputation of crime, L.R.A.1918E, 27.

Qualifications; imputation of incapacity. L.R.A.1918E, 27.

Imputation of misuse of public funds; embezzlement. L.R.A.1918E, 29.

Lack of integrity; bribery; use of office for profit of self or others; graft; corruption of voters; campaign funds. L.R.A. 1918E. 31.

1918E, 31.

Neglect of duties; nepotism; favoritism.
L.R.A.1918E, 35.

Intoxication; immorality; vulgarity. L.R.A. 1918E, 37.

Championship of unworthy causes, etc. L.R.A.1918E, 37.

Oppression; brutality. L.R.A.1918E, 40.
Tampering with public records; falsehood.
L.R.A.1918E, 40.

Miscellaneous, L.R.A.1918E, 41.

Begin with this book on every law question.

LIBEL AND SLANDER, III. d—cont'd Imputing misconduct to judicial officer or juror. L.R.A.1915D, 578.
Right of one not specially named to main-

Right of one not specially named to maintain action for libel or slander based on charges made against group of municipal officers to which he belongs. 23 L.R.A.(N.S.) 728.

## e. Privileged communications.

## 1. In general.

#### § 22. Generally.

Communication to stenographer or copyist as affecting privilege. L.R.A.1918F, 568.

Privilege of comment upon conduct of citizen deemed to be acting in opposition to public welfare. L.R.A.1917E, 516.

Civil liability of persons who join in a petition addressed to public authorities. L.R.A.1916D, 394.

Limitations of privilege of "fair comment" on matters of public interest. 3 B. R. C. 473.

Privilege of statements by physician or surgeon. 38 L.R.A.(N.S.) 69.

Privileged communication as to unchastity of woman. 24 L.R.A.(N.S.) 613; 48 L.R.A.(N.S.) 617.

Addition of extrinsic defamatory matter in communicating report as effecting privilege. 36 L.R.A. (N.S.) 146.

ilege. 36 L.R.A.(N.S.) 146.

Necessity that the plea of justification or privilege correspond to the words imputed to the defendant by the complaint. 28 L.R.A.(N.S.) 551.

Repetition of privileged statement as evidence of malice. 42 L.R.A. (N.S.) 1109.

May malice, which will preclude qualified

privilege, be inferred from publication alone. 12 L.R.A.(N.S.) 91.

Burden of showing good faith. 3 L.R.A. (N.S.) 696.

Privilege in impugning claim or good faith of claimant. L.R.A.1915E, 278.

Privilege of communications to relative of person defamed. L.R.A.1915A, 572. Privilege as to communications made in re-

sponse to inquiries by person defamed.
46 L.R.A.(N.S.) 104.

Privilege as to words or publication relating to public officer or candidate for office. L.R.A.1918E, 43.

Privilege of communications concerning one who had made statements derogatory to a public officer or a candidate for office. 43 L.R.A.(N.S.) 323.

# § 23. Privilege as affected by extent of publication.

Privilege as affected by extent of publication. 20 L.R.A. (N.S.) 361; L.R.A. 1915E, 131.

# 2. In course of duties or business.

## § 24. Generally.

Qualified privilege of communication between members of an association or of a private corporation. 26 L.R.A.(N.S.) 1080. LIBEL AND SLANDER, III. e, 2-cont'd Report of meeting of private corporation as subject of privilege. 19 L.R.A. (N.S.)

Privilege of communications between principal and agent. 36 L.R.A.(N.S.) 449.

Privilege of gratuitous report on financial responsibility and integrity. 42 L.R.A. (N.S.) 520.

Privilege of attorney as to communication regarding matters relating to the subject of his actual or prospective employment. L.R.A.1918B, 837.

Privilege of communications by or to school authorities regarding conduct of pupil or teacher. L.R.A.1917D, 784.

25. By public officers.

Reports of police officers as privileged communications. 30 L.R.A. (N.S.) 315.

Privilege of school superintendent or other officer in reporting to school authorities upon character of teacher.

L.R.A.(N.S.) 200.

Privileged character of complaints to public officer against subordinate. 27 L.R.A. (N.S.) 1041.

Official report by executive or administrative officer. 5 L.R.A.(N.S.) 163.

26. By mercantile agencies.

Report of mercantile agency as a privileged communication. 36 L.R.A.(N.S.) 452; 2 B. R. C. 215.

Privilege of reports of, as affected by extent of publication. 20 L.R.A. (N.S.)

§ 27. As to character or reputation of servant.

Absolute privilege as a defense. 4 L.R.A. (N.S.) 1104.

Qualified privilege. 4 L.R.A. (N.S.) 1105. Privilege in cases where the statement was made in compliance with a statutory duty. 4 L.R.A.(N.S.) 1106.

Privilege in cases where the statement was made in response to inquiries by third persons. 4 L.R.A.(N.S.) 1106.

Privilege in cases where the statement was made voluntarily. 4 L.R.A. (N.S.)

Circumstances under which statements are ments are not privileged. 4 L.R.A. (N.S.) 1111.

Privilege avoided by proof of express malice. 4 L.R.A. (N.S.) 1114.

Circumstances from which malice may be inferred. 4 L.R.A.(N.S.) 1115.

Qualified privilege as to communications to employer with respect to employee. 16 L.R.A. (N.S.) 1017.

## 3. In judicial proceedings.

§ 28. Generally.

Libel or slander by judicial officer or juror. L.R.A.1915E, 1051.

Privilege of informal communication with

respect to criminal charge. 4 L.R.A. (N.S.) 149; 32 L.R.A.(N.S.) 740; Measure of damages for, see Damages, §§ 9, L.R.A.1915E, 413.

Consult also L.R.A. Digests of Cases.

LIBEL AND SLANDER, III. e, 3-cont'd To what proceedings in court does privilege of publication attach. 16 L.R.A.(N.S.)

Privilege as to proceedings of grand jury. 32 L.R.A.(N.S.) 785; L.R.A.1917F, 765.

Privilege as to proceedings for impeachment or removal of public officers. 25 L.R.A. (N.S.) 455.

Privilege of defamatory statement made by one attorney concerning another in course of judicial proceedings. L.R.A. 1916E, 782.

Defamatory observations by judge as privileged. 7 B. R. C. 241.

29. Words in pleadings.

Libel by defamatory words in pleading. 22 L.R.A. 649; 13 L.R.A. (N.S.) 820.

Is the publication of pleadings or other papers, before any hearing has been had thereon, privileged. 12 L.R.A. (N.S.) 188; 38 L.R.A.(N.S.) 915; 52 L.R.A.(N.S.) 207.

§ 30. Words used by witnesses.

Privilege of witness as to defamatory testimony. 22 L.R.A. 836; 4 B. R. C. 945. Privilege as to defamatory statements in testimony or affidavits to be used in progress of case. L.R.A.1915C,

#### f. Slander of title.

§ 31. Generally.

To personal property. 13 L.R.A. 707. Slander of quality of goods or property. 13 L.R.A. 707.

Charging infringement. 13 L.R.A. 707.
Malice as an element of cause of action.

13 L.R.A. 708.

Necessity of proving special damages. 13 L.R.A. 708.

## g. Publication.

§ 32. Generally.

Privilege as affected by extent of publica-tion. 20 L.R.A. (N.S.) 361; L.R.A. 1915E, 131.

Communication to stenographer or copyist as affecting publication. L.R.A.1918F, 568; 1 B. R. C. 455.

33. What constitutes.

Publication by aggrieved party making known to third person contents of libelous letter. 15 L.R.A. (N.S.) 1141.

Addressing letter to attorney or agent of plaintiff as publication for purposes of libel. 21 L.R.A.(N.S.) 33.

Communication to stenographer or clerk as publication of libel. 1 B. R. C. 455.

Transmission of libelous matter by post-card or telegraph as publication. 1 B. R. C. 464.

# IV. Actions; defenses; justification,

## a. In general.

§ 34. Generally.

LIBEL AND SLANDER, IV. a-cont'd Venue of civil action for libel or slander. L.R.A.1918F, 1026.

Validity of statutory provision for attorney's fee. L.R.A.1915E, 948.

Publication in different editions or publica-tions as distinct causes of action. L.R.A.1916A, 1077.

Survival of cause of action and abatement, and revival of action for libel and slander upon death of party. L.R.A. (N.S.) 1215.

Joinder of action against husband and wife for wife's libel or slander. 30 L.R.A. 527.

Actions for libel or slander of a corporation. 52 L.R.A. 525.

Effect of failure to serve statutory notice of libel, upon right to actual damages. 13 L.R.A. (N.S.) 525.

Right to open default as affected by character of defense. L.R.A.1915F, 855.

## b. Who may recover.

§ 35. Generally.

Right of corporation to sue for. 52 L.R.A. 526; 2 L.R.A. (N.S.) 741.

Libel or slander of one person as ground of action by another. (N.S.) 766. 45 L.R.A.

Defamation of unnamed person. 48 L.R.A. (N.S.) 355.

Defamation of occupants of house by imputing to it a disorderly character. 48 L.R.A.(N.S.) 256.

§ 36. Unnamed member of group of persons.

Liability to individual for general reflection upon the business in which he is engaged. 5 L.R.A.(N.S.) 480.

Right of one not specially named to maintain action for libel or slander based on charges made against a class or group of persons to which he belongs. 23 L.R.A.(N.S.) 726; 25 L.R.A.(N.S.) 382; 42 L.R.A. (N.S.) 870.

# c. Defenses; justification.

\$ 37. Generally.

Effect of mistake, see MISTAKE, § 17.

Right to open default as affected by character of defense. L.R.A.1916F, 855.

Intoxication of defendant as defense liability for libel or slander. 51 L.R.A. (N.S.) 1199.

Instigation of criminal libel as a defense to prosecution. 30 L.R.A. (N.S.) 953.

§ 38. Truth as defense.

Generally. 21 L.R.A. 502; 31 L.R.A. (N.S.) 132; 50 L.R.A.(N.S.) 1040.

Effect of motives and reasons. 21 L.R.A.

Effect of pardon or discharge. 21 L.R.A. 503; 31 L.R.A.(N.S.) 147.

Justification as to the whole of the charge. 21 L.R.A. 504.

Begin with this book on every law question.

LIBEL AND SLANDER, IV. e-cont'd Justifying as to the imputation. 21 L.R.A. 506.

Justification by giving the particulars. 21 L.R.A. 507.

Justification as to the identity of the of-fense charged. 21 L.R.A. 508.

Criminal prosecutions for libel. 21 L.R.A. 509.

State, constitutional, and statutory provisions. 21 L.R.A. 512; 31 L.R.A.(N.S.) 135.

Character and sufficiency of proof. L.R.A.(N.S.) 136; 50 L.R.A.(N.S.) 1041.

Pleading and proving. 21 L.R.A. 511; 31 L.R.A. (N.S.) 138; 50 L.R.A. (N.S.) 1024.

§ 39. Mutual vituperation or defamation as affecting remedy.

Libel. 28 L.R.A. 721.

Slander. 28 L.R.A. 724.

Time and connection of charges. 28 L.R.A. 724.

# d. Pleading; evidence; province of jury.

40. Pleading.

Pleading truth as defense. 21 L.R.A. 511; 31 L.R.A. (N.S.) 138; 50 L.R.A. (N.S.) 1042.

Right to plead inconsistent defenses in actions for. 48 L.R.A. 201.

Pleading in action for defamation of unnamed person. 48 L.R.A.(N.S.) 361.

# § 41. Evidence.

Sufficiency of evidence, see EVIDENCE, § 314.

Husband and wife as witnesses in action against them for libel or slander by wife. 30 L.R.A. 529.

Proof of truth set up as defense. 21 L.R.A. 511; 31 L.R.A.(N.S.) 138; 50 L.R.A. (N.S.) 1041.

Admissibility of evidence in action for defamation of unnamed person. L.R.A.(N.S.) 363.

Evidence in mitigation in action against husband and wife for wife's slander or libel. 30 L.R.A. 529.

Admissibility of opinion of witness as to damaging effect of libel or slander. 35 L.R.A.(N.S.) 1119.

Opinions of witnesses as to identity of person referred to. 48 L.R.A.(N.S.) 364.
Right of one to testify as to his intent. 23
L.R.A.(N.S.) 392.

Necessity that plea of justification or privilege correspond to words imputed to defendant by complainant. 28 L.R.A. (N.S.) 551.

§ 42. - presumption and burden of proof.

May malice which will preclude qualified privilege be inferred from publication alone. 12 L.R.A. (N.S.) 91.

LIBEL AND SLANDER, IV. d-cont'd Circumstances from which malice may be inferred by giving or refusing information as to character or reputation of servant. 4 L.R.A.(N.S.) 1115.

Burden of showing good faith in making privileged communication. 3 L.R.A.

(N.S.) 696.

Effect of admission to change burden of proof and right to open and close in action for libel. 61 L.R.A. 538, 547, 556.

As to privilege of witness with respect to defamatory testimony. 4 B. R. C. 945.

§ 43.—in criminal prosecution.

Proof of corpus delicti in prosecution for. 68 L.R.A. 77.

Evidence of other crime in prosecution for. 62 L.R.A. 230.

§ 44. Province of jury. See TRIAL, § 38.

# V. Criminal responsibility.

§ 45. Generally.

Evidence in criminal prosecution, see supra, § 43.

Master's liability for libel by servant. 43 L.R.A. (N.S.) 37.

Criminal responsibility of corporation for libel. 2 B. R. C. 249.

Criminal action for libel or slander of corporation. 52 L.R.A. 529.

Criminal liability for agent's act. 41 L.R.A. 653.

Prosecution for criminal slander in imputing want of chastity to woman. 48 L.R.A.(N.S.) 618.

Venue of offense of libel. 49 L.R.A. (N.S.) 941.

Truth as a defense in criminal prosecution for libel. 21 L.R.A. 509; 31 L.R.A. (N.S.) 132; 50 L.R.A.(N.S.) 1040.

Instigation of criminal libel as defense to prosecution. 30 L.R.A. (N.S.) 953. Cruel and unusual punishment for. L.R.A. 573; L.R.A.1915C, 570.

# LIBERAL CONSTRUCTION.

Of statutes, see STATUTES, § 26.

### LIBERTY.

Constitutional restraint on, see Constitu-TIONAL LAW, IX.

Constitutional freedom of speech and of the press, see Constitutional Law, IX. h. As to imprisonment, see IMPRISONMENT.

# LIBERTY POLE.

Municipal liability for injury by liberty pole in street. 20 L.R.A. (N.S.) 607. Consult also L.R.A. Digests of Cases.

#### LIBRARY.

Exemption from taxation when not included eo nomine in exemption statute. 24 L.R.A.(N.S.) 1205.

Effect on exemption from taxation of fact that library otherwise exempt is devoted to purposes of particular society.

16 L.R.A.(N.S.) 850.

Diversion of property donated for public library to other uses. 45 L.R.A. (N.S.)

#### LICENSE.

I. From private persons, §§ 1-11.

a. In general, §§ 1-9. b. Revocation; forfeiture, §§ 10, 11.

II. From public; of right to do business, §§ 12-49.

a. In general, §§ 12-16.

b. Revocation, §§ 17, 18.

c. On what business, occupation, etc., §§ 19-45.

d. Uniformity and equality; discrimination, §§ 46, 46a.

e. Amount; grading of fee, §§ 47-49.

## I. From private persons.

## a. In general.

§ 1. Generally.

To maintain dam, see Dams, § 2. To use railroad property, see RAILBOADS, § 8.

Effect of license to cut timber to pass title to the same. 47 L.R.A.(N.S.) 877.

License to discharge water, snow, or ice from roof upon premises of adjoining owner. L.R.A.1916A, 696.

Right to compensation for railroad structure placed by licensee on land before condemnation. 66 L.R.A. 45.

Relation between a licensor and the servants of the licensee. 37 L.R.A. 65.

Membership in association as condition of right to transact particular kind of business. 6 L.R.A. (N.S.) 433.

Effect of license to commit a breach of a condition subsequent with respect to real property, or the waiver of a past breach thereof, to extinguish the condition. 11 L.R.A.(N.S.) 398.

Right to compensation of licensee of land taken in condemnation proceedings. 21

L.R.A. 219.

Does subsequent wrongful act by one who enters premises under license from owner or occupier make him a trespasser ab initio? 27 L.R.A.(N.S.) 442.

2. What constitutes.

Interest of owner in burial lots as. 67 L.R.A. 120; L.R.A.1918A, 147.

Oral sale of standing timber as a license. 19 L.R.A. 722.

LICENSE, I. a-eont'd

Ticket to place of amusement as. L.R.A. 1916E, 253.

Theatre ticket as a license. 1 L.R.A.(N.S.) 1184; 43 L.R.A.(N.S.) 961.

Distinguished from lease. 18 L.R.A. 491. When instrument creating right in minerals in land is to be regarded as a lease, as distinguished from a license. 26 L.R.A. (N.S.) 614.

§ 3. To use patent or patented article. License of employer by employee, to use latter's inventions. 5 L.R.A. (N.S.) 1181.

Master's license to use thing patented by servant. 2 L.R.A.(N.S.) 1176.

Right to sell, after expiration of license, articles manufactured under license from patentee. 43 L.R.A.(N.S.) 142. Right of licensee to make alterations in

patented article. 3 B. R. C. 337.

4. As to waters and water rights. To pollute waters. 48 L.R.A. 705.

To dam back water of stream. 59 L.R.A. 836.

Right of licensee to sue for injury by damming back water of stream. 59 L.R.A. 899.

Nature and extent of right created by private grant of fishing license. 40 L.R.A. (N.S.) 299.

5. Liability of licensee.

Liability of railroad licensee to its servant for condition of track. 6 L.R.A. (N.S.) 787.

6. Liability for acts of licensee. Liability for work of independent contractor performed under license. 14 L.R.A. 834.

7. — liability of railroad company. Liability of owner of railroad for injury caused by negligence of another company using road under license. 44 L.R.A. 737; L.R.A.1918E, 255.

Liability of railroad company for injury to one riding on train run over its tracks by another company under license through negligence of licensee. 36 L.R.A.(N.S.) 887.

§ 8. - liability of municipality.

Municipal liability for defect or obstruction in street by person under a license from the city. 20 L.R.A.(N.S.) 547.

Liability of municipality licensing nuis-ance. 32 L.R.A.(N.S.) 895. Municipal notice or knowledge of nuisance

in highway created under license. 20 L.R.A. (N.S.) 705.

§ 9. Liability for injury to licensee. Liability for injury to, generally, see NEGLIGENCE, §§ 20-23a.

On elevator, see ELEVATORS, § 4. On railroad track, see RAILBOADS, VII.

Begin with this book on every law question.

LICENSE, I. a-cont'd

Liability of owner of elevator for injury to. 15 L.R.A.(N.S.) 402.

Liability for injury to trespasser or bare licensee at station by train. 41 L.R.A. (N.S.) 162.

Liability of lessor for injuries to. L.R.A. 1916F, 1132.

## b. Revocation; forfeiture.

10. Generally.

Right to revoke so-called license which is in nature of lease. 1 L.R.A.(N.S.) 359. Trespass against licensee in possession after revocation of license. 28 L.R.A. 519.

Time for removal of building after revoca-tion of parol license. 2 L.R.A.(N.S.) 1002.

Forfeiture of license by aiding infringement of, or attempt to defeat patent. 37 L.R.A.(N.S.) 821.

## § 11. After licensee has incurred expense.

Revocability of license to maintain a burden on land, after the licensee has incurred expense. 49 L.R.A. 497; 19 L.R.A. (N.S.) 700; 25 L.R.A. (N.S.) 727.

Effect of incurring expense upon parol license to drain water onto one's property. 6 L.R.A. (N.S.) 154.

Compensation upon revocation of license with respect to real property. 44 L.R.A.(N.S.) 557.

# II. From public; of right to do business.

# a. In general.

8 12. Generally.

As interference with commerce, see Com-MERCE, § 18.

Constitutional power to regulate business and occupation generally, see Consti-TUTIONAL LAW, §§ 39-176.
For sale of liquors, see Intoxicating

Liquors, III.

Marriage license, see Marriage, § 5. Municipal control of generally, see MU-NICIPAL CORPORATIONS, §§ 42-50.

Recovery back of license fee paid, see As-SUMPSIT, § 9.

Effect of devise or bequest of business to pass license. L.R.A.1917D, 439.

Constitutionality of statute making license, occupation, or privilege tax a lien on real property owned by one other than the person assessed. 20 L.R.A.(N.S.)

May a municipal corporation question the validity of an ordinance or license under which a business is being conducted, in a prosecution for carrying on such business. 21 L.R.A.(N.S.) 299.

Taxation of business or occupation of a public service corporation and taxation of its franchises or right to occupy the streets as double taxation. 28 L.R.A.

(N.S.) 221.

LICENSE, II. a-cont'd

Privilege or occupation tax on rights issuing out of or connected with real property as a property tax within the constitutional provision. L.R.A.1918C, 898.

Effect of violation of law taxing occupations on validity of fire insurance. 40 L.R.A. 848.

Requisites of special verdict in prosecution for violation of license law. 24 L.R.A. (N.S.) 15.

Criminal responsibility of corporation for offenses against statutes for licensing occupations. 2 B. R. C. 250.

Federal courts following state decisions as to validity of license ordinance. 40 L.R.A.(N.S.) 442.

Applicability of license statute or ordinance to one who is not in the general practice of a profession or trade, but is employed exclusively by another. L.R.A. 1918D, 287.

# § 13. Power as to generally.

Delegation of municipal power as to. 20 L.R.A. 721.

Right to delegate power to impose license fee on vehicle for use of street. 36 L.R.A. 416.

Authority of municipality to impose license fee on vehicle for use of streets. 36 L.R.A. 413.

Power of city to extend exercise of taxing or licensing power beyond the corporate limits. 15 L.R.A.(N.S.) 294; L.R.A.1918C, 528.

Power of municipality over interurban vehicles used for hire. L.R.A.1918B, 891.

Power of municipality to make constituent elements or operations of a business independent subjects of license tax. 5 L.R.A.(N.S.) 619.

# § 14. Effect of license generally.

Exemption of street railway from paving assessment on payment of license fees. 46 L.R.A. 197.

License to engage in profession or occupation as creating a vested right to continue in same. 8 L.R.A.(N.S.) 1272.

Effect of license to commit nuisance. 36 L.R.A. 609.

Effect of legislative license to use highway on abutter's right to compensation for railroad in street. 36 L.R.A.(N.S.) 686.

# § 15. Effect of failure to procure or pay for license.

Validity of contract by unlicensed person, see Contracts, § 74.

Failure of physician to procure license, see Physicians and Surgeons, § 9.

Right to kill unlicensed dogs. 15 L.R.A. 249.

Consult also L.R.A. Digests of Cases.

LICENSE, II. a-cont'd

Operating automobile on highway without a license. 23 L.R.A.(N.S.) 561; 25 L.R.A.(N.S.) 734; 35 L.R.A.(N.S.) 699; 41 L.R.A.(N.S.) 308; 52 L.R.A. (N.S.) 801; L.R.A.1916D, 628; L.R.A. 1916E, 1225.

Extent of restriction on right of unlicensed person to transact legal business. 24 L.R.A.(N.S.) 750.

Right of unlicensed person to recover for services performed by licensed one. 2 L.R.A.(N.S.) 392; 21 L.R.A.(N.S.) 176.

Effect of loan agent's failure to procure license. 1 L.R.A.(N.S.) 1159.

§ 16. — liability of agent or employee. Liability of agent or employee in case license tax is not paid by employer. 12 L.R.A.(N.S.) 946; L.R.A.1915A, 106.

## b. Revocation.

§ 17. Generally.

License of foreign corporation, see CORPO-BATIONS, § 141.

Of physician's license, see Physicians and Surgeons, § 10.

Of teacher's license, see Schools, § 14.

Revocation of license of interstate telegraph and telephone companies. 24 L.R.A. 165.

Interference by court with revocation of teacher's license. 15 L.R.A.(N.S.) 1148.

Revocation of license of foreign insurance company on account of removal of action to Federal court. 1 L.R.A.(N.S.) 1019.

Revocation of municipal license for building. 1 L.R.A.(N.S.) 458.

Right to revoke a license from the public without notice or hearing. 13 L.R.A. (N.S.) 894.

For moving picture show. 40 L.R.A.
(N.S.) 194.

Of license for operation of jitney bus. L.R.A.1916B, 1158.

# § 18. Power to revoke license.

Effect of expenditure of money in reliance upon license from the public, to prevent revocation thereof in the interest of public health. 9 L.R.A.(N.S.) 733.

Power of municipality to revoke license to carry on business. 35 L.R.A. (N.S.) 716.

# c. On what business, occupation, etc.

\$ 19. Generally.

License tax on dogs, see Animals, § 19. Of attorneys, see Attorneys, § 6. Of broker, generally, see Brokers, § 7.

Of dentist, see DENTISTS.

Of innkeeper, see INNKEEPERS, § 2.

To school teacher, see Schools, §§ 13, 14.
To physician, see Physicians and Surgeons, §§ 8-10.

License tax on dogs, see ANIMALS, § 19.

LICENSE, II. c-cont'd

For sale of intoxicating liquors, see 1x-TOXICATING LIQUOBS, §§ 9-16.
For keeping stallions, see Stallions, § 2.

License tax on purchasers of tax titles. 47 L.R.A. (N.S.) 1078.

Of public buildings for private purposes. 33 L.R.A. 118.

To cut timber on public land. 70 L.R.A. 900.

Constitutionality of Blue Sky Laws. L.R.A. 1917F, 524.

# § 20. Illegal business.

Power of consul to license illegal acts. 45 L.R.A. 500.

Liability for privilege tax on illegal business or business illegally conducted. 22 L.R.A.(N.S.) 949.

## § 21. Architects.

Regulation of architects. 36 L.R.A. (N.S.) 1203.

Validity of contract by unlicensed architect. 12 L.R.A.(N.S.) 614.

# § 21a. Auctioneers.

Discrimination against nonresidents by statute or ordinance imposing license tax on auctioneers. 40 L.R.A. (N.S.)

# § 22. Automobiles.

License on automobiles. 1 L.R.A. (N.S.) 215.

Validity of exercise or license tax upon automobiles. 37 L.R.A.(N.S.) 440; 52 L.R.A.(N.S.) 949; L.R.A.1915D, 322.

Motorcycle as a motor vehicle within stat-ute. 21 L.R.A.(N.S.) 41.

Operating automobile on highway without license. 23 L.R.A. (N.S.) 561; 25 L.R.A. (N.S.) 734; 35 L.R.A. (N.S.) 699; 41 L.R.A. (N.S.) 308; 52 L.R.A. (N.S.) 801; L.R.A.115D, 628; L.R.A. 1916E, 1225.

### § 22a. Barbers.

Validity and effect of license tax on barbers. 40 L.R.A.(N.S.) 637.

# § 22b. Boarding or lodging houses, or restaurants.

Power to impose, generally. L.R.A.1915B, 1097.

Vesting power in board or in commissioners. L.R.A.1915B, 1100.

Effect of imposition of other tax. L.R.A. 1915B, 1100.

Reasonableness and classification. L.R.A. 1915B, 1100.

Violation of provision against special or local laws. L.R.A.1915B, 1101.

# § 23. Dance hall; dancing.

Requiring license for dance hall or place where dancing is taught. 27 L.R.A. (N.S.) 357; 51 L.R.A. (N.S.) 1009.

LICENSE, II. c—cont'd

§ 24. Disorderly houses.

Unlawfully issuing license for disorderly house as keeping same. 29 L.R.A. (N.S.) 721.

§ 24a. Draymen. See infra, § 43.

# § 24b. Druggists.

See DRUGS AND DRUGGISTS, § 3.

§ 25. Electricians and electrical work. Power of municipality to regulate electricians and installation of electrical work. 36 L.R.A.(N.S.) 78.

# § 26. Employment agencies.

Police power to license employment agencies. 2 L.R.A. (N.S.) 859; 21 L.R.A. (N.S.) 263; L.R.A.1916E, 1150.

# § 27. Ferries.

To establish ferry. 59 L.R.A. 515; L.R.A. 1916D, 832.

License fees from ferry. 59 L.R.A. 533. Power of state or municipality to impose license tax on international or interstate ferries. 52 L.R.A.(N.S.) 574.

# § 28. Fish; shell fish; oysters.

Of right to fish. 60 L.R.A. 505.

Effect of license to plant shell fish. 6 L.R.A.(N.S.) 247.

Of right to take oysters in public waters. 60 L.R.A. 517.

# § 29. Foreign corporations.

On foreign corporation. 24 L.R.A. 293.

On foreign insurance companies. 24 L.R.A. 299.

Discrimination against foreign corporations by statute or ordinance imposing license or occupation tax. 40 L.R.A. (N.S.) 289.

Revocation of license for removal of action to Federal court. 1 L.R.A. (N.S.) 1019.

Withdrawal or attempted withdrawal of foreign corporations as affecting power of state to exact a privilege tax. L.R.A.1916C, 577.

# § 30. Importers.

Invalidity of license tax on importer. 11 L.R.A. 180.\*

# 30a. Jitney busses.

Necessity of license to operate jitney bus. L.R.A.1918B, 914; L.R.A.1918F, 475.

License fee as occupation tax. L.R.A. 1915F, 842.

§ 31. Junk, second hand goods, etc. Municipal control of, generally, see Mu-NICIPAL CORPORATIONS, § 48.

Power to regulate traffic in rags, second-hand articles, and junk. 32 L.R.A. 116; 24 L.R.A. (N.S.) 1168.

Begin with this book on every law question.

LICENSE, II. e-cont'd

Power of municipality to require separate license for each kind of second-hand goods dealt in. 5 L.R.A.(N.S.) 620.

§ 32. Loans; loan brokers.

Municipal control of, generally, see Mu-NICIPAL CORPORATIONS, § 45.

Validity of contract by unlicensed money lender. 12 L.R.A. (N.S.) 616; L.R.A. 1915B, 851.

Effect of loan agent's failure to procure license. 1 L.R.A.(N.S.) 1159.

Are persons engaged in loaning their own money loan brokers within license regulations. 25 L.R.A.(N.S.) 748.

Validity of license on business of lending money as affected by amount of license fee. 25 L.R.A. (N.S.) 583.

## § 32a. Lodging houses. See supra, § 22b.

33. Markets.

Municipal control of, generally, see Mu-NICIPAL CORPORATIONS, § 44.

Requiring license for sales in market. 24 L.R.A. 584.

§ 34. Milk.

Requiring license for sale of milk. 1 L.R.A. (N.S.) 936; 27 L.R.A. (N.S.) 1151; L.R.A.1917C, 245.

§ 34a. Moving picture show.

Municipal control of, generally, see Mu-NICIPAL CORPORATIONS, § 46.

For moving picture show. 40 L.R.A.(N.S.) 193.

§ 35. Peddlers and hawkers.

Delegation of municipal power as to license of. 20 L.R.A. 724.

Who is a peddler or hawker. L.R.A.1916B, 1293.

Requiring license for sale of milk. 1 L.R.A. (N.S.) 936; 27 L.R.A. (N.S.) 1151; L.R.A.1917C, 245.

Validity of contract by unlicensed peddlers. 12 L.R.A.(N.S.) 616.

Validity of ordinance regulating conduct of licensed street hucksters or peddlers. 8 L.R.A.(N.S.) 304.

Validity of license or occupation tax on hawkers and peddlers and persons en-gaged in soliciting orders by sample or otherwise as an exercise of the police power. 19 L.R.A.(N.S.) L.R.A.(N.S.) 265. 301:

Validity of license tax so high as to be prohibitory in effect. 35 L.R.A. (N.S.)

Discrimination against nonresidents by statute or ordinance as to license. 40 L.R.A. (N.S.) 286, 289.

Right to discriminate between harmless articles in legislation regulating ped-dlers. 21 L.R.A.(N.S.) 349; 35 L.R.A. (N.S.) 1079; 40 L.R.A.(N.S.) 1207; License fee for use of streets by vehicles. L.R.A.1918B, 853.

Consult also L.R.A. Digests of Cases.

LICENSE, II. e-cont'd

§ 36. Persons employed on vessels. Of master and other persons employed on vessel. 2 L.R.A. 380.\*

**§ 37.** — pilots. Of pilots. 39 L.R.A. 183.

§ 38. Plumbers.

Delegation of municipal power as to license of plumbers. 20 L.R.A. 724.

Constitutionality of statute requiring plumbers to secure a license. 5 L.R.A. (N.S.) 674; 8 L.R.A. (N.S.) 1116; 27 L.R.A. (N.S.) 283; 50 L.R.A. (N.S.) 421.

What constitutes a plumbing business within license statutes. 23 L.R.A.(N.S.) 677.

Who must procure plumbers' license. 44 L.R.A.(N.S.) 1072.

Validity of contract with unlicensed plumber. 12 L.R.A.(N.S.) 617.

Right of unlicensed plumber to recover for services rendered by licensed one. 2 L.R.A.(N.S.) 392; 21 L.R.A.(N.S.) 176.

§ 39. Professional school or college. Determining character of standing of professional school or college for purpose of license statutes. 22 L.R.A.(N.S.) 735.

§ 39a. Restaurants. See supra, § 22b.

§ 40. Shops.

Power of municipality to require license for shops. 24 L.R.A. 585.

§ 40a. Tax brokers.

License tax on tax brokers. (N.S.) 1078. 47 L.R.A.

§ 41. Telegraph or telephone company. Municipal control of, generally, see Mu-NICIPAL CORPORATIONS, § 49.

License for doing interstate telegraph and telephone business. 24 L.R.A. 161.

State statutes imposing license fees on telegraph companies. 31 L.R.A. 808.

Imposing license fee on telegraph or telephone company for use of streets. 1 L.R.A. (N.S.) 581.

Validity of license fee exacted of telegraph or telephone company as affected by amount. 27 L.R.A.(N.S.) 627.

42. Trading stamps.

Right to impose license tax on use of trading stamps. 2 L.R.A.(N.S.) 592; 49 L.R.A.(N.S.) 1123; L.R.A.1917A, 433.

§ 43. Vehicles.

On automobile, see supra, § 22. On jitney busses, see supra, § 30b.

36 L.R.A. 413.

LICENSE, II. c—cont'd

Of draymen, cartmen, etc. 45 L.R.A.(N.S.) Discrimination in license tax on draymen. 1152.

Validity of license tax on vehicles used in | business for which a general occupation tax is required. 21 L.R.A. (N.S.) 279.

Applicability to vehicles owned by nonresidents of city ordinance imposing a license upon the use of vehicles. 23 L.R.A.(N.S.) 453.

Discrimination as to amount of tax or license fee on different vehicles as affecting validity of tax. 16 L.R.A.(N.S.) 1035; 21 L.R.A.(N.S.) 83.

Discrimination as to vehicles subject to license tax for use of highway as af- Right to discriminate between parts of a fecting validity of tax. 42 L.R.A. (N.S.) 506.

Right to grade license tax according to number of animals or vehicles employed in the business. 12 L.R.A. (N.S.) 568.

Discrimination against nonresidents by ordinance imposing license tax. 40 L.R.A. (N.S.) 291.

# § 44. Use of streets generally. On vehicles, see supra, §§ 22, 43.

License of gasolene stations in street. L.R.A.1917F, 1005.

Imposing license on telegraph or telephone company for use of streets. 1 L.R.A. (N.S.) 581.

Requiring license for sales upon streets. 24 L.R.A. 585.

Discrimination as to persons subject to license or privilege tax for use of highway as affecting validity of tax. 42 L.R.A.(N.S.) 506.

### 44a. Warehouses.

Warehouse used exclusively for owner's goods or products as subject of license tax. 39 L.R.A.(N.S.) 803.

# § 45. Wharves.

Right to erect wharves under license. 40 L.R.A. 640.

### d. Uniformity and equality; discrimination.

§ 46. Generally.

As to licenses for sale of intoxicating liquors, see Intoxicating Liquor, §§ 9-16.

In taxes generally, see Taxes, §§ 8, 9.

Equal privileges and immunities as to. 14 L.R.A. 582.

Discrimination with respect to occupation tax based on classification of munici-

palities. 15 L.R.A.(N.S.) 195. Right to discriminate between harmless articles in legislation regulating ped-dlers. 21 L.R.A.(N.S.) 349; 35 L.R.A. (N.S.) 1079; 40 L.R.A.(N.S.) 1207; L.R.A.1918B, 853.

Discrimination as to amount of tax or license fee on different vehicles. 16 L.R.A.(N.S.) 1035; 21 L.R.A.(N.S.) Limitations peculiar to municipal corpora-

LICENSE, II. c—cont'd

45 L.R.A.(N.S.) 1158.

Discrimination in license tax on automo-

biles. 52 L.R.A.(N.S.) 950, 959. license tax on jitney busses. L.R.A. 1918B, 914; L.R.A.1918F, 475.

Discrimination as to persons or vehicles subject to license or privilege tax for use of highway, as affecting validity of the tax. 42 L.R.A.(N.S.) 506.

Right to grade license tax according to number of animals or vehicles employed in the business. 12 L.R.A.

city as to amount of license fees. 21 L.R.A.(N.S.) 192.

In case of license to keep inn, hotel, boarding or lodging house or restaurant. L.Ř.A.1915B, 1100.

§ 46a. Against nonresidents or aliens. Discrimination between residents of city and other residents of state. L.R.A. 49.

Discrimination against nonresidents, by statute or municipal ordinance imposing license or occupation tax. 40 L.R.A.(N.S.) 279.

Power of state, under Fourteenth Amend-ment of Federal Constitution, to deny aliens right to engage in a lawful occupation. 11 L.R.A. (N.S.) 799.

## e. Amount; grading of fee.

§ 47. Amount generally.

Reasonableness of inspection fees, see In-SPECTION.

Validity of license tax on peddlers so high as to be prohibitory in effect. 35 L.R.A.(N.S.) 1074.

Validity of license upon business of lending money as affected by excessive amount of fee. 25 L.R.A. (N.S.) 583.

Validity of license fee exacted of telegraph or telephone companies as affected by amount. 27 L.R.A.(N.S.) 627.

Validity of license fee exacted of auction-

eers as affected by amount. 51 L.R.A.

(N.S.) 40.
Validity of license tax upon automobiles
as affected by amount. 52 L.R.A. (N.S.) 953, 959.

Of license tax on jitney busses. L.R.A. 1918F, 475.

Validity of license tax on sale of nonintoxicating beverages as affected by amount. L.R.A.1917C, 463.

Of license to keep inn, hotel, boarding or lodging house or restaurant. L.R.A. 1915B, 1100.

# § 48. Limit of amount.

Power to fix license fees, generally. 30 L.R.A. 415.

Constitutional restrictions as to amount. 30 L.R.A. 416.

tions. 30 L.R.A. 423.

Begin with this book on every law question.

LICENSE, II. e-cont'd § 49. Grading of fee.

Graduation of license fees. 30 L.R.A. 421. Right to grade license tax according to volume of business or amount of capital employed. 17 L.R.A.(N.S.) 898; 49 L.R.A. (N.S.) 955.

Right to grade license tax according to number of animals or vehicles employed in the business. 12 L.R.A. (N.S.) 568.

Graduated license tax on automobiles. 52 L.R.A. (N.S.) 952.

Grading license for sale of milk. L.R.A. 1917C, 246.

#### LICENSEE.

In general, see LICENSE, I. Liability for injury to, see LICENSE, § 9. Municipal liability for acts of, see MUNIC-IPAL CORPORATIONS, § 85.

#### LIENS.

I. In general, §§ 1-4.

II. Equitable liens, §§ 5-7.

III. For and on what, §§ 8-14. IV. Priorities, §§ 15-17.

V. Loss; waiver; discharge, §§ 18-20.

# I. In general.

§ 1. Generally.

Assignability of, see Assignment, § 7. Conflict of laws as to, see Conflict of LAWS, § 26.

On corporate stock, see Corporations, § 95a. Taking property under eminent domain pro-ceedings subject to, see EMINENT Do-MAIN, § 26.

Of execution, see EXECUTION. Lien acquired by service of notice in supplementary proceedings, see Execution, § 16.

Receiver's power to create, see RECEIVERS, § 19.

Subrogation to, see Subrogation.

Subrogation of person discharging, see Sub-ROGATION, § 2.

Libel by filing. 16 L.R.A. 625.

Duress by lien on real property. 16 L.R.A.

Necessity of, to give admiralty jurisdiction of contract. 66 L.R.A. 214.

Implied covenant of title on sale of chattels as protection against outstanding liens. 16 L.R.A.(N.S.) 410.

Estoppel against asserting title or interest in real property by deceiving one acquiring lien. 48 L.R.A.(N.S.) 763.

Tenant's or cropper's abandonment of crop as affecting rights of lienor. 46 L.R.A. (N.S.) 56.

Injunction in favor of, or against, lien creditors to prevent execution sales. 30 L.R.A. 125.

LIENS, I.—cont'd

What fund is chargeable with costs and expenses of sale when encumbered property is sold in bankruptcy free of liens. 29 L.R.A.(N.S.) 737.

Liability for, as within express assumption by one corporation of indebtedness of another on consolidation, merger, or absorption. 26 L.R.A. (N.S.) 1104.

On building as affected by its wrongful removal and attachment to land of a third person without lienor's consent.

14 L.R.A.(N.S.) 435.

Right of purchaser to recover amount paid to relieve land from tax, from one who should have paid the same but with whom he had no contractual relationship. 22 L.R.A.(N.S.) 562.

Necessity of recording instrument creating lien on personal property in state to which property is subsequently removed. 64 L.R.A. 356; 35 L.R.A. (N.S.) 385; L.R.A.1917D, 942.

Rights of life tenant who pays off, as against remainderman. 29 L.R.A. (N.S.) 153.

Denial on information as to recorded liens. 30 L.R.A.(N.S.) 780.

Removal for separable controversy of proceedings to foreclose. 5 L.R.A.(N.S.)

Right of grantee in possession to question grantor's right to collect purchase money in case of liens against property. 21 L.R.A.(N.S.) 388.

Necessity of giving lienor notice of public improvement. 37 L.R.A.(N.S.) 558.

Lien acquired by service of notice in supplementary proceedings. (N.S.) 123. L.R.A.

Amount in dispute in case of injunction against enforcement of liens against specific property. 61 L.R.A. 781.

Federal courts following state decisions as 40 L.R.A.(N.S.) 425.

Right of lienholder to take advantage of failure to file assignment of building contract or of the money due there-under. L.R.A.1917F, 1127.

§ 2. Notice of.

Corporate by-law as notice of lien on stock. 25 L.R.A. 48; 39 L.R.A.(N.S.) 295. Notice of title from possession by lienor. 13 L.R.A.(N.S.) 120.

§ 3. Effect of.

As affecting homesetead, see Homestead, § 15.

Of mortgage lien, see MORTGAGE, II. e.

Effect of outstanding lien on marketability of title. 38 L.R.A. (N.S.) 30.

Discrimination in taxation between credits secured by lien and those not so secured. L.R.A.1915A, 185.

§ 4. Purchasing or otherwise taking property subject to lien. Garnishment of claims subject to. 59 L.R.A. 364.

Consult also L.R.A. Digests of Cases, 53

LIENS, I.—cont'd

Effect of lien as against purchaser at judicial sale without notice, 21 L.R.A. 38.

Right of vendee of real estate subject to a lien to raise question of usury. 8 L.R.A. (N.S.) 814; 48 L.R.A.(N.S.) 840.

Estoppel, when property is taken by eminent domain, subject to certain liens, to deny the validity of the liens. L.R.A. (N.S.) 72.

Personal liability of purchaser of personal property which is subject to a lien. 59 L.R.A. 737.

Right of receiver to take property from person claiming lien. 47 L.R.A.(N.S.) 753.

## II. Equitable liens.

§ 5. Generally.

Enforcement by or against grantees or successors in title by agreement to contribute to cost of party wall on theory of implied equitable lien. 66 L.R.A. 695.

§ 6. How created.

Agreement for support in consideration of conveyance, as basis for equitable lien. 13 L.R.A.(N.S.) 725; 28 L.R.A.(N.S.) 607; 43 L.R.A.(N.S.) 929.

Right of creditors of a corporation which has transferred all or substantially all of its assets to another corporation to subject the assets so transferred to an equitable lien. 5 L.R.A.(N.S.) 520.

7. Of partners.

Equitable lien of partners on real property. 28 L.R.A. 102. Of surviving partner. 28 L.R.A. 132.

## III. For and on what.

§ 8. Generally. Equitable lien, see supra, §§ 5-7. For advances, see ADVANCES, § 2. Of attachment, see ATTACHMENT, §§ 7-9. Of attorney, see ATTORNEYS, § 22. Of bank, on deposit, see BANKS, § 21. In bankruptcy, see BANKBUPTCY, § 31. Of chattel mortgage, see CHATTEL MORT-On corporate stock, see Corporations, § 76. On growing crop, see CROPS, § 4. On wife's separate estate, see HUSBAND AND

Wife, § 35. On infant's property, see Infants, § 26. Of innkeepers, see Innkeepers, § 14.

Of judgment, see JUDGMENT, §§ 58-65.

Of landlord, see LANDLORD AND TENANT, §§ 88-90.

Maritime liens, see MARITIME LIENS. Of mechanics or materialmen, see MECHANics' Liens.

Of mortgage, see MORTGAGE. Of pilot, see PILOT, § 3.

Of agent, see PRINCIPAL AND AGENT, § 37. For purchase money, see PURCHASE MONEY, § 5; SALE, § 60; VENDOR AND PURCHASER, §§ 30-35.

Begin with this book on every law question.

LIENS, III.—cont'd

Of seamen for wages, see SEAMEN, § 2.

For supplies, see SUPPLIES, § 2.

Of purchaser of land, see VENDOR AND PUR-CHASER, § 7.

Against railroad company, see RAILBOADS, § 19.

Tax lien, see Taxes, §§ 88, 89. On trust estate, see Trusts, § 40.

Vendors' liens, see VENDOR AND PURCHASER,

Damages for failure to provide crossing as required in deed to railroad of right of way as lien upon right of way. L.R.A. (N.S.) 389.

Who is boarding-house keeper within statute giving lien. L.R.A.1918D, 402.

Lien of one other than innkeeper or boarding house keeper who rents rooms or apartments. L.R.A.1915F, 665.

For wharfage charges. 70 L.R.A. 209.

Of insurance broker on policy for premiums paid by him. 38 L.R.A.(N.S.) 643.

On property of member of mutual insurance company as security for his liability. 32 L.R.A. 504.

Power of partner to create lien upon firm real property. 28 L.R.A. 97.

Power to permit receiver of private corporation to create liens on its property. 16 L.R.A. 603.

Who is a "farm or agricultural" laborer within statute giving lien. 19 L.R.A. (N.S.) 1039; L.R.A.1917D, 382.

Right of owner of garage to. 1 L.R.A. (N.S.) 240.

Lien for rents and profits received by cotenant. 29 L.R.A. (N.S.) 236; L.R.A. 1918B, 609.

On property of bankrupt of one whose funds are wrongfully used in purchasing it. 9 L.R.A.(N.S.) 876.

Right of servant to the common-law possessory lien or its statutory substitute, for services in connection with property. 42 L.R.A.(N.S.) 731.

Right of one not in the storage business to a common-law lien for storage charge. 39 L.R.A.(N.S.) 1164.

Statutory lien on property of third person for rental of personal property let to contractor for use in work of a lienable nature. 16 L.R.A.(N.S.) 585; 42 L.R.A. (N.S.) 872.

Validity of statute or ordinance making charges for water or light furnished tenant a lien on the property. L.R.A. 1918D, 364.

Constitutionality of statutes giving lien on automobile for injuries done by it. L.R.A.1917E, 928.

§ 9. Of or against bank. Of bank on deposits, see BANKS, § 21.

Lien on commercial paper purchased by bank after it has mingled trust money with its own funds. 15 L.R.A.(N.S.) 1100.

LIENS, III.—cont'd

Right of purchaser of a draft from a bank to lien or preference to collateral in hands of drawee upon insolvency of the drawer. L.R.A.1915B, 438.

§ 10. Of carrier. See Carriers, § 123.

11. For repairs and improvements. By cotenant for improvements. 29 L.R.A.

By cotenant for repairs. 29 L.R.A. 459. Express, for obligation to contribute to cost of party wall. 66 L.R.A. 703, 704.

Improvement of personal property at bailee's request as creating liability against bailor or property. 38 L.R.A. (N.S.) 97.

Right to lien for repairs or other services under contract with purchaser under conditional sale. L.R.A.1915D, 1141.

Lien upon automobile for repairs or storage. LR.A.1918D, 330.

12. - for public improvements. For sewer assessment, see DRAINS AND SEWERS, § 14.

Of local assessments generally, see Public IMPROVEMENTS, §§ 30a, 31.

§ 13. For alimony. See DIVORCE AND SEPARATION, § 49.

§ 14. For keeping animals. Priority of lien for, see infra, § 17.

On animals for cost of keeping. 6 L.R.A. 82;\* 17 L.R.A. 792.

Taking of animal by general owner for purpose of defeating lien as larceny. LR.A.(N.S.) 94.

Waiver of lien by attachment or execution. 50 L.R.A. 720.

# IV. Priorities.

🛊 15. Generally.

chattel mortgage lien, see CHATTEL MORTGAGE, § 27.

Of judgment lien, see JUDGMENT, §§ 61-64. Of mechanics' lien, see MECHANICS' LIENS,

Of mortgage lien, see Mortgage, §§ 35-39.

Of tax over other lien, see Taxes, § 89. Of vendor's liens, see Vendor and Pur-CHASER, § 32.

As giving right of action to third party. 25 L.R.A. 275.

Priority of lien in distribution of assets of insolvent insurance company. L.R.A. 108.

As between lien of corporation and pledgee or bona fide purchaser of corporate stock. 39 L.R.A.(N.S.) 292.

Is money loaned to improve land part of the purchase price within rule that a purchase money lien takes priority over homestead rights. 41 L.R.A.(N.S.) 89.

Priority of claims against property in hands of receiver over recorded liens. L.R.A. (N.S.) 1013; 41 L.R.A. (N.S.)

Consult also L.R.A. Digests of Cases.

LIENS, IV.—cont'd

Antedating lease as affecting priority of landlord's lien. L.R.A.1916F, 450.

§ 16. For local assessments. See Public Improvements, § 31.

§ 17. For keeping animals.

Between agister's lien and chattel mortgage. 17 L.K.A. 792.

Priority as between lien of chattel mortgage and lien acquired by furnishing food or care to animals. 12 L.R.A.(N.S.) 310. Priority as between lien of chattel mortgage and claim of one taking animals damage feasant. L.R.A.1916E, 528.

V. Loss; waiver; discharge.

🖇 18. Generally. 🤏

Of mechanics' lien, see MECHANICS' LIENS, §§ 20-22.

Of mortgage lien, see Mortgage, VI.

Of chattel mortgage lien, see CHATTEL MORT-GAGE, § 30.

Extinguishment of lien of subagent for his compensation. L.R.A.1918F, 753.

Estoppel to assert lien on real property by concealing the same or representing title to be in another. 48 L.R.A.(N.S.)

762, 764.
Right of lienor to proceeds where property is sold with his consent under agreement that proceeds shall be applied toward payment of the debt. L.R.A. 1915C, 166.

Effect of partition deed on lien. 57 L.R.A. 340.

Effect of consolidation of corporations upon liens and priorities. 23 L.R.A. 233.

Release of, by injunction against execution sale. 30 L.R.A. 140.

Waiver of junior lien by failure to assert it in foreclesure proceeding. 68 L.R.A. 323.

Appointment of debtor as executor or administrator as discharging lien securing debt. 26 L.R.A.(N.S.) 416.

Assumption of debts on dissolution of partnership as affecting partnership lien. 9 L.R.A.(N.S.) 102.

Taking of property by general owner for purpose of defeating lien thereon as larceny. 12 L.R.A. (N.S.) 94.

Effect of discharge in bankruptcy on real property liens. 42 L.R.A.(N.S.) 292. Rescission of purchase of real estate as af-

fecting assumption of lien thereon. 40 L.R.A. (N.S.) 672.

§ 19. By attachment or execution. In general. 50 L.R.A. 714; 24 L.R.A. (N.S.) 490.

Liens not depending upon possession. L.R.A. 714.

Liens depending upon possession. 50 L.R.A. 719.

Lien of chattel mortgage. 50 L.R.A. 714; 51 L.R.A.(N.S.) 1068.

LIENS, V.—cont'd § 20. By giving note or security. Release or satisfaction of, by giving commercial paper. 35 L.R.A.(N.S.) 86. Acceptance of commercial paper as discharge of. 35 L.R.A.(N.S.) 96. Lienor joining in mortgage on the property

as a waiver of his lien. 35 L.R.A. (N.S.) 348.

New obligation given by debtor to secure release of a lien as a novation of the original obligation. 36 L.R.A.(N.S.) 464.

# LIEUTENANT GOVERNOR.

Pardon by. 47 L.R.A.(N.S.) 1036.

# LIEUTENANT OF POLICE.

Voluntariness of confession made to. L.R.A. (N.S.) 1088.

# LIFE CONTRACT.

Validity of contract to furnish a patient medical services for life. 28 L.R.A. (N.S.) 1112.

# LIFE ESTATE.

In real property generally, see DEEDS, § 29, 30; LIFE TENANTS; WILLS, §§ 79-82. As to dower, see DOWER.

Reservation of life estate as illustrating grantor's intention in delivering deed to third person. 54 L.R.A. 884.

# LIFE EXPECTANCY.

In general, see MORTALITY TABLES.

Evidence of, to show pecuniary loss to parents by death of child. L.R.A.1918E, 279.

# LIFE IMPRISONMENT.

As cruel and unusual punishment. 35 L.R.A. 569.

# LIFE INSURANCE.

See INSURANCE.

## LIFE SAVING.

Voluntarily incurring danger to save an-

LIFE TABLES.

## LIFE TENANT.

I. In general, § 1. II. Possession, enjoyment, and use of property, §§ 2-7. III. Duties and liabilities, \$\$ 8-10.

## I. In general.

1. Generally. Estates created by deed, see DEEDS, §§ 28-31.

As to quantum of estate under a devise, see Wills, §§ 79-82.

Sale for taxes during existence of life estate, see TAXES, § 77.

Power of life tenant to submit infant's cause of action for arbitration. L.R.A. 175.

Effect of misrepresentation or suppression of truth as to health of life tenant on sale of remainder interest. 17 L.R.A. (N.S.) 284.

Effect on personal liability of trustee for losses to trust estate from investment, of consent of beneficiary for life. 44 L.R.A.(N.S.) 988.

Basis and method of computing value of life estate for purpose of succession tax. 46 L.R.A.(N.S.) 714.

Effect of confiscation of an estate tail for treason on rights of innocent remainderman. L.R.A.1916E, 345.

Effect of purchase of tax title by remainderman in expectancy. L.R.A.1915E, 344.

Right of fee owner to compensation for improvements made by taker entering by license of life tenant before condemnation and without fee owner's consent. L.R.A.1916F, 989.

Rights of action in case of damages to remainder or reversion by stranger. L.R.A.1916A, 792.

## II. Possession, enjoyment, and use of property.

§ 2. Generally.

Adverse possession during life tenancy, see Adverse Possession, § 9.

As to apportionment of annuity or income, gee ANNUITY, § 2.

Rights of remaindermen generally, see RE-MAINDERMEN.

Ornamental articles as fixtures as between legatees, devisees, heirs, personal representatives, and life tenants. 6 B. R. C. 162.

Title to increase of animals as between life tenant and remainderman. 17 L.R.A.

other's life as contributory negligence. Right of life tenant to dedicate land. 31 49 L.R.A. 715; 27 L.R.A. (N.S.) 1069. L.R.A. (N.S.) 1025.

Begin with this book on every law question. .

LIFE TENANT, II.—cont'd.

Rights as between life tenant and remainderman to an increase in the value of the estate. L.R.A.1915C, 846.

Right as between life tenant and remainderman to rents from lease of property. 36 L.R.A.(N.S.) 637.

Effect, upon rule in Shelley's Case, of express prohibition against conveyance or encumbrance of property by life ten-ant. 7 L.R.A.(N.S.) 1109. Right of one to whom estate is devised for

life with power to consume, to convey a good title. 13 L.R.A.(N.S.) 458.

Does voluntary distribution or delivery of chattel to life tenant inure to benefit of remainderman. 14 L.R.A. (N.S.) 798.

Effect upon remainder of forfeiture of life estate for breach of condition subse-

quent. 21 L.R.A.(N.S.) 605. Rights on condemnation of property. L.R.A. 212.

Does statute of limitations run during life estate against proceedings by remainderman to compel appropriation of property by third person having power of eminent domain. 15 L.R.A. (N.S.) 1154.

Partition between life tenant and remainderman. L.R.A.1918D, 454.

' Estoppel of remainderman by consenting to conveyance of fee by life tenant. L.R.A. 1918D, 441.

Mineral rights of life tenant. Mines not opened before commencement of

life estate. 36 L.R.A. (N.S.) 1100. Mines opened before commencement of life estate. 36 L.R.A.(N.S.) 1102.

Abandonment or suspension of opened mine. 36 L.R.A.(N.S.) 1103.

Opening new pits, shafts, or seams. L.R.A.(N.S.) 1104.

Mines opened after commencement of life estate under prior lease or contract. 36 L.R.A.(N.S.) 1105.

As affected by powers conferred by instru-ment creating life estate. 36 L.R.A. (N.S.) 1106.

Mines opened after commencement of life estate, with sanction of court or remainderman. 36 L.R.A.(N.S.) 1106.

English settled land acts. 36 L.R.A. (N.S.) 1107.

4. — as to oil and gas.

Where no well opened prior to commencement of life estate. 36 L.R.A.(N.S.) 1108.

Where well opened prior to commencement of life estate. 36 L.R.A.(N.S.) 1109.

Well opened after commencement of life estate under a prior lease. 36 L.R.A. (N.S.) 1109.

Where sale of oil is sanctioned by remainderman. 36 L.R.A. (N.S.) 1109.

§ 5. Timber rights of life tenant. In general. 37 L.R.A.(N.S.) 763. Necessities of life tenant. 37 L.R.A. (N.S.)

Consult also L.R.A. Digests of Qases.

LIFE TENANT, II.—cont'd Customary estovers. 37 L.R.A.(N.S.) 764. Payment of taxes and other charges. L.R.A.(N.S.) 767.

Fallen or decaying timber. 37 L.R.A.(N.S.)

Thinning trees. 37 L.R.A.(N.S.) 768. Cutting timber for sale. 37 L.R.A.(N.S.) 788.

Clearing land. 37 L.R.A. (N.S.) 770.

Tenant for life not impeachable for waste; 37 L.R.A. (N.S.) ornamental trees. 772.

Miscellaneous. 37 L.R.A.(N.S.) 773.

# § 6. Corporate stocks and bonds; dividends.

Right to increased stock and stock dividends as between owner of capital and income. 16 L.R.A. 461.

Rights as to increase in value of corporate stock and bonds. L.R.A. 1915C, 851, 853.

Appreciation in value of capital assets as fund distributable as dividend without reference to losses. 1 B. R. C. 965.

Right, as between life tenant and remainderman, in dividends or distributions made by corporations. 16 L.R.A. 461; 45 L.R.A. 394; 12 L.R.A. (N.S.) 768; 35 L.R.A. (N.S.) 563; 50 L.R.A. (N.S.) 510: L.R.A.1916D, 211.

Apportionment, as between life tenant and remainderman, of income from securities which the trustee must or may convert. 6 B. R. C. 207.

## § 7. Rights on death of life tenant. Lessee's right to possession, see LANDLORD AND TENANT, § 46.

Right of lessee of life tenant to possession and emblements upon death of his lessor. 11 L.R.A.(N.S.) 688.

Right of estate of one entitled by will or statute to an allowance for support and maintenance, to accumulations undrawn and unexpended at the time of her death. 9 L.R.A. (N.S.) 997.

Apportionment of income from trust funds upon death of life beneficiary between distribution periods. 27 L.R.A.(N.S.)

## III. Duties and liabilities.

🖇 8. Generally.

Measure of damages for allowing land to become infested with weeds. 12 L.R.A. (N.S.) 88.

Right to require legatee of life interest in money or its equivalent, to give security for benefit of remainderman. 23 L.R.A.(N.S.) 716.

Right of life tenant who pays off liens or encumbrances as against remainderman. 29 L.R.A.(N.S.) 153.

Liability of tenant to fee owner in case of damages to remainder or reversion by stranger. L.R.A.1916A, 805.

LIFE TENANT, III.—cont'd § 9. Liability for improvements.

Right of life tenant, or person claiming under him, to recover for improvements. 13 L.R.A.(N.S.) 514.

Duty of life tenant to keep property in repair. 33 L.R.A.(N.S.) 669.

§ 10. Duty of life tenant as to taxes and assessments.

Duty of life tenant to pay taxes. 32 L.R.A. 744.

Effect of tax sale on land held by life tenant. 32 L.R.A. 805.

Effect on estates in reversion or remainder of tax sale during life estate. L.R.A. 688.

Life tenant's right to timber for payment of taxes. 37 L.R.A.(N.S.) 767.

Must life tenant or remainderman bear the cost of a public improvement. 10 L.R.A. (N.S.) 342.

#### LIFTING.

Assumption of risk in overstraining muscles in lifting weights under immediate direction of master or vice principal. 25 L.R.A. (N.S.) 362.

#### LIFTING JACK.

Master's liability for injury by defect in. 13 L.R.A.(N.S.) 679; 51 L.R.A.(N.S.) 339.

## LIGHT.

Carrier's duty to keep station lighted, see CARRIERS, § 71.

Constitutionality of statute as to, see Con-STITUTIONAL LAW, § 80.

Easement of, see EASEMENTS, §§ 13, 19-21. Electric lights, see Electric Lights. Gas as light, see GAS.

As to headlights, see HEADLIGHTS.

Lighting of streets and bridges, see HIGH-WAYS, §§ 54, 55.

Municipal liability for injury by absence of, at dangerous place in street, see HIGHways, § 73.

Power of municipality as to, see MUNICI-PAL CORPORATIONS, § 32.

Municipal lighting plant, see MUNICIPAL CORPORATIONS, § 69.

Lighting of railroad tracks, see RAILROADS, § 45.

Duty of bicyclists to carry. 47 L.R.A. 295. Duty of operator of automobile as to. 38 L.R.A. (N.S.) 489; 51 L.R.A. (N.S.) 996.

Effect of failure to display proper lights on liability for injuries resulting from collision of automobile and horse, or fright of horse by automobile. L.R.A.(N.S.) 964.

Begin with this book on every law question,

LIGHT—cont'd ·

Duty owed to others by one blinded by light on highway. L.R.A.1917E, 1045.

Validity and construction of regulations as to lights on automobiles. L.R.A.1918B, 828.

Requiring body of jitney bus to be illuminated after dark. L.R.A.1918B, 916. Effect of failure to show lights on liability

for collision between automobiles, or an automobile and another vehicle, at or near corner of streets or highways. L.R.A.1916A, 749. Lights on street cars. 26 L.R.A. 300.

Private action for violation of ordinance requiring lights on railroad cars and engines. 5 L.R.A.(N.S.) 244.

Validity of statute or ordinance requiring the lighting of private premises. L.R.A. 1918D, 688.

Validity of statute or ordinance holding property owner liable for light fur-nished tenant. 6 L.R.A.(N.S.) 198; L.R.A.1918D, 364.

Landlord's duty to light common hall or stairway. 1 B. R. C. 107. Liability of one maintaining place of

amusement for failure to properly light same. 42 L.R.A.(N.S.) 1071; L.R.A. 1915F, 700.

Delegation of municipal power as to. L.R.A. 726.

Right of taxpayer, in absence of statute to enjoin unlawful expenditures by municipality for lighting. 36 L.R.A.(N.S.)

Master's liability for injury to servant from want of proper lighting of place of work. 54 L.R.A. 170.

Master's liability for vice principal's failure to keep place of work properly lighted. 54 L.R.A. 133.

Provisions in insurance policy as to lighting and lighting materials. L.R.A.1917C,

Right of witness to express opinion as to. L.R.A.1918A, 697.

## LIGHTER.

Does lien upon vessel for safe carriage attach while goods are in lighter preparatory to being loaded on vessel. 24 L.R.A.(N.S.) 569.

# LIGHTHOUSE.

Character of occupation of. 4 L.R.A. (N.S.) 720.

### LIGHTING COMPANIES.

Valuation of property of, see Public SERV-ICE CORPORATIONS, § 5. See also Electric Lights; Gas.

LIGHTING COMPANIES—cont'd Compensation to be paid to lighting company upon taking its plant. 47 L.R.A. (N.S.) 772.

Delegation of municipal power to 20 L.R.A. 726.

#### LIGHTNING.

Insurance against loss caused by. 26 L.R.A.

Striking wire. 31 L.R.A. 588.

Master's liability for injuries due to explosion of dynamite by. 28 L.R.A. (N.S.) 1260.

Recovery under workmen's compensation act for injury by. L.R.A.1916A, 347; L.R.A.1918F, 936.

# LIGHTNING RODS.

Discrimination against nonresident by statute imposing license tax on business of selling. 40 L.R.A.(N.S.) 291.

Lightning rod contracts as contracts of insurance. 47 L.R.A.(N.S.) 300.

## LIME KILN.

Municipal power over as nuisance. 38 L.R.A. 654.

### LIMITATION.

Words of, under rule in Shelley's Case, see DEEDS, § 30; WILLS, § 82.

# LIMITATION OF ACTIONS.

- I. Limitation in general, §§ 1-18.
  - a. In general, §§ 1-5.
  - b. Equitable remedies; laches, §§ 6-12.
  - c. Effect of bar; other remedies, §§ 13, 14.
  - d. By and against whom available, §§ 15-17.
  - e. To what claims applicable, \$ 18.
- II. When statute runs, §§ 19-47.
  - a. In general, §§ 19-21.
  - mortgages; b. Contracts; accounts; collections, \$\$ 22-32.
  - c. Corporations; stockholders, \$\$ 33, 34.
  - d. Actions based on torts, negligence, fraud, trust, mis-take or usury; crimes, §\$ 35-38b.
- e. Suits relating to real property; tax sales, §§ 39-43. Consult also L.R.A. Digests of Cases.

LIMITATION OF ACTIONS, II.—cont'd

- 1. Decedents' estates, § 44.
- g. Miscellaneous kinds of action, § 45.
- h. Absence; nonresidence; disabilities; coverture, \$ 46.
- i. Disabilities, § 47.
- III. Period of limitation; when action barred, §§ 48-59.
  - a. In general, § 48.
  - b. Contracts; mortgages, 49, 50.
  - c. Negligence; fraud; usury, §§ 51-54.
  - d. Suits relating to real property, §§ 55-57.
  - e. Decedents' estates, \$ 58. f. Miscellaneous, § 59.
- IV. Interruption of statute; removal of bar, \$\$ 60-71.
  - a. In general, \$\$ 60-62. b. By suit, \$\$ 63, 64. c. Payment, \$\$ 65-67.

  - d. New promise or acknowledgment, \$\$.68-71.

# I. Limitation in general,

# a. In general.

§ 1. Generally.

Limitation of time to present claim or commence action against carrier, see CAR-

RIERS, § 133. Conflict of laws as to, see CONFLICT OF LAWS, § 43. Validity of contract as to, see Contracts,

§ 90.

Easements acquired by prescription, see EASEMENTS.

Proof of bar of in action of ejectment under general denial or a plea of the general issue. L.R.A.1918F, 253.

Availability of plea of limitation and plea

to the merits against same cause of action. L.R.A.1917C, 71.
Question relating to, as Federal question.

62 L.R.A. 539.

Implied exceptions in statute of limitations. 25 L.R.A. 566.

As affected by question whether suit for statutory penalty is a civil or criminal prosecution. 27 L.R.A.(N.S.) 744.

Necessity for alleging that action for death is within the statutory period. L.R.A. 1915E, 1192. Effect of limitations on right to contribu-

tion of cotenant claiming adversely. L.R.A.1915B, 975.

Duty of debtor to account for statute-barred debt before participating in estate of creditor. 4 B. R. C. 718.

Statute requiring notice of claim before commencing an action as a statute of limitations. 8 L.R.A.(N.S.) 997.

Applicability to existing contracts of stat-ute avoiding contractual stipulations limiting time for action. 38 L.R.A. (N.S.) 1016.

Federal courts following state decisions as to construction and effect of statute of limitations. 40 L.R.A.(N.S.) 421. LIMITATION OF ACTIONS, I. a—cont'd § 2. Estoppel to plead.

Specific agreement to waive the statute. 63 L.R.A. 193.

Other agreements that cause delay. 63 L.R.A. 198.

Request for delay. 63 L.R.A. 201.

Representations as to material facts. 63 L.R.A. 202.

Payments. 63 L.R.A. 203.

Actions on insurance policies. 63 L.R.A. 204.

Actions on carriers' contracts. 63 L.R.A. 206.

# § 3. Vested right in statute of limitation.

Vested right in defense of statute of limitations. 45 L.R.A. 609.

Change of statute as affecting. 1 L.R.A. (N.S.) 528.

Of municipal corporation. 27 L.R.A. (N.S.) 1188.

# § 4. Validity and construction of statute changing period of limitation. Vested right in defense of limitations, see

supra, § 3.

Impairment of contract obligations by change in statute' of limitations, see CONSTITUTIONAL LAW, § 36.

Reasonableness of period allowed by statute of limitations in respect to existing causes of action. 7 L.R.A. (N.S.) 715; 21 L.R.A. (N.S.) 157.

Constitutionality of statutes shortening the period of limitations. 1 L.R.A.(N.S.)

528.

§ 5. Invoking statute after judgment.
As ground of attack by alleged fraudulent grantee on judgment against grantor.
67 L.R.A. 598.

Injunction against judgment confessed on debt barred by. 30 L.R.A. 241.

Right to open default judgment to let in defense of statute of limitations. 61 L.R.A. 746; L.R.A.1916F, 856.

# b. Equitable remedies; laches.

## § 6. Generally.

Effect of laches on right to rescind contract, see Contracts, § 155.

Presumption of payment from lapse of time, see EVIDENCE, § 106.

In probating will. 57 L.R.A. 253.

In attacking divorce decree. L.R.A.1917B, 425, 503.

Effect of laches in questioning unconstitutional apportionment of election districts. 10 L.R.A.(N.S.) 1184.

Laches of person against whom judgment has been obtained on unauthorized appearance by attorney. 21 L.R.A. 857. Effect of laches on judgment creditor's right

to receivership. 33 L.R.A. 551.
Diligence essential to entitle one to man-

Diligence essential to entitle one to mandamus to restore to office one who has been illegally removed. 19 L.R.A. (N.S.) 66.

LIMITATION OF ACTIONS, I. b—cont'd As affecting suit to enjoin unlawful expenditures by municipality. 36 L.R.A. (N.S.) 26.

Duty of court, in absence of objection by defendant, to dismiss suit for divorce because not brought within time allowed by statute after cause given. 26 L.R.A. (N.S.) 490.

Abandonment of highway by laches of corporation officials. 26 L.R.A. 469.

Lapse of time as bar to confirmation of judicial sale. 43 L.R.A. (N.S.) 630.

Suit to compel guardian to account, or to recover on his bond. 47 L.R.A.(N.S.) 451.

Delay of carrier in seeking to recover difference between rate charged shipper and proper rate. 49 L.R.A.(N.S.) 100.

Effect of delay on right to procure a declaration that a written instrument importing on its face a complete transfer of title was intended to operate as a mortgage. L.R.A.1916B, 597.

Effect of laches of complainant on right to injunction against nuisance. L.R.A.

1916C, 1270.

Laches in seeking to avoid settlement between guardian and ward out of court. L.R.A.1916E, 869.

Effect of laches on right of benevolent, fraternal or social order to protection against use of name, insignia, ritual, etc., by another organization. J.R.A. 1915B, 1078.

# § 7. As to commercial paper.

Effect of laches on payment by check, draft, or bills. 35 L.R.A.(N.S.) 33.

Release of indorser by laches. 18 L.R.A. (N.S.) 531.

Waiver of laches in presenting commercial paper for payment. 29 L.R.A. 305.

# § 8. As to corporations and corporate stock.

Effect of laches on right to rescind subscription to corporate stock for fraud. 33 L.R.A. 724.

Laches as defense to action for specific performance of contract for sale of corporate stock. 50 L.R.A. 508; 31 L.R.A. (N.S.) 500.

Effect of, on state's right to oust a corporation of its rights and franchises. 14 L.R.A.(N.S.) 336.

Laches of assignee in having stock transferred on books of corporation as affecting liability of corporation which subsequently makes unauthorized transfer of stock. 45 L.R.A. (N.S.) 1090.

# § 9. As to land.

As bar to right to injunction against obstruction of waters of stream. 59 L.R.A. 884.

Effect of continued occupancy by trespasser for less than limitation period to estop owner to maintain trespass q. c. f. 23 L.R.A.(N.S.) 270.

Begin with this book on every law question.

LIMITATION OF ACTIONS, I. b—cont'd Delay as waiver of purchaser's right to rescind contract for purchase of real property. 30 L.R.A.(N.S.) 872.

Effect of laches on right of holder of tax deed to corrected deed. 44 L.R.A. (N.S.) 856.

Laches as affecting the right of one cotenant to benefit of purchase of outstanding title by another. 19 L.R.A.(N.S.) 526.

Right of one in possession under void foreclosure sale as affected by laches of mortgagor. 40 L.R.A.(N.S.) 848.

Effect of lapse of time on right to avoid purchase by executor or administrator at his own sale. L.R.A.1918B, 45.

Effect of laches of mortgage on right to reinstatement of mortgage released by mistake. L.R.A.1917E, 1058.

# § 10. Fraud.

Effect of laches on right to rescind subscription to corporate stock for fraud. 33 L.R.A. 724.

#### § 11. Trusts.

Laches which will defeat relief after repudiation of express trust. 5 L.R.A. (N.S.) 986.

Laches as a bar to enforcement of trust as against one who knowingly purchased trust property in violation of the terms of an express trust. 7 L.R.A.(N.S.) 370.

Suit to compel guardian to account, or to recover on his bond. · 47 L.R.A. (N.S.) 451.

### § 12. Assessments.

In contesting sewer assessment. 60 L.R.A. 246.

As affecting attack upon assessment for special benefits on ground that property is not benefited. 36 L.R.A.(N.S.) 41.

# c. Effect of bar; other remedies.

## § 13. Generally.

Duty of debtor to account for statute-barred debt before participating in estate of creditor. L.R.A.1918C, 619.

Effect, upon action for death, of bar against action for injury. 34 L.R.A. 797.

Effect of bar of statute of limitations against action to enforce judgment upon right to issue execution thereon. 23 L.R.A.(N.S.) 1096.

Bar of statute of limitations as ground for

Bar of statute of limitations as ground for quieting title as against encumbrance. 6 L.R.A.(N.S.) 516; L.R.A.1916B, 1220.

Effect of bar of statute of limitations on right of creditor who is also a stockholder of an insolvent corporation to offset claim against statutory liability.

41 L.R.A.(N.S.) 1002.

Bar of debt to corporation as bar to enforcement of its lien therefor upon stock. 39 L.R.A. (N.S.) 301; L.R.A. 1917F, 1106.

Consult also L.R.A. Digests of Cases.

LIMITATION OF ACTIONS, I. c-cont'd

Right to recover for services rendered beyond statutory period of limitation upon breach of parol contract to make provision by will. 6 L.R.A.(N.S.) 703.

Effect of running of limitation since original assessment for local improvement upon a reassessment ordered because of invalidity of original. 28 L.R.A.(N.S.) 735.

Effect of failure to present claim within the time allowed by the administration statute of the domicil as a bar to its allowance in the state of an ancillary administration, and vice versa. 19 L.R.A. (N.S.) 553.

Effect of statutory bar of action for purchase money upon right to enforce vendor's lien. 39 L.R.A.(N.S.) 1171.

Effect of bar of statute of limitations on right to substitute copy of lost indictment. 41 L.R.A. (N.S.) 1082.

Expiration of period for revival of dormant judgment as bar to an action thereon. L.R.A.1916E, 738.

Effect of bar of creditor's right of action against surety on his right to be subrogated to security held by surety. L.R.A.1916C, 1083.

Effect of running of limitations on right to have written instrument importing an absolute transfer of title declared a mortgage. L.R.A.1916B, 598.

Equitable proceeding to set aside release of claim for personal injuries for mistake where right to recover for injury is barred by limitations. L.R.A.1916B, 786.

Right of action by administrator when action to recover for personal injuries was barred at the time of the injured person's death. L.R.A.1915E, 1178.

Right of surety to indemnity from principal, or contribution from cosurety, as affected by the fact that an action by the creditor against the principal or cosurety would be barred. L.R.A.1917F, 1074.

## § 14. Mortgage or trust deed.

Effect of statutory bar of principal debt on right to foreclose a mortgage or deed of trust securing the same. 10 L.R.A. 508; 21 L.R.A. 550.

Right to enjoin sale under a power in a mortgage against which the statute of limitations has run. 6 L.R.A. (N.S.) 510.

Effect of bar of other remedies to prevent a sale of property under a power in a trust deed or mortgage. 13 L.R.A. (N.S.) 1210.

Effect of debt becoming barred by statute of limitations upon rights and remedies under conveyance absolute on its face, but intended as a mortgage. 11 L.R.A. (N.S.) 825; 24 L.R.A. (N.S.) 840.

LIMITATION OF ACTIONS, I. c-cont'd Statute of nonclaim as equivalent of limitations within the rule that the running of the latter against the debt secured will bar remedy on the mort-gage. 31 L.R.A.(N.S.) 1013.

Effect of statutory bar of action for purchase money on right to enforce lien where vendor takes mortgage which shows that it is given for the purchase money. 39 L.R.A.(N.S.) 1176.

## d. By and against whom available.

## § 15. Generally.

As to adverse possession, see ADVERSE Pos-SESSION.

Availability of statute to life tenant purchasing property at tax sale. 32 L.R.A.

Corporations as persons within statute of limitations. 19 L.R.A. 224.

Right of foreign corporation to plead stat-18 L.R.A. 524; L.R.A.1915C, 544, ute. As to right of partners in real property. 28 L.R.A. 105.

Statute of limitations as a defense to revocation of physician's or attorney's li-11 L.R.A. (N.S.) 557; L.R.A. 1915D, 1218.

Right of lien creditor to set up Statute of Limitations against other creditors of his debtor. L.R.A.1918C, 1020.

# \$ 16. State or United States.

On claims against state. 42 L.R.A. 39, 67. Applicability of statute to action by agencies 3 L.R.A. (N.S.) of state. 746; 22 L.R.A.(N.S.) 921; L.R.A.1916E, 96.

17. Municipality.

May statute be interposed against an action by a municipality to recover damages for injury to property. 32 L.R.A. (N.S.) 245.

When does statute of limitations begin to run against action upon obligations of municipal or quasi municipal body payable out of a particular fund. L.R.A. (N.S.) 478.

Vested right of municipal corporation in defense of statute of limitations. 27 L.R.A. (N.S.) 1188.

## e. To what claims applicable.

## § 18. Generally.

Claims by or against whom, see supra, §§ 15-17.

Statutes of limitation as applicable to bank checks. 22 L.R.A. 110.

Applicability of state statute of limitations to lien of judgment of Federal court. 47 L.R.A. 478.

Applicability of statute of limitations to suit to remove cloud from title. L.R.A.(N.S.) 930.

Application of statute of limitations to actions for injuries by milldam. L.R.A. (N.S.) 206.

Begin with this book on every law question.

LIMITATION OF ACTIONS, I. e-cont'd Applicability of statute to action to en-force liability of directors under statutes purporting to make them liable for contracting debts in excess of a fixed limit, L.R.A.1915D, 1050. Limitation of actions against directors of corporation for malfeasance or non-

feasance. L.R.A.1917A, 980.

## II. When statute runs.

## a. In general.

19. Generally.

When right of action accrues, see ACTION OB SUIT, § 7.

In bankruptcy cases, see BANKRUPTCY, § 6. On claim for indemnity, see INDEMNITY, § 6. Limitation of action to enforce judgment. see JUDGMENT, § 86.

What entry or record of judgment or order is necessary to start statute running. 28 L.R.A. 634.

§ 20. Time of breach or of damage. In case of injury to real property, see infra, §§ 40, 41.

Does statute of limitations commence to run at time of breach of contract or at time actual damages are sustained in consequence thereof. 15 L.R.A.(N.S.) 156.

# § 21. Necessity for demand.

In action for bank deposit, see infra, § 26. In action for money collected, see infra, § 32.

### b. Contracts; mortgages; accounts; collections.

# § 22. Contracts generally.

When action barred, see infra, § 49.

When does statute begin to run against action on contract payable on demand. 32 L.R.A.(N.S.) 486.

When does the statute of limitations commence to run against right of action on promise to pay as soon as convenient. 1 B. R. C. 113.

When does statute begin to run against an action for breach of warranty of chattels. L.R.A.1916F, 812.

Breach by promisor during lifetime of contract to compensate for services upon death, as starting the statute. L.R.A. (N.S.) 922.

# § 23. Negotiable instruments. Effect of laches, see supra, § 7.

Effect of acceleration provision in note to start statute of limitations running. 12 L.R.A.(N.S.) 1190; 22 L.R.A.(N.S.) 1110; 51 L.R.A. (N.S.) 151; L.R.A. 1918F, 169.

§ 24. Municipal obligations.

When does statute begin to run against action upon obligations of municipal, or quasi municipal, body payable out of a particular fund. 10 L.R.A.(N.S.) 478.

When does limitation begin to run against action upon municipal bonds represent-ing general funded indebtedness. 16 L.R.A.(N.S.) 803.

§ 25. Deposit; certificate of deposit. Against action on certificate of deposit. 29 L.R.A. (N.S.) 685.

Limitation of actions on bank checks. 22 L.R.A. 110.

§ 26. — necessity for demand. Necessity for demand to set statute running against action on certificate of deposit. 1 L.R.A.(N.S.) 1130.

Necessity of demand in order to start statute against action for a bank deposit. 2 L.R.A. (N.S.) 571.

## 27. Insurance.

Limitation by contract of time to sue on policy, see Insurance, §§ 207, 208.

Against action to enforce liability of member of mutual fire insurance company. 32 L.R.A. 508.

Effect of presumption of death from absence upon operation of Statute of Limitations. L.R.A.1918B, 93.

# § 28. Mortgages.

Effect of bar of other remedy, see supra, § 14.

When action barred, see infra, § 50.

Removal of bar as to, see infra, §§ 65-67,

Does limitation run against mortgages in possession. 34 L.R.A. (N.S.) 356.

Effect of acceleration provision in mortgage or note to start the statute of limita-tions running. 12 L.R.A.(N.S.) 1190; 22 L.R.A.(N.S.) 1110; 51 L.R.A.(N.S.) 151; L.R.A.1918F, 169.

Effect of mortgagor's absence from state to toll statute of limitations as against foreclosure proceedings against his foreclosure proceedings against his grantee. 26 L.R.A.(N.S.) 898.

# § 29. Accounts.

Effect of specific application of payment to last item on open account on statute of limitations. 19 L.R.A. (N.S.) 126.

Effect of retaining statement of account barred by limitations to render it an account stated. 29 L.R.A.(N.S.) 346.

# § 30. — between cotenants.

As to accounting by cotenant. 28 L.R.A. 859; L.R.A.1918B, 609.

Against action between cotenants for use and occupation or rents and profits. 29 L.R.A.(N.S.) 239.

Consult also L.R.A. Digests of Cases.

LIMITATION OF ACTIONS, II. b-cont'd LIMITATION OF ACTIONS, II. b-cont'd § 31. Action for money collected.

When does statute of limitations commence to run against action to recover money collected by attorney. 17 L.R.A.(N.S.) 667; 51 L.R.A.(N.S.) 279.

When does statute of limitations commence to run against action to recover money collected by agent not an attorney. 17 L.R.A. (N.S.) 660.

Against action to recover money paid on a judgment subsequently reversed or modified. 25 L.R.A. (N.S.) 31.

# § 32. — necessity for demand.

Demand as a condition of action to recover money collected by an agent. L.R.A.(N.S.) 626.

## c. Corporations: stockholders.

# 33. Generally.

Effect of laches, see supra, § 8.

When statute begins to run against action against directors of corporation for malfeasance or nonfeasance. L.R.A. 1917A, 982.

When statute begins to run against enforcement of liability of directors under statutes purporting to make them liable for contracting debts in excess of a fixed limit. L.R.A.1915D, 1051.

# 34. Stockholder's liability. Effect of laches, see supra, § 8.

Conflict of laws as to limitation of actions against stockholders. 48 L.R.A. 637.

Accrual of right of action to put statute of limitations into operation as to stockholder's liability for corporate debts. 10 L.R.A.(N.S.) 897; L.R.A. 1917E, 397.

When does the statute of limitations begin to run against the unpaid balance of a stock subscription. 1 L.R.A. (N.S.) 901.

d. Actions based on torts, negligence, fraud, trust, mistake, or usury; orimes.

## § 35. Torts, negligence.

Torts affecting real property, see infra, §§ 40, 41.

When action barred, see infra, § 51.

Pendency of appeal or error as affecting running of statute of limitations against an action for malicious prosecution. 43 L.R.A.(N.S.) 611.

When statute begins to run against action by private person, based on breach of duty by public officer. 52 L.R.A. (N.S.) 701.

When statute begins to run against action to hold notary or other officer liable for negligence or fraud in certifying to acknowledgment or affidavit. 49 L.R.A. (N.S.) 56.

When does statute commence to run against an action for negligence or misconduct of an attorney in performance of professional duties. 12 L.R.A. (N.S.) 1005; 51 L.R.A.(N.S.) 279.

When limitations begin to run in favor of abstracter of titles. 12 L.R.A.(N.S.) 454; 15 L.R.A.(N.S.) 160; L.R.A.

1916D, 827.

When statute commences to run against physician or surgeon for malpractice. L.Ř.A.1917C, 1172.

Limitation of actions against directors of corporation for malfeasance or nonfeasance. L.R.A.1917A, 982.

Concealment or ignorance of cause of action as suspending Statute of Limitations against the action for personal injuries or death. L.R.A.1917B, 1259.

New promise or acknowledgment to remove bar of statute of limitations against an action based on tort. 13 L.R.A. (N.S.) 912.

# § 36. Fraud.

Effect of laches, see supra, § 10. When action barred, see infra, § 53.

In case of concealed fraud. 6 L.R.A. 799; 7 L.R.A. 826; \* 8 L.R.A. 687; \* 25 L.R.A. 566.

Effect of public records as notice or evidence of notice which will set statute of limitations running against action based on fraud. 22 L.R.A. (N.S.) 208.

Is action based on fraud governed by statute of limitations applicable to injury to property or injury to person. 28 L.R.A. (N.S.) 353.

Effect of right to attack property fraudulently conveyed, to start statute of limitations runing as against right to file creditors' bill. 2 L.R.A.(N.S.) 988.

Failure to notify other party of mistake made by him as fraud which will toll the statute of limitations. 21 L.R.A. (N.S.) 950.

Concealment of identity by change of name as interrupting statute of limitations. 39 L.R.A.(N.S.) 741.

When statute begins to run against action by private person based on breach of duty by public officer involving fraud. 52 L.R.A. (N.S.) 705.

Effect of fraud on running of limitations in favor of directors of corporation for malfeasance or nonfeasance. L.R.A. 1917A, 982.

# **37.** Trusts.

Effect of laches, see supra, § 11. When action barred, see infra, § 52.

Effect of executor's promise as to payment of legacy to terminate trust and start limitation. 9 L.R.A.(N.S.) 214.

Effect of mere silence or failure to give noor confidential relations, to toll the statute of limitations. 21 L.R.A. (N.S.)

Begin with this book on every law question.

LIMITATION OF ACTIONS, II. d—cont'd | LIMITATION OF ACTIONS, II. d—cont'd Limitation of actions or suits to compel guardian to account, or to recover on his bond. 47 L.R.A.(N.S.) 451.

#### § 38. Mistake.

When does statute of limitations commence to run against action to recover money paid by mistake. 11 L.R.A.(N.S.) 1191.

Failure to notify other party of mistake made by him as fraud which will toll statute of limitations. 21 L.R.A. (N.S.) 950.

# 8 38a. Usury.

When action barred, see infra, § 54.

Against action to recover penalty against national bank taking usurious interest. 56 L.R.A. 705.

## § 38b. Crimes.

Running of limitations against action to recover stolen property. 29 L.R.A. (N.S.) 120; 34 L.R.A. (N.S.) 621.

e. Suits relating to real property; tax sales.

# § 39. Generally.

Effect of laches, see supra, § 9.

Mortgage on, see supra, § 28. When action barred, see infra, §§ 55-57.

Effect of husband's life estate to suspend or prevent running of statute of limita-tions against wife's title to real estate adversely possessed. 10 L.R.A. (N.S.)

Does statute of limitations run during life estate against proceedings by remainderman to compel appropriation of property by third person having power of eminent domain. 15 L.R.A. (N.S.) 1154.

Effect of void proceedings under which real property is sold, to start statute of limitations running in favor of purchaser in possession. 8 L.R.A. (N.S.)

Accrual of cause of action for breach of covenant of seisin or of warranty, so as to set in motion the statute of limitations. 17 L.R.A. (N.S.) 1189.

## § 40. For injury to land; nuisances. When action barred, see infra, § 56.

When right of action for injury to real estate, from a cause not immediately effective, accrues. 5 L.R.A.(N.S.) 379.

When does statute begin to run against action based upon removal of minerals from real estate. L.R.A.1917C, 116.

When does statute of limitations commence to run against action for injury to surface by mining operations or other excavations. 23 L.R.A. (N.S.) 805.

tice, between parties sustaining trust | Running of limitations against action by abutting owner for compensation for railroad in street. 36 L.R.A.(N.S.) 835.

LIMITATION OF ACTIONS, II. e-cont'd | LIMITATION OF ACTIONS, II.-cont'd When cause of action for continuing nuisance arises. L.R.A.1916E, 999.

§ 41. - caused by water.

Against municipality for injury by surface water. 65 L.R.A. 285.

Against action for breach of duty by municipality with respect to drainage. 61 L.R.A. 711.

When does statute begin to run against action for damages to land on account of obstructing stream or surface water. 20 L.R.A.(N.S.) 886; 25 L.R.A.(N.S.) 645.

When does statute commence to run against action for damages for the flooding of land caused by the digging of a ditch or drain. 20 L.R.A.(N.S.) 894; 25 L.R.A.(N.S.) 645.

When does statute of limitations commence to run against action for damages caused by seepage from a ditch or canal. 23 L.R.A. (N.S.) 795.

Application of statute of limitations to actions for injuries caused by milldam. 17 L.R.A.(N.S.) 206.

# § 42. Joint tenants.

Accounting between, see supra, § 30.

Laches as affecting right of one cotenant to benefit of purchase of outstanding title by another. 19 L.R.A.(N.S.) 526.

Disability of some, but not all, of the joint tenants as affecting the statute of limitations. 7 L.R.A. (N.S.) 407.

# § 48. Tax sales.

Effect of laches, see supra, § 9. When action barred, see infra, § 57.

Does a void tax deed set in motion special statutes of limitation governing actions to recover land sold for taxes. 27 L.R.A. (N.S.) 339.

Effect upon special statute of limitations, which begins to run from time actual possession is taken under tax deed, of fact that such deed was void or irregular. 23 L.R.A.(N.S.) 1102.

Construction and effect of statute of limitations in case of substitute conveyance of land sold for taxes. 44 L.R.A. (N.S.)

## f. Decedents' estates.

# § 44. Generally.

When action barred, see infra, § 58.

Effect of executor's promise as to payment of legacy to terminate trust and start limitations running. 9 L.R.A. (N.S.) 214.

Is statute of limitations suspended during period allowed administrator to bring action. 13 L.R.A. (N.S.) 1200.

Effect of appointment of temporary administrator. 38 L.R.A.(N.S.) 824. Consult also L.R.A. Digests of Cases.

g. Miscellaneous kinds of action.

# § 45. Generally.

As to liability of title abstracter. 12 L.R.A.(N.S.) 454; 15 L.R.A.(N.S.) 160.

Against action to recover stolen or lost property. 29 L.R.A. (N.S.) 120; 34 property. 29 L. L.R.A. (N.S.) 621.

When right of accommodation party who has been obliged to pay bill or note accrues to recover amount so paid from accommodated party. 37 L.R.A.(N.S.) 787.

Against an action by a surety against a cosurety for contribution. 18 L.R.A. (N.S.) 585; 42 L.R.A.(N.S.) 1131.

h. Absence; nonresidence; disabilities; coverture.

# 46. Generally.

Absence from state as affecting running of statute against judgment. 51 L.R.A. (N.S.) 883.

What constitutes "residence out of the state" within meaning of statute. 17 L.R.A. 225; 47 L.R.A. (N.S.) 309.

Applicability to nonresidents of provision suspending limitations against defendant who is out of state, until his "return." 25 L.R.A.(N.S.) 24.

Applicability of provision that time during which defendant is a nonresident shall not be computed, to defendant who was a nonresident when cause of action accrued. 34 L.R.A.(N.S.) 436.

Applicability of tolling provision in general statute when defendant absent from state, to special limitation imposed by statute creating cause of action for wrongful death. 38 L.R.A. (N.S.) 521.

Effect of mortgagor's absence from the state to toll the statute of limitations as against foreclosure proceedings against his grantee. 26 L.R.A.(N.S.) 898. Sufficiency and effect of "return" to state

by defendant to start statute of limitations running. 23 L.R.A.(N.S.) 547.

Effect of presumption of death from absence upon operation of statute of limitations. L.R.A.1918B, 93.

Imprisonment as a disability within saving clause of Statute of Limitations. L.R.A. 1918F, 352.

# i. Disabilities; coverture.

## § 47. Generally.

Disability of some but not all of joint tenants as affecting statute of limitations. 7 L.R.A.(N.S.) 407.

Interruption of statute of limitations by infancy of one succeeding to original owner's interest. 3 B. R. C. 741.

Mental incapacity as affecting running of statute of limitations. 51 L.R.A. (N.S.) 834.

Statutory removal of disability of coverture as repealing exception in Statute of Limitations in favor of married women. L.R.A.1918C, 193.

# LIMITATION OF ACTIONS—cont'd

## III. Period of limitation; when action barred.

#### a. In general.

48. Generally.

Vested right in defense of bar, see supra, § 3.

Effect of bar of one remedy, on right to other remedy, see supra, §§ 13, 14.

Presumption of payment from lapse of time,

see EVIDENCE, § 106.
Limitation of actions to enforce judgment, see Judgment, § 86.

First and last days in computation of time for. 49 L.R.A. 212; 38 L.R.A. (N.S.) 1160.

Admissibility of book of account as affected by lapse of time. 52 L.R.A. 569.

Applicability of general provision giving additional time for bringing new action after failure of a previous suit; to cause of action created by a statute which prescribes a special limitation period. 51 L.R.A.(N.S.) 721.

## b. Contracts; mortgages.

§ 49. Contracts generally. When statute runs, see supra, § 22.

Recital of consideration as contract in writing within statute of limitations. 68 L.R.A. 931.

Statute of limitations applicable to action to enforce an implied promise arising from acceptance of devise chargeable with payment of legacy. 8 L.R.A. (N.S.) 393.

\$ 50. Mortgages.

Effect of bar of other remedy, see supra, § 14.

When statute runs, see supra, § 28. Removal of bar, see infra, §§ 65-67, 71.

Does the last payment on a past-due debt secured by a mortgage, which debt subsequently becomes barred, fix the period from which the limitation applicable to the mortgage is to be computed. 11 L.R.A.(N.S.) 744.

# c. Negligence; trusts; fraud; usury.

§ 51. Negligence.

When statute runs, see supra. § 35.

Necessity of pleading limitation as a bar to statutory action for death. L.R.A.(N.S.) 1221.

When action against directors of corporation for malfeasance or nonfeasance is barred. L.R.A.1917A, 985.

§ 52. Trusts.

Effect of laches, see supra, § 11. When statute runs, see supra, § 37. Begin with this book on every law question.

LIMITATION OF ACTIONS, III. e-cont'd Effect of statute of limitations on the trust relationship arising from the taking of title in the husband's name, to lands inherited by, or purchased with the money of, the wife. 12 L.R.A. (N.S.)

Action against directors of corporation for malfeasance or nonfeasance as one to declare and enforce an implied trust. L.R.A.1917A, 985.

§ 53. Fraud.

Effect of laches, see supra, § 10. When statute runs, see supra, § 36.

Is action based on fraud governed by statute applicable to injury to property, or injury to the person. 28 L.R.A. (N.S.) 353.

When action against directors of corporation for malfeasance or nonfeasance is barred. L.R.A.1917A, 985.

§ 54. Usury.

When statute runs, see supra, § 38a.

Limit of time for interposing defense of . usury against national bank. 56 L.R.A. 888.

Right to set off usurious payments to national bank when right to recover penalty barred by limitation. 56 L.R.A. 699.

## d. Suits relating to real property.

§ 55. Generally.

Effect of laches, see supra, § 9.

When statute runs, see supra, §§ 39-42.

Mortgage on, see supra, § 50.

Limitation applicable to action to recover compensation for property taken or damaged in the exercise of the power of eminent domain. L.R.A.1918E, 139. Vested right in defense of limitations in

actions involving title to real property. 45 L.R.A. 609.

Right of one in possession under void foreclosure sale as affected by statute of

limitations. 40 L.R.A.(N.S.) 846.

Delay of infant or feme covert in paying purchase price or bringing suit as bar to action for specific performance of contract for sale of land, of which time is not of the essence. 25 L.R.A.(N.S.) 639.

§ 56. Injuries to land.

When statute runs, see supra, §§ 40, 41.

Action for injury to lateral support. 68

L.R.A. 693. Action for injuries from taking of water supply by right of eminent domain. 58 L.R.A. 258.

For damming back waters of stream. 59 L.R.A. 888.

Applicability of statute of limitations governing action for trespass, to actions for damages to real property. 26 L.R.A. (N.S.) 1047.

Effect of statute of limitations on liability of life tenant for permissive waste. 33

L.R.A.(N.S.) 675.

3 57. Taxes; tax sales. Effect of laches, see supra, § 9. When statute runs, see supra, § 43.

Statute limiting time for attack on tax sale, or creating a conclusive presumption as to its validity, as applied to a sale under proceedings, void for jurisdictional defects, under which possession has not been taken. 8 L.R.A. (N.S.) 157.

Statutory limitation of time for relief against tax deed as affecting right to set up invalidity of tax title as a defense. 46 L.R.A.(N.S.) 1065.

## e. Decedents' estates.

§ 58. Generally.

When statute runs, see supra, § 44. Limitation of time to present claim against decedent's estate, see EXECUTORS AND

ADMINISTRATORS, §§ 40, 41. Waiver or tolling of statute by personal representative, see infra, § 62a.

Effect on devolution of decedent's personalty of statutes barring administration and of lapse of time. 15 L.R.A. 497.

Do proceedings for sale of decedent's real property fall within "omnibus" provision of statute of limitations. 25 L.R.A.(N.S.) 1304.

## f. Miscellaneous.

§ 59. Generally.

Right of eminent domain to acquire water supply. 58 L.R.A. 258.

Limitation applicable to bastardy proceedings or action to compel support. 40 L.R.A.(N.S.) 144.

Time within which action must be brought under Federal employers' liability act. 47 L.R.A.(N.S.) 78.

Action by carrier to recover difference between rate charged shipper and proper rate. 49 L.R.A.(N.S.) 100.

Action at law to compel guardian to account or to recover on his bond. 47 L.R.A. (N.S.) 451.

Action against directors of corporation for malfeasance or nonfeasance. L.R.A. 1917A, 985.

## IV. Interruption of statute; removal of bar.

## a. In general.

60. Generally.

What will prevent or delay running of limitation on stipulated time for commencing suit on insurance policy. L.R.A. 709; 48 L.R.A. (N.S.) 906.

Effect of overt act within limitation period where the conspiracy was originally formed and the first act committed beyond the period of limitation. L.R.A. (N.S.) 1053.

Consult also L.R.A. Digests of Cases.

LIMITATION OF ACTIONS, III. d—cont'd | LIMITATION OF ACTIONS, IV. a—cont'd Effect, on running of statute of limitations, of request not to sue or agreement not to plead the statute. 16 L.R.A.(N.S.) 645.

Is statute of limitations suspended during period allowed administrator to bring action. 13 L.R.A.(N.S.) 1200.

Effect of creating testamentary trust for payment of debts. 5 L.R.A.(N.S.) 361. Admissibility of books of account to remove bar of limitations. 52 L.R.A. 707.

Interruption of statute of limitations by infancy of one succeeding to original owner's interest. 3 B. R. C. 741.

Suspension by bankruptcy proceedings. L.R.A.1915B, 1221.

# § 61. Interruption by insolvency assignment.

Claims against fund assigned for creditors. 26 L.R.A. 737.

Actions against assignor. 26 L.R.A. 737.

Rule in equity. 26 L.R.A. 737. Statutory provisions. 26 L.R.A. 737. Fund obtained under United States bankruptcy statute. 26 L.R.A. 738.

Suits against bankrupt. 26 L.R.A. 738.

# § 62. Power of partner after dissolution to interrupt statute.

Generally. 15 L.R.A. 656.

Power to revive liability upon barred debt. 15 L.R.A. 657.

Rule as to debts not yet barred. 15 L.R.A. 658.

Notice of dissolution. 15 L.R.A. 659.

Giving note, confessing judgment, etc. 15 L.R.A. 660.

Power of liquidating partner. 15 L.R.A. 660.

Special cases; contribution. 15 L.R.A. 660. Statutory changes. 15 L.R.A. 660.

# § 62a. Waiver or tolling of statute by personal representative.

Waiver or tolling of the statute of limitations or nonclaim by personal representative as to an indebtedness of the estate. L.R.A.1915B, 1016.

# b. By suit.

§ 63. Generally.

When action based on service by publication deemed commenced, for purpose of statute of limitations. 28 L.R.A.(N.S.) 702.

Loss of cause of action by lapse of time pending suit. 18 L.R.A. 211.

Fault of plaintiff causing failure of suit as affecting his right to additional time allowed by statute for bringing new action. 11 L.R.A.(N.S.) 478.

Suspension of operation of Statute of Limitations as incident to grant or denial of equitable relief. L.R.A.1918C, 123. Suspension by injunction. 30 L.R.A. 142.

Effect of injunction against legal proceedings to prevent running of statute. 3 L.R.A.(N.S.) 1187; 23 L.R.A.(N.S.) 673; L.R.A.1918F, 688.

LIMITATION OF ACTIONS, IV. b-cont'd | LIMITATION OF ACTIONS, IV. c-Quashing summons or setting aside service

thereof as affecting statute of limitations. 45 L.R.A.(N.S.) 756.

Pending of suit by third person as suspending the running of the statute of limitation. 52 L.R.A.(N.S.) 1165.

Suit affecting title to real estate not prosecuted to an actual change of possession as tolling Statute of Limitations. L.R.A.1918A, 1046.

Failure of action because planted in wrong court as ground for tolling limitation statute. L.R.A.1917C, 208.

Right of one creditor to intervene in another's action after the period for beginning such action has expired. L.R.A. 1917D, 885.

# § 64. Relation of new pleadings to statute of limitations.

In general. 3 L.R.A. (N.S.) 259; 33 L.R.A. (N.S.) 196; 47 L.R.A.(N.S.) 932.

The statutes and their interpretation. L.R.A.(N.S.) 260.

The allowing of amendments. 3 L.R.A. (N.S.) 264.

Underlying principles. 3 L.R.A. (N.S.) 267. The question of applying the principles. 3 L.R.A.(N.S.) 272.

Illustrative cases. 3 L.R.A. (N.S.) 275; 47 L.R.A. (N.S.) 933.

Changes from law to law. 3 L.R.A. (N.S.) 287; 30 L.R.A. (N.S.) 1096.

Amendment to avoid the bar of the statute of limitations. 3 L.R.A. (N.S.) 293.

Enlarging claims. 3 L.R.A.(N.S.) 203. Limitation by contract or special statute,

3 L.R.A.(N.S.) 294. Transition from Federal to state court. 3

L.R.A.(N.S.) 295. Lack of jurisdiction in the beginning.

L.R.A. (N.S.) 296. Premature suits. 3 L.R.A.(N.S.) 296.

Structural weakness at the outset. 3 L.R.A. (N.S.) 296.

Changes in parties. 3 L.R.A. (N.S.) 304. Effect of amendments on suit affecting title to real estate not prosecuted to an actual change of possession as tolling Statute of Limitations. L.R.A.1918A, 1048.

## c. Payment.

§ 65. Generally.

Right to apply indebtedness owed by creditor to debtor for purpose of tolling statute. L.R.A.1915E, 794.

Effect of payments to estop one from pleading statute of limitations. 63 L.R.A. 203.

Effect of payment on conditions to take a debt out of the bar of the statute of limitations. 55 L.R.A. 320.

Begin with this book on every law question.

-cont'd Revival of barred debt by application of general payment. 14 L.R.A. 208; 13 L.R.A. (N.S.) 1141.
Right to apply indebtedness owed by

creditor to debtor, for purpose of tolling statute. 42 L.R.A. (N.S.) 1155.

Effect of giving a check for an indebtedness, or part thereof, to toll the statute of limitations upon the original indebtedness. 18 L.R.A.(N.S.) 223.

At what time does a partial payment made by check or note arrest the running of the statute of limitations. 1 B. R. C. 494.

Effect of payment on barred judgment. 8 L.R.A.(N.S.) 445.

Effect of payment on security held as collateral to stay running of statute against principal obligation. 12 L.R.A. (N.S.) 1032.

Giving of commercial paper as taking debt out of statute. 35 L.R.A.(N.S.) 97.

Effect of specific application of payment to last item of open account upon the statute of limitations. 19 L.R.A. (N.S.) 126.

Does the last payment on a past-due debt secured by a mortgage, which debt subsequently becomes barred, fix the period from which the limitation applicable to the mortgage is to be computed. 11 L.R.A. (N.S.) 744.

## § 66. Effect on one person, of payment by another.

Payment by principal as extending limitation period as to surety. 37 L.R.A. (N.S.) 272.

Payment by joint debtor as agent of codebtor, as suspending or tolling statute of limitations as to himself. 38 L.R.A. (N.S.) 685.

Effect of part payment on mortgage by one cotenant to toll statute of limitations as to others. 27 L.R.A.(N.S.) 146.

Effect of payment by mortgagor to toll statute as against his grantee or other person holding interest in proper through him. 28 L.R.A. (N.S.) 169.

Payment of interest by devisee of property covered by mortgage, as keeping debt alive against whole estate. 2 B. R. C.

Effect of payment by personal representative to toll statute as to an indebtedness of the estate. L.R.A.1915B, 1047.

§ 67. Application of proceeds of involuntary sale.

Effect of application to indebtedness of proceeds of sale of collateral security, upon running of statute of limitations. 27 L.R.A. (N.S.) 843; L.R.A.1916A, 734.

Effect of application of proceeds of sale under deed of trust or mortgage upon the running of the statute of limitations against the indebtedness secured. 14 L.R.A.(N.S.) 479.

# LIMITATION OF ACTIONS, IV.—cont'd

d. New promise or acknowledgment.

§ 68. Generally.

New promise after bar. 53 L.R.A. 362. Effect of new promise or acknowledgment of debt to remove bar of limitations to enforce vendor's lien. 39 L.R.A. (N.S.)

New promise or acknowledgment to remove bar of statute of limitations against an action based on tort. 13 L.R.A.(N.S.) 912

Effect of new promise or payment on barred judgment. 8 L.R.A. (N.S.) 440.

§ 69. To whom must be made.

Person to whom acknowledgment or new promise must be made to toll the statute or remove the bar. 25 L.R.A.(N.S.) 805; 33 L.R.A.(N.S.)

To whom acknowledgment or new promise by personal representative may be made so as to toll or waive statute as to indebtedness of the estate. L.R.A.1915B, 1047.

70. Sufficiency of.

Promise to pay as soon as one can. 2 L.R.A.(N.S.) 300; L.R.A.1918A, 902.

Expression of hope or expectation as a new promise which will toll the statute of limitations. 38 L.R.A.(N.S.) 577.

New promise accompanied by request to know if creditor is satisfied. 43 L.R.A. (N.S.) 535.

Unaccepted offer of compromise as tolling statute. 37 L.R.A. (N.S.) 885.

Devise or legacy reciting consideration as acknowledgment affecting bar of stat-ute. 1 L.R.A.(N.S.) 1117.

§ 71. Effect on one person, of acknowledgment or promise by another.

Promise by principal as extending limitation period as to surety. 37 L.R.A. (N.S.) 272.

Acknowledgment, or promise to pay by joint debtor as agent of codebtor, as suspending or tolling statute of limitations as to himself. 38 L.R.A.(N.S.) 685.

Effect of acknowledgment by mortgagor to toll statute as against his grantee or other person holding interest in property through him. 28 L.R.A. (N.S.) 169.

Effect of acknowledgment or new promise by personal representative to toll statute as to an indebtedness of the estate. L.R.A.1915B, 1044.

## LIMITATION OF INDEBTEDNESS.

Of county, see Counties, § 10. Of municipality, see MUNICIPAL CORPO- Passenger's right to stop over in case of. BATIONS. §§ 65-67. 28 L.R.A. 775.

LIMITATION OF INDEBTEDNESS-

cont'd

Of school district, see Schools, § 33. Of state, see STATES, § 15.

Enforceability of loan to private corporation which alone or in connection with existing indebtedness exceeds the corporation's power to incur indebtedness. 11 L.R.A. (N.S.) 598.

# LIMITATION OF LIABILITY.

Of carrier, see Carriers, §§ 28, 29, 91, 128-

Of shipowner, see Shipping, § 20.

Of telegraph company, see TELEGRAPHS, §§ 20, 21.

By surety for surety. 21 L.R.A. 250. Limitation by statute of liability for setting fires spreading to property of others. 21 L.R.A. 256.

Effect of statute limiting innkeeper's liability for goods not delivered into his custody. 22 L.R.A.(N.S.) 577; 51 L.R.A.(N.S.) 1168.

How far does limitation of liability in policy of indemnity insurance against liability for injuries to employees and others include expenses of litigation. 12 L.R.A.(N.S.) 479; 43 L.R.A.(N.S.) 1128.

Effect of provision for, in lease on liability of landlord to tenant for damage by water. L.R.A.1917B, 233, 245.

# LIMITATION OVER.

Under rule in Shelley's Case, see DEEDS, § 30; WILLS, § 82. In general, see DEEDS, § 31; WILLS, § 93.

## LIMITED LIABILITY.

See Shipping, § 20.

### LIMITED PARTNERSHIP.

See PARTNERSHIP, § 58.

## LIMITED PROBATE.

Contents of will as affecting right to. 34 L.R.A. (N.S.) 971.

# LIMITED TICKETS.

Consult also L.R.A. Digests of Cases. 54

## LINE FENCE.

See Fences, §§ 2, 3.

## LINEMEN.

In general, see Electricity, III.

Master's liability for injury to, generally, see MASTER AND SERVANT, § 86.

Master's liability for negligence of vice principal toward, see MASTER AND SERVANT, § 154.

#### LINSEED OIL.

Right to require that oil offered for sale shall answer a designated standard of purity. 41 L.R.A.(N.S.) 150.

## LION.

Liability for injury by. 52 L.R.A.(N.S.) 378.

# LIQUIDATED DAMAGES.

See Damages, §§ 38-40.

## LIQUIDATED DEMANDS.

Accord and satisfaction by part payment of. 20 L.R.A. 789; L.R.A.1917A, 719.

# LIQUIDATING PARTNER.

Powers of, see Partnership, § 34.

Right to compensation. 11 L.R.A. (N.S.) 1018; 17 L.R.A. (N.S.) 396; 21 L.R.A. (N.S.) 1005; L.R.A.1917F, 576.

# LIQUOR LICENSE.

See Intoxicating Liquors, §§ 9-16.

# LIQUOR NUISANCE.

See Intoxicating Liquors, § 37.

# LIQUORS.

See Intoxicating Liquors.

# LIS PENDENS.

§ 1. Generally.

Abatement by pendency of action, see ABATEMENT AND REVIVAL, §§ 5-7.

Index of, as part of record of title. 14
L.R.A. 395.

Suit for specific performance of contract in relation to real property as lis pendens. 36 L.R.A.(N.S.) 552.

§ 2. Commencement of.

Beginning of lis pendens as to rights asserted by defendant as basis of affirmative relief. 8 L.R.A.(N.S.) 464.

§ 3. Effect of.

Pendency of action as creating contingency of claim affecting time for its presentation. 58 L.R.A. 84.

Filing of, as notice of assignment. 66 L.R.A. 771.

Effect of filing of lis pendens on marketability of title. 38 L.R.A.(N.S.) 29.

§ 4. Purchase pending suit.

Protection to one purchasing after decree and before any steps have been taken to review the same. 10 L.R.A.(N.S.) 443.

Substitute conveyances pendente lite. 44 L.R.A.(N.S.) 859.

Invoking theory of lis pendens in case of transfer of property in violation of restraining order. 50 L.R.A.(N.S.) 873.

Rights of one acquiring interest in property from party to suit pending proceedings in appellate court. 27 L.R.A. (N.S.) 735.

# LIST.

Failure to file tax list, see TAXES, § 52.

## LISTENING.

At railroad crossing, see RAILROAD, §§ 83, 84.

Voluntariness of confession procured by. 18 L.R.A.(N.S.) 843.

# LISTING.

What constitutes listing of property with broker. 24 L.R.A.(N.S.) 562.

# LITERARY AND ARTISTIC PROPERTY.

Copyright on, see COPYRIGHT.
Literary critcism as libel, see LIBEL AND

SLANDER, § 15.
Rights in, as between master and servant,

See Intoxicating Liquoes.

See Master and Servant, § 14.

Begin with this book on every law question.

LITERARY AND ARTISTIC PROPERTY | LIVERY STABLE-cont'd -cont'd.

Rights at common law in intellectual productions. 9 L.R.A.(N.S.) 174; 43 L.R.A.(N.S.) 639.

Common-law right in unpublished pictures. 1 B. R. C. 195.

## LITERATURE.

Validity of bequest for literary purposes. 37 L.R.A. (N.S.) 1006.

#### LITIGATION.

Arising out of Mexican revolution. L.R.A. 1917A, 280; L.R.A.1918E, 361.

Equal privileges as to. 14 L.R.A. 583.

Power of corporate president as to. L.R.A. 360.

Hazard of, as affecting marketability of title. 38 L.R.A.(N.S.) 14.

Personal liability of executor or adminis-trator to distributees for interest where settlement of estate is delayed by. 31

L.R.A.(N.S.) 355.
Publication of matters derogatory parties to, as attempt to prevent or obstruct course of justice or as contempt of court. 2 B. R. C. 483.

Grantee's oral promise to grantor to hold in trust made for purpose of avoiding litigation and giving rise to constructive trust. 39 L.R.A.(N.S.) 916.

Use of public funds to pay expenses in-curred by officer or citizen in litigation. L.R.A.1916D, 92.

## LITIGIOUS RIGHTS.

Purchase or sale of. L.R.A.1916E, 72.

# LITTORAL OWNERS.

See WATERS, II.

# LIVERY STABLE.

1. Generally.

As to boat livery, see BOAT LIVERY.

Lien for keeping horses, see LIENS, §§ 14,

Care required of keeper of boarding stable. 23 L.R.A. (N.S.) 188.

Keepers of, as independent contractors. 65 L.R.A. 468.

Liability of keeper for loss of property of patron. 3 L.R.A.(N.S.) 348.

Liability of stranger's property in hands of (N.S.) 796.

Consult also L.R.A. Digests of Cases.

Validity of agreement in restraint of trade ancillary to sale of livery stable business as affected by territorial scope. 24 L.R.A.(N.S.) 929; L.R.A.1916C, 630.

§ 2. Use of property for.

As a nuisance. 17 L.R.A.(N.S.) 1025; 49 L.R.A.(N.S.) 958.

Municipal regulation of, as nuisance. 38 L.R.A. 653.

Power to use property for, conditional upon consent of neighbors. 8 L.R.A. (N.S.)

§ 3. Hiring of horses.

Warranty of horse or vehicle kept for hire. 19 L.R.A. 283.

Duty of livery-stable keeper as to character of horse. 25 L.R.A. (N.S.) 372.

Who is responsible for acts of driver furnished with a hired vehicle. 13 L.R.A. (N.S.) 1122; 16 L.R.A.(N.S.) 816; 25 L.R.A.(N.S.) 33; 38 L.R.A.(N.S.) 973; L.R.A.1918E, 121. Liability of hirer for injury to horse while

being used for a purpose other than that for which it was hired. 26 L.R.A. 366; 28 L.R.A. (N.S.) 1106.

Implied or apparent authority of agent or employee to bind principal for horse hire. L.R.A.1916B, 755.

# LIVE STOCK.

In general, see ANIMALS. Transportation of, see CARRIERS, §§ 124-

Cattle yards on railroad right of way as separate subjects of taxation. L.R.A. 1916E, 416.

## LIVING PERSON.

Collateral impeachability of findings as to jurisdictional facts on which administration of estate of living person is

based. 18 L.R.A. 242.

Validity of acts by executor or administrator under letters testamentary or of administration where person is subsequently proved to be alive. 21 L.R.A. 147; 43 L.R.A. (N.S.) 634.

# LLOYDS.

Insurance by, see Insurance, §§ 11, 64, 203.

## LOADING CARS.

livery keeper to distress. 25 L.R.A. As delivery to carrier. 32 L.R.A. (N.S.) 313; L.R.A.1916C, 608.

LOADING CARS-cont'd

As railroad hazard within statute changing fellow servant rule. 18 L.R.A.(N.S.) 480; 47 L.R.A.(N.S.) 115.

Provision exempting carrier from liability for loss due to loading as extending to loss caused by negligence. 6 B. R. C. 131.

### LOADING VESSELS.

See SHIPPING, § 19.

### LOAN.

§ 1. Generally.

To member of building and loan association, see Building and Loan Associations. Interest on, see INTEREST.

Secured by mortgage, see CHATTEL MORT-GAGE; MORTGAGE.

License on business of making, see LICENSE, 8 32.

Municipal control over money lenders, see MUNICIPAL CORPORATIONS, § 45.

Of credit, constitutional provision as to, see Public Money, § 4.

Usury in, see Usury.

As to advances, see ADVANCES.

Distinction between bailment and loan of money. L.R.A.1916F, 92.

Admissibility of books of account to prove.

52 L.R.A. 703.

Validity of, when made in violation of law. 12 LR.A.(N.S.) 603.

Of intoxicating liquors as a sale. 8 L.R.A. (N.S.) 937; 31 L.R.A.(N.S.) 517; L.R.A.1915C, 648.

Husband's liability for money loaned wife to purchase necessaries. 65 L.R.A. 550; 47 L.R.A. (N.S.) 283.

Creation of partnership by sharing in profits of making loans. 18 L.R.A. (N.S.) 1055.

Allowance of interest during continuance of partnership on advances by way of loan in favor of partner making advances. 35 L.R.A.(N.S.) 224.

Authority of one negotiating loan to collecting loan without possession of security. 23 L.R.A.(N.S.) 419.

Right of broker to commissions where loan fails because of owner's refusal to give indemnity against possible mechanics' liens or other encumbrances. 15 L.R.A. (N.S.) 187.

Remedies in case of loan to corporation under ultra vires contract of borrowing apart from an action on the contract itself. L.R.A.1917A, 1028.

Liability of corporation directors for loss by making. 55 L.R.A. 762. When statute of limitations begins to run

When statute of limitations begins to run against liability of directors of corporation for making illegal loan. L.R.A. 1917A, 984.

LOAN-cont'd

Liability of bank directors in case of bad loans. 55 L.R.A. 751; 39 L.R.A. (N.S.) 173.

Enforceability of loan to private corporation which alone or in connection with existing indebtedness exceeds the corporation's power to incur indebtedness. 11 L.R.A. (N.S.) 598.

Validity of lien given to secure loan used by bankrupt to give one creditor a preference. 24 L.R.A.(N.S.) 184.

Is money loaned to improve land part of the purchase price within the rule that a purchase money lien takes priority over homestead rights. 41 L.R.A. (N.S.) 89.

Validity of statute requiring persons engaged in business of loaning money on chattel security or security of wages to file a record of loans made. 25 L.R.A. (N.S.) 686.

Lending money to competitor of covenantee as breach of covenant not to engage in business. L.R.A.1915B, 1204.

Conflict of laws as to loan agreements in insurance contracts. 52 L.R.A.(N.S.) 281.

Effect of loan as working forfeiture of options under insurance policy. L.R.A. 1917A, 1241.

Action on contractor's bond for money loaned. 43 L.R.A.(N.S.) 171.

Do loan contracts canceled upon death constitute insurance. 47 L.R.A.(N.S.) 298.

Authority of one negotiating loan to collect loan without possession of security. L.R.A.1916B, 861.

Liability of infant for money loaned him through his fraudulent representations. 6 B. R. C. 761.

# § 2. Ratification of.

Ratification of unauthorized loan by agent by retention of benefits. 2 B. R. C. 743.

What will constitute an implied ratification of an unauthorized loan effected by an agent. 6 L.R.A.(N.S.) 311; 52 L.R.A.(N.S.) 571.

3. Guaranty of.

By national bank, see Banks, § 37. As to guaranty generally, see GUARANTY.

Guaranty of. 16 L.R.A.(N.S.) 370.

§ 4. Rights of lender.

Right of one loaning his property to another to claim title against the latter's vendees or creditors. 25 L.R.A. (N.S.) 778.

Right of one loaning money for purchase price of property to be subrogated to vendor's lien. 37 L.R.A.(N.S.) 1203.

Right to recover back money loaned for the purpose of being used in an illegal transaction or with knowledge of the borrower's intention so to use it. L.R.A. 1918C, 247.

Begin with this book on every law question.

LOAN-cont'd

\$ 5. Breach of contract to make. Damages recoverable for breach of contract to lend money. 37 L.R.A. 233; 29 L.R.A. (N.S.) 194; L.R.A.1916F, 506. Breach of agreement of insurer to make loan

on policy as justifying rescission and recovery of premiums by insured. 30 L.R.A. (N.S.) 1202.

6. Of public money. Loan of public money to citizens. 14 L.R.A. 475.

# LOAN AGENCY.

Loss of profits as element of damages for breach of contract for services by. 53 L.R.A. 77.

### LOAN ASSOCIATIONS.

See Building and Loan Associations.

## LOAN BROKERS.

Constitutionality of legislation as to, see CONSTITUTIONAL LAW, § 121. License of, see LICENSES, § 32.

## LOAN COMPANIES.

Right of foreign company to enter state. 24 L.R.A. 314.

# LOAN OFFICE.

Usurious loan office as a disorderly house. 24 L.R.A. (N.S.) 507.

# LOATHSOME DISEASE.

Condonation of, as defense to action for divorce or annulment of marriage. 5 L.R.A. (N.S.) 729.

Slander in charging person with having. 24 L.R.A. (N.S.) 613.

### LOBBYING.

Validity of contract for services to pro-cure legislation, see CONTRACTS, § 102.

Power of municipal corporation or govern-mental body to use public funds to promote the passage or to secure the de- Expression of opinion as to, as a fraud. 35 feat of a law. L.R.A.1917B, 358. L.R.A. 438. Consult also L.R.A. Digests of Cases.

#### LOBSTER.

Governmental regulation of lobster fishing. 39 L.R.A. 590.

## LOCAL IMPROVEMENTS.

See Public Improvements.

#### LOCALITIES.

Discrimination by carrier against localities in regard to transit privileges. L.R.A. 1918A, 186.

#### LOCAL LAW.

Effect in other state of judgment based on local or peculiar law affecting the merits of the cause of action or defense. L.R.A.1915F, 984.

## LOCAL OPTION.

See Intoxicating Liquors, § 8.

# LOCAL PREJUDICE.

As ground for removal of cause to Federal court, see REMOVAL OF CAUSES, § 10.

# ---LOCAL SELF-GOVERNMENT.

In general, see Constitutional Law, § 20a. Of municipality, see MUNICIPAL CORPORA-TIONS, § 5.

### LOCAL TAXATION.

See Public Improvements, IV.

# LOCATION.

- Of insured property, see Insurance, §§ 78,
- Of mining claim, see MINES, §§ 9-21.
  Of public buildings, contract as to, see
  PUBLIC BUILDINGS, § 2.
- Of railroad, see RAILBOADS, § 23.
- Of railroad station, see RAILROADS, § 27. Fraud or mistake as to location of land sold, see VENDOR AND PURCHASER, § 29.
- Right of witness to express opinion as to. L.R.A.1918A, 698.

LOCATION-cont'd

Conclusiveness of decisions or findings of the Land Department as to location of lands. L.R.A.1918D, 630.

Effect of defendant's mistake as to location of property on right to specific performance. 15 L.R.A.(N.S.) 84.

Of mining shaft. 7 L.R.A.(N.S.) 840.

Of mining shaft. 7 L.R.A.(N.S.) 840. Validity of public restrictions as to location of mercantile business. 49 L.R.A. (N.S.) 439; L.R.A.1917F, 1060.

#### LOCKOUT.

Effect on construction of express provision in charter party against demurrage in case of. 5 L.R.A.(N.S.) 126.

#### LOCKS.

Occupancy of canal lock. 4 L.R.A.(N.S.) 717.

### LOCOMOTIVE.

Headlight on, see HEADLIGHTS.

Master's liability for injury to third person
by, see MASTER AND SERVANT, § 178.

Nondelegability of duty to protect servant from defects in. 54 L.R.A. 71, 79. Master's liability for injury to servant by

Master's liability for injury to servant by defects in. 54 L.R.A. 171.

Master's liability for vice principal's negligence in handling. 54 L.R.A. 127.
Liability of railroad company for injury

Liability of railroad company for injury to person wrongfully riding on a locomotive by collusion with train employee. 37 L.R.A.(N.S.) 426.

# LODE.

Mining lodes, see MINES, § 6.

# LODGE.

Forfeiture of benefit certificate by default of subordinate lodge. 50 L.R.A. 111.

Waiver by officers of subordinate lodge of forfeiture for nonpayment of assessment. 4 L.R.A.N.S.) 421; L.R.A.1915E, 152.

Liability of lessor of lodge room for personal injury to patron. L.R.A.1916F, 1129.

## LODGER.

Liability for ejecting sick lodger from building after termination of right of occupancy. 55 L.R.A. 258. LODGER—cont'd

Right of, to notice to redeem from tax sale.

44 L.R.A.(N.S.) 676.

Right of married woman to maintain action for lodging of third person living in the home. 46 L.R.A.(N.S.) 238.

Landlord's liability for injury to roomers of tenant. L.R.A.1916F, 1089.

## LODGE ROOM.

Liability of lessor for personal injuries to patron. L.R.A.1916F, 1129.

#### LODGING HOUSES.

Power to require license to keep, see LI-CENSE, § 22b.

Constitutionality of statutory regulations as to safety and sanitary conditions of. 17 L.R.A. (N.S.) 486.

As violation of restrictive covenant in deed. 41 L.R.A. (N.S.) 625.

Lien of one other than innkeeper or boarding house keeper, who rents rooms or apartments. L.R.A.1915F, 665.

Hiring room in, as affecting domicil or residence. L.R.A.1917D, 788.

## LOGGING RAILROAD.

As a common carrier. L.R.A.1918B, 685. Exercise of eminent domain for. 1 L.R.A. (N.S.) 969; L.R.A.1917A, 102.

Liability of proprietor of logging railroad for injuries sustained by person, other than employee, while being carried thereon. 12 L.R.A.(N.S.) 131; 22 L.R.A.(N.S.) 190.

# LOGS AND LOGGING.

I. In general, §§ 1-3.
II. Driving, floating, or rafting logs,
§§ 4-10.

## I. In general.

1. Generally.

Exercise of eminent domain for purposes of logging road or logging railroad. L.R.A.1917A, 102.

Contracts for logs to be gotten out as a sale within statute of frauds. 14 L.R.A. 233.

Occupancy of premises in relation to logging contracts. 4 L.R.A.(N.S.) 702.

Sufficiency of delivery of, on sale out of larger lot. 26 L.R.A.(N.S.) 38.

Liability of logging company to employee for injuries caused by defectively loaded car. 13 L.R.A.(N.S.) 390.

Begin with this book on every law question.

LOGS AND LOGGING, I.—cont'd Title and right to stranded logs or timber. 43 L.R.A.(N.S.) 460.

Loss of profits as element of damages for breach of logging and lumber contract. 53 L.R.A. 52, 71.

Loss of profits as element of damages for wrongful destruction or conversion of logs. 18 L.R.A. (N.S.) 250; 52 L.R.A. (N.S.) 97.

§ 2. Tax on logs.

Assessability of logs brought into tax district after tax day. 38 L.R.A.(N.S.) 862.

When do logs intended for exportation pass beyond state's power of taxation. 13 L.R.A.(N.S.) 800.

§ 3. Lien on logs. Lien of laborer on logs. 6 L.R.A. 362.\*

# II. Driving, floating, or rafting logs.

§ 4. Generally.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 116.

Compulsory service as to. 15 L.R.A. 322. Right to erect log pier. 40 L.R.A. 648. Delaying run of, as proximate cause of loss from high water, wind, or other similar cause. 31 L.R.A.(N.S.) 1131.

§ 5. Right to use stream for. Right of riparian owners, see WATERS, § 32.

Stream must be floatable in its natural state. 41 L.R.A. 371.

What streams are floatable. 41 L.R.A. 372. Necessity. 41 L.R.A. 376.

Artificial channel. 41 L.R.A. 376. Construction of statutes. 41 L.R.A. 376. Manner of use. 41 L.R.A. 376.

Floatable streams are public highways. 41 L.R.A. 376.

Correlative rights of log and riparian owners. 41 L.R.A. 377.

Regulation of floatage. 41 L.R.A. 378. Conflict with other navigation. 41 L.R.A. 378.

Conflicting rights of floatage. 41 L.R.A. 378.

Log-driving companies. 41 L.R.A. 379.

Right of riparian owner to impound water for purpose of floating logs. 35 L.R.A. (N.S.) 832.

Right of one who navigates stream or floats logs therein to abate nuisance arising from bridge. 51 L.R.A.(N.S.) 1172.

§ 6. Conflicting rights generally.

Relative rights of those using stream for floating logs or maintaining boom and those navigating vessel thereon. 28 L.R.A.(N.S.) 144.

Relative rights and duties of those maintaining bridges across streams and those floating logs therein. 38 L.R.A. (N.S.) 114.

Consult also L.R.A. Digests of Cases.

LOGS AND LOGGING, II.—cont'd Relative rights and duties between

Relative rights and duties between those maintaining dam in floatable stream and those using stream for floating logs therein. 22 L.R.A.(N.S.) 545.

Correlative rights of log owners and riparian owners. 41 L.R.A. 377; 32 L.R.A. (N.S.) 376.

§ 7. Obstruction of navigation by.
Obstruction of navigable streams by.
L.R.A. 407.\*

Duty to prevent jams. 3 L.R.A. 408.\*

Mooring logs and rafts as a nuisance. 3

L.R.A. 407.\*

§ 8. Liability for injuries.

Liability for injuries to riparian owner by running logs in stream. 41 L.R.A. 494; 64 L.R.A. 983, 986; 35 L.R.A. (N.S.) 824.

Right to construct log booms. 39 L.R.A. 491; 67 L.R.A. 839.

Right of riparian owner to compensation for damages to his property by construction under legislative authority of dams or booms for floating or storing logs. 22 L.R.A.(N.S.) 641.

§ 9. Booms and dams for.

Right to construct log booms in stream. 39 L.R.A. 491.

Right to erect booms in river for sorting. 67 L.R.A. 839.

Taking of property for booms and logging ways as a public purpose, 22 L.R.A. (N.S.) 151.

Business of booming or salving logs as affected with a public interest authorizing regulation of rates and prices. 6 L.R.A.(N.S.) 836.

Grant of right to dam back water of stream for purpose of booming privileges. 59 L.R.A. 831.

Destruction of boom or dam by unprecedented flood as affecting liability of one under contract to build and maintain it. 35 L.R.A.(N.S.) 1109.

Right of riparian owner to compensation for damages by construction, under legislative authority, of dams or booms for floating or sorting logs. 22 L.R.A. (N.S.) 641.

§ 10. Regulation of rates.

Legislative regulation of prices for care or salvage of. 33 L.R.A. 182.

## LOITERING.

Prohibition against loitering in highway, see Highways, § 18.

Right of person loitering on street to recover for injury from defect or obstruction therein. 20 L.R.A.(N.S.) 751.

#### LONG ACCOUNT.

Compulsory reference of, as denial of constitutional right to jury trial.

## LONG DISTANCE TELEPHONE.

In general, see TELEPHONES.

Right of addressee to recover damages for failure to summon him to receive message. 15 L.R.A.(N.S.) 810.

Reasonableness of rule of telephone company requiring subscriber to pay for all long distance messages originating from his telephone. L.R.A.1915E, 323.

## LOOKING.

Before crossing railroad track, see RAIL-ROADS, §§ 83, 84.

Before crossing street car track, see STREET RAILWAYS, § 21.

#### LOOKOUT.

Duty to keep lookout as affecting doctrine of last clear chance, see NEGLIGENCE, § 51.

Duty of railroad to maintain, see RAIL-BOADS, §§ 56, 65, 74.

For persons on street car track, see STREET RAILWAYS, § 14.

Reciprocal duty of operator of automobile and pedestrian as to. 51 L.R.A. (N.S.)

Negligence of driver of horse encountering automobile on highway in failing to keep lookout in rear. 50 L.R.A.(N.S.) 567.

Duty to keep lookout for trackmen. L.R.A. 1916F, 564.

# LOOSE LEAF SYSTEM OF AC-COUNTS.

Admissibility in evidence. L.R.A.1916B, 634.

# LOSS.

§ 1. Generally.

Of property in possession of bailee, see BAILMENT, §§ 5-10.

Of baggage, see CARRIERS, § 89.

Of goods by carrier, see CARRIERS, §§ 110,

Of profits, as element of damages, see Dam-AGES, §§ 107-118.

Of dower, see Dower, §§ 7-14.

Of easement, see EASEMENT, §§ 25-28.

Begin with this book on every law question.

LOSS—cont'd

Of homestead, see Homestead, § 8.

Of guest's property by innkeeper, see Inn-KEEPERS, §§ 7-9.

Of insured property, see INSUBANCE, VIII.

Of right to jury trial, see JURY, § 7.

Of lien generally, see Liens, §§ 18-20. Of profits, see Loss of Profits.

Of mechanics' lien, see MECHANICS' LIENS,

Of service, as element in action by parent for seduction, see SEDUCTION, § 5.

Of cargo of vessel, see Shipping, § 3.

Of time as element of damages, see TIME, § 10.

Of water rights by nonuser, see WATERS, § 37.

Liability for loss of bank deposit through

failure of bank, see BANKS, § 16.
Notice of loss to carrier, see CARRIERS, §§ 133, 134.

Liability of connecting carrier, see CAR-RIERS, § 143.

By destruction of property, see DESTRUC-TION, §§ 2, 3.

Finder of lost property, see FINDER.

Loss of instruments, see Lost Instruments. Proximate cause of, see PROXIMATE CAUSE.

Sharing in loss as requisite to existence of partnership. 18 L.R.A. (N.S.) 992.

Loss of customers as element of damages from obstruction of highway. 13 L.R.A. (N.S.) 253.

Legislation to protect manufacturers or dealers against loss of receptacles in which their products are put up. 14 L.R.A.(N.S.) 1128.

Liability for loss of personal property pending exercise of option to buy or return if unsatisfactory. 6 L.R.A.(N.S.) 273.

Loss of goods during shipment as affecting fulfilment of commission to purchase goods. 19 L.R.A.(N.S.) 261.

Effect of loss of registry lists. 28 L.R.A. (N.S.) 989.

Slander in charging woman with unchastity causing loss of property. 24 L.R.A. (N.S.) 601.

Of passenger's ticket, ejection because of. L.R.A.1916D, 1184.

## § 2. Who must bear loss.

Who must bear loss before execution of deed to land sold, see VENDOR AND PUR-CHASER, § 6.

Who must bear loss when check or bill is issued or indorsed to imposter. 50 L.R.A. 75; 17 L.R.A.(N.S.) 514; 38 L.R.A.(N.S.) 1111.

Who must bear loss where check or draft is purchased or paid upon spurious indorsement of one who bears the same name as the payee or indorsec. L.R.A. (N.S.) 1101.

Who must bear loss where merchandisc broker receives purchase price and fails to pay over same to seller. 8 L.R.A. (N.S.) 474.

LOSS-cont'd

Right of seller under conditional sale to recover amount unpaid where property lost without fault of purchaser. 2 L.R.A.(N.S.) 97.

#### LOSS OF PROFITS.

As element of damages, see Damages, §§ 107-118.

Insurance against, see INSURANCE, XIV.

## LOSS OF SERVICE.

As element in actions by parent for seduction of child, see SEDUCTION, § 5.

## LOSS PAYABLE CLAUSE.

Effect on rights of mortgagee of breach of policy by mortgagor under. 18 L.R.A. (N.S.) 204; L.R.A.1915C, 759.

#### LOST INSTRUMENTS.

å 1. Generally.

Comparison of witness's memory of handwriting on lost instrument with other instrument. 62 L.R.A. 873.

Degree of proof requisite to establish fact and contents of lost instrument which is to constitute muniment of title. L.R.A.1918B, 879.

§ 2. Negotiable instruments.

Recovery on. 16 L.R.A. 205. Lost checks. 26 L.R.A. 571.

Loss of check after it had been credited to

depositor's account. L.R.A.1917A, 658.

Jurisdiction, as between equity and law courts, of suits or actions on lost negotiable instruments. 48 L.R.A. (N.S.) 648.

Maker's right to defend against transferee after maturity on ground that commercial paper had been lost. 46 L.R.A. 775.

May indorser of lost bill, check, or note, maintain an action thereon. 24 L.R.A. (N.S.) 645.

Advertising lost or stolen paper as putting purchaser on inquiry. 29 L.R.A. (N.S.)

Risk of giving second check upon alleged loss of first. 29 L.R.A.(N.S.) 623.

As affecting question whether commercial paper operates as payment of indebtedness. 35 L.R.A.(N.S.) 109.

#### 8 3. Wills.

Effect of delay in probating. 57 L.R.A. 258.

Evidence to establish lost or destroyed wills. 38 L.R.A. 433.

Consult also L.R.A. Digests of Cases.

LOST INSTRUMENTS-cont'd

Necessity and sufficiency of proof to account for nonproduction of will upon application to probate it as a lost or destroyed will. 50 L.R.A.(N.S.) 861.

May part of a lost or destroyed will which can be established be admitted to probate where there are other portions that cannot be established. 26 L.R.A.(N.S.) 654.

§ 4. Lost records.

Disposition of appeal where without fault of appellant the record is lost. 25 L.R.A.(N.S.) 860; L.R.A.1915B, 353. As ground for injunction against judgment.

30 L.R.A. 562.

## LOST PAPER.

See Lost Instruments, § 2.

## LOST PROPERTY.

Finder of, see FINDER.

Abandonment of. 4 L.R.A.(N.S.) 573. Larceny of. 30 L.R.A.(N.S.) 339; L.R.A. 1916A, 468.

Inheritance tax on money or property of estate which has been lost or misappropriated since decedent's death. 32 L.R.A.(N.S.) 1167.

When limitation commences to run against action to recover. 29 L.R.A. (N.S.) 120.

## LOST RECORDS.

See LOST INSTRUMENTS, § 4.

#### LOST WILLS.

See Lost Instruments, § 3.

## LOT.

Decision of tie vote by. 47 L.R.A. 554.

## LOTTERY.

§ 1. Generally.

Indictment for, see Indictment, Information, and Complaint, § 24.

Conflict of laws as to lottery contracts, see CONFLICT OF LAWS, § 4.

Cruel and unusual punishment for. L.R.A. 1915C, 567.

LOTTERY-cont'd

Recovery for goods sold to aid. 15 L.R.A.

Lottery ticket as subject of larceny. L.R.A.

1918D, 690. Validity of fire insurance on lottery tickets. 40 L.R.A. 847.

Right of subscriber to lottery scheme to recover his subscription thereto. L.R.A.(N.S.) 571.

Right to maintain action for prize offered in prize contest. 33 L.R.A.(N.S.) 305. Embezzlement as affected by fact that money was collected on lottery ticket. 27 L.R.A.(N.S.) 415.

- § 2. Regulation and suppression of. Authorization and regulation of lotteries by statute. 7 L.R.A. 601.\*
- § 3. Crimes in connection with. Instigation to sale of lottery ticket. 25 L.R.A. 345.

Conversion of lottery ticket as ground of action. 45 L.R.A. (N.S.) 776.

#### 4. What constitutes.

What constitutes a lottery within the postoffice laws. 52 L.R.A.(N.S.) 108.

Gratuitous distribution of tokens entitling holders of certain numbers to prizes, as a lottery. 3 B. R. C. 984.

Giving prize for composition, or solution of puzzle, as lottery. 6 B. R. C. 780. Guessing contest as. 11 L.R.A.(N.S.) 609.

Distribution of suits by tailor among members of club, as. 21 L.R.A.(N.S.) 876.
Distribution of parcels of land by chance
as. 23 L.R.A.(N.S.) 626; 27 L.R.A.

(N.S.) 287.

Scheme for accumulating money by pay-ments of member, and distributing it in order of number of certificate, as. 13

L.R.A. (N.S.) 1096. Operation of slot machine as gambling under anti-lottery provision. 20 L.R.A. (N.S.) 241. Legality of voting or popularity contests.

L.R.A.1917D, 489.

#### LOVE AND AFFECTION.

As consideration for executory promise to pay existing debt of another. L.R.A. 1918C, 543.

## LOW BRIDGE.

Contributory negligence of one who strikes bridge extending over highway. L.R.A. 1918A, 204.

## LOWEST BIDDER.

On public contract, see Contracts, § 160. Begin with this book on every law question.

## LOW LANDS.

Power to fill low lands at expense of owner. 30 L.R.A.(N.S.) 709.

#### LOW WATER MARK.

Title to land above, see WATERS, § 16.

## LOYALTY.

As qualification of grand juror. 28 L.R.A. 205.

#### LUBRICANTS.

Action on contractor's bond for cost of. 43 L.R.A. (N.S.) 167.

Mechanics' lien for lubricants consumed in process of work. L.R.A.1915E, 987.

## LUCID INTERVAL.

Presumption of continuance of. 35 L.R.A. 123.

## LUCIFER MATCHES.

Keeping of, on insured premises. L.R.A. 1917C, 278.

## LUGGAGE.

See BAGGAGE.

#### LUMBER.

## § 1. Generally. See also TIMBER.

Regulation of storage of, for purpose of fire protection. 41 L.R.A.(N.S.) 457.

Validity of agreement in restraint of trade ancillary to sale of lumber business as affected by territorial scope. 24 L.R.A. (N.S.) 929; L.R.A.1916C, 630.

Effect of statute of frauds on parol contracts relating to, which may, but are not intended to, be performed within a year. 15 L.R.A.(N.S.) 313.

Loss of profits as element of damages for breach of lumber contracts. 53 L.R.A. 52, 71.

§ 2. Injury by.

Doctrine of "attractive nuisance" as applied to injury from. 19 L.R.A.(N.S.) 1129, 1140; L.R.A.1915D, 163.

Municipal liability for injury by storage of, in street. 20 L.R.A.(N.S.) 612.

## LUMBER WAGON.

Municipal liability for injury by storage of, in street. 20 L.R.A.(N.S.) 612.

#### LUMBER YARD.

Servants in, as fellow servants. 50 L.R.A. 437.

Doctrine of attractive nuisance as applied to. 19 L.R.A.(N.S.) 1140.

Use of railroad right of way for purpose of, as against owner of fee. 36 L.R.A. (N.S.) 518.

## LUMP CHARGES.

In, books of account as affecting their admissibility in evidence. 52 L,R.A. 586.

## LUNACY PROCEEDINGS.

See Incompetent Persons, §§ 5-7.

## LUNATICS.

See Incompetent Persons.

#### LUNCHEON.

Duty of master in absence of statute to furnish place to servants for eating luncheon. 44 L.R.A.(N.S.) 1102.

## LUNCH STAND.

Power of municipality to grant permit for on street or sidewalk. 25 L.R.A.(N.S.)

#### LUNCH WAGON.

Power of municipal corporation to grant permit for lunch wagon on street. 25 L.R.A.(N.S.) 403.

#### LYNCHING.

Argument of prosecuting attorney that an acquittal would encourage lynch law as ground for reversal. 51 L.R.A. (N.S.) 914.

## M

#### MACHINERY.

§ 1. Generally.

As fixtures, see FIXTURES, § 8. Master's duty as to, see MASTER AND SERV-ANT, §§ 88-90.

Location of, as affecting insurance on. 26 L.R.A. 241.

Statement as to the economy of operation

as a warranty. L.R.A.1917C, 1078. Express warranty of quality as excluding implied warranty of quality. 33 L.R.A. (N.S.) 506.

Exclusiveness of remedy for breach of warranty provided in contract for sale of machinery. 50 L.R.A. (N.S.) 753.

Action on contractor's bond for cost of rental of. L.R.A.1915F, 952.

Effect of buyer's use of machinery after seller's refusal to accept it when tendered in rescission of contract. L.R.A. 1916F, 481.

## § 2. Injuries by.

Master's duty as to, see Master and Serv-ANT, III. a, 6, b.

As attractive nuisance, see Negligence, §

Consult also L.R.A. Digests of Cases,

## MACHINERY—contd

Employees in charge of as vice principals. 51 L.R.A. 554.

What comprehended in "machinery of every description" in statute imposing duty on master as to placing guards. 30 L.R.A.(N.S.) 36.

Admissibility of evidence of prior accidents by. 32 L.R.A.(N.S.) 1103.

Evidence as to condition of before and after accident. 32 L.R.A.(N.S.) 1096, 1103.

Unexplained starting of as evidence of negligence. 44 L.R.A.(N.S.) 1050.

## **---**MAD DOG.

Apprehension of hydrophobia as basis of re-covery for mental anguish from bite of dog. 20 L.R.A.(N.S.) 458.

## MAGISTRATE.

Power of to punish for contempt, see Con-TEMPT, § 11.

See also JUSTICE OF THE PRACE.

Power to grant immunity to witness. L.R.A. 1918Å, 376.

MAGISTRATE-cont'd

Certificate of, in case of fire insurance. L.R.A. 860.

Admissibility in evidence of communica-tions to. 67 L.R.A. 923.

Advice of, as defense to action for malicious prosecution. 18 L.R.A. (N.S.)

Discharge by, as evidence of want of probable cause for prosecution. 64 L.R.A.

Conviction by magistrate which has been reversed or set aside as probable cause defeating action for malicious prosecution. 34 L.R.A.(N.S.) 958.

Use before grand jury of minutes taken by magistrate. 28 L.R.A. 320.

Voluntariness of confessions to. 18 L.R.A.

(N.S.) 848.

Voluntariness of confession elicited by questions from. 18 L.R.A.(N.S.) 800.

Liability to civil action for acts of judicial

nature. 44 L.R.A.(N.S.) 164. Liability for false imprisonment, of magistrate failing to have prisoner brought before him. L.R.A.1917F, 429.

#### MAGNETIC HEALER.

Application of statutes regulating practice of medicine to. 3 L.R.A.(N.S.) 763; 24 L.R.A.(N.S.) 103; L.R.A.1917C, 927.

## MAIDEN NAME.

See NAME, § 6.

MAIL.

See Postoffice.

#### MAIL AGENT.

Carrier's liability for injury to, see CAR-RIERS, § 57.

As passenger, 2 L.R.A. 166;\* 19 L.R.A. 339.

## MAIL CARRIER.

Liability of landlord of office building for injury to. L.R.A.1916F, 1120.

## MAIL CLERK.

Carrier's liability for injury to, see CAR-RIERS, § 56.

As passengers. 19 L.R.A. 339.

MAIL TRAINS.

See POSTOFFICE, § 2.

MAIMING.

See MAYHEM.

MAINS.

In highway, see Highways, §§ 22, 23. Water mains generally, see Waters, § 112.

## MAINTENANCE.

See CHAMPERTY AND MAINTENANCE; SUP-PORT.

#### MAJORITY.

1. Full age.

Estoppel of infant by false representations as to, see ESTOPPEL, § 29.

Time of attaining, see INFANTS, § 5.

Parting with property after reaching majority as bar to disaffirmance of contract made in infancy. 26 L.R.A. 179. New promise after. 53 L.R.A. 365.

False pretenses by infant inducing another to enter into contract with him by representing that he is of age. 24 L.R.A. (N.S.) 1101.

§ 2. Greater number.

Necessity of, to issuance of commercial

bonds, see Bonds, § 21. Computation of majority of votes at election, see Elections, § 15.

What is a majority vote. 6 L.R.A. 308. Upon what basis majority essential to adoption of constitutional or other special proposition submitted at general election is to be computed. 22 L.R.A. (N.S.) 478.

Right of majority of partners to sell all, or substantially all, of the firm's assets. L.R.A.1918A, 927.

§ 3. — of jurors or grand jurors. Verdict by majority of jurors. 43 L.R.A. 80.

Concurrence by majority when grand jury exceeds twenty-three. 28 L.R.A. 37.

§ 4. — of religious society.
Rights of, on withdrawal of local church society from general body. 32 L.R.A.

Majority rule in case of schism or division in independent society. 24 L.R.A. (N.S.)

Injunctive relief to majority of church members, 3 L.R.A.(N.S.) 872.

Begin with this book on every law question.

MAJORITY-cont'd 5. — of stockholders.

Right to purchase or lease corporate prop-

erty. 16 L.R.A.(N.S.) 892. Liability for misappropriation of corporate funds through corporate action. 16 L.R.A. (N.S.) 898.

## MAKING UP TRAINS.

Use of highway for, see HIGHWAYS, § 28.

#### MALICE.

§ 1. Generally.

In inducing breach of contract, see CASE, §§ 3-5.

In procuring discharge of servant, see CASE,

In inducing servant to quit, see CASE, §

Presumption and burden of proof as to, see EVIDENCE, §§ 43, 44.

Relevancy of evidence as to, see EVIDENCE, § 261.

Question for jury as to, see TRIAL, § 33. In prosecution, see MALICIOUS PROSECU-TION, § 5.

As affecting master's liability, see MASTER AND SERVANT, § 176.

See also MOTIVE.

Rule of proximate cause in case of malicious torts. 45 L.R.A. 87.

In ejection of trespasser from moving train. 13 L.R.A. (N.S.) 370.

Repetition of privileged statement as evidence of. 42 L.R.A.(N.S.) 1109.

Malicious frightening of horse on highway by locomotive, car, or train running parallel therewith. 33 L.R.A.(N.S.) 132.

Lawfulness of boycott by other than labor union where motive is malicious. L.R.A.(N.S.) 1038.

Malicious killing of dogs. 19 L.R.A. (N.S.)

Will right of action for malicious attachment of property pass to trustee in bankruptcy or assignee for creditors. 21 L.R.A.(N.S.) 727.

#### § 2. What amounts to.

Definition of "malice" as a requisite of the offense of malicious mischief. L.R.A. (N.S.) 273.

May wantonness or wilfulness precluding defense of contributory negligence be predicated of the omission of a duty before the discovery of a person in peril on a railroad or street railway track. 21 L.R.A.(N.S.) 427.

Consult also L.R.A. Digests of Cases,

MALICE-cont'd § 3. Effect of.

As affecting master's liability, see MASTER

AND SERVANT, § 176.

Malicious erection of fence, see Fences, § 6.

Effect on damages for libel or slander reflecting on integrity or responsibility of merchant. 44 L.R.A.(N.S.) 354.

As affecting personal liability of judicial officer. 14 L.R.A. 145.

As affecting liability for blacklisting employees. 63 L.R.A. 293.

As affecting liability for cutting off sub-terranean waters. 19 L.R.A. 94.

Effect of, on taking possession under "danger," "safety," or "insecurity" clause in chattel mortgage. 23 L.R.A. 780.

Effect of, on right to recover on injunction bond, attorneys' fees expended in dissolving injunction. 16 L.R.A. (N.S.)

Arbitrary or mala fide termination of partnership as basis of action in tort. 25 L.R.A.(N.S.) 959.

As affecting right to recover damages for being prevented from voting at a public election. 31 L.R.A. (N.S.) 1106.

Liability of individual in absence of any element of conspiracy for driving away another's customers. 22 L.R.A.(N.S.) 1224; L.R.A.1915B, 1180.

Avoidance of privilege in giving or refusing information affecting character or reputation of servant by proof of express malice. 4 L.R.A.(N.S.) 1114.

§ 4. — effect of bad motive to make actionable what would otherwise not

General principles involved. 62 L.R.A. 674. Injury to property. 62 L.R.A. 678.

Injury to business or occupation. 62 L.R.A. 694.

Injury to person or feelings. 62 L.R.A. 719.

Judge acting without, or in excess of, jurisdiction. 62 L.R.A. 721. Abuse of process. 62 L.R.A. 721.

General and unclassified cases. 62 L.R.A. 724.

§ 5. As element of cause of action or offense.

As element of homicide, see Homicide, § 7.

As essential element in action for wrongfully suing out injunction. L.R.A. 1916E, 1284.

An element of offense of mayhem or maiming. L.R.A.1916E, 494.

As essential to an action for alienation of affections in absence of meretricious relations. 46 L.R.A.(N.S.) 465.

Necessity of malice to render judicial officer liable to civil action for acts of judicial nature. 44 L.R.A.(N.S.) 169. As ingredient of offense of abusing animals.

41 L.R.A.(N.S.) 433.

Necessity of actual malice to justify exemplary damages for tort. 16 L.R.A. (N.S.) 440.

## MALICIOUS ARREST.

Liability for, generally, see FALSE IM-PRISONMENT.

Liability of officer for making. 51 L.R.A. 193; L.R.A.1915B, 505.

#### MALICIOUS FENCES.

See FENCES, § 6.

## MALICIOUS MISCHIEF.

Definition of "malice" as a requisite of offense of malicious mischief. 19 L.R.A. (N.S.) 273.

Right of private citizen to destroy liquor illegally kept for sale. 26 L.R.A.(N.S.)

Necessity and sufficiency of description of offense in bail bond or recognizance. 38 L.R.A. (N.S.) 322.

Cruel and unusual punishment for. L.R.A. 1915C, 570.

#### MALICIOUS PROSECUTION.

1. Generally.

Extent of recovery for, see DAMAGES, §§ 16a, 54.

Master's liability for malicious prosecution by servant, see MASTER AND SERVANT, § 173.

See also FALSE IMPRISONMENT.

Right of action for, as asset in bankruptcy. 43 L.R.A.(N.S.) 942.

Survival of cause of action and abatement and revival of action for malicious prosecution upon death of party. 52 L.R.A.(N.S.) 1215. Whether executor or administrator to be

sued in personal or representative capacity. 51 L.R.A. 266.

Interposition of unfounded defense in a civil action as basis of action for damages. 34 L.R.A.(N.S.) 1026.

Instituting proceedings upon a charge not constituting a crime. 36 L.R.A.(N.S.) 230.

For wrongful search of premises. 39 L.R.A. (N.S.) 205.

For wrongfully suing out injunction. L.R.A. 1916Ĕ, 1284.

Malicious prosecution based on criminal charge not followed by arrest. 9 L.R.A. (N.S.) 171.

Arrest of person or seizure of property as a condition of an action for the malicious prosecution of a civil action. L.R.A. 1918D, 550.

Liability for instituting bankruptcy proceedings against one not thereto sub-

ject. 34 L.R.A.(N.S.) 456. Effort to collect debt as extortion. 1 L.R.A.(N.S.) 77; L.R.A.1915B, 1140. Begin with this book on every law question.

MALICIOUS PROSECUTION-cont'd

Right of one to testify as to his intent. 23 L.R.A. (N.S.) 392.

Evidence of character in action for. 14 L.R.A. (N.S.) 755.

Plea of guilty as affecting action for ma-licious prosecution. 20 L.R.A. (N.S.)

Settlement or compromise as affecting right to maintain an action for malicious prosecution. L.R.A.1915A, 601.

2. Who may bring action.

Will right of action for malicious attachment of property pass to trustee in bankruptcy or assignee for creditors. 21 L.R.A.(N.S.) 727.

Right of one in possession without title to property to maintain an action for malicious prosecution for seizure of property in an action against him. 28 L.R.A. (N.S.) 330.

\$ 3. Who liable for.

Liability of master for malicious prosecution by servant. See MASTER AND SERV-ANT, § 173.

Liability of landlord who brings an unfounded action to dispossess tenant. L.R.A.1918C, 323.

Liability of corporations for malicious prosecution. 14 L.R.A. 791.

Liability of public prosecutor to action for malicious prosecution. L.R:A.1917F, 699.

Liability of officer for. 51 L.R.A. 183; L.R.A.1915B, 505.

Liability of officer who uses criminal process to collect a debt. 24 L.R.A. (N.S.)

Liability of municipality for malicious prosecution by its officers. 32 L.R.A. (N.S.) 36.

Liability of principal for malicious prosecution by agent authorized to collect debt. 51 L.R.A. (N.S.) 471.

§ 4. Effect of lack of jurisdiction of court where prosecution was commenced.

The general rule. 2 L.R.A.(N.S.) 1100. Void process; failure to charge crime. L.R.A.(N.S.) 1103.

Irregular or defective process or proceedings. 2 L.R.A.(N.S.) 1106.

§ 5. Malice.

Malice as essential element in action for wrongfully suing out of injunction. L.R.A.1916E, 1284.

Instruction in action for malicious prosecution, that malice may be inferred from want of probable cause. L.R.A.1918A, 872.

Bringing civil action in remote district or foreign jurisdiction. L.R.A.1917B, 752.

§ 6. Probable cause, generally.

Presumption and burden of proof as to,

see EVIDENCE, § 46.

Sufficiency of evidence of, see EVIDENCE, § 303.

MALICIOUS PROSECUTION—cont'd Probable cause as question for court or jury. L.R.A.1915D, 1.

Probable cause for making arrest. L.R.A. (N.S.) 75.

Probable cause as justification of officer making arrest. 51 L.R.A. 225; L.R.A. 1915B, 506.

Reversed conviction as evidence of probable cause. L.R.A.1916F, 196.

Conviction by magistrate or justice of the peace. 34 L.R.A.(N.S.) 958. Conclusiveness of judgment rendered in

criminal action to show probable cause. 11 L.R.A.(N.S.) 663.

Want of probable cause for wrongful search of premises. 39 L.R.A.(N.S.) 207.

Want of probable cause to believe the alleged ground of attachment, as a condition of an action for a wrongful attachment. 38 L.R.A.(N.S.) 120; L.R.A.1915A, 541.

Want of, as essential element to right of action for wrongfully suing out injunction. L.R.A.1916E, 1286.

## \$ 7. Acquittal or discharge as evidence of want of probable cause.

Acquittal and discharge. 64 L.R.A. 475. Discharge by an examining magistrate. 64 L.R.A. 481; 3 L.R.A. (N.S.) 929.

Where there was a want of jurisdiction. 64 L.R.A. 486.

Failure to prosecute. 64 L.R.A. 486. Failure to indict. 64 L.R.A. 488.

Finding in criminal proceeding that the prosecution was malicious and without probable cause. 64 L.R.A. 489.

## § 8. Advice of counsel.

Advice of counsel as defense to action for malicious prosecution. 18 L.R.A. (N.S.) 49; 39 L.R.A.(N.S.) 207.

Advice of counsel as affecting liability for exemplary damages for malicious prose-cution. 29 L.R.A. (N.S.) 281.

Probable cause as question for court or jury where advice of counsel has been sought. L.R.A.1915D, 85.

In action for wrongful search of premises. 39 L.R.A.(N.S.) 207.

## § 9. Termination of prosecution.

When is an action sufficiently at an end to support a suit for malicious prosecution therefor. 2 L.R.A. (N.S.) 928; 39 L.R.A.(N.S.) 1215.

Pendency of appeal or error as affecting running of statute of limitations against an action for malicious prosecution. 43 L.R.A.(N.S.) 61L

## MALICIOUS TORTS.

See also MALICE.

Liability of partnership for. 51 L.R.A. | Compensation of. 17 L.R.A. (N.S.) 394; 469. Consult also L.R.A. Digests of Cases.

## MALICIOUS TRESPASS.

Liability of infant for. 36 L.R.A. 207.

## MALPRACTICE.

In general, see Physicians and Surgeons, §§ 12-16.

Recovery under Workmen's Compensation Act for aggravation of injury by malpractice of physician and effect of the act on independent cause of action therefor. L.R.A.1917D, 172.

#### MALT.

Power of municipality to regulate sale of nonintoxicating alcoholic beverages. 26 L.R.A.(N.S.) 890.

Do statutes forbidding sale of a certain class or classes of liquor include malt liquors. 46 L.R.A.(N.S.) 759.

Do statutes forbidding the sale of malt liquor include nonintoxicating malt liquor. L.R.A.1917B, 974.

Judicial notice of intoxicating character of "Malt Extract." 48 L.R.A.(N.S.) 316. Judicial notice of intoxicating character of "Malt Mead." 48 L.R.A.(N.S.) 316.

#### MANACLES.

On prisoner at trial, see CRIMINAL LAW, § 54.

## MANAGER.

Liability of newspaper manager for libel, see Libel and Slander, § 4.

Grounds or justification for discharge of general manager. L.R.A.1918C, 1030. Authority of, to contract for services of other persons. L.R.A.1918F, 39-57.

#### MANAGING AGENT.

As fellow servant of injured employee, see MASTER AND SERVANT, III. d, 3. Of corporation on whom process may be served, see WRIT AND PROCESS, § 27.

Authority of, to employ subagent. L.R.A. 1918F, 726.

## MANAGING PARTNER.

L.R.A.1917F, 576.

#### MANDAMUS.

I. In general, § 1.
II. When may issue, §§ 2-15.

a. In general, § 2.

b. To public officer or board,

§\$ 3-11.

c. To corporations, \$\$ 12-15. III. Jurisdiction; procedure; hearing; determination, §§ 16-21.

## I. In general.

Generally.

Constitutional objection in mandamus proceedings, see Constitutional Law, §

Original jurisdiction in mandamus cases, see Courts, § 31.

Disobedience of, as a contempt. 16 L.R.A. (N.S.) 1064.

Validity of statutory provision for attorney's fee in mandamus proceedings. L.R.A.1915E, 949.

## II. When may issue.

## a. In general.

§ 2. Generally.

Effect of existence of other remedy on right to mandamus to compel issuance bonds of municipality or other public corporation. L.R.A.1918C, 414. When writ could be immediately rendered

nugatory by taking new action avoiding defects complained of. 31 L.R.A. (N.S.) 512.

For relief of member of labor union from unlawful fine or suspension. 45 L.R.A. (N.S.) 355.

## b. To public officer or board.

§ 3. Generally.

To compel performance of ministerial du-ties by heads of departments. 52 L.R.A.(N.S.) 419.

Mandamus at instance of creditor to compel raising of tax assessment to the full value of the property. L.R.A.1918B, 1107.

Mandamus to compel public officer to execute a contract. L.R.A.1917F, 538.

Mandamus to compel issuance of bonds of municipality or other public corporation. L.R.A.1918C, 414.

Mandamus to compel issuance of municipal warrant to pay L.R.A.1916D, 325. indebtedness.

To compel action of medical board. L.R.A. 355.

Mandamus to compel the reinstatement of a teacher. 49 L.R.A. (N.S.) 62.

To compel issuance of diploma. 3 L.R.A.

(N.S.) 1115; L.R.A.1916B, 616.

To compel delivery of copy or to require promulgation of an act passed by the legislature. 22 L.R.A.(N.S.) 1089.

To compel officer to dispose of property as directed by court. 31 L.R.A.(N.S.)

MANDAMUS, II. b-cont'd

Mandamus to compel performance of continuous acts or control general course of official conduct. 39 L.R.A.(N.S.) 810.

Mandamus to compel former officer, after the expiration of term, to perform duty pertaining to his office. . 36 L.R.A. (N.S.) 1084.

§ 4. To courts and court officers.

To compel inferior court to execute or enforce its judgment or decree. 24 L.R.A. (N.S.) 886.

In exercise of superintending control over inferior courts. 51 L.R.A. 33.

To compel judge to sign bills of exception, etc. 36 L.R.A.(N.S.) 1087.

To compel change of venue. L.R.A.1917F, 914.

To prevent change of venue from court having exclusive jurisdiction. 2 L.R.A. (N.S.) 568.

To compel removal of case to Federal court or remanding of case to state court. 37 L.R.A.(N.S.) 392.

## § 5. To executive officers.

To governor. 6 L.R.A.(N.S.) 750; 32 L.R.A. (N.S.) 355; L.R.A.1917F, 774.

Mandamus to compel exercise of the power to remove or suspend public officer. 28 L.R.A.(N.S.) 194; 46 L.R.A.(N.S.)

§ 6. To excise officers.

To control decision of licensing officers as to fitness of applicant for license to sell intoxicating liquors. 27 L.R.A. (N.S.) 1195.

To compel public officials to enforce the liquor law. 28 L.R.A.(N.S.) 246.

§ 7. To enforce rights in public contract.

To enforce right of lowest bidder on public contract. 26 L.R.A. 711.

To compel award of public contract to lowest bidder. 30 L.R.A. (N.S.) 128.

To compel municipal or other public officer or board to perform duty resting in contract alone. 20 L.R.A.(N.S.) 801.

## § 8. To compel payment of municipal debt by custodian of funds.

In general. 14 L.R.A. 773.

Rule where audit is conclusive. 14 L.R.A.

Statutory changes permitting enforcement of ministerial duties. 14 L.R.A. 775. Cases in which writ may issue. 14 L.R.A.

776.

Defenses; irregular or insufficient audit or warrant. 14 L.R.A. 778. Unconstitutionality of statute as defense

against mandamus to compel payment of public money. 47 L.R.A. 516.

§ 9. As to title to, or acceptance of, office.

Right to attack prima facie title of relator in mandamus to obtain office. L.R.A. 1915A, 832.

Begin with this book on every law question.

MANDAMUS, II. b-cont'd

To compel payment of salary to public officer whose title is disputed. 1 L.R.A. (N.S.) 588.

Right to try question, who is de facto officer in mandamus proceeding. 13 L.R.A. (N.S.) 661.

Provision for contesting election of city officer before city council or other municipal body as executive of mandamus. 26 L.R.A. (N.S.) 211.

To compel one usurping office to turn over papers. 35 L.R.A.(N.S.) 528.

To compel acceptance of office. 24 L.R.A. 493.

§ 10. To compel surrender of office. General doctrine. 31 L.R.A. 343.

Necessity of a demand and refusal. 31 L.R.A. 348.

Effect of such surrender. 31 L.R.A. 349. Sufficiency of title to support. 31 L.R.A.

Right to attack prima facie title of relator in mandamus to obtain office. L.R.A. 1915A, 832.

Special provisions relating to. 31 L.R.A. 355.

In the case of a private corporation. 31 L.R.A. 360.

When writ refused. 31 L.R.A. 361. English cases. 31 L.R.A. 368.

'§ 10a. To compel restoration to office. Mandamus to restore to office one who has been illegally removed. 19 L.R.A. (N.S.) 49.

## 11. As to elections.

To compel election officers to act after they ha e met and adjourned. 36 L.R.A. (N.S.) 1089.

To compel steps preliminary to an election before the arrival or expiration of the time fixed therefor. L.R.A.1917F, 221.

Provision for testing election of city officer before city council or other municipal body as exclusive of mandamus. 26 L.R.A.(N.S.) 211.

Mandamus as a proper remedy to enforce duties with respect to nominations. L.R.A.1917E, 480.

As to initiative or referendum election. 50 L.R.A.(N.S.) 216; L.R.A.1917B, 31.

connection with recall election. L.R.A.(N.S.) 229; L.R.A.1916D, 1104.

## c. To corporations.

§ 12. Generally.

To enforce provision of by-laws of corporation. 32 L.R.A. 575.

Mandamus to compel calling of stockholders' or directors' meeting. L.R.A.1915E, 774.

To enforce right to inspect books of corpo-

ration. 45 L.R.A. 457.

Mandamus to compel transfer of corporate stock. 48 L.R.A.(N.S.) 847.

To compel transfer on books of corporation

of stocks purchased in aid of conspiracy against the corporation. L.R.A.(N.S.) 108.

Consult also L.R.A. Digests of Cases. 55

MANDAMUS, II. c-cont'd

13. Public-service corporations.

Right to enforce by mandamus duty of public-service corporation arising wholly from contract. 13 L.R.A.(N.S.) 1084.

As proper remedy to make available franchise in street or highway as against municipality. 6 L.R.A. (N.S.) 782.

To compel delivery of market quotations to bucket shop. 3 L.R.A.(N.S.) 153. To enforce orders of Public Service Commis-

sion. L.R.A.1918E, 304.

§ 14. — water companies.

To enforce contract to supply city with water. 61 L.R.A. 74.

To compel water company to supply individual applicant with water at reasonable rates. 1 L.R.A. (N.S.) 963.

To enforce the right of a stockholder of a water company to water. 24 L.R.A. (N.S.) 372.

§ 15. — railroad companies.
To enforce orders of Public Service Commissions. L.R.A.1918E, 304.

Mandamus to compel railroad to complete its road. L.R.A.1918E, 321.

To compel operation of railroad. 24 L.R.A. 564

To require railroad company to equip its road. 13 L.R.A.(N.S.) 320.

## III. Jurisdiction; procedure; hearing; determination.

§ 16. Generally.

Procedure in mandamus to enforce right to inspect books of corporation. 45 L.R.A. 469.

Conditions precedent to issuance of man-damus to compel issuance of bonds of

municipality or other public corpora-tion. L.R.A.1918C, 421.

Necessity of exhausting remedies within order against decision expelling or suspending a member from a mutual benefit society before resorting to courts for relief by mandamus. 52 L.R.A. (N.S.) 818.

Conclusiveness in mandamus proceeding to restore to membership in benevolent society, of decision of tribunal of society expelling or suspending member. 52 L.R.A.(N.S.) 806.

Right to try, in mandamus proceeding, the question. Who is de facto officer. 13 L.R.A.(N.S.) 661.

Right to attack prima facie title of relator in mandamus to obtain office. L.R.A. 1915A, 832.

Right of relator in mandamus proceedings to attack constitutionality of statute relied upon by respondent. 16 L.R.A. (N.S.) 266.

Right to go behind judgment against county or municipality in mandamus proceedings to enforce same. 9 L.R.A.(N.S.) 1002.

MANDAMUS, III.—cont'd Removal, because of separable controversy, of mandamus proceeding. 5 L.R.A. (N.S.) 98.

§ 17. Jurisdiction.

Original jurisdiction of court of last resort in mandamus case. 58 L.R.A. 833; 38 L.R.A.(N.S.) 1000.

Exclusiveness of jurisdiction of court of last resort to issue remedial writs for prerogative purposes. 13 L.R.A.(N.S.) 768.

§ 18. Parties.

At instance of creditor to compel raising of tax assessment to the full value of the property. L.R.A.1918B, 1107.

By private person to compel removal of obstruction from navigable stream. 38 L.R.A. (N.S.) 763.
Who is real party in interest by whom man-

damus proceedings must be instituted. 64 L.R.A. 622.

§ 19. Pleading.

Sufficiency of petition for mandamus to enforce duties with respect to nominations. L.R.A.1917E, 489.

§ 20. Unconstitutionality of statute as defense against mandamus to

compel its enforcement. Generally. 47 L.R.A. 512; 24 L.R.A. (N.S.) 1260; 34 L.R.A. (N.S.) 1060.

Constitutional change or judicial declara-tion of invalidity. 47 L.R.A. 513. Ministerial duties. 47 L.R.A. 513. To compel tax. 47 L.R.A. 514.

The payment of public money. 47 L.R.A. 516.

Judicial officers. 47 L.R.A. 516. Other decisions. 47 L.R.A. 517. Practice matters. 47 L.R.A. 517.

Cases in which defense was made without any discussion. 47 L.R.A. 518.

§ 21. Relief granted.

Character and extent of relief by mandamus against an officer vested with discretion, who has rendered a decision upon a ground not within his discretion. 7 L.R.A.(N.S.) 525.

## MANDATORY INJUNCTION.

See Injunction, §§ 78, 79.

## MANDATORY STATUTES.

See STATUTES, § 24.

#### MANIA.

As affecting testamentary capacity. L.R.A.(N.S.) 89; L.R.A.1915A, 462. Begin with this book on every law question.

## MANIFOLD COPIES.

As originals. 12 L.R.A. (N.S.) 343.

#### MANSLAUGHTER.

See HOMICIDE.

## MAN TRAP.

Civil liability for injury by, see NEGLI-GENCE, § 21.

Criminal responsibility for death caused by, upon one's own property. 14 L.R.A. (N.S.) 346; 24 L.R.A. (N.S.) 369.

## MANUAL LABOR.

Right to exclude from school for refusal to perform. 41 L.R.A. 603.

#### MANUFACTURE.

\$ 1. Generally.

See also MANUFACTURERS.

Specific performance of contract for sale of manufactured product. L.R.A.1918E,

What constitutes; manufacturers; manufacturing companies; newspapers and publishers; manufactured articles. 14 L.R.A. 107.

Making clothing to measure as manufacturing for purpose of tax laws. 44 L.R.A. (N.S.) 303.

Statute of frauds; distinction between sales of personalty and agreements for work and labor. 43 L.R.A.(N.S.) 97.

May water company be required to furnish water for power or manufacturing purposes. 32 L.R.A.(N.S.) 805.

Construction on ground as manufacturing within provisions of bankruptcy law defining corporations which may be adjudged involuntary bankrupts. 26 L.R.A. (N.S.) 475.

Power to prohibit the manufacture of in-toxicating liquor for one's own use. L.R.A.1918A, 419.

Manufacturing intoxicating liquor under contract as a sale. L.R.A.1917B, 606.

§ 2. Oral contract to manufacture. Contract for as affected by statute of frauds. 14 L.R.A. 232; 43 L.R.A.(N.S.) 97.

Sale distinguished from contract to manufacture. 6 L.R.A. 788;\* 14 L.R.A. 230; 30 L.R.A.(N.S.) 319.

§ 3. Manufacturing as a public pur-

Taking of property for water power for manufacturing, as a public purpose. 22 L.R.A. (N.S.) 160.

MANUFACTURE—cont'd

Furnishing water and water power to public for manufacturing purposes as a public purpose. 21 L.R.A. (N.S.) 410.

§ 4. Measure of damages for breach of contract for manufacture of goods.

Loss of profits as damages on vendee's refusal to take articles manufactured for him. 4 L.R.A.(N.S.) 740; 18 L.R.A. (N.S.) 613.

Loss of profits as element of damages for breach of contract for sale or purchase of articles to be manufactured. L.R.A. 230.

Loss of use of plant as element of damages for failure to deliver material to. 3 L.R.A.(N.S.) 709.

#### MANUFACTURERS.

Presumption and burden of proof as to negligence, see EVIDENCE, § 68.

Monopolistic combinations of, see MONOP-OLIES AND COMBINATIONS, II.

Liability for injury due to defects in articles manufactured, see NEGLIGENCE,

Implied warranty by, see Sales, § 30. Exemption of, from taxation, see Taxes, § 38.

See also MANUFACTURE; MANUFACTURING CORPORATIONS; MANUFACTURING ESTAB-LISUMENTS.

Waiver of manufacturer's lien by attachment or execution. 50 L.R.A. 722.

Legislation to protect against loss of receptacles in which their products are put up. 14 L.R.A.(N.S.) 1128.

Right of municipal corporation to conduct manufactories. 31 L.R.A.(N.S.) 121. Interference by competitor or others with agents of. 9 L.R.A.(N.S.) 904.

Right of one delivering goods for manufacture to claim title as against vendees or creditors of manufacturer. L.R.A. (N.S.) 781, 796.

Validity of agreement by employees of manufacturing companies not to engage in competing business as affected by its scope in time and territorial extent. 24 L.R.A.(N.S.) 939.

Validity of restrictive agreement ancillary to sale of business of. 24 L.R.A. (N.S.) 930; L.R.A.1916C, 631.

Condition imposed by manufacturer as to retail price as binding upon retailer purchasing from middleman. 3 B. R. C. 299.

Right of one liable for damages from defective article to recover over against vendor or manufacturer. L.R.A.1915C, 336.

### MANUFACTURING CORPORATIONS.

Taxation of, see Taxes, § 38, Consult also L.R.A. Digests of Cases. MANUFACTURING CORPORATIONS cont'd

Purchase of supplies by foreign manufacturing corporation as doing business within the state. L.R.A.1917E, 1157.

## MANUFACTURING ESTABLISH-MENT.

Persons working in, as independent contractors. 65 L.R.A. 488, 494.

Supervising employees in, as vice principals. 51 L.R.A. 534, 554, 581. Import of word "additions" in insurance

policy on. 33 L.R.A. (N.S.) 159.

## MANURE.

Tenant's rights as to, see LANDLORD AND TENANT, § 51.

Power of municipal corporation to grant exclusive right for removal of. 21 L.R.A.(N.S.) 830; L.R.A.1915D, 209.

#### MANUSCRIPT.

Common law rights in, see Copyright, § 2. Copyright of, see Copyright.

As baggage. 41 L.R.A. (N.S.) 371. Measure of damages for loss or destruc-tion of. 8 L.R.A.(N.S.) 369.

## MAP.

See PLATS AND MAPS.

#### MARGIN.

Transactions in bucket shops, see Bucker

Validity of dealings on, see CONTRACTS. §§ 106, 116.

#### MARGINAL NOTATIONS.

Effect and construction of marginal notations upon a bill or note relating to the time of payment. L.R.A.1918C, 347.

### MARINE ADVENTURES.

Insurance against loss of profits from. L.R.A.1917C, 730.

### MARINE CORPS.

Enlistment of minor in, without parent's consent. 39 L.R.A. (N.S.) 458.

## MARINE INSURANCE.

Risks covered by policy of, see Insurance, §§ 157, 158.

Cause of loss, see INSURANCE, §§ 157, 158. Extent of loss or recovery, see Insurance, §§ 175, 176.

Actions on policy, see INSURANCE, § 204.

Illegality of policy of marine insurance for lack of insurable interest as affecting right to recover back premiums paid. L.R.A.1917A, 477.

Severability of insurance on same policies. 19 L.R.A. 218.

Set-off in case of bankruptcy. 55 L.R.A.

Conclusiveness of judgment of foreign court of admiralty on policies of marine insurance. 20 L.R.A. 669.

When stipulations limiting time for suit on policy begins to run. 47 L.R.A. 708; 48 L.R.A. (N.S.) 911.

Waters covered by description of waters in policy of marine insurance. L.R.A. 1915C, 408.

Effect of war on contracts with alien enemies. L.R.A.1917C, 675.

Validity of insurance of enemy property against seizure. 5 B. R. C. 836.

Effect of carriage of contraband upon marine insurance. 5 B. R. C. 58.

Liability of insurer of vessel or cargo warranted free from capture. 5 B. R. C. 74.

## ---MARINERS.

See SEAMEN.

## MARINE TORTS.

Loss of profits as element of damages for. 52 L.R.A. 61.

## MARITAL INFIDELITY.

In general, see Adultery; Divorce and SEPARATION; HUSBAND AND WIFE, § 3. Effect of, on gifts between spouses, see HUSBAND AND WIFE, § 50.

Effect of, on marriage settlement, see Hus-. BAND AND WIFE, § 60.

## MARITAL INTERCOURSE.

18al of, as ground for divorce. L.R.A. 685; L.R.9.1915B, 770. Refusal of,

## MARITAL RIGHTS.

Fraud on, see HUSBAND AND WIFE, §§ 43, Begin with this book on every law question.

#### MARITIME CONTRACTS.

What contracts will support maritime lien, see Maritime Liens, § 2.

Admiralty jurisdiction of. 66 L.R.A. 193. Right of servant under maritime law to compensation in case of incomplete performance of his contract because of physical disability. 28 L.R.A. (N.S.)

## MARITIME JURISDICTION.

See ADMIRALTY, §§ 2, 3.

#### MARITIME LAW.

Doctrine of maritime law as to termination of contract of employment by death of servant during stipulated term. 21 L.R.A.(N.S.) 929.

#### MARITIME LIENS.

§ 1. Generally.

May two or more vessels be subjected to a joint maritime lien. L.R.A.1917E, 529. Lien of decree in admiralty. 47 L.R.A. 480. For wharfage charges. 70 L.R.A. 209.

Does lien upon vessel for safe carriage attach while goods are in lighter prepara-tory to being loaded on vessel. 24 L.R.A. (N.S.) 569.

Acceptance of commercial paper as dis-charge of material and supplies. 35 L.R.A.(N.S.) 94.

Rights of lief holders as to captured property. 5 B. R. C. 1002.

§ 2. What contracts will support. General principles. 70 L.R.A. 354. Decisions by common-law courts 70 L.R.A. 35**8**.

To pay for services of vessel. 70 L.R.A. 368.

General average. 70 L.R.A. 375.

Salvage. . 70 L.R.A. 376.

Contracts with seamen. 70 L.R.A. 377. Contract between master and ship. L.R.A. 381.

Contracts with other persons. 70 L.R.A. 384.

Other contracts for services and benefits generally. 70 L.R.A. 388.

Contracts for supplies and repairs. L.R.A. 391.

Contracts for construction. 70 L.R.A. 413. Advances. 70 L.R.A. 414. Mortgage, purchase money, drafts.

L.R.A. 417. Bottomry. 70 L.R.A. 418. Respondentia. 70 L.R.A. 429.

Hypothecation of freight. 70 L.R.A. 431. Contract for ship's services. 70 L.R.A. 432.

Effect of English statutes. 70 L.R.A. 436.

#### MARK.

§ 1. Generally. On ballots, see Elections, § 21. Trademarks, see TRADEMARK.

Right of witness to express opinion as to. L.R.A.1918A, 732.

Value and weight of expert testimony as to.

L.R.A.1918D, 644. Indicating owner of property found. 37 L.R.A. 123.

Identification by marks of goods sold out of a larger lot. 26 L.R.A.(N.S.) 16. On negotiable paper as putting purchaser on inquiry. 29 L.R.A.(N.S.) 376.

Marking of location of mining claim. L.R.A. (N.S.) 856.

§ 2. Signature by. Signature to will by, see WILLS, § 22. Attestation of will by, see WILLS, § 31.

Signature by. 12 L.R.A. 205;\* 22 L.R.A. 370.

Does ability to write invalidate signature made by. 7 L.R.A.(N.S.) 1193.

§ 3. - proof of.

Proof of. 64 L.R.A. 313.

By subscribing witness. 35 L.R.A. 350. When attesting witnesses are dead or cannot remember the transaction. L.R.A. 142.

Effect of adverse testimony of attesting witnesses as to execution of will signed by mark. L.R.A.1916C, 1240.

Comparison of, in disputed instrument. 65 L.R.A. 95.

Value and weight of expert testimony. L.R.A.1918D, 644.

## MARKETABLE TITLE.

Effect on, of failure to make one a party to suit, see Parties, § 35. To real property sold, see VENDOR AND PURCHASER, §§ 15-18.

## MARKET HOUSE.

Liability of municipal corporation for tort in connection with. 25 L.R.A. (N.S.) 95.

## MARKET PLACE.

Power of municipal corporation to grant or lease space on street or sidewalk for purposes for, 25 L.R.A.(N.S.) 401.

#### MARKET PRICE.

Extent of recovery for breach of contract for sale of article without market price, see Damages, § 36.

Consult also L.R.A. Digests of Cases.

MARKET PRICE-cont'd

False statement as to, see FRAUD AND DE-CEIT, § 10.

As measure of damages for loss or conversion of or injury to household goods or wearing apparel. L.R.A.1917D, 496.

Loss of profits as element of damages for breach of sale or purchase of article having no market. 52 L.R.A. 219.

Effect on contract of providing for payment at. 53 L.R.A. 293.

## MARKET QUOTATIONS.

Property rights in. 7 L.R.A.(N.S.) 889. Mandamus to compel delivery of, to bucket shop. 3 L.R.A. (N.S.) 153.

## MARKETS.

1. Generally.

Municipal control over, see MUNICIPAL CORPORATIONS, § 44.

Necessity of franchise for. 37 L.R.A. 718. Delegation of municipal power as to. 20 L.R.A. 726,

Validity of classification in Sunday law as to keeping open. 14 L.R.A. (N.S.) 1259.

Implied power of municipality to purchase real estate on credit for establishment of. 4 L.R.A.(N.S.) 746. Power to make use of property for, con-

ditional upon consent of neighbors. 8 L.R.A. (N.S.) 978.

§ 2. Market regulations restricting sales.

American cases. 24 L.R.A. 584. English cases. 24 L.R.A. 587.

3. Use of street for.

Using street for market purposes. L.R.A. 558. As additional burden on easement. 14

L.R.A. 480.

Liability of municipality for obstruction or defect in street by market. 20 L.R.A. (N.S.) 614.

Injunction against city as to nuisance of. 23 L.R.A. 303.

## MARKET VALUE.

See MARKET PRICE.

## MARKING.

Of mine upon the ground, see MINES, § 18.

## MARRIAGE.

I. In general, §§ 1-4.

II. Validity generally, \$\$ 5-7.

III. Capacity of parties; who may marry, \$\$ 8-13.

IV. Effect of marriage, \$\$ 14, 15.

## V. Annulment, \$\$ 16-20.

## I. In general.

§ 1. Generally. Relation by, see AFFINITY.

Breach of promise to marry, see BREACH OF PROMISE.

Rights and duties of husband and wife, generally, see HUSBAND AND WIFE.

Effect of misrepresentation or concealment as to character on marital relation, see CHARACTER, § 3.

Conflict of laws as to, see CONFLICT OF Laws, § 13.

Constitutionality of statutes as to, see CONSTITUTIONAL LAW, § 118.

Validity of contract affecting marriage relation, see Contracts, § 82.

As to divorce, see DIVORCE AND SEPARATION. Admissibility of hearsay evidence, as to, see Evidence, § 219.

Sufficiency of proof of, see EVIDENCE, § 295. Insurance on intended husband's life, see FIANCEE.

Specific performance of contract to provide for party to, see Specific Perform-ANCE, § 8.

Mental anguish at failure to prevent unsuitable marriage as element of damages in telegraph cases. 49 L.R.A. (N.S.) 238.

Power of consul to perform marriage ceremony. 45 L.R.A. 497.

Belief in invalidity of former marriage as defense to prosecution for bigamy. 27 L.R.A.(N.S.) 1103.

Injunction against enforcing invalid con-tracts relating to marriage. 48 L.R.A.

Federal courts following state decisions as to construction and effect of statutes in relation to. 40 L.R.A.(N.S.) 431.

Offer of marriage as defense to prosecution for seduction. 29 L.R.A.(N.S.) 421.

Release of promise to marry as consideration for contract. 19 L.R.A.(N.S.) 656.

Promise of marriage as a false pretense. L.R.A.1917E, 808.

Fraudulent inducement by one party to a void marriage as ground for civil action in favor of other party. 33 L.R.A. 411.

Liability for fraud in inducing one to marry a third person. 46 L.R.A. marry a third person. (N.S.) 98.

Enticement of minor for purpose of marriage. 45 L.R.A.(N.S.) 871.

Liability for improperly issuing marriage license. or performing marriage ceremony. L.R.A.1917E, 868.

Improper issuance of license. L.R.A. 1917E, 869.

MARRIAGE, I.—cont'd Improper performance of ceremony. L.R.A.1917E, 873.

Effect of ignorance or mistake as to age. 29 L.R.A. (N.S.) 504; L.R.A.1917E, 874.

Admissibility of declarations of persons since deceased, against his or her own marriage. 15 L.R.A.(N.S.) 190.

Slander in charging woman with unchastity causing loss of marriage. 24 L.R.A. (N.S.) 599.

Agreement for payment of amount speculative on marriage as insurance. 47 L.R.A.(N.S.) 299.

# § 2. Property or services acquired or rendered during unlawful mar-

Right to invoke aid of court to determine rights to property accumulated in common by parties living in illicit relations. 36 L.R.A.(N.S.) 838.

Right to recover for household services rendered while parties were living together under void marriage. 29 L.R.A. (N.S.) 788.

## § 3. Restraints on.

Devise or bequest in restraint of, see Wills, § 85.

Existence of restraint. 4 B. R. C. 83. Validity of restraint. 4 B. R. C. 84.

As affected by fact that provision is for a daughter or other female relative. 4 B. R. C. 109; 49 L.R.A. (N.S.) 606.

Validity of provision for person while unmarried. 2 L.R.A.(N.S.) 545.

Condition against marriage with a par-

ticular person or class of persons. L.R.A.1917A, 44. Legislative power to forbid marriage. 2 L.R.A.(N.S.) 531; 52 L.R.A. (N.S.) 778.

The interrorem doctrine. 4 B. R. C. 113. Provision as a condition or a limitation. 4 B. R. C. 128.

Provision as a condition precedent or subsequent. 4 B. R. C. 142.

Effect of provision on estate taken. 4 B. R. C. 147.

Performance. 4 B. R. C. 190. Breach. 4 B. R. C. 191.

Character of gift as one of realty or personalty. 4 B. R. C. 194.

Construction of provisions. 4 B. R. C. 195. Statutes and their effect. 4 B. R. C. 205.

Gifts over by implication where property is given over at death and first taker marries, or vice versa. 4 B. R. C. 206.

Contracts in restraint of marriage. 4 B. R. C. 215.

Construction of conditions against marriage with a certain person or a particular class of persons. L.R.A.1917A. 44.

Equitable relief against forfeiture of estate under condition against marriage. '69 L.R.A. 858.

Begin with this book on every law question.

MARRIAGE, I.—cont'd

§ 4. How proved.

Presumption and burden of proof as to, see EVIDENCE, §§ 27, 28.
Sufficiency of proof of marriage, see EVI-

DENCE, § 295.

Cohabitation as proof of, where it begins unlawfully. 14 L.R.A. 364.

## II. Validity generally.

5. Generally.

Effect of fraud on marriage, see FRAUD AND DECEIT, §§ 16, 30.

Devise or bequest to one described as "husband," "wife" or "widow" as affected by illegality of marriage. L.R.A.1917B, 1153.

Laws governing validity of. 57 L.R.A. 155; 11 L.R.A.(N.S.) 1082; 17 L.R.A. (N.S.) 800; 26 L.R.A.(N.S.) 179; 28 L.R.A.(N.S.) 753; 43 L.R.A.(N.S.) 355.

Law governing legitimacy as dependent on validity of marriage. 65 L.R.A. 177. Common-law marriage; effect of statute.

2 L.R.A.(N.S.) 353.

General characteristics and validity of common-law marriage. L.R.A.1915E,

Sufficiency of words and conduct to constitute common-law marriage, or of circumstantial evidence to imply marriage. L.R.A.1915E, 60.

Effect of marriage statutes to abrogate the common law. L.R.A.1915E, 113.

Effect upon duly solemnized marriage of absence of license required by statute. 15 L.R.A. (N.S.) 463.

Presumption of marriage license. 14 L.R.A. 541.

Presumptions flowing from marriage ceremony. L.R.A.1915E, 186.

Sufficiency of ceremony for remarriage of divorced Catholics. L.R.A.1917C, 1020. Unlawful or invalid marriage as void or voidable, L.R.A.1916C, 690.

§ 6. Effect of duress to avoid marriage.

Effect of, generally. 43 L.R.A. 814. What duress is sufficient. 43 L.R.A. 814. Ratification. 43 L.R.A. 818. Matters of procedure. 43 L.R.A. 819. Marriage induced by duress as void or voidable. L.R.A.1916C, 706.

7. Ratification of invalid marriage. Of marriage of person when insane. L.R.A. 741.

Of marriage effected by duress. 43 L.R.A. 818.

Cohabitation as ratification of forced marriage. 27 L.R.A. (N.S.) 805.

III. Capacity of parties; who may marry.

§ 8. Generally. Conflict of laws as to, see CONFLICT OF | Conflict of laws as to, see CONFLICT OF Laws, § 13. Consult also L.R.A. Digests of Cases.

MARRIAGE, III.—cont'd

Marriage of infant, see INFANTS, § 15. Marriage between whites and negroes, see

MISCEGENATION.

Presumption as to capacity flowing from marriage ceremony. 16 L.R.A.(N.S.) 100.

Effect of intoxication on marriage. L.R.A. 87.

Incestuous marriage as void or voidable. L.R.A.1916C, 723.

Validity of marriage with relative by marriage. L.R.A.1916C, 756.

Marriage of physical incompetent as void or voidable. L.R.A.1916C, 694.

§ 9. Persons under age of consent. Conflict of laws as to validity. 57 L.R.A.

172; 43 L.R.A. (N.S.) 355.

Validity of marriage of persons of nonage. 22 L.R.A.(N.S.) 1202; L.R.A.1916C, 740.

Effect of parents' consent. 22 L.R.A. (N.S.) 1206.

Effect of statute fixing age of consent in defining statutory rape as determining age of consent for marriage. 21 L.R.A. (N.S.) 847.

Liability for issuing marriage license or performing marriage ceremony where one of parties was under the age of consent. L.R.A.1917E, 868.

§ 10. Marriage of person while insane.

Invalidity of. 40 L.R.A. 737. Degree of incapacity which will affect. 40 L.R.A. 738.

Test of capacity to contract. 40 L.R.A. 738. Test of capacity to know the nature of the act. 40 L.R.A. 739.

Incapacity combined with fraud. 40 L.R.A. 740.

Incapacity as a ground for divorce. L.R.A. 740.

Ratification and waiver of right to attack.

40 L.R.A. 741. Evidence of incapacity. 40 L.R. The annulment. 40 L.R.A. 744. 40 L.R.A. 742.

Mental capacity essential to a valid mar-riage. 38 L.R.A.(N.S.) 818.

Test of insanity which will render marriage void. 3 B. R. C. 455.

Marriage of mental incompetent as void or voidable. L.R.A.1916C, 700.

Effect of recovery of sanity after commence-ment of cohabitation between parties married while one of them was insane. 3 L.R.A.(N.S.) 247.

Misrepresentations or concealment as to antenuptial insanity as ground for annulment of marriage. 13 L.R.A. (N.S.)

Desire of aged person to marry as ground for appointment of guardian. L.R.A. (N.S.) 475.

§ 11. Persons already married. Bigamy, see BIGAMY.

Laws, § 13.

MARRIAGE, III.—cont'd

Validity of agreement to marry where one of the parties is already married. 1 B. R. C. 917.

Conflicting presumptions as to validity of former marriage. 16 L.R.A. (N.S.) 104.

Presumption as to validity of former marriage in prosecution for bigamy. 9 L.R.A.(N.S.) 1036.

Presumption flowing from ceremonial mar-riage of person during lifetime of for-

mer spouse. L.R.A.1915E, 186.
Bigamous marriage as void or voidable.
L.R.A.1916C, 711.

## 12. Divorced persons.

Effect of, see infra, § 15.

Conflict of laws as to, see CONFLICT OF LAWS, § 13.

Conflict of laws as to. 24 L.R.A. 831; 57 L.R.A. 169; 43 L.R.A.(N.S.) 358.

Validity of marriage contracted within prohibited time after divorce. 1916C, 748.

Effect of statutes forbidding remarriage of guilty party after divorce. L.R.A. 831; 57 L.R.A. 169.

Effect of right to appeal from divorce decree on party's right to remarry. 17 L.R.A.

Petition for modification of divorce decrees to cancel prohibition against a new

marriage. L.R.A.1917B, 495.
Remarriage of divorced Catholics. L.R.A. 1917Č, 1020.

## § 13. Subsequent removal of impedi-

Effect of removal of impediment to marriage after parties have begun cohabitation. 3 L.R.A.(N.S.) 244.

Inference or presumption of marriage from continued cohabitation following removal of impediment. L.R.A.1915E, 91.

## IV. Effect of marriage.

## ß 14. Generally.

Presumption flowing from marriage ceremony, see Evidence, § 28.

As effecting revocation of wills, see WILLS,

Effect of marriage upon wife's status as an alien. 22 L.R.A. 148; L.R.A.1916D, 132.

How far marriage of infant works emancipation. 16 L.R.A. 578; 24 L.R.A. (N.S.) 160.

Marriage of insured as affecting previous designation of beneficiary. 49 L.R.A. (N.S.) 141.

Effect of marriage of ward on settlement between guardian and ward out of court. L.R.A.1916E, 871.

Effect of injured party's marriage to one of several joint tort feasors to release all. 58 L.R.A. 307.

Marriage of woman after personal injury as

affecting damages. L.R.A.1916C, 592.

Begin with this book on every law question.

MARRIAGE, IV.—cont'd

Effect of marrying witness in order to prevent her from testifying. 67 L.R.A. 499.

Effect of intermarriage between debtor and creditor upon indebtedness. . 21 L.R.A. (N.S.) 683; L.R.A.1915D, 1126.

Law governing effect of subsequent marriage to legitimate children previously born. 65 L.R.A. 178.

Effect of contracting or dissolution of, after initiation, but before consummation of right under homestead entry. 7 L.R.A. (N.S.) 967.

Effect of ceremonial marriage to overcome presumption arising from cohabitation and reputation. 16 L.R.A.(N.S.) 102.

Marrying out of state contrary to decree as contempt of court. 40 L.R.A.(N.S.) 765.

Marriage as ground for non-appointment or dismissal of teacher. L.R.A.1916C, 795.

Effect of remarriage upon widow's existing homestead rights. L.R.A.1916A, 1000.

### § 15. Of divorced person.

Conflict of laws as to, see CONFLICT OF Laws, § 13.

Effect of marriage contracted within prohibited time after divorce. L.R.A.1916C, 748.

Effect on attack on divorce decrees of new marriage by spouse granted decree. L.R.A.1917B, 489.

Effect of widow's remarriage on right of children in homestead. 56 L.R.A. 70.

Effect of marriage of mother on right to appointment as guardian of minor child. 33 L.R.A.(N.S.) 875.

Intermarriage of parties to a divorce upon the right to alimony or provision in lieu of alimony. 3 L.R.A.(N.S.) 923. Effect of second marriage upon obligation to pay alimony. 62 L.R.A. 975; L.R.A. 1915F, 820.

## V. Annulment.

## § 16. Generally.

Divorce or separation, see DIVORCE AND SEP-ARATION.

Effect of conviction and sentence upon marriage relation. 31 L.R.A. 515.

Power to compel plaintiff in suit for annulment of marriage to submit to a physical examination. 14 L.R.A. 466.

Annulment of marriage on publication where defendant is absent from the country. 19 L.R.A. 820.

Condonation of loathsome disease as defense to action for annulment. 5 L.R.A. (N.S.) 729.

## § 17. Jurisdiction.

See Courts, § 8; Equity, § 12.

## § 18. Grounds for.

Antenuptial pregnancy or unclastity as a ground of divorce or annulment of marriage. 18 L.R.A. 375; L.R.A. 1916E, 650.

MARRIAGE, V.-cont'd

Misrepresentations or concealment as to one's physical or mental condition as ground for annulment of marriage. 13 L.R.A.(N.S.) 996.

Misrepresentation as to disposition or general character as ground for. 30 L.R.A. (N.S.) 301.

Annulment of marriage of person while in-

sane. 40 L.R.A. 744.
Test of insanity which will justify annulment of marriage. 3 B. R. C. 455.

Annulment because of intent not to perform duties of marital relation. L.R.A. 1916E, 1274.

What constitutes duress for which marriage may be annulled. 27 L.R.A. (N.S.) 803.

Right to avoid marriage entered into, to escape prosecution for seduction, upon ground of duress. 16 L.R.A.(N.S.) 938.

§ 19. Effect of. .

On community property, see Husband and Wife, § 30.

Of marriage entered into while insane. 40 L.R.A. 746.

Effect of annulment on property held by the entireties. 30 L.R.A. 333.

Division of property upon the annulment of marriage. 36 L.R.A.(N.S.) 844.

Devise or bequest to one described as "husband," "wife" or "widow" as affected by annulment of marriage. L.R.A. 1917B, 1156.

Conclusiveness as to third persons of decree in suit for annulment as to facts adjudicated as distinguished from status established. 39 L.R.A. (N.S.) 559; L.R.A. 1915C, 870.

§ 20. Alimony.

As to alimony in divorce suit, see DIVORCE AND SEPARATION, §§ 34-49.

Alimony in suit to annul marriage. L.R.A.(N.S.) 192.

Right to temporary alimony on annulment of marriage. 26 L.R.A. (N.S.) 500.

Power, upon annuling a marriage, to require man to provide for support of woman or child. 5 L.R.A. (N.S.) 767.

## MARRIAGE BROKAGE.

Validity of marriage brokage contracts. 3 B. R. C. 643. Injunction against enforcing marriage brok-

age bonds. 48 L.R.A. 843.

## MARRIAGE CEREMONY.

Presumption from, see EVIDENCE, § 28.

## MARRIAGE SETTLEMENT.

See Husband and Wiff, §§ 55-61.
Consult also L.R.A. Digests of Cases.

## MARRIED PERSONS.

In general, see HUSBAND AND WIFE. Marriage of, see MARRIAGE, § 11.

## MARRIED WOMEN.

See HUSBAND AND WIFE.

## MARSHAL.

Deputy marshal, see DEPUTY, § 2.

Applicability to, of Workmen's Compensation Acts. L.R.A.1918F, 191.

As public officer. 17 L.R.A. 245; 36 L.R.A. (N.S.) 882.

Liability of marshal executing invalid search warrant. 49 L.R.A. (N.S.) 770.

Liability of, for his deputy's tort in making arrest. 12 L.R.A. (N.S.) 1019; L.R.A. 1915E, 172.

Liability of sureties on bond of, for death of person due to act or default of principal or one of his deputies. 11 L.R.A. (N.S.) 758.

#### MARSHALING ASSETS AND SECURI-TIES,

§ 1. Generally.

Of assets as affecting priority of United States. 29 L.R.A. 238.

Of funds of mutual fire insurance companies. 32 L.R.A. 498.

Marshaling assets for benefit of mortgagor. 47 L.R.A.(N.S.) 302.

Duty of one debtor to exonerate the other, as affecting the rule which denies the right to marshal assets where the funds are not derived from a common source, or are not in the hands of a common debtor. 12 L.R.A.(N.S.) 965.

Right of junior creditor to compel paramount creditor to resort primarily to property of third person which may be subjected to payment of his claim. 39 L.R.A.(N.S.) 1000.

Right of holders of concurrent mortgages or debentures ranking pari passu to have interest equalized before distributing proceeds of security. 7 B. R. C. 91.

§ 2. Inverse order of alienation.

Rule as to inverse order of alienation as affected by assumption of mort-gage debt. 39 L.R.A.(N.S.) 359.

## MARSHES.

Surface water as distinguished from. 25 L.R.A. 529.

Taking of property for reclamation of, as a public purpose. 22 L.R.A.(N.S.) 163. Right to hasten flow of water from. 19 L.R.A.(N.S.) 169; L.R.A.1916F, 429.

## MARTIAL LAW.

Martial law when there is no actual war. 65 L.R.A. 193.

Continuance of constitutional guaranties during war or insurrection. 45 L.R.A. (N.S.) 996.

#### MASONIC HALL.

35 Assessment for local improvement. L.R.A. 38.

#### MASSAGE.

Application of statute regulating practice III. Duty and liability of master to of medicine to persons giving special kinds of treatment. 3 L.R.A.(N.S.) 762; 24 L.R.A.(N.S.) 103; 25 L.R.A. (N.S.) 1297; L.R.A.1917C, 825.

#### MASSES.

Validity of bequests for; secret trusts to use for masses. 25 L.R.A. 360; 40 L.R.A. 717; 37 L.R.A. (N.S.) 1005. Enforcement of general bequests for. 14 L.R.A. (N.S.) 96.

Who may enforce trust for. 46 L.R.A. (N.S.) 222.

## MASSEURS.

See MASSAGE.

## MASTER.

§ 1. Of vessel. Admiralty jurisdiction of contracts of. 66 L.R.A. 228.

Maritime lien of. 70 L.R.A. 437.

Authority to give maritime lien for supplies and repairs. 70 L.R.A. 391.

§ 2. In chancery.

Right of woman to be. 38 L.R.A. 213. Waiver by cross-examination of objection to testimony taken before. 33 L.R.A. (N.S.) 108.

## MASTER AND SERVANT.

- I. In general, § 1.
  II. Rights and relation generally,
  §\$ 2-47.
  - a. In general, \$\$ 2-9.
  - b. Statutes affecting relations, \$\$ 10-12.

Begin with this book on every law question.

## MASTER AND SERVANT, II.—cont'd

- c. Products of servant's labor or inventions, §§ 13, 14.
- d. Validity of contract, \$\$ 15, 16.
- e. Authority of employee, §§ 17-18a.
- f. When relation exists, §§ 19-
- g. Wages; compensation, §\$ 24-31.
- h. Hours of labor, §\$ 32, 33.
- i. Termination 'of relation; discharge; enticing, \$\$ 34-47.
  - 1. In general, §§ 34-39.
  - 2. Discharge, §§ 40-46.
  - 3. Enticing; procuring discharge, § 47.
- servant, §§ 48-169a.
  - a. Nature and extent of mas-ter's duty, \$\$ 48-108.
    - 1. In general, \$\$ 48-64.
    - 2. Knowledge as element of employer's liability, \$\$ 65-68.
    - 8. Scope of employment; direct command, \$\$ 69, 70.
    - 4. As to rules and regulations for conduct of business, \$ 71.
    - 5. Duty to warn or instruct servant, §§ 72-78.
      - (a) In general, 35 72-75.
      - (b) Children, §\$ 7G-78.
    - 6. Safety as to place, appliances, and tools, §§ 79-103.
      - (a) In general, §\$ 79-87.
      - (b) Machinery, §§ 88-*90*.
      - (c) In mines, \$\$ 91, 91a.
      - (d) Railroad and street railway cases, §§ 92-97.
      - (e) Inspection, §§ 98-102.
      - (1) Superintendence and supervision, \$ 103.
    - 7. Selection, employment, and retention of fellow servants, §§ 104-106.
    - 8. Liability to volunteer, employee's assistant, or servants of third persons, §§ 107-108a.
  - b. Assumption of risk, \$\$ 109-122.
  - c. Contributory negligence, \$\$ 128-181.

MASTER AND SERVANT, III.—cont'd d. Fellow servants, \$\$ 132-169a.

1. In general, \$\$ 132-138.
(a) Generally, \$ 132.

(a) Generally, \$ 132. (b) Concurrent neyligence of master and fellow servant, \$\$ 133, 134.

(c) Fellow servant rule as affected by statute, § 135.

(d) Who are fellow servants generally. \$\$ 136, 137.

ly, §§ 136, 137.
(e) For what acts of fellow servant master is liable, § 138.

2. Common employment, apart from statute, where no question as to vice principalship, \$\$ 139-143.

8. Vice principal; superior servant, \$\$ 144-169a.

(a) In general, § 144.

(b) Considered with reference to rank of superior servant, §§ 145-152.

(c) Vice principalship as determined with reference to character of act causing injury; delegation of duty, \$\$ 153-169a.

(1) In general, \$\$ 153, 154.

(2) Liability of master for negligence of coservant, §§

(3) Delegation of master's duty, §§ 163-169a.

IV. Liability of master to third person, \$\$ 170-195.

a. For acts of servants or agents, \$\$ 170-184.

 In general, \$\$ 170-180.
 Scope of employment; disobedience of orders,

disobedience of orders, \$\$ 181-184. For acts of independent

b. For acts of independent contractors, \$\$ 185-195.

In general, §§ 185-188.
 For what acts of contractor employer is liable, §§ 189-194.

8. Who are independent contractors, § 195.

V. Liability of servant or contractor, \$\$ 196-198.

Consult also L.R.A. Digests of Cases.

MASTER AND SERVANT—cont'd VI. Joint liability of master and servant, § 199.

VII. Liability of third person to servant or master, \$\$ 200-202.

## I. In general.

§ 1. Generally.

As to apprentices, see APPRENTICES. Servant's fraud in examining vouchers, see

BANKS, § 29.

Bond insuring fidelity of employee, see
BONDS. § 11.

BONDS, § 11.
Employees of carrier as passengers, see
CARRIERS, § 6.

Character of employee, see Character, § 2. Relation between carriers and employees in matters affecting interstate commerce, see COMMERCE, § 19.

Employment agencies, see Constitutional Law, § 88.

Custom of, see Custom and Usage, §§ 3, 4. Servant's choice of remedy, see Election of Remedies, § 7.

Employers' indemnity insurance, see Insurance, §§ 212-217.

Employees in mine, see MINES, §§ 39-12. Ratification by employer, see RATIFICATION,

§ 4.
Action by father for seduction of child, see SEDUCTION, § 4.

Sickness of employee, see SICKNESS, § 9. Service on employee, see WRIT AND PROCESS, § 23.

Effect of servant's authority to enter building on sufficiency of breaking to constitute burglary. L.R.A.1915D, 1015.

Validity of contract or option by director for purchase of stock of employee of corporation upon discontinuance of employment. L.R.A.1916D, 1117.

Trust for benefit of employees as a charitable trust. 7 B. R. C. 180. Liability of carrier for loss of property of

Liability of carrier for loss of property of employer in passenger's baggage. L.R.A. 1918C, 114.

Lien of innkeeper on goods of master of guest. 21 L.R.A. 230.

Robbery by taking property from servant. 67 L.R.A. 346.

Effect of servant's consent to taking of property on crime of larceny. 7 L.R.A. (N.S.) 1149.

Competency as juror of employee or relative of employee of party or person interested in action. 40 L.R.A.(N.S.) 982.

Disqualification of employee of party interested in eminent domain proceedings to serve as commissioner or juror. 47 L.R.A.(N.S.) 168.

Right of employer who has been held liable for tort of or upon servant or contractor to recover from the actual wrongdoer. 40 L.R.A. (N.S.) 1153.

Admissibility of reports by employee to employer to prove fact in issue. 18 L.R.A. (N.S.) 231; 25 L.R.A. (N.S.) 930; 47 L.R.A. (N.S.) 830.

5

MASTER AND SERVANT, II. c-cont'd Right of principal or employer to earnings by agent or servant who undertakes extraneous work. L.R.A.1916D, 782.

Inventions of employees. L.R.A. (N.S.) 1173; L.R.A.(N.S.) 1177.

Right of public to benefit of discoveries, inventions, devices, data, etc., made or prepared by employee. L.R.A.1917B, 1183.

Implication from government's use of patented invention of employee, of promise to pay royalty. 44 L.R.A.(N.S.)

## 14. Literary work.

Respective rights of master and servant in intellectual work. 51 L.R.A. 359.

Rights of employer and employee with respect to literary or pictorial work of employee. 1 B. R. C. 324.

Literary work of employees. 5 L.R.A. (N.S.) 1187.

## d. Validity of contract.

§ 15. Generally.

As to length of employment, see supra, § 5.

provisions of statute, see supra, Under

§ 11. Master's liability for injury to servant as affected by contract, see infra, §§ 52,

Measure of damages for employee's breach of contract by employee, see DAMAGES, § 24.

Measure of damages for master's breach of contract of employment, see DAMAGES, §§ 25, 25a.

Mutuality of contract of employment which, by its terms, is binding upon only one of the parties for the time designated. 20 L.R.A.(N.S.) 899.

Validity of agreement at common law by which employer seeks to direct trade of his employees to other parties. 24 L.R.A. (N.S.) 649.

Effect of statute of frauds on parol contracts of employment which may but are not intended to be performed within a year. 15 L.R.A.(N.S.) 321.

Constitutional objections to convict labor

contracts. L.R.A.1916D, 660.

Validity under the Federal employers' liability act of contract requiring notice in writing. L.R.A.1915F, 551.

Validity of contract of employment indefinite and uncertain as to kind of employment or amount of remuneration. 48 L.R.A.(N.S.) 435.

Validity of contract to employ union labor only. 45 L.R.A.(N.S.) 564.

§ 16. Not to engage in competitive business.

See (ONTRACTS, §§ 109, 118.

Begin with this book on every law question.

MASTER AND SERVANT, II .-- cont'd

## e. Authority of employee.

§ 17. Generally.

Authority of agent generally, see PRINCI-PAL AND AGENT, IV.

Implied or apparant authority of employee to bind principal for board or traveling expenses. L.R.A.1916B, 754.

Implied or presumed authority of superintendent of department to contract as to matters relating to his department. 38 L.R.A. (N.S.) 1135.

Inference of employee's authority to expel trespassers from practice of doing so. 34 L.R.A.(N.S.) 693.

Authority of child to bind parent by contracts other than those for necessaries as implied from child's employment by father. 39 L.R.A. (N.S.) 882.

Right of conductor to waive conditions in stock drover's pass. 27 L.R.A.(N.S.)

Authority of superintendent to contract for payment of employees while laid off. 41 L.R.A.(N.S.) 1141.

Authority of employee to entrust management of vehicle of which he had charge to another, so as to render the master liable for the latter's negligence. 6 B. R. C. 705.

§ 18. To employ physician.

Authority of agent or other representative of railroad company to employ medical services for injured person. 20 L.R.A. 695; 16 L.R.A. (N.S.) 1081.

§ 18a. — for injured employee.

Authority of agent or representative to employ medical services for employee. 20 L.R.A. 695.

Implied power of employee to employ physician to attend injured employee. L.R.A. (N.S.) 351; L.R.A.1915C, 809.

Liability of master for medical attendance engaged by employee who, by the contract of employment, was entitled to such attendance. 37 L.R.A.(N.S.) 757.

## f. When relation exists.

§ 19. Generally.

Liability for injury to servant while not at work, see infra, § 61.

Payment of wages as test of existence of relation. 37 L.R.A. 38.

Servant sharing in profits as a partner. 18 L.R.A. (N.S.) 1032; L.R.A.1918F, 801.

Firemen as servants or agents of owner of 39 L.R.A. (N.S.) burning property.

May one in charge of a vehicle under a contract purporting to be a bailment or a lease be regarded as a servant of the owner as to a third person injured by the vehicle. 6 L.R.A. (N.S.) 544.

§ 20. Which of two or more persons is master of third.

Generally. 37 L.R.A. 33.

MASTER AND SERVANT, II. f—cont'd Tests of the existence of the relation of

master and servant. 37 L.R.A. 38.

Effect of plaintiff's ignorance of actual conditions. 37 L.R.A. 45.

Liability for acts of servants regularly acting for dissociated employers in different capacities. 37 L.R.A. 47.

Relationship where servants are hired by one in the employment of another. 37 L.R.A. 48.

Whose servants are the crew of a chartered vessel. 37 L.R.A. 54.

Position of servants of railroad companies which are using the same premises. 37 L.R.A. 59.

Position of servants working for connecting carriers. 37 L.R.A. 64.

Relation between a lessor or licensor and the servants of the lessee or licensee. 37 L.R.A. 65.

Position of servants delivering or receiving goods elsewhere than at the employer's place of business. 37 L.R.A. 66.

Position of servants working on the same trains. 37 L.R.A. 68.

Position of servants delegated to perform work contracted for by their master. 37 L.R.A. 69.

Constructive service as predicated from the necessity of discharging special obligations to the public. 37 L.R.A. 81.

Position of servants operating railroads for receivers and trustees for mortgage bondholders. 37 L.R.A. 85.

§ 21. For purpose of holding master lirble for servant's acts.

Liability of railroad company for acts of Pullman car employees, see CARRIERS, § 97.

Actions by third persons for injuries due to negligence of servants hired by independent contractor. 37 L.R.A. 50.

Liability for acts of servants regularly acting for dissociated employers in different capacities. 37 L.R.A. 47.

Liability of general employer for negligence of employee while assisting a third person without the former's knowledge or consent. 4 L.R.A.(N.S.) 651.

Who is responsible for acts of driver furnished with a hired vehicle. 13 L.R.A. (N.S.) 1122; 16 L.R.A.(N.S.) 816; 25 L.R.A.(N.S.) 33; 38 L.R.A.(N.S.) 973; L.R.A.1918E, 121.

Liability of hirer of team for damage to team or wagon by negligence of driver in general employ of owner. L.R.A. 1916F, 1039.

Liability of employer for negligence of one to whom servant intrusted management of vehicle of which he had charge. 6 B. R. C. 705.

Liability of one undertaking to give instruction in driving automobile for negligent operation during instruction as affected by question whether person in charge of the car was acting as the agent of the one sought to be charged. L.R.A.1917A, 397.

Consult also L.R.A. Digests of Cases.

MASTER AND SERVANT, II. f—cont'd Liability of automobile owner for negligence of chauffeur furnished by third person. 39 L.R.A. (N.S.) 933; 48 L.R.A. (N.S.) 424.

Who is responsible for negligence of chaufieur operating a leased or demonstrating car. 40 L.R.A.(N.S.) 457; 44 L.R.A.(N.S.) 113; 51 L.R.A.(N.S.) 1164.

Liability of owner of automobile for injury by car while being run by one to whom it has been entrusted for storage or repairs. 51 L.R.A.(N.S.) 772; L.R.A. 1916B, 762.

Making prima facie case of responsibility for negligence of driver of automobile by proof of defendant's ownership of car or employment of driver. 46 L.R.A.(N.S.) 1091; L.R.A.1918D, 924.

L.R.A. (N.S.) 1091; L.R.A.1918D, 924. Liability of joint employers for torts of the employee. 51 L.R.A. (N.S.) 806.

Liability of joint owners of automobile or carriage for torts of common servant.
51 L.R.A. (N.S.) 1116.

May one in charge of a vehicle under a contract purporting to be a bailment or lease be regarded as a servant of the owner as to a third person injured by the vehicle. 6 L.R.A.(N.S.) 544.

Liability of a railroad company for negligence of one of its employees while running on the road of another company subject to the orders of the latter's train despatcher. 22 L.R.A.(N.S.) 323.

The liability of master for injury to property or person of one to whom he owes no contractual duty, by acts of volunteer whom servant permits to assist in performance of master's service. 13 L.R.A.(N.S.) 572; 45 L.R.A.(N.S.) 382; L.R.A.1916B, 630.

Responsibility of general employer for negligence of employee in operating elevator for convenience of workmen not in former's employ. L.R.A.1917E, 964.

§ 22. — servant employed as detective, policeman, etc.

Liability of private person or corporation for acts of special police officer appointed by public authority. 23 L.R.A. (N.S.) 289; 30 L.R.A.(N.S.) 491: 39 L.R.A.(N.S.) 122; 43 L.R.A.(N.S.) 1164; L.R.A.1915C, 1183.

Liability of master for arrest or false imprisonment by servant employed as detective, policeman, or watchman. 4 L.R.A.(N.S.) 282; 28 L.R.A.(N.S.) 88; L.R.A.1916F, 1249.

§ 23. For purpose of fixing master's liability to servant.

Who are volunteers, see infra, § 108.

Applicability of master and servant doctrines to case of injured actor. 37 L.R.A.(N.S.) 514.

Liability of master for injury to an emergency assistant. 40 L.R.A. (N.S.) 1180.

MASTER AND SERVANT, II. e-cont'd Right of principal or employer to earnings by agent or servant who undertakes extraneous work. L.R.A.1916D, 782. Inventions of employees. L.R.A.(N.S.) 1173;

L.R.A.(N.S.) 1177.

Right of public to benefit of discoveries, inventions, devices, data, etc., made or prepared by employee. L.R.A.1917B, 1183.

Implication from government's use of patented invention of employee, of promise to pay royalty. 44 L.R.A.(N.S.)

## 14. Literary work.

Respective rights of master and servant in intellectual work. 51 L.R.A. 359.

Rights of employer and employee with respect to literary or pictorial work of employee. 1 B. R. C. 324.

Literary work of employees. 5 L.R.A. (N.S.) 1187.

## d. Validity of contract.

§ 15. Generally.

As to length of employment, see supra,

Under provisions of statute, see supra, § 11.

Master's liability for injury to servant as affected by contract, see infra, §§ 52,

Measure of damages for employee's breach of contract by employee, see DAMAGES,

Measure of damages for master's breach of contract of employment, see DAMAGES, §§ 25, 25a.

Mutuality of contract of employment which, by its terms, is binding upon only one of the parties for the time designated. 20 L.R.A.(N.S.) 899.

Validity of agreement at common law by which employer seeks to direct trade of his employees to other parties. 24

L.R.A.(N.S.) 649. Effect of statute of frauds on parol contracts of employment which may but are not intended to be performed within a year. 15 L.R.A.(N.S.) 321.
Constitutional objections to convict labor

contracts. L.R.A.1916D, 660.

Validity under the Federal employers' liability act of contract requiring notice in writing. L.R.A.1915F, 551.

Validity of contract of employment indefinite and uncertain as to kind of employment or amount of remuneration. 48 L.R.A. (N.S.) 435.

Validity of contract to employ union labor only. 45 L.R.A.(N.S.) 564.

## § 16. Not to engage in competitive business.

See (ONTRACTS, §§ 109, 118.

Begin with this book on every law question.

MASTER AND SERVANT, II .- cont'd

## e. Authority of employee.

8 17. Generally.

Authority of agent generally, see PRINCI-PAL AND AGENT, IV.

Implied or apparant authority of employee to bind principal for board or traveling expenses. L.R.A.1916B, 754.

Implied or presumed authority of superintendent of department to contract as to matters relating to his department. 38 L.R.A. (N.S.) 1135.

Inference of employee's authority to expel trespassers from practice of doing so. 34 L.R.A. (N.S.) 693.

Authority of child to bind parent by contracts other than those for necessaries as implied from child's employment by father. 39 L.R.A.(N.S.) 882.

Right of conductor to waive conditions in stock drover's pass. 27 L.R.A.(N.S.)

Authority of superintendent to contract for payment of employees while laid off. 41 L.R.A. (N.S.) 1141.

Authority of employee to entrust management of vehicle of which he had charge to another, so as to render the master liable for the latter's negligence. 6 B. R. C. 705.

§ 18. To employ physician. Authority of agent or other representative of railroad company to employ medical services for injured person. 20 L.R.A. 695; 16 L.R.A. (N.S.) 1081.

§ 18a. - for injured employee.

Authority of agent or representative to employ medical services for employee. 20 L.R.A. 695.

Implied power of employee to employ physician to attend injured employee. L.R.A. (N.S.) 351; L.R.A.1915C, 809.

Liability of master for medical attendance engaged by employee who, by the contract of employment, was entitled to such attendance. 37 L.R.A. (N.S.) 757.

## f. When relation exists.

§ 19. Generally.

Liability for injury to servant while not at work, see infra, § 61.

Payment of wages as test of existence of relation. 37 L.R.A. 38.

Servant sharing in profits as a partner. 1 L.R.A.(N.S.) 1032; L.R.A.1918F, 801.

Firemen as servants or agents of owner of 39 L.R.A. (N.S.) burning property. 237.

May one in charge of a vehicle under a contract purporting to be a bailment or a lease be regarded as a servant of the owner as to a third person injured by the vehicle. 6 L.R.A. (N.S.) 544.

§ 20. Which of two or more persons is master of third.

Generally. 37 L.R.A. 33.

MASTER AND SERVANT, II. f—cont'd
Tests of the existence of the relation of

master and servant. 37 L.R.A. 38.

Effect of plaintiff's ignorance of actual conditions. 37 L.R.A. 45.

Liability for acts of servants regularly acting for dissociated employers in different capacities. 37 L.R.A. 47.

Relationship where servants are hired by one in the employment of another. 37 L.R.A. 48.

Whose servants are the crew of a chartered vessel. 37 L.R.A. 54.

Position of servants of railroad companies which are using the same premises. 37 L.R.A. 59.

Position of servants working for connecting carriers. 37 L.R.A. 64.

Relation between a lessor or licensor and the servants of the lessee or licensee. 37 L.R.A. 65.

Position of servants delivering or receiving goods elsewhere than at the employer's place of business. 37 L.R.A. 66.

Position of servants working on the same trains. 37 L.R.A. 68.

Position of servants delegated to perform work contracted for by their master. 37 L.R.A. 69.

Constructive service as predicated from the necessity of discharging special obligations to the public. 37 L.R.A. 81.

Position of servants operating railroads for receivers and trustees for mortgage bondholders. 37 L.R.A. 85,

§ 21. For purpose of holding master liable for servant's acts.

Liability of railroad company for acts of Pullman car employees, see CARRIERS, § 97.

Actions by third persons for injuries due to negligence of servants hired by independent contractor. 37 L.R.A. 50.

Liability for acts of servants regularly acting for dissociated employers in different capacities. 37 L.R.A. 47.

Liability of general employer for negligence of employee while assisting a third person without the former's knowledge or consent. 4 L.R.A.(N.S.) 651.

Who is responsible for acts of driver furnished with a hired vehicle. 13 L.R.A. (N.S.) 1122; 16 L.R.A.(N.S.) 816; 25 L.R.A.(N.S.) 33; 38 L.R.A.(N.S.) 973; L.R.A.1918E, 121.

Liability of hirer of team for damage to team or wagon by negligence of driver in general employ of owner. L.R.A. 1916F, 1039.

Liability of employer for negligence of one to whom servant intrusted management of vehicle of which he had charge. 6 B. R. C. 705.

Liability of one undertaking to give instruction in driving automobile for negligent operation during instruction as affected by question whether person in charge of the car was acting as the agent of the one sought to be charged. L.R.A.1917A, 397.

Consult also L.R.A. Digests of Cases.

MASTER AND SERVANT, II. f—cont'd Liability of automobile owner for negligence of chauffeur furnished by third person. 39 L.R.A.(N.S.) 933; 48 L.R.A.(N.S.) 424.

Who is responsible for negligence of chaufieur operating a leased or demonstrating car. 40 L.R.A.(N.S.) 457; 44 L.R.A.(N.S.) 113; 51 L.R.A.(N.S.) 1164.

Liability of owner of automobile for injury by car while being run by one to whom it has been entrusted for storage or repairs. 51 L.R.A. (N.S.) 772; L.R.A. 1916B, 762.

Making prima facie case of responsibility for negligence of driver of automobile by proof of defendant's ownership of car or employment of driver. 46 L.R.A.(N.S.) 1091; L.R.A.1918D, 924. Liability of joint employers for torts of the

employee. 51 L.R.A.(N.S.) 866.

Jability of joint owners of automobile of

Liability of joint owners of automobile or carriage for torts of common servant. 51 L.R.A.(N.S.) 1116.

May one in charge of a vehicle under a contract purporting to be a bailment or lease be regarded as a servant of the owner as to a third person injured by the vehicle. 6 L.R.A.(N.S.) 544.

Liability of a railroad company for negligence of one of its employees while running on the road of another company subject to the orders of the latter's train despatcher. 22 L.R.A.(N.S.) 323.

The liability of master for injury to property or person of one to whom he owes no contractual duty, by acts of volunteer whom servant permits to assist in performance of master's service. 13 L.R.A.(N.S.) 572; 45 L.R.A.(N.S.) 382; L.R.A.1916B, 630.

Responsibility of general employer for negligence of employee in operating elevator for convenience of workmen not in former's employ. L.R.A.1917E, 964.

§ 22. — servant employed as detective, policeman, etc.

Liability of private person or corporation for acts of special police officer appointed by public authority. 23 L.R.A. (N.S.) 289; 30 L.R.A.(N.S.) 491: 39 L.R.A.(N.S.) 122; 43 L.R.A.(N.S.) 1164; L.R.A.1915C, 1183.

Liability of master for arrest or false imprisonment by servant employed as detective, policeman, or watchman. 4 L.R.A.(N.S.) 282; 28 L.R.A.(N.S.) 88; L.R.A.1916F, 1249.

§ 23. For purpose of fixing master's liability to servant.

Who are volunteers, see infra, § 108.

Applicability of master and servant doctrines to case of injured actor. 37 L.R.A.(N.S.) 514.

Liability of master for injury to an emergency assistant. 40 L.R.A.(N.S.) 1180.

MASTER AND SERVANT, II. f—cont'd Liability of master for injuries to servant while riding on a pass. 50 L.R.A. (N.S.) 706.

## g. Wages; compensation.

§ 24. Generally.

Right to recover wages for contract period subsequent to discharge, see infra, 8 439

Garnishment of, see Garnishment, § 10a. Lien of laborers for, see Mechanics' Liens. Priority of claim for, see Priority, § 2. Of seamen, see Seamen, § 2.

Payment of wages as test of existence of relation of master and servant. 37 L.R.A. 38.

Presumption from continuing in employer's service after the expiration of the original term. L.R.A.1918C, 706.

Contract which fixes compensation at a certain amount per unit of work done as entire or severable. 20 L.R.A.(N.S.) 1069.

Language used by owner or other person interested in construction of building importing a promise to pay an employee of contractor as a promise to answer for the debt or default of another. 5 B. R. C. 96.

Evidence of value of services or of customary compensation on question as to amount agreed upon. L.R.A.1915C, 1208.

Duty of labor union to notify employer of change of scale. L.R.A.1915E, 1006. Right of master to withhold wages of serv-

ant for failure to record his time. 45 L.R.A. (N.S.) 644.

Effect of fact that servant is entitled to commissions out of fund on his prosecution for embezzlement in case he retains the whole fund. 13 L.R.A.(N.S.) 511.

Rights of employer in carnings of employee. 5 L.R.A.(N.S.) 1155.

Effect of discharge in bankruptcy on claim for services procured by bankrupt's fraud. 34 L.R.A.(N.S.) 894.

Effect of receipt of wages to mitigate damages for personal injury. 67 L.R.A.

Right to recover for household services rendered while parties were living in illicit relations. 20 L.R.A. (N.S.) 787; L.R.A. 1917B, 683.

Admissibility of books of account to prove work done by servant. 52 L.R.A. 701.

## § 25. On part performance of contract.

Measure of damages for master's breach of contract, see Damages, §§ 25, 25a.

Right to wages on part performance of contract. 24 L.R.A. 231.

Where full performance is prevented by imprisonment of servant. L.R.A.1917F, 628.

MASTER AND SERVANT, II. g—cont'd Recovery for services and expenses under a running contract with a corporation ended by its insolvency and dissolution. 69 L.R.A. 124.

Right to quantum meruit for services rendered under parol contract unenforceable because not to be performed within a year. L.R.A. 1916D, 895.

Recovery by employee who abandons his contract without cause or justification. L.R.A.1916E, 790.

Rights and remedies of employee discharged for cause, where his compensation depended in whole or in part upon the amount of business or profits. L.R.A. 1915B, 1052.

26. - in event of disability.

Right to recover for services interrupted by sickness or death. 16 L.R.A. 858.

Right of servant to compensation in case of incomplete performance of his contract caused by physical disability. 28 L.R.A.(N.S.) 315.

Employer's agreement to pay employee during disability, or his contribution to insurance, as affecting, or affected by, recovery against him for personal injury. L.R.A.1917B, 1160.

§ 27. For extra work.

Right to extra compensation in excess of time limited by statute. 65 L.R.A. 46. Under what circumstances is a servant entitled to recover remuneration for extra work. 30 L.R.A.(N.S.) 652.

§ 28. Assignment of.

Validity of assignment of wages or salary to be earned. 5 L.R.A.(N.S.) 565.

Constitutionality of statute restricting right to assign salary or wages. 28 L.R.A. (N.S.) 1108; 43 L.R.A.(N.S.) 746.

Effect of discharge in bankruptcy upon assignment of wages to be earned in the future under contract terminable at will. 14 L.R.A.(N.S.) 1025; 30 L.R.A. (N.S.) 375; L.R.A.1916E, 248.

## § 29. Liability of, for debts.

Equitable remedy to subject to judgment, future salary. 63 L.R.A. 704.

Exemption of wages from levy after payment by employer. 18 L.R.A. 586.

Garnishment of unearned salary. 20 L.R.A. (N.S.) 912.

Law governing exemption of, from garnishment. 67 L.R.A. 222.

Injunction against repeated garnishment of exempt wages. 10 L.R.A.(N.S.) 983.

Right to enjoin garnishment of wages because of rule of employer for discharge of employees whose wages are garnished. 6 L.R.A.(N.S.) 401.

## § 30. Statutory or municipal regulations.

Who are laborers within meaning of statutes protecting wages. 18 L.R.A. 305.

Begin with this book on every law question.

MASTER AND SERVANT, II. g-cont'd Constitutionality of statute regulating contracts as to. 14 L.R.A. 325; 17 L.R.A. 853; 21 L.R.A. 789.

Legislative power to regulate rate of compensation for personal services. L.R.A. 182.

Validity and effect of statutes requiring wages to be paid in lawful money. 28 L.R.A. 273.

Constitutionality of statute restricting right to assign salary or wages. 28 L.F. (N.S.) 1108; 43 L.R.A. (N.S.) 746. 28 L.R.A.

Power of legislature to require municipality to pension employees. 34 L.R.A. (N.S.) 608.

Power of legislature to compel employer to pay employee's poll tax. 9 L.R.A. (N.S.) 306.

Validity of statute, ordinance, or contract fixing minimum wage for person employed upon public work. 51 L.R.A.(N.S.) 686.

Constitutionality of a Minimum Wage Law, relating to private employment. L.R.A. 1918F, 547.

Right to extra compensation in excess of time limited by statute. 65 L.R.A. 46.

31.—as to time of payment.

Validity and effect of statutes regulating time of payment of wages. 21 L.R.A. 797; 28 L.R.A. 344; 15 L.R.A. (N.S.) 350; 27 L.R.A. (N.S.) 255; 35 L.R.A. (N.S.) 549; 51 L.R.A.(N.S.) 1097.

State statutes relating to time of payment of wages as interference with interstate commerce. 29 L.R.A.(N.E.) 240; 52 L.R.A.(N.S.) 268.

## h. Hours of labor.

§ 32. Generally.

Servant's duty to obey master's orders as to hours of labor. 24 L.R.A.(N.S.)

What employers are within statute limiting hours of labor. 42 L.R.A. (N.S.) 1031.

§ 33. Limitation of, by statute or ordinance.

General construction and application statute. 65 L.R.A. 33; L.R.A.1915D, 408; L.R.A.1917A, 1202.

Constitutionality of statute. 19 L.R.A. 141; 21 L.R.A. 796; 65 L.R.A. 38; 12 L.R.A. (N.S.) 1130; 26 L.R.A. (N.S.) 242; 35 L.R.A.(N.S.) 628; 40 L.R.A.(N.S.) 893; 51 L.R.A. (N.S.) 361; L.R.A.1915F, 829.

Limitation of hours of labor on public work. 8 L.R.A.(N.S.) 131; 24 L.R.A.(N.S.) 201; 34 L.R.A.(N.S.) 767.

Restrictions on hours of labor of children. 17 L.R.A.(N.S.) 602; 24 L.R.A.(N.S.) 1121.

Statute limiting hours of labor by railroad employees as interference with 29 L.R.A. interstate commerce. (N.S.) 240; 52 L.R.A.(N.S.) 267.

Statute or ordinance requiring commercial or mercantile establishments to close at Of certain hours. L.R.A.1916A, 654.

Consult also L.R.A. Digests of Cases, 56

MASTER AND SERVANT, II. h-cont'd Right to extra compensation for labor in excess of limited time. 65 L.R.A. 46.

Criminal liability for violation of statute. 65 L.R.A. 50.

Cruel and unusual punishment for violation of eight-hour law. L.R.A.1915C. 570.

Effect of servant's own violation of statute limiting hours of labor. 45 L.R.A. (N.S.) 378.

i. Termination of relation; discharge; enticina.

#### 1. In general,

§ 34. Generally.

Contracts for permanent employment, see supra. § 5.

Compensation on termination of contract before limit fixed thereby, see supra. §§ 25, 26.

Rights and remedy in respect to relief department fund upon termination of employment. L.R.A.1916A, 1148.

Constitutionality of statute providing for imprisonment for breach of contract of labor. 21 L.R.A. (N.S.) 242.

§ 35. Duty to continue business. Cessation of master's business. 6 L.R.A. (N.S.) 808.

Sale of master's land or other property. 6 L.R.A.(N.S.) 810.

Rule in the case of agency contrasted. 6 L.R.A.(N.S.) 810.

Effect of specific stipulations in regard to discontinuance of the master's business. 6 L.R.A.(N.S.) 811.

Duty to see that the conditions of the service undergo no material changes. 6 L.R.A.(N.S.) 812.

§ 36. Employer's duty to provide employce with work.

Duty of employer to provide employee with work during the stipulated term. 2 B. R. C. 758.

§ 37. Death of party.

Termination of contract of employment by the death of one of the parties. 23 L.R.A. 712; 5 L.R.A.(N.S.) 1002; 21 L.R.A.(N.S.) 914; 39 L.R.A. (N.S.) 1187.

Right to recover for services interrupted by death. 16 L.R.A. 858.

§ 38. Rescission; dissatisfaction.

Discharge under contract of employment which requires work to be satisfactory. 12 L.R.A. (N.S.) 403; 23 L.R.A. (N.S.) 1003; 44 L.R.A. (N.S.) 680; L.R.A. 1916F, 890.

§ 39. Condonation.

Condonation of servant's breach of duty. 8 L.R.A.(N.S.) 1004.

breach of contract of employment. 6 L.R.A. (N.S.) 77.

MASTER AND SERVANT, II. i, 1-cont'd | MASTER AND SERVANT, II. i, 2-cont'd

## 2. Discharge.

§ 40. Generally.

Liability for inducing, see CASE, § 4.

Measure of damages for wrongful discharge, see Damages, § 25a.

Constitutionality of statutes restricting right of employer to discharge employee. L.R.A.1917B, 1122.

Necessity of, and time for, acceptance of resignation by employee of a private employer. L.R.A.1915D, 477.

Right to discharge employee where contract of hiring specifies no term, but fixes compensation at a certain amount per day, week, month or year. 51 L.R.A. (N.S.) 629.

Right to discharge attorney employed for contingent fee. 38 L.R.A.(N.S.) 389.

Is servant bound by restrictive provision against conducting rival business, where he is wrongfully discharged.

1 B. R. C. 502.

Servant's right to compensation in case of incomplete performance of his contract or dismissal by master because of physical disability. 28 L.R.A.(N.S.) 318.

Jurisdiction and powers of consul with respect to discharge of seamen abroad. 45 L.R.A. 493.

41. Grounds for discharge,

Rights and remedies of servant discharged for good cause, see infra, § 45.

Grounds or justification for discharge of one employed in executive or supervis-

ory capacity. L.R.A.1918C, 1030. Under contract of employment which requires work to be satisfactory. 12 L.R.A. (N.S.) 403; 23 L.R.A. (N.S.) 1003; 44 L.R.A. (N.S.) 680; L.R.A. 1916F, 890.

Justification for discharge of servant.

LR.A.(N.S.) 76.

Breach of duty by servant as good cause discharge. 5 L.R.A. (N.S.) for his 1176.

Interest in or connection with other business as. 34 L.R.A.(N.S.) 1217.

Disobedience of regulations as. 37 L.R.A. (N.S.) 950.

Intoxication as justification for discharge. 38 L.R.A. (N.S.) 339.

Justification for discharge as affecting servant's right to recover wages for subsequent period. 5 L.R.A.(N.S.) 456.

42. Remedy for wrongful discharge. Remedy for wrongful discharge. 5 L.R.A. 760;\* 24 L.R.A. 231.

Right to service reward or bonus, of servant without carse before discharged stimulated term of service. 44 L.R.A. (N.S.) 1214.

43. — action for damages. Measure of damages for wrongful discharge, Liability for injury by animals, see ANIsee Damages, § 25a. Begin with this book on every law question.

Remedy of wrongfully discharged servant by action for damages for breach of contract. 6 L.R.A. (N.S.) 50.

§ 43a. — future wages.

Right of wrongfully discharged servant to recover wages for contract period subsequent to discharge. 5 L.R.A. (N.S.) 439; 28 L.R.A. (N.S.) 577.

§ 44. - with respect to services actually rendered.

Remedy of wrongfully discharged servant with respect to services actually rendered. 5 L.R.A.(N.S.) 579.

§ 45. Rights and remedies of servant discharged for good cause.

Early rule as to entire contracts. 5 L.R.A. (N.S.) 524.

Exception in case of divisible contracts. 5 L.R.A. (N.S.) 525.

The modern or American doctrine. 5 L.R.A. (N.S.) 527.

Rights with reference to contract period after discharge. 5 L.R.A.(N.S.) 531. Where compensation depended in whole or in part upon the amount of business or profits. L.R.A.1915B, 1052.

§ 46. Duty to recommend or give clearance card to discharged employee.

Duty to give character. 62 L.R.A. 922. Duty to give clearance card. 62 L.R.A. 925.

Constitutionality of statute requiring the employer to furnish discharged employee with a statement of the cause of his discharge. L.R.A.1917B, 1115.

#### 3. Enticing; procuring discharge.

§ 47. Generally.

Inducing discharge of servant, see CASE, § 4.

Enticing servant to quit, see CASE, § 5. As to labor organization generally, see Con-SPIRACY, §§ 4-8; LABOR OBGANIZATION. Conspiracy of laborers, see Conspiracy, §§

As to strikes, see Conspiracy, § 6.

Enticement from parent, see PARENT AND

CHILD, § 11.

Election of remedy for enticing, see Elec-TION OF REMEDIES, § 9. .

III. Duty and liability of master to servant.

a. Nature and extent of master's duty.

## 1. In general.

§ 48. Generally.

Master's liability for acts of fellow servants, see infra, §§ 138, 155-162a. Delegation of master's duty to fellow servant, see infra, §§ 163-169.

MALS, § 15.

MASTER AND SERVANT, III. a, 1-cont'd | Liability for injury on bridge, see Bridges,

Liability for injury by electricity, see Elec-TRICITY, § 15.
Liability for injury by elevator, see ELEVA-

TORS, § 7.

Liability for injury to servant in factory, see FACTORIES, § 2.

Liability for injury by falling object, see FALLING OBJECTS, § 3.

Liability for injury to servant by horse, see Horses, § 13.

To servants in mine, see MINES, §§ 40, 41. Municipal liability for injuries to employees, see MUNICIPAL CORPORATIONS, 80.

Liability for injury to seamen, see SEAMEN, § 3.

Presumption and burden of proof as to master's negligence, see EVIDENCE, §§ 77, 78.

Evidence generally as to master's negligence, see Evidence, § 268.

Insurance against employer's liability, see Insurance, §§ 212-217.

Proximate cause of injury to servant, see PROXIMATE CAUSE, §§ 15, 16.

Duty and liability of vessels and their owners as to employees, see Shipping, §§ 10-11a.

Question for jury as to, see TRIAL, § 40. Instructions as to master's negligence, see TRIAL, § 65.

Violation of Sunday law as a defense. 2 L.R.A. 521; 9 L.R.A. 321; 36 L.R.A. (N.S.) 547.

Liability of township for injury to employee engaged in repairing highway. 41 L.R.A. (N.S.) 1074.

Liability of school corporation for injury

to employee. 49 L.R.A. (N.S.) 1026.
Personal liability of corporate officers for injury to employee. 28 L.R.A. 427.

Statutes to secure health and safety of employees. 25 L.R.A. 759, 848; 32 L.R.A. 853.

Continuance of master's liability for injury to servant after transfer of business. 45 L.R.A.(N.S.) 200.

Duty of master, in absence of statute, to furnish place for eating lunches. L.R.A. (N.S.) 1102.

Automobile owner's liability for injury to servant. 46 L.R.A.(N.S.) 1183; L.R.A. 1918E, 416.

Duty toward employee on track, to maintain lookout on railroad train. L.R.A. 290.

Duty to relieve servant who, without master's fault, has been caught in a dangerous situation. 7 L.R.A.(N.S.) 940.

Overwork of servant as affecting master's liability for injury to him. 13 L.R.A. (N.S.) 1214; 45 L.R.A. (N.S.) 372.

Liability of master for injuries to servant from fumes arising from materials handled by him. 35 L.R.A.(N.S.) 679.

Liability of master for the intentional killing or injury of a servant by a third person. L.R.A.1917F, 753. Consult also L.R.A. Digests of Cases.

MASTER AND SERVANT, III. a, 1-cont'd Ordinances affecting operation of railroads as intended for benefit of employees. 5 L.R.A.(N.S.) 207.

Injured employee's right to reach fund under employer's liability policy. 7 L.R.A. (N.S.) 958; 48 L.R.A.(N.S.) 191.

Sufficiency of general allegations of master's negligence. 59 L.R.A. 252,

Pleading particular cause of injury as waiver of right to rely on res ipsa loquitur. 24 L.R.A. (N.S.) 788; L.R.A. 1915F, 992.

Applicability of maxim, Res ipsa loquitur, as between master and servant. 6 L.R.A.(N.S.) 337; 16 L.R.A.(N.S.) 214; L.R.A.1917E, 4, 212, 226, 239, 248.

Right of employer who had been held liable for tort upon servant or contractor, to recover from actual wrongdoer. L.R.A. (N.S.) 1156.

Evidence as to condition prior and subsequent to accident. 32 L.R.A.(N.S.) 1085.

Federal courts following state decisions as to relative rights and duties of. 40 L.R.A.(N.S.) 438.

Jurisdiction of admiralty over suit against employer for injury to stevedore. 51 L.R.A.(N.S.) 1161.

Liability of master for injury to servant, other than minor, due primarily to his physical unfitness for the work. L.R.A. 1915E, 369.

§ 49. Concurrent negligence of third person.

Concurrent negligence of fellow servant, see infra, §§ 133, 134.

In case of contributing agencies. 4 L.R.A. 851;\* 16 L.R.A. 819.

Rule when dangerous condition is due to act of stranger. 41 L.R.A. 54.

Joint liability of master and person installing machine to employee injured during installation. 30 L.R.A.(N.S.)

§ 50. Injury to minor servant.

Liability for violation of statute as to, see infra, § 55.

Duty to warn or instruct minor servant, see infra, §§ 76-78.
Assumption of risk by minor employee, see

infra, § 122.

Contributory negligence of minor employee, see infra, § 124.

Proximate cause of injury to minor employee, see PROXIMATE CAUSE, § 16.

Application to minors of Workmen's Compensation Act. L.R.A.1917D, 90; L.R.A. **1918F, 2**09.

Duty of master to furnish medical aid to. 28 L.R.A. 555.

Minority of servant as evidence of negligence of master in employing him. 48 L.R.A. 380.

Liability to minor volunteer. 664; 43 L.R.A. (N.S.) 187. 22 L.R.A.

Liability of master for injury to minor by explosion of bottle which he is required to handle. 35 L.R.A.(N.S.) 239. MASTER AND SERVANT, III. a, 1-cont'd | MASTER AND SERVANT, III. a, 1-cont'd Presumption and burden of proof as to capacity of minor servant to comprehend and avoid danger. 29 L.R.A. (N.S.) 487.

May incompetence of minor to perform duties of particular employment be in-ferred from his minority alone. 20

L.R.A. (N.S.) 331.

Master's liability for injury to minor servant who secures employment by misrepresenting his age. 20 L.R.A. (N.S.) 500; 25 L.R.A. (N.S.) 708; 42 L.R.A. (N.S.) 624; L.R.A.1915F, 1082.

§ 51. — parent's right of recovery. Right of parent to recover for injury to minor servant employed without his consent. 30 L.R.A.(N.S.) 311.

Right of parent to recover from employer for personal injury to emancipated child. L.R.A.1918B, 408.

Rights of parent under workmen's compensation act where minor employee is injured. L.R.A.1916A, 224; L.R.A.1917D,

§ 52. As affected by contract.

Employer's agreement to pay employee during disability, or his contribution to insurance, as affecting or affected by recovery against him for personal injuries. L.R.A.1917B, 1160.

Effect of contract exempting from liability to servants of other party. 46 L.R.A.

54.

Validity of contract exonerating master in advance from liability for negligent injuries to servant. 7 L.R.A.(N.S.) 537.

Validity of stipulation in employee's pass limiting carrier's liability. 37 L.R.A. (N.S.) 250.

Effect of character of, or stipulations in, contract on master's duty to furnish medical aid to servant. 28 L.R.A. 553; 4 L.R.A. (N.S.) 55; L.R.A.1915C, 792.

Effect of Federal employers' liability act on validity of contracts exempting master from liability. 47 L.R.A.(N.S.) 50; L.R.A.1915C, 53.

Validity under the Federal employers' liability act of contract requiring notice in writing. L.R.A.1915F, 551.

Right to contract out of Workmen's Compensation Act. L.R.A.1917D, 95.

§ 53. — as to option to accept benefits from relief fund.

Validity of provision in contract of railroad relief department for forfeiture of benefits in case of suit against company for damages. 10 L.R.A.(N.S.) 198.

Contracts requiring servant to elect between acceptance of benefits out of a relief fund and a prosecution of his claims, in an action for damages. 11 L.R.A (N.S.) 182; 48 L.R.A. (N.S.) 440.

Validity under Federal employers' liability act of stipulations as to effect of acceptance of benefits for injury or death under contract of membership in railway relief department. 47 L.R.A. (N.S.) 50; L.R.A.1915C, 53.

Constitutionality of statute forbidding the avoidance of liability to employee or reduction of his damages by relief or indemnity contract. 33 L.R.A.(N.S.) 706; 38 L.R.A.(N.S.) 867.

§ 54. Violation of statute.

Servant's assumption of risk of master's breach of statutory duty. 6 L.R.A. (N.S.) 981; 19 L.R.A. (N.S.) 646; 22 L.R.A.(N.S.) 634; 33 L.R.A.(N.S.) 647; 49 L.R.A.(N.S.) 471.

Employee's right of action for employer's violation of statute not expressly conferring right. 9 L.R.A. (N.S.) 376; L.R.A.1915E, 500.

Effect of violation of hours of service law on liability for L.R.A.1915D, 424. personal injuries.

Contributory negligence as a defense to an action based on the breach of the master's statutory duty. 49 L.R.A. (N.S.) 526.

Where statute excludes defense of assumed risk. 13 L.R.A.(N.S.) 1152. Liability of master for injury to servant caused by elevators uninclosed as re-

ouired by statute or ordinance. 15 L.R.A.(N.S.) 784. Liability of street railway company to employees for failure to perform statutory duty to provide vestibules on cars. 30 L.R.A. (N.S.) 428.

§ 55. — toward minor employees. Constitutionality of child labor laws, see supra, § 12.

Proximate cause of injury to minor servant, see PROXIMATE CAUSE, § 16.

Applicability of Workmen's Compensation Statutes to minors employed in violation of law. L.R.A.1918F, 209.

Private action for employer's violation of child labor laws. 9 L.R.A. (N.S.) 381; L.R.A.1915E, 554.

Employment in violation of statute as sustaining child's action for negligence. 7 L.R.A.(N.S.) 335; 1 B. R. C. 629; 48 L.R.A.(N.S.) 656.

Liability of master for injury to minor servant who procures employment by misrepresenting his age. 15 L.R.A. (N.S.) 443; 20 L.R.A. (N.S.) 500; 25 L.R.A. (N.S.) 708; L.R.A.1915F, 1082.

May one employing child under statutory age rely on contributory negligence or assumption of risk, to defeat liability for personal injuries sustained by lat-12 L.R.A. (N.S.) 461; 20 L.R.A. (N.S.) 876; 48 L.R.A.(N.S.) 667.

Does the fact that a minor was working in violation of a statute forbidding his employment prevent a recovery by him for personal injuries. 48 L.R.A.(N.S.) 675.

Begin with this book on every law question.

MASTER AND SERVANT, III. a, 1—cont'd

Saiety appliance act, see infra, § 96.

Knowledge as element of master's liability under. 41 L.R.A. 143.

What constitutes a defect in the "ways" of a railroad company within. 19 L.R.A. (N.S.) 738.

Effect of, on master's duty to furnish safe appliances when prepared by fellow servants. 4 L.R.A. (N.S.) 229.

Effect of, on common-law action. 12 L.R.A. (N.S.) 1038.

Constitutionality, application, and effect of Federal Employers' Liability Act. 47 L.R.A. (N.S.) 38; 48 L.R.A. (N.S.) 987; L.R.A.1915C, 47.

Track repairing and work in connection therewith as furthering interstate commerce within the Federal Employers' Liability Act. 47 L.R.A. (N.S.) 55; L.R.A.1915C, 62; L.R.A. 1918E, 859.

Scaffolding, ladders, etc. as ways, works, etc. within meaning of employers' liability acts. L.R.A. 1915F, 1036.

Applicability to injuries within admiralty jurisdiction. L.R.A.1918C, 475.

Applicability of Federal Employers' Liability Act or state employers' liability acts to injuries to railroad employees while engaged in handling interstate mail. L.R.A.1918D, 426.

Power of state court to enforce right under Federal employers' liability act. 40 L.R.A. (N.S.) 684: L.R.A. 1918E. 917.

L.R.A. (N.S.) 684; L.R.A.1918E, 917. Validity under the Tederal employers' liability act of contract requiring notice in writing. L.R.A.1915F, 551.

in writing. L.R.A.1915F, 551.
Limitation of application of workmen's compensation statute by Federal employers' liability act. L.R.A.1916A, 461; L.R.A.1917D, 85; L.R.A.1918C, 450; L.R.A.1918D, 426.

Duty under Employers' Liability Acts of owner to servants of contractor, or of principal contractor to servants of subcontractor, as to condition of place or appliance. L.R.A.1917D, 991.

Burden of proving contributory negligence under. 33 L.R.A.(N.S.) 1218.

Injured employee's right to reach fund under. 7 L.R.A.(N.S.) 958.

Who may raise question that employers' liability law involves unconstitutional discrimination. 32 L.R.A. (N.S.) 958.

Retroactive effect of statutes relative to employers' liability for injuries to servants. 44 L.R.A.(N.S.) 841.

§ 57. — notice of injury required by. Sufficiency of notice of injury under. 21 L.R.A.(N.S.) 233.

Service by mail of notice required by. 28 L.R.A.(N.S.) 238.

§ 57a. Workmen's compensation acts. See Workmen's Compensation.

§ 58. As to medical assistance. Authority of servant to employ for injured servant, see supra, § 18a. Consult also L.R.A. Digests of Cases. MASTER AND SERVANT, III. a, 1—cont'd Duty to furnish medical aid to servant. 28 L.R.A. 546; 4 L.R.A. (N.S.) 49; L.R.A. 1915C, 789.

Nondelegability of duty to furnish proper medical treatment to sick or injured servants. 54 L.R.A. 83.

Right of servant to recover for master's delay in taking him to hospital. 7 L.R.A.(N.S.) 997.

Duty and obligation of vessel on inland lake or river in respect of sick or injured member of crew. 35 L.R.A. (N.S.) 199.

§ 59. Liability for negligence of physician employed.

Authority of employee to employ physician, see supra, §§ 18, 18a.

Liability of master contracting to provide medical or surgical attendance for servant. L.R.A.1915D, 884.

Master's liability for medical attendance engaged by employee who, by contract of employment, was entitled to such attendance. 37 L.R.A.(N.S.) 757.

Master's liability for negligence of practitioner employed to attend servant. 28 L.R.A. 548; 4 L.R.A.(N.S.) 66; 40 L.R.A.(N.S.) 486.

Liability for negligence of attendants furnished by relief department toward which employees contribute. 17 L.R.A. (N.S.) 1167: 30 L.R.A.(N.S.) 1207; 48 L.R.A.(N.S.) 531

§ 60. Liability for services of physician.

Power of employers to defray the medical expenses of their injured servants. 4 L.R.A.(N.S.) 57; L.R.A.1915C, 793.

Liability of master for services of physician whom he summons to care for employee. 18 L.R.A.(N.S.) 174.

§ 61. Injury while servant not at work.

Injury to servant on master's premises before, after, or between hours of work. 12 L.R.A.(N.S.) 853; 23 L.R.A.(N.S.) 954.

Effect upon master's liability for breach of statutory duty of fact that employee was resting at the time of injury. 22 L.R.A.(N.S.) 309; 49 L.R.A.(N.S.) 162.

Liability of master for injury to servant who had left his working place and gone to another portion of the plant for his own purposes. 12 L.R.A.(N.S.) 861; 23 L.R.A.(N.S.) 960; L.R.A. 1916F, 1227.

Measure of duty owing to servants with respect to elevators which they are required or permitted to use for personal transportation. 18 L.R.A.(N.S.) 911.

Liability of master for injuries to servant while riding on a pass. 50 L.R.A. (N.S.) 706.

Employee of railroad or street railway as a passenger while being carried to or from work. 31 L.R.A. 321; 12 L.R.A. (N.S.) 853; 19 L.R.A.(N.S.) 717; 23 L.R.A.(N.S.) 954.

MASTER AND SERVANT, III. a, 1-cont'd | MASTER AND SERVANT, III. a-cont'd § 61a. Overwork of servant.

Overwork of servant as affecting master's liability for injury to kim or another Constructive knowledge. 41 L.R.A. 43. servant. 13 L.R.A.(N.S.) 1214; 45 Rule when the dangerous condition is due L.R.A. (N.S.) 372.

§ 62. Duty to protect servant whose work requires exposure to cold. In general. 70 L.R.A. 924.

When master has agreed to furnish protection. 70 L.R.A. 926.

Care after injury. 70 L.R.A. 926.

§ 63. Explosions.

Applicability of res ipsa loquitur in case of injury to servant by explosion. L.R.A. 1917E, 187.

Liability of master for injuries caused by unexploded charge left after a blast. 48 L.R.A.(N.S.) 931.

Liability for fellow servant's negligence

causing. 29 L.R.A. 358.

Negligence of co-servant in failing to prevent explosion. 54 L.R.A. 132.

Master's nonliability for co-servant's negligence as to inspection incidental to details of blasting work. 54 L.R.A. 161.

Nondelegability of duty to guard against dangers from explosive substances. 54 L.R.A. 69, 77.

Delegability of master's duty to warn servants as to dangers from blasting. 26 L.R.A.(N.S.) 640.

Liability of master for injury to minor by explosion of bottle which he is required to handle. 35 L.R.A.(N.S.) 239.

Injuries to servant by the explosion of molten metal with which he is at work. 27 L.R.A. (N.S.) 953.

Liability of master for injuries due to the explosion of dynamite by lighting. 28 L.R.A.(N.S.) 1260.

Liability for injury to employee from explosion of chemicals. L.R.A.1918B, L.R.A.1918B,

Injury to railroad employee by torpedoes on track. 16 L.R.A. (N.S.) 1084.

64. Notice of injury

Under employers' liability acts, see supra, § 57.

Under workmen's compensation acts. L.R.A.

1916A, 83, 244; L.R.A.1917D, 135. Validity under the Federal employers' liability act of contract requiring notice in writing. L.R.A.1915F, 551.

Constitutionality of requirement of notice of injuries as condition of liability for injury to servant. 15 L.R.A. (N.S.) 203.

Applicability of rule requiring notice of injuries as condition of municipal liability for personal injuries on street or highway in case of injury to municipal employee. 28 L.R.A. (N.S.) 533.

2. Knowledge as element of employer's liability.

65. Generally.

Master's duty as to inspection of elevators furnished servant, see infra, § 101.

Begin with this book on every law question.

Generally. 41 L.R.A. 33.

Actual knowledge. 41 L.R.A. 39.

to the act of a stranger or of a fellow servant, or to the operation of some abnormal physical force. 41 L.R.A. 54.

Imputed knowledge of probable future events. 41 L.R.A. 55.

Duties of a master after learning of a danger to which his servant is exposed. 41 L.R.A. 137.

Knowledge as an element of liability under statute. 41 L.R.A. 143. Pleading. 41 L.R.A. 145.

Burden of proof; opinions as evidence. 41 L.R.A. 149.

Instructions. 41 L.R.A. 153.

§ 66. As to places and appliances. Liability of automobile owner for injury to

servant from defects therein. L.R.A. 1918E, 416.

Master's constructive knowledge as to condition of, as element of liability. 41 L.R.A. 45, 50.

Circumstances charging an employer with knowledge of the condition of his instrumentalities. 41 L.R.A. 61.

Master's duty after learning of danger to which servant is exposed through defects in place of work, machinery, or appliances. 41 L.R.A. 139.

Applicability to latent defects of rule imputing to master notice of defects in original construction. 17 L.R.A. (N.S.)

Definiteness of complaint to employer to charge him with notice of defect which caused injury. 2 L.R.A.(N.S.) 469.

§ 67. As to fellow servants.

Master's constructive knowledge as to capacity of servants as element of liability to injured servant. 41 L.R.A. 46, 53.

Employer's duty to know the character and capacity of his servants. 41 L.R.A. 90.

Master's duty after learning of incompetency of fellow servants. 41 L.R.A. 141.

§ 68. Whose knowledge is imputed to employer.

Whose knowledge is imputed to the employer. 41 L.R.A. 132.

- 3. Scope of employment; direct command.
- § 69. Injuries in performance duties outside scope of original employment.

Generally. 48 L.R.A. 796.

No recovery where servant undertakes new functions ex proprio motu and without master's acquiescence. 48 L.R.A. 797.

MASTER AND SERVANT, III. a, 3—cont'd | MASTER AND SERVANT, III. a, 4—cont'd When negligence is predicated of a com-mand to do work outside the scope of the original contract. 48 L.R.A. 798.

Risks of work outside scope of employment, when deemed to be assumed. 48 L.R.A. 803.

Doctrine of common employment qualified as regards servants working outside the scope of their employment. L.R.A. 805.

Contributory negligence as a defense. 48 L.R.A. 806.

Absence of compulsion, an essential element of assumption of risks and contributory negligence. 48 L.R.A.

## § 70. Injuries received in obeying a direct command.

Servant's duty to obey master's orders, see supra, § 4.

Assumption of risk by servant obeying orders, see infra, § 117.

Contributory negligence of servant obeying command, see infra, §§ 126, 127.

Servants' right of action for injuries received in obeying a direct command. 48 L.R.A. 753.

Where command is accompanied by assurance of safety. 48. L.R.A. 542; 30 L.R.A.(N.S.) 453.

Effect of command in general. 30 L.R.A. (N.S.) 437.

Duty to use care in giving orders as nonassignable duty of master. 51 L.R.A.

Issuance of orders by superior servant as an official act. 51 L.R.A. 590.

## 4. As to rules and regulations for conduct of business.

## § 71. Generally.

Disobedience of master's rules as contributory negligence, see infra, § 125.

Delegation of duties as to, see infra, § 164.

General principles. 43 L.R.A. 306.

Duty of master to adopt rules to protect servant, or to warn him, against dangers not reasonably to be apprehended. 21 L.R.A. (N.S.) 89.

. Duty of master to make rules where work is of simple character. 46 L.R.A. (N.S.) 233.

Limits of the duty to promulgate rules. 43 L.R.A. 309.

Habitual practice of employees, how far a legal substitute for a rule. 43 L.R.A. 316.

The master's duty to promulgate his rules. 43 L.R.A. 318.

The master's duty to enforce his rules. 43 L.R.A. 319.

No recovery by servant unless omission to promulgate rules was proximate cause of the injury. 43 L.R.A. 320.

Construction and meaning of rules. L.R.A. 322.

Consult also L.R.A. Digests of Cases.

Relation between the doctrine of common employment and the duty of a master to promulgate rules. 43 L.R.A. 342.

Responsibility of master for rules or general orders promulgated by servant. L.R.A.(N.S.) 772.

Failure to reduce to writing orders governing the running of trains or cars. 19 L.R.A.(N.S.) 239.

Negligence of fellow servant concurring with master's failure to establish or enforce proper rules or regulations for conduct of business. 4 L.R.A.(N.S.) 516.

Superintending employee's violation of rules promulgated by master as negligence for which master is liable. 58 L.R.A. 47.

Right of third person to complain of regulations concerning conduct of employ-ees, etc., by which he is injuriously affected. 51 L.R.A.(N.S.) 17.

## 5. Duty to warn or instruct servant,

#### (a) In general.

72. Generally.

Delegation of duty as to, see infra, § 165.

Generally. 44 L.R.A. 33.

Conflict of laws as to. 56 L.R.A. 222.

Duty to protect or warn against dangers not seasonably to be apprehended. L.R.A.(N.S.) 89.

Duty of master as to instructing and warning servant unable to understand English. 23 I..R.A. (N.S.) 296.

Misunderstanding order. 4 L.R.A. (N.S.) 407.

Of danger of electricity. 32 L.R.A. 352.

Duty to instruct servant as to danger in felling trees. 2 L.R.A. (N.S.) 840. Duty to give warning where trees are being

felled. 46 L.R.A.(N.S.) 86. Duty to warn servant engaged in blasting of dangers therefrom. 19 L.R.A.(N.S.) 997.

Master's duty to warn of danger from explosion of molten metal with which servant is at work. 27 L.R.A.(N.S.) 953.

Duty of master to warn servant of danger from automatic movements of body. 44 L.R.A. (N.S.) 779.

Duty to warn servant in respect to viciousness of animals. 3 L.R.A. (N.S.) 209; L.R.A.1915B, 435.

Duty to warn trainmen as to location of cars seen shead on spurs near track. 47 L.R.A.(N.S.) 327.

Master's duty to warn trainmen of danger from overhead structures. 47 L.R.A. (N.S.) 486.

Duty of railroad company to warn watchman or flagman of danger from passing trains. 48 L.R.A.(N.S.) 150.

Right of employee to rely on statute requiring signal to be given by train approaching crossing. 40 L.R.A. (N.S.) 1105.

MASTER AND SERVANT, III. a, 5 (a) - MASTER AND SERVANT, III. a, 5 (b) cont'd

Master's duty to warn and instruct employee's assistant. 43 L.R.A.(N.S.) 185.

Liability of master for the intentional killing or injury of servant by third person where, with knowledge of the danger, he fails to warn the servant. L.R.A.1917F, 753.

## § 73. As affected by servant's knowledge or experience.

Actual knowledge of servant, existence of duty to instruct negatived by. L.R.A. 40.

Constructive knowledge of servant as bearing upon the duty of the master to instruct him. 44 L.R.A. 42.

Experience of servant as a special factor bearing upon the master's duty of instruction. 44 L.R.A. 57.

## § 74. Duty to warn against transitory and sporadic dangers.

Cases involving customary methods of doing business and departures from such methods. 44 L.R.A. 77.

Perils due to transitory changes in the condition of the place of work. 44 L.R.A.

Perils due to the recurrent movements of railway cars and other heavy bodies. 44 L.R.A. 80.

Duty to warn as to dangers of transitory class occasionally supervening during progress of work. 54 L.R.A. 100.

Duty to give warning where trees are being felled. 46 L.R.A. (N.S.) 86.

Duty to warn servant of dangerous condition of earth and rock left after blasting. 48 L.R.A.(N.S.) 925.

Duty of railroad company to warn track employees of approach of train or car. L.R.A.1916F, 555.

## 75. Sufficiency of warning. In the case of adults. 44 L.R.A. 81. As to sporadic and transitory dangers. 44 L.R.A. 86.

## (b) Children.

§ 76. Generally.

What knowledge of scientific facts is imputed to minor servants. 44 L.R.A. 77. Instructing minor who is of insufficient age or capacity to comprehend dangers of employment as affecting master's responsibility. 8 L.R.A.(N.S.) 284.

Presumption and burden of proof as to ca-pacity of minor servant to comprehend and avoid danger. 29 L.R.A.(N.S.) 487.

What instruction and warning to minor servant will be sufficient. 44 L.R.A. 84.

§ 77. Minority as special factor bearing on master's duty of instruction. General principles stated. 44 L.R.A. 61.

Minor employees usually on the same footing as adults, after proper instruction has been given. 44 L.R.A. 65. cont'd

Constructive knowledge of dangers, when a bar to an action by minor servants. 44 L.R.A. 66.

Circumstances to be considered in determining whether knowledge of a danger is to be imputed to a minor. 44 L.R.A. 67.

Illustrative cases in regard to the constructive knowledge of minor servants. 44 L.R.A. 68.

## § 78. Dangers of which servant is already aware.

General rule. 29 L.R.A. (N.S.) 111.

Particular circumstances excusing warning. 29 L.R.A.(N.S.) 113.

Where the danger is patent or obvious. 29 L.R.A. (N.S.) 113.

Obvious dangers not appreciated because of youth and inexperience. 29 L.R.A.(N. S.) 115.

Knowledge without appreciation of the danger. 29 L.R.A.(N.S.) 115.

## 6. Safety as to place, appliances, and tools.

#### (a) In general.

79. Generally.

Violation of statutory duties as to, see supra, §§ 54, 55.

Injury by explosion, see supra, § 63. Knowledge as element of master's liability

as to, see supra, § 66. Duty to warn or instruct servant as to, see supra, §§ 72-78.

Master's duty to inspect, see infra, §§ 98-102.

Liability for acts of coservants in respect to, see infra, §§ 155-162.

Nondelegable duties of master as to, see infra, § 166.

Admissibility of opinion evidence as to safety of place or appliance. 51 L.R.A. (N.S.) 565.

Applicability of rule res ipsa loquitur in case of injury by defective appliances, methods of work, etc. L.R.A.1917E, 27.

Application of res ipsa loquitur in case of injury to servant by breaking of rope, chain, etc. L.R.A.1917E, 239.

Applicability, as between master and servant, of maxim, Res ipsa loquitur, to fall of bridge. 28 L.R.A.(N.S.) 591.

As to fire escapes on building. 15 L.R.A 160; L.R.A.1917C, 1153.

Different forms of statement of the general rule with respect to the master's duty as to places and appliances furnished to servant. 6 L.R.A.(N.S.) 602.

Standard of master's duty with respect to selection between different styles or makes of appliances. 6 L.R.A.(N.S.) 492.

Furnishing for servant's use article in general use as measure of master's duty. 16 L.R.A.(N.S.) 128: 27 L.R.A.(N.S.) 181.

Begin with this book on every law question.

MASTER AND SERVANT, III. a, 6, (a) - | MASTER AND SERVANT, III. a, 6, (a) -

Liability of master for injury to servant in using appliance for purpose other than that for which it was primarily intended. 16 L.R.A.(N.S.) 984.

Master's liability for injuries sustained by servant from falling over nail or bolt projecting from floor. 19 L.R.A.(N.S.) 242.

Duty and liability to servant in respect to animals owned or used by master. L.R.A.1915B, 433.

Liability of master to servant for personal injury by wild animal or animal kept for exhibition purposes. 23 L.R.A.(N. S.) 1071.

Liability of master to servant for failure to provide independent contractor with safe appliances. 1 L.R.A.(N.S.) 283.

Master's constructive knowledge as to condition of place of work as element of liability to injured servant. 41 L.R.A. 45, 50.

Master's duty to servants after learning of dangerous condition of place of work. 41 L.R.A. 139.

Nonliability for negligent use of safe appliance by fellow servant. 54 L.R.A. 111.

Duty of consignor or consignee to his employees as 'to the condition of cars, 45 L.Ř.A. (N.S.) 707.

Automobile owner's liability for injury to operator of car. 46 L.R.A.(N.S.) operator of car. 46 1183; L.R.A.1918E, 417.

Duty of master, in absence of statute, to furnish place for eating luncheon. 44 L.R.A.(N.S.) 1102.

Liability of master for injuries caused by defective conditions or appliances which are not dangerous. 47 L.R.A. (N.S.) 1142.

Liability of master for injury to employee's assistant. 43 L.R.A.(N.S.) 181.

Is ordinance requiring covering of sidewalk where building is in process of construction, for benefit of servants. 45 L.R.A. (N.S.) 550.

Duty of master to protect servant from material rolling down hillside. 46 L.R.A. (N.S.) 629.

Duty of master with respect to premises of stranger onto which he sends his servant to work. 45 L.R.A.(N.S.) 271.

Liability of master for dangerous condition created by third person near place of work. 45 L.R.A. (N.S.) 295.

Liability of manufacturer to servant with respect to automobile testing track. 49 L.R.A. (N.S.) 883.

Duty under Employer's Liability Acts, of owner to servants of contractor, or of principal contractor to servants of subcontractor, as to condition of place or appliance. L.R.A.1917D, 991. Sufficiency of general allegations of negli-

gence as to place of work. 59 L.R.A. **253**.

Sufficiency of general allegations as to structure and appliances. 59 L.R.A. 258. Consult also L.P. 4. Digests of Cases.

cont'd

§ 80. Changing conditions; making repairs.

In general. 19 L.R.A.(N.S.) 340; 28 L.R.A. (N.S.) 1267.

Work of construction or demolition. L.R.A.(N.S.) 342.

Excavations. 19 L.R.A.(N.S.) 350. Repair work. 19 L.R.A.(N.S.) 362. 19 L.R.A.(N.S.) 362.

Completed working place. 19 L.R.A. (N.S.) 363.

Illustrative cases—obvious risks. 19 L.R.A. (N.S.) 367.

Applicability of rule as to safe place where servants are engaged in the work of redangerous conditions. moving L.R.A. (N.S.) 321.

Duty of master in respect to defective appliance which servant is employed to repair. 25 L.R.A.(N.S.) 331.

Master's nonliability for coservant's negligence in respect of dangers arising from changing condition of building or other structures while in course of erection or repair. 54 L.R.A. 139. Master's nonliability for coservant's negli-

gence in respect to dangers incident to demolition of buildings. 54 L.R.A. 140.

Liability of master for injuries due to dangerous condition of earth and rock left after blasting. 48 L.R.A. (N.S.) 925.

## § 81. Tools.

Duty to inspect, see infra, § 100.

Assumption of risk from use of defective tools, see infra, §§ 111-122.

Master's liability for injury by defect in common tools. 13 L.R.A.(N.S.) 668; 40 L.R.A.(N.S.) 832; 51 L.R.A.(N.S.) 337; L.R.A.1918D, 1141.

Liability of master for injuries incident to the use of steel tools in blasting. 27 L.R.A.(N.S.) 982.

Delegability of master's duty to instruct or warn servants as to machinery, tools, or appliances. 26 L.R.A. (N.S.) 629.

## § 82. Flying splinters.

Liability of master for injuries caused by splinters flying from hammers or chisels, punches, and other similar tools. 13 L.R.A.(N.S.) 670: L.R.A. (N.S.) 800; 40 L.R.A. (N.S.) 832; 51 L.R.A. (N.S.) 337.

## 8 88. Ladders.

Nondelegable duties as to defective ladders. 54 L.R.A. 72.

Liability of master for injury to servant by defective ladder not forming part of a structure. 13 L.R.A.(N.S.) 687; 51 L.R.A. (N.S.) 337.

Ladders as ways, works, etc. within meaning of employers' liability acts. L.R.A. 1915F, 1038.

## 8 84. Scaffolds.

Nondelegable duties as to defects in scaffolds, platforms, etc. 54 L.R.A. 69, 77. MASTER AND SERVANT, III. a, 6, (a)cont'd

Negligence of coservant in respect to preparation of scaffolds, staging, etc. L.R.A. 142.

Master's liability for negligence of coservant in respect to defective scaffolds. 54 L.R.A. 170.

What are scaffolds or structures within statutes relating to safety of scaffolds in connection with structures: 30 L.R.A.(N.S.) 30.

Scaffolding, etc. as ways, works, etc. within meaning of employers' liability acts.

L.R.A.1915F, 1036.

Duty of master as to condition of scaffold constructed by employees, to an employee not a member of the gang for whose use the scaffold was primarily constructed. 22 L.R.A. (N.S.) 952.

Applicability as between master and servant of maxim, Res ipsa loquitur, to fall of scaffold. 28 L.R.A.(N.S.) 586.

Employee's right of action for employer's violation of building laws as to scaffolds. 9 L.R.A.(N.S.) 376.

## § 85. Elevators.

Inspection of, see infra, § 101.

Employee's right of action for employer's violation of statute as to guarding elevators and shafts. 15 L.R.A. (N.S.) 784; L.R.A.1915E, 541.

Measure of duty owing to servants with respect to elevators which they are required or permitted to use for personal transportation. 18 L.R.A.(N.S.)

Master's liability for injury to employee caused by defective elevator and negligence of fellow servant. 2 L.R.A. (N. S.) 647.

8 86. Electricity.

Applicability of res ipsa loquitur in case of injury to servant by electrical appliances. L.R.A.1917E, 248.

Liability of electric company to employee for injury caused by electric shock. 32 L.R.A. 351.

Liability of street railway company for injury to employee from poles placed too near track. 15 L.R.A.(N.S.) 1109.

Injury to electric lineman through defect in pole or its appurtenances. 21 L.R.A. (N.S.) 774; 26 L.R.A. (N.S.) 509.

Who are fellow servants of linemen. L.R.A.(N.S.) 47.

Nondelegability of duty of selecting appliances, etc., for linemen. 30 L.R.A. (N.S.)

Employee attempting to remove wire of another company interfering with his employer's line as a volunteer. 31 L.R.A. (N.S.) 617.

Master's duty to linemen and other employees to prevent contact of wires carrying electric current. 52 L.R.A. (N.S.)

§ 87. Statutory liability for defects in condition of plant.

Generally. 57 L.R.A. 817.

Begin with this book on every law question.

MASTER AND SERVANT, III. a, 6, (a)cont'd

Effect of these statutory provisions as to defects, generally. 57 L.R.A. 818.

Master not liable unless the defect alleged

was the proximate cause of the injury. 57 L.R.A. 818.

Application and effect of Federal employers' liability act. L.R.A.1915C, 55.

What covered by the terms "ways,"
"works," etc. 57 L.R.A. 819; 44 L.R.A.
(N.S.) 1123; 47 L.R.A.(N.S.) 51;
L.R.A.1915F, 1036.

Significance of the qualifying phrase, "con-nected with or used in the business of the employer." 57 L.R.A. 821.

What constitutes a defect. 57 L.R.A. 827. Specific examples of defects. 57 L.R.A. 830. Conditions not amounting to defects. 57 L.R.A. 832.

Defective system, employer liable for. 57 L.R.A. 835.

Not discovered or remedied owing to negligence, etc. 57 L.R.A. 836.

Abnormal conditions resulting from the use of the appliances furnished by the master, how far regarded as defects. 57 L.R.A. 839.

Defects in temporary appliances constructed by the servants themselves, not deemed to be chargeable to the employer. 57 L.R.A. 841.

## (b) Machinery.

§ 88. Generally,

What instrumentalities are covered by the term "machinery." 57 L.R.A. 821.

Statutory liability for defects in condition of machinery. 57 L.R.A. 830.

Master's constructive knowledge as to condition of machinery and apparatus as element of liability to injured servant. 41 L.R.A. 46, 53.

Master's duty to servant after learning of dangerous condition of machinery and appliances. 41 L.R.A. 139.

Muster's liability for coservant's negligence in respect to defective machinery. 54 L.R.A. 172, 177.

Nondelegable duty as to defects in. L.R.A. 72, 80.

Delegability of master's duty to warn servants of danger from starting of machinery. 26 L.R.A.(N.S.) 647.

Injuries caused by defects in machinery while used for a purpose not contemplated. 18 L.R.A. 124. Liability of master where machine which

fails to perform the service for which it was designed is supplemented by the work of an employee. 30 L.R.A. (N.S.)

Presumption of negligence of master from unexplained starting of machinery injuring servant. 1 L.R.A.(N.S.) 298; 44 L.R.A. (N.S.) 1050.

Sufficiency of general allegations as to. 59

L.R.A. 258.

§ 89. Injuries from projecting screws in moving machinery.

Discussion of the question whether the maintenance of a set screw imports negligence at common law. 48 L.R.A. 96.

Liability of master under statutes. L.Ř.A. 97.

Defenses of assumption of risks and contributory negligence. 48 L.R.A. 98.

## § 90. Guarding machinery.

Common practice as the measure of master's duty to guard machinery. 16 L.R.A. (N.S.) 140.

What is comprehended in expression "ma-chinery of every description," in statutes imposing duty on master as to placing guards. 30 L.R.A. (N.S.) 36.

Does statute requiring guarding of ma-chinery apply to portable machines. 45 L.R.A.(N.S.) 687. Employee's right of action for employer's

violation of statutory duty as to guards about machinery. 9 L.R.A. (N.S.) 381; L.R.A.1915E, 547.

Duty of master to guard against employce's hair being caught in machinery. 27 L.R.A. (N.S.) 972; 48 L.R.A. (N.S.) 834.

Is employer's statutory duty to guard place or machinery owing to employees of contractor. 36 L.R.A. (N.S.) 269.

Master's duty to guard machinery as a delegable one. 54 L.R.A. 71; 17 L.R.A. (N.S.) 568.

Master's nonliability for coservant's negligence in displacing guards provided for dangerous machinery. 54 L.R.A. 137.

Master's liability for coservant's negligence in respect to uncovering machinery. 54 L.R.A. 170.

Liability of master where statutory guards on machinery have been removed and not replaced. 45 L.R.A.(N.S.) 128.

Applicability of statutes requiring machinery or other dangerous appliances or places to be guarded to persons who voluntarily come in contact therewith. 44 L.R.A.(N.S.) 1061.

#### (c) In mines.

§ 91. Generally.

Employee's right of action for employer's violation of mining acts. 9 L.R.A.(N. S.) 382; L.R.A.1915E, 557.

Evidence as to conditions before and after accident. 32 L.R.A.(N.S.) 1095, 1108.

§ 91a. Statutory regulations for protection of workmen.

Props. 25 L.R.A. 848. Cage and signals. 25 L.R.A. 849. Shafts and fences. 25 L.R.A. 850.

Escape and ventilation shafts. 25 L.R.A.

Miscellaneous. 25 L.R.A. 852. Consult also L.R.A. Digests of Cases.

MASTER AND SERVANT, III. a, 6 (b)— MASTER AND SERVANT, III. a, 6 cont'd

## (d) Railroad and street railway cases.

§ 92. Generally.

Liability for negligence of coservant, see infra, § 162a.

Delegation of duties as to, see infra, § 167.

As to failure to fence track. 25 L.R.A. 320; L.R.A.1916E, 207.

Injury to railroad employee by torpedoes on the track. 16 L.R.A.(N.S.) 1084.

Liability of railroad company to employees for negligence of shippers in their use of instrumentalities for loading and unloading cars. 24 L.R.A. (N.S.) 1020.

As to defective track owned by another railroad company causing injuries to railroad employee in line of duty. 22 L.R.A. 283.

Liability of railroad lessee or licensée to its servants for condition of track. L.R.A. (N.S.) 787.

Liability of railroad to trainmen injured by overhead structure. 47 L.R.A. (N.S.) 483.

Liability of railroad company to watchman or flagman for injuries caused by passing trains. 48 L.R.A. (N.S.)

Liability of railroad company for injuries to employee by object thrown from train by train employee in course of his duty. 52 L.R.A. (N.S.) 1117.

Liability of railroad company to employees for injuries caused by defects in roadbed caused or accompanied by rainfall. 49 L.R.A.(N.S.) 198.

Liability of railroad company for injuries to servant caused by leaving material near track which may be thrown on to track by outside forces. 52 L.R.A. (N.S.) 1115.

(N.S.) 1115.

Duty of railroad company to maintain safeguards to prevent employees from falling off or through bridges, 50 L.R.A. (N.S.) culverts, etc. 548.

Liability to servant in charge of a train or car as affected by his duty to keep schedule time. L.R.A.1916E, 268.

Duty to keep lookout for trackmen. L.R.A. 1916F, 564.

Hand car as a car within meaning of statute. L.R.A.1915A, 817.

Applicability of res ipsa loquitur in case of injury to servant by derailment of rolling stock. L.R.A.1917E, 212.

#### § 93. Condition of cars.

Statutory requirements as to safety appliances, see infra, § 96.

Duty of consignor or consignee to his employees, as to condition of car. 14 L.R.A.(N.S.) 972; 45 L.R.A.(N.S.)

Liability of master for injuries sustained by servant in taking defective car or engine to a shop for repairs. 25 L.R.A. (N.S.) 335.

MASTER AND SERVANT, III. a, 6 (d)cont'd

Liability of railroad company to employee for injuries caused by defectively loaded car. 13 L.R.A.(N.S.) 384; 49 L.R.A. (N.S.) 1011.

Liability of street railway company for injury to employees for failure to perform statutory duty to provide vesti-bules for cars. 30 L.R.A.(N.S.) 428.

Validity of statutes and ordinances for protection and comfort of street car operatives. 42 L.R.A.(N.S.) 1060.

Delegability of duty as to method of loading cars. 54 L.R.A. 78.

Nondelegable duties as to defective cars. 54 L.R.A. 71, 79.

Hand car as a car within meaning of statute. L.R.A.1915A, 817.

## § 94. Switches.

Applicability of res ipsa loquitur in case of injury to servant from defects in rolling stock. L.R.A.1917E, 226.

Sufficiency of rules for switching of cars. 43 L.R.A. 339.

Servant's disobedience of rules in regard to switching. 43 L.R.A. 365.

Right of jury to pass on question of negligence in use of switch of a particular type or construction. 26 L.R.A.(N.S.) 600.

Master's liability for vice principal's negligence in manipulating. 54 L.R.A. 129. Master's liability for negligence of coservant in respect to defective switches. L.R.A. 170.

Duty to keep switch closed as a delegable one. 17 L.R.A.(N.S.) 542.

## § 95. — failure to block.

Want of blocking not negligence per se apart from statute. 48 L.R.A. 68; 16 L.R.A.(N.S.) 715.

Statutes requiring frogs, etc., to be blocked. 48 L.R.A. 71; 16 L.R.A. (N.S.) 719.

Employee's right of action for employer's violation of statute as to blocking frogs and switches. L.R.A.1915E, 537

Want of blocking considered as a risk assumed by the servant. 48 L.R.A. 72; 16 L.R.A.(N.S.) 717.
Leaving switch unlocked as proximate cause

of derailment of train resulting from the throwing of the switch by a stranger. 11 L.R.A. (N.S.) 738.

## § 96. Safety appliance acts.

Duty and liability under Federal and state railway safety appliance acts. 20 L.R.A. (N.S.) 473; 41 L.R.A. (N.S.)

Applicability of Federal safety appliance act to railroad entirely within the state and without traffic arrangements with other roads. 15 L.R.A.(N.S.) 167.

Is terminal railway company, in moving interstate traffic, within Federal safety appliance act. 22 L.R.A.(N.S.) 582.

State statute as to safety appliances as in-52 L.R.A.(N.S.) 269.

MASTER AND SERVANT, III. a, 6 (d) cont'd

Employee's right of action for employer's violation of statute as to equipping rolling stock with safety hand and footholds. L.R.A.1915E, 537.

## § 97. Poles and trees near street car track.

Liability of street railway company for injury to employee from poles placed too near to track. 15 L.R.A.(N.S.) 1109. Liability of street railway company operat-

ing in a street for injury to employee by a tree or a pole maintained by third person near the track. 16 L.R.A. (N.S.) 978.

## (e) Inspection.

#### § 98. Generally.

Delegability of duty as to, see infra, § 168.

Servant's disobedience of rules prescribing for inspection of appliances. 43 L.R.A. 365.

Imputing to master coservant's negligence in respect to inspection. 54 L.R.A. 153. Nondelegability of duty to inspect poles for electric wires. 30 L.R.A.(N.S.) 50.

Master's duty to inspect as affected by fact that instrumentality was purchased from responsible dealer. 40 L.R.A.

(N.S.) 1120. Right of master to rely on inspection by public aunthorities of places, or appliances. 15 L.R.A.(N.S.) 812.

Duty to examine condition of earth and rocks left after blusting. 48 L.R.A. (N.S.) 925.

## 99. Instrumentalities generally.

Duty of active inspection of instrumental-ities when first used. 41 L.R.A.

Duty of active inspection of instrumentalities while in use. 41 L.R.A. 74.

Employer's liability qualified by the servant's duty to acquaint himself with his environment. 41 L.R.A. 125.

## 3 100. Tools and implements furnished servant.

Duty of master to inspect. 1 L.R.A.(N.S.) 944.

Right of employee to assume that tools are safe. 1 L.R.A.(N.S.) 950.

Right to complain of failure to inspect when safe tools are available. 1 L.R.A. (N.S.) 952.

#### § 101. Elevators.

Duty to employees as to inspection of elevators. 21 L.R.A. (N.S.) 592.

Master's right to rely on inspection of elevators by public authorities. 15 L.R.A. (N.S.) 812.

## § 102. Materials.

70 Master's duty to inspect materials. L.R.A. 831.

terference with interstate commerce. Degree of care required in inspection. L.R.A. 833.

Begin with this book on every law question.

Duty of master to inspect junk to be handled by employees. 40 L.R.A. (N.S.)

Master's right to rely on inspection by public authorities. 15 L.R.A.(N.S.) 812.

### (f) Superintendence and supervision.

§ 103. Generally.

Employer's duty as to the supervision of appliances not owned by him, but used by his servants. 41 L.R.A. 100.

Duty of master to furnish superintendence where the work is complicated and dangerous. 29 L.R.A. (N.S.) 481.

### 7. Selection, employment, and retention of fellow servants.

§ 104. Generally,

Delegability of duty as to employing competent fellow servants, see infra, § 169.

General principles. 48 L.R.A. 369. Probative value of various facts as tending to show culpability on the master's part. 48 L.R.A. 378.

Disobedience of orders as incompetency within the rule as to master's duty to furnish competent fellow servants. 30 L.R.A.(N.S.) 109.

Duty of master to servant to keep informed as to fitness of coservants in his employ. 1 L.R.A. (N.S.) 288.

Right of servant to rely on promise of master to discharge incompetent or careless fellow servant. 10 L.R.A.(N.S.) 1043; 47 L.R.A.(N.S.) 1220.

Sufficiency of general allegations of negli-gence with relation to competent and careful fellow servants. 59 L.R.A. 263.

May breach of duty to employ or retain none but competent servants be inferred in fact from their incompetency. L.R.A. (N.S.) 322.

May incompetency of minor to perform duties of a particular employment be inferred from his minority alone. L.R.A.(N.S.) 331.

Evidence of specific instances to prove character of servant. 14 L.R.A. (N.S.) 756. Evidence of specific instances to prove incompetency of servant. 14 L.R.A.

(N.S.) 760. Evidence of reputation to show incompetency of servant or master's knowledge thereof. 33 L.R.A.(N.S.) 751.

§ 105. Liability of master for injuries caused by incompetency of fellow servant.

Master's knowledge of incompetency as element of liability, see supra, § 67. Presumption and burden of proof as to servant's incompetency, see EVIDENCE,

Employment, generally. 25 L.R.A. 710. Retention in employ. 25 L.R.A. 713. Consult also L.R.A. Digests of Cases.

§ 78.

MASTER AND SERVANT, III. a, 6 (e)—
| MASTER AND SERVANT, III. a, 7—cont'd cont'd Incompetency through use of liquor. 25
| Duty of master to inspect junk to be | L.R.A. 714: 40 L.R.A. 146; 47 L.R.A. (N.S.) 742.

Pleading incompetency. 25 L.R.A. 715. Evidence. 25 L.R.A. 716.

Master's liability for injury to servants in respect to failure to employ suitable servants. 54 L.R.A. 172.

Master's liability for injury to servant due to unfitness of delinquent fellow serv ant. 54 L.R.A. 177.

Assumption of risk by servant of dangers from employment of incompetent servant, L.R.A.1916F, 1212.

#### § 106. Employing sufficient number of servants.

Delegability of duty as to, see infra, § 169a.

Duty of master to provide sufficient help. 54 L.R.A. 173, 178; 48 L.R.A. 392; 17 L.R.A. (N.S.) 773; 40 L.R.A. (N.S.) 913.

Full crew acts. 49 L.R.A.(N.S.) 977.

### 8. Liability to volunteer, employee's assistant, or servants of third persons.

§ 107. Generally.

Assumption of risk by volunteer, see infra, § 121.

Liability of master for injury to voluntec... 22 L.R.A. 664; 13 L.R.A. (N.S.) 561; 16 L.R.A.(N.S.) 963; 43 L.R.A.(N.S.) 187; L.R.A.1915F, 1125.

Duty and liability of owner to one on premises for purpose of seeing his employees. 24 L.R.A.(N.S.) 497.

Liability of master for injury to employee's assistant. 43 L.R.A.(N.S.) 179.

§ 108. Who are volunteers. Volunteer, who is. 16 L.R.A. 861.

Employee attempting to remove wire of another company interfering with his employer's line, as a volunteer. 31 L.R.A.(N.S.) 617.

### 108a. Servants of third persons.

Liability for injury to servants of independent contractor, see infra, § 202.

Liability of landlord for injury to employee of tenant, see LANDLORD AND TENANT, IV. d, 4.

Liability of railroad for injuries to employees of another company using the road under a lease, license, or other contract. L.R.A.1918E, 264.

Liability for injury by electric shock to employee of another company while on defendant's pole, where pole is used jointly. 45 L.R.A.(N.S.) 303.

Liability under Federal employer's liabil-

ity act for injury to employees of other companies. L.R.A.1915C, 72.

Responsibility of general employer for negligence of employee in operating elevator for convenience of workmen not in former's employ. L.R.A.1917E, 964.

## MASTER AND SERVANT, III.—cont'd

#### b. Assumption of risk.

§ 109. Generally.

Assumption of risk of changing conditions, see supra, § 80.

Risk of explosion, see Explosions and Ex-PLOSIVES, § 7.

Conflict of laws as to. 56 L.R.A. 221. In absence of contractual relation. 3 L.R.A.

(N.S.) 1097.

Abrogation of defense of assumption of risk

by Federal employers' liability act. 47 L.R.A. (N.S.) 62; L.R.A.1915C, 69. Abrogation of defense of assumption of risk by Workmen's Compensation Act. L.R.A.1917D, 57.

Effect of inference of assumption of risk on applicability of rule res ipsa loquitur. L.R.A.1917E, 52, 194, 209.

§ 110. Relation between assumption of risk and contributory negligence.

Distinction between assumption of risk and contributory negligence. 21 L.R.A.

(N.S.) 138. Relation between defenses of assumption of risks and contributory negligence in entering or remaining in employment. 49 L.R.A. 49.

§ 111. Various risks assumed in gencral.

Assumption of risk of injury due to servant's physical unfitness for the work. L.R.A.1915E, 369.

Assumption of risk by servant of dangers from employment of incompetent servant. L.R.A.1916F, 1212.

Assumption of risk by an employee of dangers arising from a change of appliances. L.R.A.1916D, 1210.

Assumption of danger of heat prostration. L.R.A.1915E, 613.

Of danger of electric shock. 32 L.R.A. 353.

From projecting screw in moving machin-ery. 48 L.R.A. 98.

Assumption by train employee of risks due to defects in tracks or roadbed. 28 L.R.A.(N.S.) 1255; 49 L.R.A.(N.S.) 517.

Assumption of risk of unblocked switches. 48 L.R.A. 72; 16 L.R.A.(N.S.) 717.

Assumption of risks arising from failure to fence railroad tracks. L.R.A.1916E, 209.

Assumption by trainman of risk of injury by overhead structures, 47 L.R.A. (N.S.) 489.

Assumption of risk from defectively loaded car. 49 L.R.A.(N.S.) 1014.

Assumption of risk of injury from defect in simple tool. 51 L.R.A.(N.S.) 337; L.R.A.1918D, 1141.

Servant's assumption of risk of being injured by dust or splinters caused by the progress of the work. 25 L.R.A.(N.S.) MASTER AND SERVANT, III. b-cont'd Servant's assumption of risk of injury by splinters flying off hammers, chisels, punches, and similar tools. 30 L.R.A. (N.S.) 800.

Assumption of risk of defective ladder not forming part of structure. 13 L.R.A.

(N.S.) 687.

Assumption of risk of overstraining muscles in lifting weights under immediate direction of master or vice principal. 25

L.R.A.(N.S.) 362. Assumption by tenant's employee of risk of unsafe portions of building remaining in landlord's possession. 3 L.R.A. (N.S.) 1097.

Assumption of risks under railway safety appliance acts. 20 L.R.A.(N.S.) 482; 41 L.R.A.(N.S.) 57.

Servant's assumption of risk in respect to animals owned or used by master. 18 L.R.A.(N.S.) 695; L.R.A.1915B, 435.

Assumption of risk by servant riding in automobile. 46 L.R.A. (N.S.) 1183; L.R.A. 1918E, 416.

Servant's assumption of risk of danger from fall of piles or stacks of material. 47 L.R.A.(N.S.) 266.

§ 112. Volenti non fit injuria as a defense,

Meaning and effect of the maxim, as a matter of verbal construction. 47 L.R.A.

Relation of the maxim to the doctrine of a contractual assumption of risks. 47 L.R.A. 163.

Maxim not available as a defense, unless plaintiff's knowledge of danger is shown. 47 L.R.A. 164.

Logical significance of the servant's knowledge. 47 L.R.A. 166.

How far voluntary action may be inferred from the servant's knowledge of a risk, generally. 47 L.R.A. 170.

Specific circumstances bearing on question whether servant was volens. L.R.A. 172.

Negligence of the servants of a person other than the plaintiff's employer not a risk assumed. 47 L.R.A. 193.

Relation of the maxim to the defense of contributory negligence. , 47 L.R.A. 198.

Bearing of the servant's knowledge upon the question whether he was negligent. 47 L.R.A. 200.

§ 113. As affected by servant's knowledge and appreciation of danger; obvious dangers: latent defects.

Effect of assurance of safety, see infra, § 118.

Effect of master's promise to remove specific cause of danger, see infra, §§ 119, 120.

Duty of servant to report defects in plant. 57 L.R.A. 842.

Servant's assumption of risk of danger imperfectly appreciated. 4 L.R.A. (N.S.) 990.

MASTER AND SERVANT, III. b-cont'd | MASTER AND SERVANT, III. b-cont'd Servant's knowledge as element of defense of contributory negligence in entering or remaining in employment. 49 L.R.A. 33.

Assumption of obvious risks of hazardous employment. 1 L.R.A.(N.S.) 272.

Assumption of risk of defective tool, machine, or appliance, where the defect is obvious, but its importance not appreci-

ated. 13 L.R.A.(N.S.) 691. In obeying orders to perform obviously dangerous work. 4 L.R.A. (N.S.) 830.

Attempting dangerous work in obedience to orders without fully appreciating danger. 4 L.R.A.(N.S.) 838.

Effect of master's assurance as to obvious dangers of employment. 4 L.R.A. (N.S.) 971.

Dangers created by the master's negligence, which might have been discovered by the exercise of ordinary care on the part of the servant. 28 L.R.A. (N.S.) 1250.

Right of railroad engineer to proceed with engine after learning while en route that engine is defective, without assuming risk. 25 L.R.A.(N.S.) 339.

Servant's assumption of risk from latent danger or defect. 17 L.R.A.(N.S.) 76. Is employee chargeable with knowledge of danger of back fire from furnace. 45

L.R.A.(N.S.) 658.

When knowledge of danger of low bridge will be imputed to trainman injured thereby. 47 L.R.A.(N.S.) 495.

Dangers arising from a change of appliances. L.R.A.1916D, 1210.

#### § 114. Of master's negligence.

May servant assume the risk of dangers created by the master's negligence. 4 L.R.A.(N.S.) 848; 28 L.R.A. (N.S.) 1215.

Dangers which might have been discovered by exercise of ordinary care on servant's part. 28 L.R.A. (N.S.) 1250.

§ 115. Of master's breach of statutory

In general. 6 L.R.A. (N.S.) 981; 19 L.R.A. (N.S.) 646; 22 L.R.A.(N.S.) 634; 33 L.R.A.(N.S.) 646; 42 L.R.A.(N.S.) 1229; 49 L.R.A.(N.S.) 472.

Risk not assumed. 6 L.R.A.(N.S.) 983; 33 L.R.A.(N.S.) 647; 42 L.R.A.(N.S.) 1229; 49 L.R.A.(N.S.) 472.

Special statutory provisions. 6 L.R.A. (N.S.) 985; 33 L.R.A. (N.S.) 648; 42 L.R.A.(N.S.) 1231.

Risk may be assumed. 6 L.R.A.(N.S.) 981; 33 L.R.A.(N.S.) 649; 42 L.R.A. (N.S.) 1230.

Federal cases. 6 L.R.A.(N.S.) 986; 19 L.R.A.(N.S.) 648; 33 L.R.A.(N.S.)

Special statutory provision. 49 L.R.A. (N.S.) 473. Consult also L.R.A. Digests of Cases.

Contributory negligence as defense to servant's action for injuries from violation of master's statutory duty where statute excludes defense of assumption of risk. 13 L.R.A.(N.S.) 1152.

116. Outside scope of employment. When risks of work outside scope of employment are deemed to be assumed. 48 L.R.A. 803.

Absence of compulsion as essential element of assumption of risks by servant performing duties outside scope of original employment. 48 L.R.A. 808.

§ 117. Obeying orders.

Servant's duty to obey master's orders, see supra, § 4.

Master's liability for injuries received in obeying direct command, see supra.

Contributory negligence of servant obeying command, see infra, §§ 126, 127.

Direct orders as essential factor where the risk to which they exposed servant was one of those assumed. 48 L.R.A. 754.

Servant's assumption of risk in obeying orders to perform obviously dangerous work. 4 L.R.A. (N.S.) 830.

Attempting dangerous work in obedience to orders, without fully appreciating the danger. 4 L.R.A. (N.S.) 838.

Servant's right of action for injuries received in obeying direct command accompanied by assurance of safety. 30 L.R.A.(N.S.) 453.

View that direct command makes assumption of risk question of fact only. 30 L.R.A.(N.S.) 442.

§ 118. Assurance of safety by master or coservant.

General rule. 48 L.R.A. 542; 23 L.R.A. (N.S.) 1014; 30 L.R.A.(N.S.) 453. Illustrative cases. 48 L.R.A. 542.

Rationale of rule. 48 L.R.A. 544.

When an assurance of safety is not conclusive in the servant's favor. L.R.A. 545.

Whose assurances bind the master. L.R.A. 546.

Effect of master's assurance as to obvious dangers of employment. 4 L.R.A. (N.S.) 971.

§ 119. Continuing work on master's promise to remove a specific cause of danger; promise to repair.

General rule. 40 L.R.A. 782.

Rationale of the relation between the parties after the giving of the promise. 40 L.R.A. 783.

Continuance of work after promise not contributory negligence, as matter of law. 40 L.R.A. 786.

Servant's action not maintainable unless his continuance of work was actually induced by the master's promise to protect him from some danger, etc. 40 L.R.A. 793.

MASTER AND SERVANT, III. b-cont'd Whose promise is binding on an employer.
40 L.R.A. 796.

Rule where the promise relates to simple appliances. 40 L.R.A. 797.

Obligations of the servant pending the ful-filment of the promise. 40 L.R.A. 798.

Servant's right to rely on master's promise to discharge incompetent or careless servant. 10 L.R.A(N.S.) 1043; 47 L.R.A. (N.S.) 1220.

Servanus assumption of risk of defect in simple tool which master has promised to repair or replace. 27 L.R.A.(N.S.) 1052.

Effect of promise to repair at some definite future time or after a certain event to suspend the doctrine of assumed risk during the interval. 4 L.R.A.(N.S.) 913; 22 L.R.A.(N.S.) 472.

Effect of promise to repair not made with reference to servant's safety. 45 L.R.A.

(N.S.) 363.

Liability of master for breach of promise to remedy conditions, or furnish other appliances, where they were already reasonably safe. 25 L.R.A. (N.S.) 1179.

Effect of master's promise to repair defective ladder not forming part of structure. 13 L.R.A.(N.S.) 689.

§ 120. - effect of promise where danger is great and imminent General principles. 29 L.R.A.(N.S.) 598. Illustrative cases. 29 L.R.A. (N.S.) 601. Care to be exercised by the servant after the promise. 29 L.R.A. (N.S.) 606.

§ 121. Assumption by volunteer. Master's liability for injury to volunteer, see supra. §§ 107, 108.

Generally. 22 L.R.A. 663; 43 L.R.A. (N.S.) 187.

Liability to minor volunteer. 22 L.R.A. 664.

Assisting by request of one in authority. 22 L.R.A. 664.

Persons with interest. 22 L.R.A. 665. Persons not volunteers. 22 L.R.A. 665. Servant volunteer. 22 L.R.A. 665.

§ 122. By minor employee.

Master's liability for injury to minor employee, see supra, §§ 50, 51, 55.

Duty to warn or instruct minor employees, see supra, §§ 76-78.

Assumption of risks by minor employees. 8 L.R.A. 491;\* 1 L.R.A. (N.S.) 279.

May one employing child under statutory age rely on assumption of risk to defeat liability for personal injury to latter. 12 L.R.A. (N.S.) 461; 48 L.R.A. (N.S.) 667.

### c. Contributory negligence.

§ 128. Generally.

Act of employee in emergency, see EMER-GENCY, § 2.

Presumption and burden of proof as to, see Evidence, § 83.

MASTER AND SERVANT, III. e-cont'd Servant injured by falling object, see FALL-ING OBJECTS, § 4.

As to last clear chance generally, see NEG-LIGENCE, §§ 50-52.

Question for jury as to, see TRIAL, § 47.

Effect of inference of contributory negligence on applicability of res ipsa loquitur. L.R.A.1917E, 52, 194, 209, 215, 231, 241, 249.

Distinction between assumption of risk and contributory negligence. 21 L.R.A. (N.S.) 138. Conflict of laws as to. 56 L.R.A. 221.

Relation of maxim Volenti non fit injuria to defense of contributory negligence. 47 L.R.A. 161.

Contributory negligence of servant in undertaking work for which he is physically unfit. L.R.A.1915E, 369.

Contributory negligence as affected by illegal or negligent custom of servants.
47 L.R.A. (N.S.) 909.

Attempting to save employer's property. 2 L.R.A.(N.S.) 954.

Contributory negligence of servant injured by dangerous condition of earth and rock left after blasting. 48 L.R.A. (N.S.) 927.

Contributory negligence of servant injured by animal owned or used by master. 18 L.R.A. (N.S.) 695; L.R.A.1915B, 435.

With respect to injury from projecting screw in moving machinery. 48 L.R.A. 98.

By employee of electric company. 32 L.R.A. 353.

Of railroad employee in riding on engine. 14 L.R.A. 552.

Duty of employee engaged in repairing or cleaning track to look out for his own safety. 6 L.R.A.(N.S.) 646.

Venturing with train or hand car on track over which other train has the right of wav. 1 L.R.A.(N.S.) 1014.

Right of servant on railroad track to rely on custom to move trains on certain track only in one direction. L.R.A. 1916D, 708.

Contributory negligence in relying on presence of step or hand hold on engine or car. 45 L.R.A.(N.S.) 359.

Contributory negligence of trainman injured by overhead structure. 47 L.R.A. (N.S.) 494.

Walking in frort of moving car to prepare coupling. 10 L.R.A.(N.S.) 881.

Contributory negligence of employee in running ahead of car or train in performance of his work. 52 L.R.A. (N.S.) 443.

Negligence of employee of railroad in stepping between moving cars. 41 L.R.A. (N.S.) 32.

Negligence in going, without previous notice, under or between cars liable to be moved at any time. 46 L.R.A.(N.S.) 877; L.R.A.1918C, 380.

Contributory negligence of watchman or flagman injured by passing trains. L.R.A. (N.S.) 152.

MASTER AND SERVANT, III. c-cont'd Contributory negligence of railroad em-ployee injured by defects in roadbed caused or accompanied by rainfall. 49 L.R.A.(N.S.) 205.

Contributory negligence of employee of railroad company injured by defectively loaded car. 13 L.R.A.(N.S.) 391; 49 L.R.A.(N.S.) 1014.

Contributory negligence in failing to remember dangerous conditions. L.R.A.(N.S.) 79.

Availability of defense of contributory negligence, under safety appliance acts. 20 L.R.A.(N.S.) 483; 41 L.R.A.(N.S.) 57.

Abrogation of defense of contributory negligence by Federal employers' liability act. 47 L.R.A.(N.S.) 61; 48 L.R.A. (N.S.) 987; L.R.A.1915C, 65.

Abrogation of defense of contributory negligence by Workmen's Compensation Act. L.R.A.1917D, 57.

Contributory negligence as a defense to an action based on a breach of the master's statutory duty. 49 L:R.A. (N.S.) 526.

Where statute excludes defense of assumption of risk. 13 L.R.A. (N.S.) 1152.

Employee's right to rely on statute requiring signal to be given by train approaching crossing. 40 L.R.A.(N.S.) 1105.

Duty of servant to report defects in condition of plant. 57 L.R.A. 842.

Liability of employer qualified by servant's duty to acquaint himself with his environment. 41 L.R.A. 125.

Duty to relieve servant who, without master's fault, has been caught in dangerous situation. 7 L.R.A.(N.S.) 940.

Right of servant to compensation in case of incomplete performance of his contract caused by physical disability due to his own negligence. 28 L.R.A.(N.S.) 325.

124. Minor employees.

Master's liability for injury to minor employee, see supra, §§ 50, 55.

May one employing child under statutory age rely on contributory negligence to defeat liability for personal injury to latter. 12 L.R.A.(N.S.) 461; 20 L.R.A.(N.S.) 876; 48 L.R.A.(N.S.) 667.

Presumption and burden of proof as to capacity of minor servant to comprehend and avoid danger. 29 L.R.A.(N.S.) 487.

Does the fact that a minor was working in violation of a statute forbidding his employment prevent a recovery by him for personal injuries. 48 L.R.A.(N.S.)

125. Disobedience of master's rules,

Master's duty as to rules and regulations, see supra, § 71.

Duty of the servant in regard to the rules promulgated by his employer. 43 L.R.A. 350.

Consult also L.R.A. Digests of Cases, 57

MASTER AND SERVANT, III. e-cont'd Rules binding on employees. 24 L.R.A. 657. Examples. 24 L.R.A. 657.

In going without previous notice under or between cars liable to be moved at any time. L.R.A.1918C, 380.

Exceptions. 24 L.R.A. 658.

Notice. 24 L.R.A. 658.

The rule must not have been waived. L.R.A. 659.

The disobedience must be unnecessary. 24 L.R.A. 661.

The rule must be applicable. 24 L.R.A. 661. The disobedience must contribute to the injury. 24 L.R.A. 662. Wilful injury. 24 L.R.A. 662

Reasonableness of rule. 24 L.R.A. 662.

How the rules are construed. 24 L.R.A. 662.

24 L.R.A. 662. Evidence.

Question for court or jury. 24 L.R.A. 662. Violation of rule which conflicts with other rules or orders as contributory negligence. 9 L.R.A. (N.S.) 972.

Liability to servant in charge of a train or car as affected by his duty to keep schedule time. L.R.A.1916E, 268.

Contributory negligence in disobeying rule in obedience to orders of superior. L.R.A.(N.S.) 90.

126. Obeying command.

Servant's duty to obey master's orders, see supra, § 4.

Master's liability for injuries received in obeying direct command, see supra, §

Assumption of risk by servant obeying orders, see supra, § 117.

Contributory negligence of employee in obeying direct command. 30 L.R.A. (N.S.) 441.

that direct command makes tributory negligence question of fact only. 30 L.R.A.(N.S.) 442.

Rationale of servant's right to rely on master's direct command. 48 L.R.A. 750.

When contributory negligence not predicated on compliance with direct order. 48 L.R.A. 755.

When direct orders will not justify servant's obedience. 48 L.R.A. 763.

Specific command from master no excuse unless servant's act was induced thereby. 48 L.R.A. 764.

Negligence as to manner of carrying out master's direct command. 48 L.R.A.

Servant's disobedience of rule in obedience to orders of superior. 8 L.R.A. (N.S.)

Misunderstanding of order. 4 L.R.A. (N.S.) 407.

§ 127. — servant's reliance on orders as contributory negligence.

Question of law or fact. 17 L.R.A. 604. Setting servant at dangerous work outside of the scope of employment. 17 L.R.A. 604.

MASTER AND SERVANT, III. e-cont'd Seamen. 17 L.R.A. 606.

Emergency or hurry. 17 L.R.A. 606. Assurance of safety. 17 L.R.A. 606.

§ 128. In entering or remaining in employment.

When the servant's action is barred. 49 L.R.A. 33.

Relation between the defenses of assumption of risks and contributory negligence. 49 L.R.A. 49.

§ 129. — effect of master's assurance of safety.

Effect of assurance of safety given by the master or a coservant. 48 L.R.A. 542.

§ 130. — effect of master's promise to repair or remove dangerous condition.

Contributory negligence as matter of law notwithstanding master's promise to repair where danger is great and imminent. 29 L.R.A. (N.S.) 601.

Continuing work after master's promise to remove specific cause of danger as contributory negligence. 40 L.R.A. L.R.A. 786.

Servant's right to rely on master's promise to discharge incompetent or careless fellow servant. 10 L.R.A.(N.S.) 1043; 47 L.R.A. (N.S.) 1220.

§ 131. Performing duties outside scope of employment.

Contributory negligence as defense where injuries received in performance of duties outside of original contract. 48 L.R.A. 806.

Absence of compulsion as essential element of contributory negligence in performing duties outside scope of original employment. 48 L.R.A. 808.

### d. Fellow servants.

#### 1. In general,

#### (a) Generally.

§ 132. Generally.

Imputing knowledge of fellow servant to master, see supra, § 68.

Master's duty as to selection and retention of fellow servants, see supra, §§ 104,

Master's duty to employ sufficient number

of fellow servants, see supra, § 106.

Master's liability for injury due to negligence of fellow servant in mine, see Mines, § 41.

Imputing fellow servant's negligence to master, see NEGLIGENCE, § 45.

Question for jury as to master's liability for fellow servant's negligence, see TRIAL, § 41.

Effect of fellow servant rule on applicability of rule res ipsa loquitur as between master and servant. L.R.A.1917E, 52.

Begin with this book on every law question.

MASTER AND SERVANT, III. d, 1 (a)cont'd

Effect of inference of negligence of fellow servant on applicability of rule res ipsa loquitur in case of injury to servant by explosion. L.R.A.1917E, 194, 208, 216, 232, 241, 249.

Imputing servant's negligence to fellow servant. 8 L.R.A. (N.S.) 631; L.R.A. 1915A, 762.
Conflict of laws as to fellow-servant rule.

56 L.R.A. 219.

Rule when dangerous condition is due to act of fellow servant. 41 L.R.A. 54.

Right of servant to rely on promise of master to discharge incompetent or careless fellow servant. 10 L.R.A.(N.S.) 1043; 47 L.R.A. (N.S.) 1220.

Duty of instruction considered with reference to the doctrine of common employment. 44 L.R.A. 86.

Liability of master as affected by inability of fellow servant to understand English. 20 L.R.A.(N.S.) 39.

Overwork of servant as affecting master's liability for injury to him or another servant. 13 L.R.A.(N.S.) 1214; 45-L.R.A. (N.S.) 372.

Liability of master for injury to vice principal by negligence of servant. 23 L.R.A.(N.S.) 301.

Master's liability as affected by restrictions upon his freedom of selection and superintendence of employees by labor organizations. 3 L.R.A. (N.S.) 1105.

Master's duty to inspect tools belonging to fellow workman. 1 L.R.A. (N.S.) 950. Contributory negligence in disobeving rule

in obedience to orders of superior. \$ L.R.A.(N.S.) 90.

Burden of proving contributory negligence under fellow-servant act. 33 L.R.A. (N.S.) 1219. Possible inference that accident to servant

was due to negligence of fellow servant. 6 L.R.A.(N.S.) 354.

Evidence of fellow servant's character. 14 L.R.A.(N.S.) 757.

Personal liability of servant for injury tofellow servant. 28 L.R.A. 440.

(b) Concurrent negligence of master and fellow servant.

§ 133. Generally.

Negligence of fellow servant concurring with failure of the master to establish or enforce proper rules or regulations for conduct of business. 4 L.R.A. (N.S.)

Master's liability for injury to employeecaused by defective elevator and negligence of fellow servant. 2 L.R.A. (N.S.) 647.

§ 134. Relation of proximate cause doctrine to master's liability for injuries to servant from.

Relation of proximate cause doctrine to master's liability for injuries to servant from combined negligence of himself and fellow servant. 16 L.R.A. 819.

(c) Fellow-servant rule as affected by statute.

§ 135. Generally.

Validity of statute abrogating fellow-servant rule. 12 L.R.A.(N.S.) 1040; 47 L.R.A. (N.S.) 84.

State statute modifying fellow-servant rule as an interference with interstate commerce. 15 L.R.A.(N.S.) 134.

Abrogation of defense of fellow-servant doctrine by Federal employers' liability act. 47 L.R.A. (N.S.) 60; L.R.A.1915C,

Abrogation of fellow servant rule by Workmen's Compensation Act. L.R.A.1917D,

Employees and employments within the purview of statutes abrogating the fellow-servant rule. 47 L.R.A. (N.S.) 113.

Is a street or interurban railway affected by abrogation of fellow-servant rule as to "railroads." 17 L.R.A. (N.S.) 117.

Applicability to private railroad, of enactment abrogating fellow-servant rule as to "railroads." 15 L.R.A.(N.S.) 479; 45 L.R.A. (N.S.) 841.

What constitutes operation of railroad under statutes abrogating fellow-servant rule for railroads. 1 L.R.A. (N.S.) 696.

Is the work of a section gang "connected with the use and operation" of the railroad, within the meaning of fellow servant statute. 6 L.R.A.(N.S.) 452.

What is a railroad hazard within statutes abolishing or restricting fellowservant rule as to railroad employees. 18 L.R.A.(N.S.) 478; 22 L.R.A.(N.S.) 969.

Train employee charged with duty of signaling engineer as vice principal under the employers' liability acts. 52 L.R.A. (N.S.) 1142.

Hand car as a car within meaning of statute. L.R.A.1915A, 817.

(d) Who are fellow servants generally.

136. Generally.

Who are fellow servants on vessel, see SHIP-PING, § 11.

Question for jury as to, see TRIAL, § 27.

Generally. 4 L.R.A. 793; \* 7 L.R.A. 500; \* 18 L.R.A. 792.

Servants not on duty. 18 L.R.A. 797. As affected by legislation. 18 L.R.A. 797. Common service. 18 L.R.A. 817.

Employee's assistant as fellow servant other employees. 43 L.R.A.(N.S.) 186. Servants in mine as. 50 L.R.A. 437, 461.

Common laborers and persons engaged in blasting as fellow servants. 20 L.R.A. (N.S.) 1180.

Liability of railway company for injury to its servants by negligence of union de-pot employees. 13 L.R.A. (N.S.) 1196. Consult also L.R.A. Digests of Cases.

MASTER AND SERVANT, III. d, 1—cont'd | MASTER AND SERVANT, III. d, 1 (d) cont'd

Operatives employed in industrial plant as fellow servants of employees engaged in operation of private railroad conducted in connection therewith. L.R.A. (N.S.) 354.

Operator of elevator or other hoisting ap-paratus as fellow servant of other employees of the establishment. 41 L.R.A.(N.S.) 156.

Who are fellow servants of linemen when no question of vice principal is involved. 30 L.R.A. (N.S.) 48.

Train employees as fellow servants of em-ployees being carried to or from their work on the train. 52 L.R.A. (N.S.) 1106.

Applicability of fellow-servant rule as between trainmen and other railway employees. 52 L.R.A.(N.S.) 1084.

Persons operating train as fellow servants of watchman or flagman injured thereby. 48 L.R.A.(N.S.) 155.

Employee throwing object from train in course of his duty as fellow servant of employee struck thereby. 52 L.R.A. (N.S.) 1117.

137. Servant of employer and servant of contractor.

Servant of employer and servant of contractor as fellow servants. L.R.A.(N.S.) 334.

(e) For what acts of fellow servant master is liable.

§ 138. Generally.

For what acts of superior servant master is liable, see infra, §§ 151, 152.

Dependent on question of vice principalship, see infra, §§ 155-162a.

What duties are delegable to fellow servant, see infra, §§ 163-169.

Liability of master for injuries inflicted up: on an employee maliciously or in sport by other employees. 34 L.R.A.(N.S.) 109; 52 L.R.A.(N.S.) 385; L.R.A. 1918A, 118.

Liability of employer for injury to em: ployee by air forced into body by other

employees. L.R.A.1918E, 508.

Recovery under Workmen's Compensation
Act for injuries caused by sportive acts: L.R.A.1918E, 504.

2. Common employment, apart from statute, where no question as to vice principalskip.

🛊 139. Generally.

In general. 50 L.R.A. 417.

Relation between doctrine of common emiployment and master's duty to promulgate rules. 43 L.R.A. 342.

Duty of instructing servant considered with reference to doctrine of common employment. 44 L.R.A. 86.

What constitutes common employment. 18 L.R.A. 793.

What constitutes common service. 18 L.R.A. 817.

MASTER AND SERVANT, III. d, 2—cont'd MASTER AND SERVANT, III. d, 2—cont'd 140. Servants working outside scope Payment or nonpayment of fare not necessof employment.

Doctrine of common employment qualified as to servants working outside of scope of employment. 48 L.R.A. 805.

141. Theory that community of employment depends solely on whether delinquent servant's negligence was a risk contemplated by the injured servant.

Generally. 50 L.R.A. 422.

Diversity of duties or departments not sufficient to exclude defense of common employment. 50 L.R.A. 426.

Contiguity a material, though not decisive, factor. 50 L.R.A. 427.

Illustrative cases of common employment. 50 L.R.A. 429.

Railway work. 50 L.R.A. 429; 52 L.R.A(N.S.) 1084, 1111, 1127.

Disconnection of duties, when so great as to negative implied acceptance of the risk of a fellow servant's negligence. 50 L.R.A. 439.

§ 142. Theory that common employment depends on identity of departments or work or consociation of duties.

Identity of department as a test, generally. 50 L.R.A. 442.

Consociation of duties, as a test of common employment. 50 L.R.A. 444.

Relation between the theories of nonassignable duties and consociation of duties. 50 L.R.A. 448.

Difference of identity of department not necessarily conclusive under the consociation doctrine. 50 L.R.A. 449.

Some secondary results of the consociation doctrine have been noted in the decisions, 50 L.R.A. 451.

Consociation primarily a question of fact for the jury. 50 L.R.A. 452.

Criticisms of the doctrine of consociation. 50 L.R.A. 453.

Departmental theory as affecting different classes of workmen operating or using machinery, or in building a structure. 1 L.R.A.(N.S.) 682.

Trainmen and other railway employees generally. 52 L.R.A. (N.S.) 1084.

Train employees and employees being carried to or from their work on the train. 52 L.R.A.(N.S.) 1111.

Telegraph operators and train employees. 52 L.R.A.(N.S.) 1127.

§ 143. Common employment considered with reference to continuity of relation of master and servant. Generally. 50 L.R.A. 461.

Control by the master at the time of the injury, the ultimate determinative factor. 50 L.R.A. 462.

Positions of servants while being transported on vehicles belonging to their employers. 50 L.R.A. 462.

Payment or nonpayment of fare not necessarily decisive for or against the servant's right to recover. 50 L.R.A. 467.

Special bargain, whether rights of a pas-

Special bargain, whether rights of a passenger may be conferred by. 50 L.R.A. 467.

Position of servants while entering or leaving the premises of their employers on foot. 50 L.R.A. 468.

3. Vice principal; superior servant.

(a) In general.

§ 144. Generally.

Who are vice principals on vessel, see SHIP-PING, § 11a.

Liability of master for assault by superior on inferior servant in the way of discipline. 8 L.R.A.(N.S.) 798.

Negligent superiors as fellow servants. 18 L.R.A. 823.

Superior employees as fellow servants. 18 L.R.A. 827.

Starting machinery as act of vice principal or fellow servant. 46 L.R.A.(N.S.)

Train employees charged with duty of signaling engineer as vice principal under the employers' liability acts. 52 L.R.A. (N.S.) 1142.

(b) Considered with reference to rank
of superior servant.

§ 145. Generally.

Generally. 51 L.R.A. 513.

Mere inequality of rank, significance of.
Usually held not to warrant inference
that the superior servant is a vice
principal. 51 L.R.A. 515.

Summary of the effect of the decisions in each jurisdiction with regard to the relation of supervising employees to their subordinates. 51 L.R.A. 602.

Master's liabilty as affected by superior rank of employee whose negligence in preparation or structural modification of instrumentalities causes injury to fellow servant. 54 L.R.A. 147.

§ 146. Doctrine that vice principalship is not deducible merely from possession of power of control over injured servant.

General statement. 51 L.R.A. 517.

Rationale of the doctrine. 51 L.R.A. 518.

Qualification of the doctrine in cases where an order takes a servant outside the original scope of his employment. 51 L.R.A. 520.

Power of hiring and discharging subordinates, significance of. 51 L.R.A. 520.

Application of the doctrine to the various grades of supervising employees. 51 L.R.A. 522.

Illustrative cases. 51 L.R.A. 525.

§ 147. Doctrine that all superior servants are vice principals as regards their subordinates.

General statement. 51 L.R.A. 539.

cont'd

Relation of the superior-servant doctrine to the doctrine that the head of a department is a vice principal. 51 L.R.A. 541.

Rationale of the doctrine. 51 L.R.A. 542. What constitutes the exercise of control

within the meaning of the doctrine. 51 L.R.A. 547.

Existence or absence of a power to hire and discharge subordinates; significance of. 51 L.R.A. 548.

Illustrative cases. 51 L.R.A. 550.

§ 148. Relation of general managing agent to his subordinates.

Doctrine that a general manager is a vice principal. 51 L.R.A. 556.

Rationale of the doctrine. 51 L.R.A. 562. Doctrine that a general manager is not a vice principal. 51 L.R.A. 564.

Opposing theories reviewed. 51 L.R.A. 569.

§ 148a. Relation of employees charge of departments to their subordinates.

General statement. 51 L.R.A. 572.

Rationale of the master's liability for the negligence of a departmental manager. 51 L.R.A. 574.

Limits of the doctrine of departmental control. 51 L.R.A. 574.

Supervising employees held to be heads of departments. 51 L.R.A. 577.

Supervising employees held not to be heads of departments. 51 L.R.A. 583.

§ 149. Train despatcher, telegraph operator and block signal operators as fellow servants of trainmen.

Train despatcher as fellow servant at common law of train employees. 25 L.R.A. 386; 7 L.R.A.(N.S.) 651.

Train despatchers as vice principals. 54 L.R.A. 91.

Telegraph operator as fellow servant of trainmen. 25 L.R.A. 393; 50 L.R.A. 429; 52 L.R.A.(N.S.) 1123.

Block-signal operators as fellow servants of trainmen. 52 L.R.A. (N.S.) 1127.

§ 150. When conductor deemed coservant of other railway employees. In general. 46 L.R.A. 337.

Doctrine that a conductor is a coservant of a subordinate because both are engaged in the same general business. 46 L.R.A. 337.

Circumstances constituting a conductor a vice principal as to subordinates. 46 L.R.A. 339.

Relation of conductor to employees other than those under his control. 46 L.R.A. 357.

Relation of conductor to servants working on or near the track. 46 L.R.A. 360; 52 L.R.A. (N.S.) 1085.

Conductors pro hac vice, position of. 46 L.R.A. 361.

Liability of the master where the conductor is the injured servant. 46 L.R.A. 362.

Consult also L.R.A. Digests of Cases.

MASTER AND SERVANT, III. d, 3 (b)— MASTER AND SERVANT, III. d, 3 (b) cont'd

§ 151. For what acts of superior servant master is liable.

No responsibility as to matters beyond the scope of the authority of the superior servant. 51 L.R.A. 584.

Distinction between official and nonofficial acts of supervising employees. 51 L.R.A. 586.

Breach of nondelegable duties by any superior servant, master liable for. 51 L.R.A. 588.

Issuance of orders deemed to be an official act. 51 L.R.A. 590.

Failure to protect subordinates from transitory dangers deemed to be official negligence. 51 L.R.A. 592.

Theory that a vice principal does not rep-

resent the master except in so far as he is discharging some nondelegable duty. 51 L.R.A. 593.

Theory that a vice principal represents the master, even when he participates in manual labor. 51 L.R.A. 597.

Discussion of the doctrine of the dual capacity of vice principals. L.R.A. 599.

§ 152. Statutory liability for negligence of employees exercising superintendence.

In general. 58 L.R.A. 33.

Conditions precedent to recovery by the servant, generally. 58 L.R.A. 34. What employees are superintendents. 58

L.R.A. 34.

Employees controlling machinery; position of. 58 L.R.A. 39.

Master liable though injured servant was not under the control of the negligent employee. 58 L.R.A. 39.

Deputy superintendents, liability for negligence of. 58 L.R.A. 40.

Necessity of proving that the injurious act was negligent. 58 L.R.A. 41.

Acts constituting negligence in the exercise of superintendence. 58 L.R.A. 44.

Statutory liability of employers for the negligence of superintendents while participating in the work. 58 L.R.A. 47; 16 L.R.A. (N.S.) 146; 21 L.R.A. (N.S.) 601.

Liability of master for negligence of supervising employee employed pursuant to statute. 40 L.R.A.(N.S.) 945.

Liability of master for negligence of supervising employee in mine for acts done outside the scope of his statutory duty. 48 L.R.A.(N.S.) 938.

(c) Vice principalship as determined with reference to character of act causing injury; delegation of duty.

#### (1) In general.

§ 158. Generally. Generally. 54 L.R.A. 37.

Section foreman as fellow servant of members of crew with respect to operation of hand car. 20 L.R.A.(N.S.) 434.

MASTER AND SERVANT, III. d, 3(c), (1) | MASTER AND SERVANT, III. d, 3 (c) (2) —cont'd

A servant charged with the duty to warn other servants of danger as a vice principal. 4 L.R.A.(N.S.) 1161.

154. As to linemen.

Fellow servants of lineman as dependent upon existence of vice principalship. 30 L.R.A.(N.S.) 49.

#### (2) Liability of master for negligence of coservant.

§ 155. Generally.

Master's liability for injuries caused by incompetency of fellow servant, see supra, § 105.

Effect of fellow servant's drunkenness, see DRUNKENNESS, § 9.

Liability for negligence of fellow servant causing explosion. 29 L.R.A. 358.

Liability of master for negligence of mine boss outside the scope of his statutory duties. 11 L.R.A.(N.S.) 840.

Master's liability for injury to servant through dangerous condition due to act of fellow servant. 41 L.R.A. 54.

Statutory liability of employers for negligence of superintendents while participating in the work. 58 L.R.A. 47; 16 L.R.A.(N.S.) 146; 21 L.R.A.(N.S.) 601.

Liability of railway companies for negligence of servants who transmit orders or see that they are carried out. 54 L.R.A. 95.

Master's liability for injuries due to coservant's violation of rules. 43 L.R.A. 373.

Master's liability for injury done by servant to fellow servant in use of dangerous agency placed in his custody. L.R.A. (N.S.) 371.

Negligence of servant in sending out unsafe street cars causing injury to other servants. 1 L.R.A.(N.S.) 670.

Lisbility dependent on nature of negligent act of so-called train despatcher. 7 L.R.A.(N.S.) 656.

### '§ 156. Liability for any negligence involving breach of one of his personal duties.

Generally. 54 L.R.A. 40.

Various forms in which the master's responsibility is stated. 54 L.R.A. 40.

Subsidiary consequences deduced from the general principle. 54 L.R.A. 45.

Rationale of the doctrine of nondelegable duties. 54 L.R.A. 46.

Master sometimes liable both on account of the character of the negligent act and the official position of the negligent servant. 54 L.R.A. 51.

Doctrine of nondelegable duties applicable to artificial persons. 54 L.R.A. 51.

Servants of contractors, when precluded from availing themselves of the doctrine in actions against their masters. 54 L.R.A. 51.

–cont'd

Delegation of personal duties to an independent contractor, effect of. 54 L.R.A. 52; 20 L.R.A. (N.S.) 793.

Same subject continued; opposing doctrines discussed. 54 L.R.A. 55.

Massachusetts doctrine not identical with that of other states. 54 L.R.A. 56. Servants may act in a dual capacity. 54 L.R.A. 59.

Pleading. 54 L.R.A. 61. Burden of proof. 54 L.R.A. 61.

Propriety of instructions. 54 L.R.A. 62. Functions of court and jury. 54 L.R.A. 63.

§ 157. Nonliability for negligence in respect to details of the work.

Generally. 54 L.R.A. 106.

Supervision of details not a master's duty. 54 L.R.A. 108.

Merely transitory perils; master not bound to protect the servant against. 54 L.R.A. 109.

Dangers caused by the progress of the work; master not bound to protect servant against. 54 L.R.A. 109.

Preparation or care of instrumentalities; master not responsible for, where these functions are a part of the work to be done. 54 L.R.A. 110.

Negligent use of safe appliances by fellow servant; master not responsible for.

54 L.R.A. 111. Rationale of doctrine exempting master from liability for negligence in carrying out the details of the work. 54 L.Ř.A. 112.

Pleading. 54 L.R.A. 114.

Instructions. 54 L.R.A. 114.

Functions of court and jury in passing upon evidence. 54 L.R.A. 114.

Explanation of classification of the cases cited in the ensuing sections. L.R.A. 115.

§ 158. Nonliability for negligence in-volving merely the use of the instrumentalities.

Orders respecting the use of the instrumentalities. 54 L.R.A. 116.

Choice of particular methods of work. 54 L.R.A. 117.

Disposition of the force of employees available for the work in hand. 54 L.R.A. 117.

Assigning servants to work for which they are unfitted. 54 L.R.A. 118.

Negligence in sending servants into abnormally dangerous places without warning. 54 L.R.A. 118.

Failing to warn servants as to dangers arising from the execution of the details of the work. 54 L.R.A. 120.

Absence from the post of duty. 54 L.R.A. 121.

Selecting an imperfect appliance from the stock available. 54 L.R.A. 121. Failing to use the instrumentalities fur-

nished by the master. 54 L.R.A. 122.

Negligence in failing to discard a defective for a suitable instrumentality. 54 L.R.A. 123.

MASTER AND SERVANT, III. d, 3 (c), | MASTER AND SERVANT, III. d, 3 (c), (2)—cont'd

Using instrumentalities in a manner not contemplated nor authorized by the master. 54 L.R.A. 123.

Giving of signals. 54 L.R.A. 124.

Negligence in carrying out the express orders or regulations of the master. 54 L.R.A. 125.

Failure to give instructions. 54 L.R.A. 127. Negligence in manipulation of the instrumentalities during the progress of the work. 54 L.R.A. 127.

Negligence in the transmission of the master's orders to other servants. L.R.A. 134.

§ 159. Nonliability for negligence in preparation or structural modification of instrumentalities or their parts.

Negligence which produces structural un-safety of a temporary character. 54 L.R.A. 137.

Negligence in failing to adjust or secure instrumentalities or their parts while in use. 54 L.R.A. 140.

Negligence in the preparation of temporary structures or other instrumentalities as a part of the work; general rule. 54 L.R.A. 142.

Rationale and limits of a master's exemption from liability for the adjustment or preparation of instrumentalities. 54 L.R.A. 144.

Special circumstances not affecting the extent of the master's liability. 54 L.R.A. 147.

When the delinquency is deemed not to be in respect to the details of the work. 54 L.R.A. 150.

Appliance furnished by the master in person. 54 L.R.A. 150.

Implied undertaking to supply instrumentality in a completed condition. 54 L.R.A. 150.

Suitable materials not furnished. 54 L.R.A. 152.

Servants not left free as to the selection of the materials. 54 L.R.A. 152. Permanent character of the instrumentality

relied upon. 54 L.R.A. 152. Adjustment treated as a nondelegable func-

tion. 54 L.R.A. 152.

Operation not one of the transitory class. 54 L.R.A. 152.

Master's liability for failure of employees exercising superintendence to furnish proper appliances. 58 L.R.A. 46.

\$ 160. Idability for injuries due to defects in appliances prepared by fellow servants.

Duty of master to furnish safe appliances as affected by fact that defective appliances are prepared by fellow | Master's liability for coservant's negligence 3 L.R.A.(N.S.) 500; 4 servants. L.R.A. (N.S.) 220.

Consult also L.R.A. Digests of Cases.

(2)—cont'd § 161. Nonliability for negligence of

coservants charged with duty of keeping instrumentalities in proper condition.

Theory that a master is never liable for negligence in regard to inspection and

repairs. 54 L.R.A. 153.

Theory that the liability of the master depends on the subject-matter of the inspection or repairs neglected. 54 L.R.A. 156.

Master liable where the delinquent servant was engaged in a different class of work. 54 L.R.A. 162.

Negligence in failing to replace an unsound by a sound appliance, when master not liable for. 54 L.R.A. 162.

All employees engaged in repairing regarded as coservants of each other. 54 L.R.A. 163.

§ 162. Doctrine as to details of work no protection to master, when his own negligence or that of a vice principal, was an efficient cause of the injury.

Master liable where he or his vice principal directed the details of the work. L.R.A. 164.

Master liable where his own negligence intervenes as a proximate cause between a delinquent coservant's negligence and the injury. 54 L.R.A. 165.

Master liable where his own antecedent negligence and a subsequent delinquency of a coservant are both efficient causes of the injury. 54 L.R.A. 167.

Illustrative cases as to concurrent negligence. 54 L.R.A. 168.

Master's liability determined with reference to the question whether the coservant's delinquency did or did not break the chain of causation. 54 L.R.A. 174.

§ 162a. Railroad cases.

Master's nonliability for coservant's negli-gence in respect to defects in railway tracks. 54 L.R.A. 137.

Master's nonliability for coservant's negli-gence in respect to inspection and repair of railway tracks. 54 L.R.A. 158.

Master's nonliability for coservant's negligence in inspection and repair of rolling stock. 54 L.R.A. 158.

Master's nonliability for coservant's negli-

gence as to inspection of loads on railway cars. 54 L.R.A. 161.

Master's liability for coservant's negligence in respect to defective roadbed or rail-ways. 54 L.R.A. 169.

Master's liability for coservant's negligence in respect to defective switches. 54 L.R.A. 170.

Master's liability for coservant's negligence in respect to dangerous objects close to railway tracks. 54 L.R.A. 170.

in respect to making up of trains. 54 L.R.A. 170.

(2)—cont'd

Master's liability for coservant's negligence in respect of defective railway car. 54 L.R.A. 171.

Master's liability for coservant's negligence in respect to defective locomotives. 54 L.R.A. 171.

Master's liability for coservant's negligence in respect to defective hand cars. 54 L.R.A. 172.

### (3) Delegation of master's duty.

#### 163. Generally.

Conflict of laws, as to. 56 L.R.A. 222. Rationale of doctrine of nondelegable duties. 54 L.R.A. 46.

Doctrine of nondelegable duties applicable to artificial persons. 54 L.R.A. 51.

Adjustment of instrumentalities for use of employees treated as a nondelegable function. 54 L.R.A. 152.

Duty to use care in giving orders as non-assignable duty of master. 51 L.R.A.

Master's liability for breach of nondelegable duties by any superior servant. L.R.A. 588.

Nondelegable duties of employers of linemen. 30 L.R.A.(N.S.) 49.

Doctrine that train despatchers are vice principals. 54 L.R.A. 91.

Doctrine that train despatchers are not

vice principals. 54 L.R.A. 95.

Effect on master's liability to servant of delegation of personal duty to independent contractor. 54 L.R.A. 52; 20 L.R.A. (N.S.) 793.

Liability of master for injury or death of servant through competent employee delegating his duties to an incompetent fellow servant. 15 L.R.A.(N.S.) 439.

164. As to rules and regulations.

Assignment of duty of making and publishing rules for conduct of business. 43 L.R.A. 342.

Nondelegability of duty to frame rules and regulations for conduct of business. 54 L.R.A. 86.

Master's liability for coservant's negligence in seeing that regulations are carried out. 54 L.R.A. 173.

#### § 165. As to warning or instructing servant.

Duty to impart information as to permanent dangers normally incident to the work at the time it is entered upon. 54 L.R.A. 96.

Duty to impart information as to permanent dangers superadded to the environment after the work has begun. 54 L.R.A. 98.

Duty to warn as to dangers of the transitory class occasionally supervening during the progress of the work. 54 L.R.A. 100.

Master's liability for coservant's negligence in sending servants into abnormally dangerous places without warning. 54 L.R.A. 118.

MASTER AND SERVANT, III. d, 3 (c), MASTER AND SERVANT, III. d, 3 (c), (3)—cont'd

Master's liability for vice principal's failure to warn servants as to dangers from execution of details of work. 54 L.R.A.

Master's liability for vice principal's negligence in failing to give instructions. 54 L.R.A. 127.

Master's liability for vice principal's negligence in starting machinery without warning, 54 L.R.A. 131.

Master's liability for injury due to failure of superintending employee to warn servant as to existence of an abnormal danger. 58 L.R.A. 46.

Is the duty of the master to instruct or warn servants delegable. 26 L.R.A. (N.S.) 624.

Nondelegability of duty of instructing in-experienced linemen. 30 L.R.A.(N.S.) 50.

Is duty of railroad or street railway company with respect to signals or warnings a delegante one. 124; 10 L.R.A.(N.S.) 1103. 54 L.R.A.

Master's liability for coservant's negligence in failing to notify as to abnormal dangers. 54 L.R.A. 173.

Duty to tell employee when ordered to perform special service to give warning to coemployees. 1 L.R.A.(N.S.) 669.

Servant charged with duty to warn other servants of danger as a vice principal 4 L.R.A.(N.S.) 1161.

### § 166. As to place and appliances.

Duties imposed by statute. 54 L.R.A. 63. Duties to see that the unintelligent in-strumentalities of the work are reasonably safe; general rule stated. 54 L.R.A. 65.

Duty to see that the unintelligent instrumentalities of the work, as originally supplied, satisfy the legal standard of safety. 54 L.R.A. 67.

Duty to see that the unintelligent instrumentalities are maintained in a suitable condition for the work to be done. 54 L.R.A. 74.

Difference between the extent of a master's responsibility for original supply and subsequent maintenance. 54 L.R.A. 81.

Duty to see that worn out or otherwise defective parts of instrumentalities are replaced by suitable substitutes. 54 L.R.A. 82.

Duty to furnish proper medical treatment to sick or injured servants. 54 L.R.A. 83.

Master's duty to guard machinery as a delegable one. 17 L.R.A. (N.S.) 568.

Delegability of master's duty to instruct or warn servants as to machinery, tools, or appliances. 26 L.R.A. (N.S.) 629:

Delegability of master's duty to instruct or warn servants as to working place and perilous operations. 26 L.R.A.(N.S.) 63**3**.

MASTER AND SERVANT, III. d, 3 (e), (3)—cont'd

§ 167. — railroad and street railway cases.

Nondelegable duties as to defective locomotives. 54 L.R.A. 71, 79.

Nondelegable duties as to defective railway tracks. 54 L.R.A. 75.

Nondelegable duties as to dangerous conditions along side railway tracks. 54 L.R.A. 76.

Delegability of duty as to defects in bridges, trestles, etc. 54 L.R.A. 69.

Nondelegable duties as to keeping railway cars stationary when not in use. 54 L.R.A. 79.

Determining the order of cars in a train as a delegable duty. 18 L.R.A. (N.S.) 279.

Is the duty of a railroad or street railway company with respect to signals or warnings a delegable one. 54 L.R.A. 124; 10 L.R.A. (N.S.) 1103.

Delegability of duty as to method of loading cars. 54 L.R.A. 78.

Nondelegable duties as to defective railway cars. 54 L.R.A. 71, 79.

Duty to keep switch closed, as a delegable one. 17 L.R.A. (N.S.) 542.

§ 168. — as to inspection.

Theory that master's liability depends on subject-matter of inspection. 54 L.R.A. 156.

Assignability of the duty of inspection. 41 L.R.A. 109.

Nondelegability of duty to inspect instrumentalities. 54 L.R.A. 101.

Nondelegable duties of employers of linemen as to. 30 L.R.A. (N.S.) 50.

§ 169. As to employing fellow servants—competency.

Nondelegability of duty to hire suitable servants. 54 L.R.A. 83.

Nondelegability of duty of selecting fellow servants of linemen. 30 L.R.A.(N.S.) 50.

🖇 169a. — adequate number.

Master's liability for coservant's negligence in failing to employ an adequate number of servants. 54 L.R.A. 173, 178.

Nondelegable duty to employ servants sufficient in number for work in hand. 54 L.R.A. 85.

Liability of master for failure of foreman to designate enough hands to perform work. 40 L.R.A. (N.S.) 918.

### IV. Liability of master to third person.

#### a. For acts of servants or agents.

#### 1. In general.

§ 170. Generally.
Liability as affected by question whether relation exists, see supra, §§ 21, 22.
Joint liability of master and servant for latter's acts, see infra, § 199.
Consult also L.R.A. Digests of Cases.

MASTER AND SERVANT, IV. a; 1—cont'd Liability of carrier for torts of servant, see CARRIERS, §§ 10a, 14, 15a, 30-35, 53.

Criminal responsibility for acts of servant, see Criminal Law, § 29; Intoxicating Liquors, § 23.

Punitive damages for act of servant, see Damages, § 14.

Liability for injury by horse used by servant, see Horses, § 12.

Liability for negligence of nurse or attendant at hospital, see HOSPITALS, § 4. Innkeeper's liability for acts of servant, see

INNKEEPERS, § 11.

Landlord's liability for acts of tenant's servants, see Landlord and Tenant, § 61.

Employer's liability for maintenance of nuisance, see Nuisances, § 13.

Liability for acts of master of vessel, see Shipping, § 12.

Liability of vessel or owner for acts of employees, see Shipping, § 13.

Master's liability for trespass, see TRES-PASS, § 8.

Trustee's liability for negligence of servant, see Trusts, § 26.

Liability for acts of watchman, see WATCH-MEN, § 3.

Imputing servant's negligence to master. 8 L.R.A.(N.S.) 635; L.R.A.1915A, 763.

Liability to employees of contractor for injury caused by owner's servants. 26 L.R.A. 527.

Responsibility of owner of motorcycle for its negligent operation by an employee. L.R.A.1918C, 656.

Care necessary in selection of person operating passenger elevator. 2 L.R.A.(N.S.) 751; L.R.A.1915E, 726.

For wrongful appropriation by servant of thing bailed. 29 L.R.A. 92.

Master's liability for injury to child invited into place of danger by employee. 4 L.R.A.(N.S.) 804.

Liability of master for injury to person riding with servant by latter's invitation or permission, L.R.A.1917F, 425.

Liability of owner of vehicle for injury to child invited to ride by driver. 46 L.R.A. (N.S.) 199.

Liability of master where servant invites or permits children to ride on engine or cars. L.R.A.1915E, 888.

When knowledge of servant as to vicious character of dog chargeable to master. 24 L.R.A.(N.S.) 463.

Liability of master for negligent injury to third person through personal contact with servant. 47 L.R.A.(N.S.) 142.

Does fact that a drug clerk is a licensed pharmacist relieve his employer from liability for his negligence or lack of skill. 39 L.R.A.(N.S.) 275.

Master's liability where result of servant's abuse of authority will be serious, or temptation to abuse is strong. 27 L.R.A. 199.

Master's liability for servant's neglect or disobedience of statutory requirements. 27 L.R.A. 201.

MASTER AND SERVANT, IV. a, 1—cont'd MASTER AND SERVANT, IV. a, 1—cont'd Question for jury as to master's liability for servant's wrongful or negligent act toward third person. 27 L.R.A. 202.

Effect on master's liability for injury by servant to third person, of latter's contribution to injury. 27 L.R.A. 202.

Penal liability for act of servant. 41 L.R.A. 650.

Criminal responsibility for sale of intoxicating liquor by servant. 16 L.R.A.(N.S.) 786; 20 L.R.A.(N.S.) 321; 33 L.R.A. (N.S.) 419.

Liability of private person or corporation for acts of special police officer appointed by public authority. 23 L.R.A. (N.S.) 289; 30 L.R.A. (N.S.) 481; 39 L.R.A. (N.S.) 122; 43 L.R.A. (N.S.) 1164; L.R.A.1915C, 1183.

Evidence of servant's character in action against master. 14 L.R.A.(N.S.) 756.

#### § 171. Liability of particular kinds of employers.

Liability of owner of automobile in hands of servant, see AUTOMOBILES, § 3.

Liability of bank for acts of officers or employees, see BANKS, IV.

Carrier's liability for ejection of trespasser or passenger by employee, see CARRIERS, §§ 30–35.

Carrier's liability for acts of employees toward passengers, generally, see CAR-RIERS, III. especially § 53.

Liability of charitable institution, see CHARITIES, § 12.

Liability of corporations, see Corporations, 8 38.

Liability of county, see Counties, § 8.

Liability of hospitals, see Hospitals, § 4. Liability of municipality for negligence of its officers or employees, see MUNICIPAL CORPORATIONS, § 81.

Liability of school corporation for torts of employees. 49 L.R.A.(N.S.) 1026.

Liability of bailee (other than a common carrier or innkeeper) for theft committed by servant. 4 B. R. C. 562.

Liability of postmaster or mail contractor for mail lost or stolen through acts of subordinates. L.R.A.1915A, 374.

Liability of union depot company for negligence of its own or carrier's employees. 33 L.R.A.(N.S.) 433.

Liability of railroad company for act of employee in inviting pedestrian to cross train obstructing highway. 13 L.R.A. (N.S.) 1071; 34 L.R.A. (N.S.) 469; L.R.A.1917E, 823.

Liability of railroad company for personal injuries by object thrown from moving train. 6 L.R.A. (N.S.) 581; L.R.A. 1917B, 916.

Personal liability of highway officers for acts of their employees. 22 L.R.A. 833; 52 L.R.A. (N.S.) 151.

Liability of trustee for torts or negligence of servants. 63 L.R.A. 227.

Master's liability for negligence in driving ambulance. 38 L.R.A. (N.S.) 481.

Responsibility of one hiring convict labor for acts of laborer. 12 L.R.A.(N.S.) 317.

Liability for personal injury caused by district messenger. L.R.A.1918D, 360.

Duty and liability for conduct of messengers furnished for use of others. 2 L.R.A.(N.S.) 1091.

Duty and liability of garage keeper to owner of car for acts of servant. 45 L.R.A. (N.S.) 314.

Liability of detective agency for acts of its employees. L.R.A.1918D, 575.

Liability of landlord to tenant for damage by water resulting from negligence of competent workmen employed by the landlord. L.R.A.1917B, 229.

Responsibility of infant for tort of his servant or agent. 51 L.R.A. (N.S.) 1092.

Liability of lunatic for torts of employee. 42 L.R.A. (N.S.) 87.

#### § 172. Assault, abuse.

Liability of carrier for assault by employee on passenger, see CARRIERS, § 14.

Liability for assaults by servants. L.R.A. 737; 27 L.R.A. 196.

May assault growing out of quarrel commenced while employee is acting within scope of his employment, be regarded as a personal act of the employee for which employer is not liable. 9 L.R.A. (N.S.) 475.

Liability of master for assault by servant 6 L.R.A. sent to recover property. (N.S.) 567.

Liability of master for assault by servant or agent in collecting debts. 51 L.R.A. (N.S.) 920.

Liability of innkeeper or restaurant keeper for assault by his servant upon a patron. 12 L.R.A. (N.S.) 1155; L.R.A. 1918E, 708.

Liability for assault or abuse by employees at place of amusement. L.R.A.1916E,

Master's liability for injuries by assault on employee by other employees, 52 L.R.A.(N.S.) 388.

Liability of master for abusive language by servant toward third person. L.R.A. 1915F, 516.

§ 173. Arrest, imprisonment, or malicious prosecution.

Carrier's liability for arrest of passenger by employee, see Carriers, § 15a.

Master's liability for servant's act in causing arrest, see FALSE IMPRISONMENT, § 3.

Liability for false arrest, imprisonment, or malicious prosecution by 14 L.R.A. 791; 27 L.R.A. 195. servant.

Liability of principal for malicious prosecution, false arrest, or false imprisonment by agent authorized to collect a debt. 51 L.R.A. (N.S.) 471.

Liability of master for arrest or false imprisonment by servant employed as detective, policeman, or watchman. 4 L.R.A.(N.S.) 282; 28 L.R.A.(N.S.) 88; L.R.A.1916F, 1249.

Liability of private person or corporation for acts of special police officer appointed by public authority. 23 L.R.A. (N.S.) 289; 30 L.R.A.(N.S.) 481; 39 L.R.A.(N.S.) 122; 43 L.R.A.(N.S.) 1164; L.R.A.1915C, 1183.

174. Slander or libel.

Liability of master for slander by servant. 9 L.R.A.(N.S.) 929; L.R.A.1916E, 774. Liability of corporation for slander by the agent or employee. 21 L.R.A.(N.S.) **873.** 

Liability of employer other than proprietor of publication, for libel by employee. L.R.A.1915D, 867.

Liability of corporation for libel.

L.R.A.1915D, 867; 6 B. R. C. 681.

Punitive damages for libel by servant. 48

L.R.A.(N.S.) 62.

175. Sportive acts.

Liability for injury to passenger by sport-ive act of servant. 3 L.R.A. (N.S.)

Master's liability for injuries inflicted on employee in sport by other employees. 34 L.R.A. (N.S.) 109; 52 L.R.A. (N.S.) 385; L.R.A.1918A, 118.

Liability of employer for injury to em-ployee by air forced into body by other

employees. L.R.A.1918E, 508.
Recovery under Workmen's Compensation Act for injuries caused by sportive acts. L.R.A.1918E, 504.

Liability of master for injury from the sportive manner in which a servant performs an act done in the discharge of his duty. 13 L.R.A.(N.S.) 1193.

176. Malicious acts.

Master's civil responsibility for malicious acts of servant towards one having no claim on master by reason of contract, incipient or perfected. 27 L.R.A. 184.

Liability of master for malicious act of servant when master owes special duty to party injured. 4 L.R.A. (N.S.) 485.

Master's liability for injuries maliciously inflicted on employee by other employees. 34 'L.R.A.(N.S.) 100; 52 L.R.A.(N.S.) 385; L.R.A.1918A, 118.

Railroad company's liability for malicious refusal of freight agent to deliver freight. 7 L.R.A.(N.S.) 926.

Effect of malice on master's liability for injury done by servant to third person in use of dangerous agency placed in his custody. 10 L.R.A.(N.S.) 401.

Evidence of fellow servant's malice, in action by injured servant. 14 L.R.A. (N.S.) 772.

177. Dangerous agency. Liability for injury by automobile operated by servant, see Automobiles, § 3.

Consult also L.R.A. Digests of Cases.

MASTER AND SERVANT, IV. a, 1-cont'd | MASTER AND SERVANT, IV. a, 1-cont'd Liability for injury by electricity, see Elec-TRICITY, § 14.

Liability for injury by explosion, see Ex-PLOSIONS AND EXPLOSIVES, § 8.

Liability of master for injury done by servant to third person in use of dangerous agency placed in his custody. 27 L.R.A. 200; 10 L.R.A. (N.S.) 367.

Liability of master for act of servant in setting out fire while clearing land. 47 L.R.A.(N.S.) 1116.

Responsibility of owner of motorcycle for its negligent operation by an employee. L.R.A.1918C, 656.

Liability of employer for injury to employee by air forced into body by compressed air hose in hands of other employees. L.R.A.1918E, 508.

**§ 178.** — locomotives. General rules. 10 L.R.A.(N.S.) 383.

Laws with reference to passengers and platforms. 10 L.R.A. (N.S.) 384.

With reference to stranger. 10 L.R.A. (N.S.) 385.

Locomotive as dangerous agency for injury by which, when used by servant, master is liable. 10 L.R.A. (N.S.) 372, 383, 399.

179. Child acting as servant. Liability of parent as such, see PARENT AND CHILD, § 10.

Parent's liability for tort of minor child where relation of master and servant exists. 10 L.R.A. (N.S.) 938.

§ 180. Effect of servant's acts on question of contributory negligence of person injured.

Negligence in alighting from moving train by direction or invitation of those in charge. 22 L.R.A. (N.S.) 751; L.R.A. 1915C, 184.

Negligence in boarding moving train by direction of employee. 22 L.R.A.(N.S.) 759.

Effect of permission or knowledge of train employee on contributory negligence in attempting to cross a train standing on

a crossing. 13 L.R.A.(N.S.) 1067.
Responsibility of general employer for negligence of employee in operating elevator for convenience of workmen not in former's employ. L.R.A.1917E, 964.

#### 2. Scope of employment; disobedience of orders.

181. Generally.

Master's civil responsibility for the wrongful or negligent act of his servant or agent towards one who has no claim upon the master by reason of a contract incipient or perfected. 27 L.R.A. 161.

Express authority to certain train employ-ees to eject trespassers as negativing implied authority of other employees. 32 L.R.A.(N.S.) 1164.

MASTER AND SERVANT, IV. a, 2—cont'd | MASTER AND SERVANT, IV. a, 2—cont'd Inference of employee's authority to expel trespassers from practice of doing so. 34 L.R.A.(N.S.) 693.

Liability of railroad company for injury to person wrongfully on train by collusion with a train employee. 37 L.R.A. (N.S.) 419.

Liability of master for injury to person riding with servant by latter's invitation or permission. L.R.A.1917F, 425.

Liability where servant invites or permits children to ride on engine or cars. L.R.A.1915E, 892.

May assault growing out of quarrel commenced while employee is acting within scope of his employment be regarded as a personal act of the employee for which employer is not liable. 9 L.R.A. (X.S.) 475.

Failure of master to prevent practice by employees not in performance of any duty owed to him as ground of liability. 32 L.R.A.(N.S.) 1038.

Liability of master for assault by servant sent to recover property. 6 L.R.A. (N.S.) 567.

Making prima facie case of responsibility for negligence of driver of automobile by proof of defendant's ownership of car or employment of driver. 46 L.R.A. (N.S.) 1091; L.R.A.1918D, 924.

Liability of master for damages by fire started by servant for his own purposes but incidental to work. 49 L.R.A. (N.S.) 544.

Ratification of servant's wrongful act by retaining him in service. L.R.A.1918B,

§ 182. Servant engaged in his own

business or pleasure.

Master's liability for injury by automobile when used by servant for his own business or pleasure, see AUTOMOBILES, § 3.

Master's liability for injury by horse when used by servant for his own business or pleasure. 9 L.R.A. (N.S.) 1033.

Responsibility of master to third person for acts of employee in attempting to recover possession of goods which he has delivered at his own risk, without receiving payment of charge against same. 21 L.R.A.(N.S.) 884.

§ 183. For acts in excess of authority of servant sent to commit trespass. In general. 70 L.R.A. 731; 18 L.R.A. (N.S.) 297.

Effect of a trespass being an unlawful act, upon master's liability. 70 L.R.A. 731. Effect of express instructions forbidding acts complained of. 70 L.R.A. 731.

Effect of acts committed being criminal, upon presumption of authority therefor. 70 L.R.A. 732.

Acts within apparent scope of employment. 70 L.R.A. 733.

Acts outside apparent scope of employment. 70 L.R.A. 737.

§ 184. Disobedience of rules or orders. Grounds of liability where servant is not obeying orders. 27 L.R.A. 161.

Master's liability for servant's acts within scope of employment, notwithstanding his disobedience of orders. 27 L.R.A. 181.

Violation by servant of rule adopted by railway company as evidence of negligence toward one other than servant. L.R.A. 1917C, 793.

Liability of master for tort committed by servant in course of his employment, and with a view to the furtherance of his master's business, but contrary to the master's express instructions. 18 L.R.A.(N.S.) 416.

b. For acts of independent contractor.

#### 1. In general,

185. Generally.

Liability of contractor, see infra, §§ 196-198.

Liability for injury to servants of independent contractor, see infra, § 202. In mine, see MINES, § 42.

Liability of vessel or owner, see Shipping, §§ 15, 16.

As to timber, see TIMBER, § 7.

Position as servant, of person hired by independent contractors. 37 L.R.A. 50. Liability to servant of lessee of contractee. 4 Ľ.R.A. 97.

Liability of master to servant for failure to provide independent contractor with safe appliances. 1 L.R.A.(N.S.) 283. Exceptions to rule that employer is not

liable for acts of independent contractor. 14 L.R.A. 828.

Liability of proprietor of place of amuse-ment for acts of independent contractor or concessionaire. 3717; L.R.A.1915F, 696. 32 L.R.A.(N.S.)

Municipal knowledge of defect in highway created by independent contractor. 20 L.R.A.(N.S.) 704.

Effect of master's liability to servant, of delegation of personal duty to. 54 L.R.A. 52; 20 L.R.A.(N.S.) 793.

For acts of independent contractor in connection with water works system. 52 L.R.A.(N.S.) 467.

§ 186. General rule as to absence of liability.

General doctrine. 65 L.R.A. 622. History of the doctrine. 65 L.R.A. 624.

Rationale of the doctrine. 65 L.R.A. 632.

Extent of employer's duty with respect to the supervision and direction of the work. 65 L.R.A. 635.

Extent of duty of employer to guard against possible accidents. 65 L.R.A. 639.

§ 187. Where employer's own act is a proximate cause of injury. Generally. 66 L.R.A. 941.

Employment of contractor who is incompetent or otherwise unfit. 66 L.R.A. 941.

Nonperformance by employer of duties not east by the contract upon the contractor. 66 L.R.A. 945.

Employer's tortious act co-operating with that of the contractor to produce the injury. 66 L.R.A. 947.

Failure to remedy a nuisance. 66 L.R.A. 948

Active interference with the work. L.R.A. 950.

Employer's ratification or adoption of the contractor's tort. 66 L.R.A. 956.

### § 188. After master has assumed control of subject-matter.

In general. 3 L.R.A. (N.S.) 595. Necessity of showing that dangerous conditions were known to employer. L.R.A.(N.S.) 601.

### 2. For what acts of contractor employer is liable.

189. Generally.

While working on building, see BUILDINGS, § 11.

Liability of carrier, see CARRIERS, § 53.

Liability for fires set by independent contractor, see FIRES, § 6.

Liability of railroad company, see RAIL-BOADS, § 49. On vessel, see Shipping, § 16.

For what torts employer is not bound to answer. 65 L.R.A. 641.

Acts constituting trespass. 65 L.R.A. 655. For fall of wall or building while in possession of independent contractor. 34 L.R.A. 558.

For act affecting safety of highway. L.R.A.(N.S.) 845; 17 L.R.A.(N.S.)

For acts in setting out fire. 17 L. (N.S.) 788; 38 L.R.A. (N.S.) 175. 17 L.R.A.

For negligence in the performance of contract requiring blasting. 14 L.R.A. (N.S.) 914; 29 L.R.A. (N.S.) 851.

For torts in cutting timber. 16 L.R.A. (N.S.) 255.

Responsibility of owner or occupier of building where operation of elevator is let to independent contractor. L.R.A. (N.S.) 945.

Right of railroad company to delegate to independent contractor the maintenance of gates or a flagman at a street cross-

ing. 13 L.R.A.(N.S.) 1177.
For acts of independent contractor in connection with water works system. 25 L.R.A. (N.S.) 242.

For obstruction or defect in street caused by independent contractor. 20 L.R.A. (N.S.) 547.

Liability of part owner to other owner for damages from fall of or injury to party wall due to negligence of independent contractor. L.R.A.1915E, 929. Consult also L.R.A. Digests of Cases.

MASTER AND SERVANT, IV. b, 1-cont'd | MASTER AND SERVANT, IV. b, 2-cont'd § 190. When injuries result from nonperformance of absolute duties of employer.

In general. 66 L.R.A. 120.

Duty to comply with statute. 66 L.R.A. 121.

Duty of municipality to keep highways in safe condition. 66 L.R.A. 126.

Duties imposed on grantees of special privileges in respect to highways. 66 L.R.A. 134.

Duties incident to the exercise of corporate and other franchises. 66 L.R.A. 136.

Duty to see that no nuisance is created or maintained. 66 L.R.A. 146.

Duty to insure safety. 66 L.R.A. 147.

Duty to avoid interfering with the right of lateral support. 66 L.R.A. 148.

Duty not to impede the public use of highways. 66 L.R.A. 148.

Duties assumed by express contract. L.R.A. 148.

Duties arising out of implied contract. L.R.A. 150.

Duty to rebuild party wall. 66 L.R.A. 154.

#### § 191. Where work is dangerous unless certain precautions are observed.

Doctrine stated, generally. 65 L.R.A. 833. Limits of the doctrine. 65 L.R.A. 838.

Effect of stipulation by contractor to take appropriate precautions. 65 L.R.A. 841.

Necessity of showing that the contractor was acting under the authority of the employer. 65 L.R.A. 842.

Liability of employer where work is dangerous to persons using highways. 65 L.R.A. 842.

Liability where work is dangerous to adjoining landowners. 65 L.R.A. 849.

Liability where work is dangerous to persons invited onto defendant's premises. 65 L.R.A. 855.

Liability where work is dangerous to tenants. 65 L.R.A. 855.

Liability where work is dangerous to owners of vessels navigating rivers. 65 L.R.A. 855.

#### § 192. Where negligence does not produce permanently dangerous condition.

Work on railways. 65 L.R.A. 643. Work on buildings. 65 L.R.A. 643.

Work on highways. 65 L.R.A. 644.

Work involving handling heavy articles. 65 L.R.A. 644.

Management of teams. 65 L.R.A. 644. Management of vessels. 65 L.R.A. 644. Entertainment at public resorts. 65 L.R.A.

Loading or unloading of ships. 65 L.R.A. 644.

Blasting operations. 65 L.R.A. 644.

MASTER AND SERVANT, IV. b, 2-cont'd | MASTER AND SERVANT, IV. b, 3-cont'd § 193. Where negligence produces dangerous conditions of more or less permanent character. In general. 65 L.R.A. 646.

Work on railways. 65 L.R.A. 646.

Construction of bridges, embankments, and dams. 65 L.R.A. 647.

Construction of telegraph and telephone lines. 65 L.R.A. 648.

Laying of pipe lines. 65 L.R.A. 648.

Construction of buildings. 65 L.R.A. 648. Repairing or reconstruction of buildings. 65 L.R.A. 649.

Demolition of buildings. 65 L.R.A. 649. Work performed on streets and highways.

Work done on premises adjacent to streets and highways, and affecting the safety thereof. 65 L.R.A. 652.

Scavenging work. 65 L.R.A. 653.

65 L.R.A. 650.

Work in harbors. 65 L.R.A. 653. Excavation work. 65 L.R.A. 654.

Work involving the use of fire for the destruction of timber. 65 L.R.A. 654. Work in mines. 65 L.R.A. 654.

Hauling of timber. 65 L.R.A. 654. Operation of ferries. 65 L.R.A. 654.

Loading or unloading of ships. 65 L.R.A. 654.

§ 194. Where injury is direct result of work contracted for.

In general. 65 L.R.A. 742.

Liability where stipulated work is illegal. 65 L.R.A. 746.

Liability where performance of work will involve commission of trespass. L.R.A. 748.

Liability where performance of work will necessarily cause injury. 65 L.R.A. 750.

Liability where work is done according to plans furnished by employer. L.R.A. 754.

Liability where work is done according to methods prescribed by employer. L.R.A. 755.

#### 3. Who are independent contractors.

§ 195. Generally.

Question for jury as to, see TRIAL, § 28.

in general. 65 L.R.A. 445; 17 L.R.A. (N.S.) 371.

Independent contractors distinguished from

servants and agents. 65 L.R.A. 447. Persons acting in the dual capacity of contractor and servant or agent. 65 L.R.A.

Contractors not within purview of statutes relating to servants or agents. L.R.A. 451.

Character of contract is tested by the existence or absence of a right of control on the employer's part. 65 L.R.A. 453.

Presumptions entertained as to character of contractor. 65 L.R.A. 459, 461; 17 L.R.A. (N.S.) 372.

Liability arising from employment of tug. 65 L.R.A. 471.

Liability arising out of certain other contracts of an independent nature. L.R.A. 474; 17 L.R.A.(N.S.) 375.

Effect of reservation of a limited power of control. 65 L.R.A. 475; 17 L.R.A. (N.S.) 376.

Effect in general of reservation of full power of control. 65 L.R.A. 484; 17 L.R.A.(N.S.) 379.

Matters negativing independence of con-tractor. 65 L.R.A. 485; 17 L.R.A. (N.S.) 379.

Nature of contract determined with reference to various factors. 65 L.R.A. 500; 17 L.R.A.(N.S.) 380.

Intimacy of business relations between contractor and employer. 17 L.R.A. (N.S.)

Estoppel to deny existence of relation of independent contractor. 8 L.R.A. (N.S.) 896; 17 L.R.A.(N.S.) 382.

Province of court and jury. 65 L.R.A. 508; 17 L.R.A. (N.S.) 382.

Cartman as independent contractor. 13 L.R.A. (N.S.) 1122; 16 L.R.A. (N.S.) 816; 23 L.R.A. (N.S.) 33; L.R.A.1918E, 121.

One to whom automobile has been intrusted for storage or repairs as independent contractor for whose negligence in running it owner is not liable. 51 L.R.A. (N.S.) 772.

## V. Liability of servant or contractor.

196. Generally.

Joint liability of master and servant for latter's acts, see infra, § 199.

Liability over to employer, see INDEMNITY, § 3.

Liability of contractor for injury to tenant, see Landlord and Tenant, § 73.

Liability of employee without license, see LICENSE, § 16.

Servant's liability for trespass, see TRES-PASS, § 9.

Liability of employee in case license tax is not paid by employer. 12 L.R.A.(N.S.) 946; L.R.A.1915A, 106.

Servant's liability to third person for torts.
2 L.R.A.(N.S.) 378.

Right of contractor with public to immunity which latter enjoys from liability for damages. L.R.A.1916D, 511.

Liability of highway contractor for danger-ous conditions where municipality, county, or town is not liable. 27 L.R.A. (N.S.) 1009; L.R.A.1916A, 1006.

Liability of contractor to third persons for defects in his work after its completion and acceptance. 26 L.R.A. 504; 32 L.R.A. (N.S.) 968; L.R.A.1915E, 766; 6 B. R. C. 249.

Liability of independent contractor to ten-ant for injury caused by defects in building. 21 L.R.A.(N.S.) 477.

Liability of subcontractor for injury to property resulting from defective performance of work. 2 L.R.A. (N.S.) 790.

MASTER AND SERVANT, V .-- cont'd

Liability of subcontractor to owner for injury to property. 2 L.R.A.(N.S.) 799. Personal liability of servant for injury to

fellow servant. 28 L.R.A. 440.

Liability of independent, contractors to servants of principal employer. 46 L.R.A. 95.

Liability of one contractor to servants of another working on same premises. 46 L.R.A. 94.

Liability of mail contractors or postoffice employees for lost or stolen mail. L.R.A.1915A, 377.

#### § 197. For his own negligence or nonfeasance.

In general. 28 L.R.A. 433; 25 L.R.A. (N.S.) 343; L.R.A.1916F, 570.

Doctrine that servant is not liable for nonfeasance. L.R.A.1916F, 571.

Repudiation of distinction between misfeasance and nonfeasance. L.R.A.1916F, 571.

Examples of misfeasance. 25 L.R.A.(N.S.) 346; L.R.A.1916F, 572.

Liability without reference to distinction between misfeasance and nonfeasance. L.R.A.1916F, 573.

Where servant is in full control of the work. 25 L.R.A. (N.S.) 346; L.R.A.1916F, 574.

Examples of nonfeasance. 25 L.R.A.(N.S.) 349; L.R.A.1916F, 575.

Where servant is not guilty of negligence. 25 L.R.A. (N.S.) 348; L.R.A.1916F, 575. Criminal homicide in operation of railroad or street railway. L.R.A.1917C, 536.

### § 198. For trespass or other positive wrong under employer's orders.

General rules. 50 L.R.A. 644.

Trespass. 50 L.R.A. 645.

Assault, fraud, and other wrongful acts. 50 L.R.A. 646.

Conversion. 50 L.R.A. 649.

Taking of property under order of employer and in good faith as larceny. 41 L.R.A.(N.S.) 554.

#### VI. Joint liability of master and servant.

#### § 199. Generally.

Liability over to employer, see INDEMNITY,

Conclusiveness on employee of judgment against employer, and vice versa, see JUDGMENT, § 44.

Joint liability of master and servant for tort of servant. 28 L.R.A. 441; 12 L.R.A.(N.S.) 670; 25 L.R.A.(N.S.) 356.

Joinder of statutory action against a master with common-law action against servant, for latter's negligence. 12 L.R.A. (N.S.) 675.

Removal for separable controversy of joint action against master and servant. 5 L.R.A. (N.S.) 96.

Consult also L.R.A. Digests of Cases.

MASTER AND SERVANT, VI.-cont'd

Removal of cause by nonresident corporation joined with resident employee. 1 L.R.A.(N.S.) 370, 375.

Effect of verdict for servant in action against master and servant for latter's negligence cr misfeasance. 9 L.R.A. (N.S.) 880; 30 L.R.A. (N.S.) 404; L.R.A.1917E, 1029.

Judgment in favor of employee as bar to recovery against employer for employee's act or default. 54 L.R.A. 649.

VII. Liability of third person to servant or master.

### \$ 200. Generally.

Landlord's liability for injury to servants of tenant, see Landlord and Trnant, § 72.

Release of employer by acceptance of benefit of relief fund as affecting other tortfeasor. L.R.A.1918A, 996.

The right of a servant to recover damages from persons other than his master for injuries received in the performance of his duties. 46 L.R.A.

Duty to protect electric wires for safety of workmen on premises. 2 L.R.A.(N.S.) 777.

Damages recoverable in action by master for injury to servant or apprentice. 32 L.R.A. (N.S.) 38.

Personal contributory negligence of employee riding in vehicle driven or controlled by employer. L.R.A.1915E, 233.

Liability under workmen's compensation acts of third person whose negligence causes the injury. L.R.A.1916A, 100, 225, 360; L.R.A.1917D, 98; L.R.A. 1918F, 524.

#### 201. Liability of carrier.

Liability of carrier for injury to servants

of other persons. 46 L.R.A. 56.
Liability of carrier for personal injuries
to employees of consignor or consignee caused by unsafe car. 9 L.R.A.(N.S.) 857.

Liability of lessor of railroad for injury to employees due to negligence of another company using the road under a lease, license, or other contract. 44 L.R.A. 753.

Contract exempting railroad company from liability for negligent injury to employee of sleeping car company and others sustaining a similar relation to the railroad company. 11 L.R.A.(N.S.) 432; 50 L.R.A.(N.S.) 432; L.R.A. 1917D, 648.

#### § 202. Liability to servants of contractor.

For unsafe appliances or place of labor. 26 L.R.A. 524.

When servants of independent contractor precluded from availing themselves of doctrine of master's liability for any negligence involving breach of his personal duties. 54 L.R.A. 51.

MASTER AND SERVANT, VII.—cont'd Liability of owner of building in process of erection for injury to contractor's employees from defects existing at the time they commenced work. 22 L.R.A. (N.S.) 857.

Liability of mine owner for negligent in-jury to employee of independent contractor working the mine. 45 L.R.A. (N.S.) 930.

Liability on contractor's bond which undertakes to indemnify owner against liability for injuries to employees, where the injury is due to owner's negligence.
11 L.R.A.(N.S.) 1174.

Constitutionality of statute making owner personally liable to employees of build-ing contractors because of noncompliance with provisions for their protection. 39 L.R.A. (N.S.) 868.

Is statutory duty of employer to guard place or machinery owing to employees of contractor. 36 L.R.A. (N.S.) 269.

Liability of one contractor to servants of another working on same premises. 46 L.R.A. 94.

Duty under employer's liability acts, of owner to servants of contractor, or of principal contractor to servants of subcontractor, as to condition of place or appliance. L.R.A.1917D, 991.

Liability to servant of contractor under workmen's compensation acts. L.R.A. 1916A, 95; L.R.A.1917D, 148.

#### MASTER CRAFTSMEN.

As independent contractors. 65 L.R.A. 467.

### MASTER TRADESMEN.

As independent contractors. 65 L.R.A. 467.

#### MATCHES.

Keeping of, on insured premises. L.R.A. 1917C, 278.

#### MATE.

Admiralty jurisdiction of contracts of. 66 L.R.A. 229.

#### MATERIALITY.

Of alteration, see ALTERATION OF INSTRU-MENTS, §§ 3, 4.

Of evidence generally, see EVIDENCE, XII.

May charge of subornation of perjury be based on false testimony which is im- Usury in agreement for interest after. 49material. 25 L.R.A. (N.S.) 120.

#### MATERIALMEN.

Rights -of, under contractors' bonds, see Bonds, § 10.

Provision in contract for payment of, see BUILDING AND CONSTRUCTION CON-

TRACTS, § 2.
Lien of, see Maritime Liens; Mechanics' LIENS.

Language used by owner or other person interested in construction of building importing a promise to pay materialmen as a promise to answer for the debt or default of another. 5 B. R. C.

#### MATERIALS.

Provision in bond for payment for, see Bonds, § 10.

Provision in contract for payment for, see BUILDING AND CONSTRUCTION CONTRACTS, § 2.

Lien for, see MARITIME LIENS; MECHANICS' LIENS

Master's duty as to inspection of, see MAS-TER AND SERVANT, § 102.

Priority of claim for materials against property in hands of receiver over recorded liens. 41 L.R.A.(N.S.) 696, 701.

## ---MATERNITY.

Admissibility of hearsay evidence as to, sec EVIDENCE, § 219.

Evidence of declarations to show maternity of illegitimate child. 11 L.R.A.(N.S.) 1052.

### MATHEMATICAL CALCULATION.

Conclusiveness of stated or settled account containing inaccuracy or error in method of. 23 L.R.A.(N.S.) 787.

## MATRIMONIAL PROPERTY.

See HUSBAND AND WIFE, IV.

#### MATTERS IN BAR.

Proof of, under plea of the general issue in action of ejectment. L.R.A.1918F, 249.

#### MATURITY.

Of commercial paper, see BILLS AND NOTES, §§ 54-57.

L.R.A. 550.

#### MAULS.

Master's liability for injury by defect in. 13 L.R.A. (N.S.) 671; 51 L.R.A. (N.S.) 337; L.R.A.1918D, 1141.

#### MAXIMS.

In equity, see EQUITY, § 22.

Applicability of maxim res ipsa loquitur, see EVIDENCE, III. g.

Applicability of maxim that one cannot profit by his own wrong to descent of property to murderer, see DESCENT AND DISTRIBUTION, § 8.

To rights of murderer in proceeds of insurance policy, see Insurance, § 193.

How far maxim as to taking advantage of one's own wrong is abrogated by statute. 25 L.R.A. 564.

Applicability of rule of caveat emptor to sales for partition. 33 L.R.A.(N.S.)

Applicability of rule of caveat emptor to sale with particular description of kind or quality. 35 L.R.A.(N.S.) 260.

Plea of damnum absque injuria as bar to recovery of damages for mental anguish in telegraph cases. 49 L.R.A.(N.S.)

Application of maxim damnum absque injurio to right to consequential damages to property no part of which is taken from smoke, noise, dust, etc. incident to ordinary operation of railroad. 17 L.R.A.(N.S.) 1054.

Effect of legislative authority on liability for private nuisance constituting domnum absque injurio. 1 L.R.A.(N.S.)

Necessity of qualifying by reference to conscious falsity an instruction under a statute enacting the maxim Falsus in uno, falsus in omnibus without that qualification. 29 L.R.A.(N.S.) 680.

Applicability of doctrine of idem sonans to substituted or constructive service of

process. 30 L.R.A.(N.S.) 122.

Application of maxim "In pari delicto melior est conditio possidentis" to action to recover back nonexempt property conveyed to avoid nonexistent or unfounded demand. 1 L.R.A. (N.S.)

Application of maxim "In pari delicto melior est conditio defendentis" to action for specific enforcement for limited time of contract against public policy to prevent public inconvenience.

1 L.R.A.(N.S.) 1032.

Application of maxim mobilia sequentur

personam to place of taxing nonresident's personalty. 7 L.R.A.(N.S.) 704.

Applicability of principle of nullum tempus

occurritt regi to action by agencies of state. 3 L.R.A.(N.S.) 746.

Applicability to bequest of chattel for life

Consult also L.R.A. Digests of Cases. 58

MAXIMS—cont'd

Qui prior est in tempore, potior est in jure as applied to rights of different assignees. 66 L.R.A. 774.

Respondent superior. 44 L.R.A. 799.

Application of doctrine of respondeat superior to liability of eleemosynary institution for personal tort of agent or servant. 4 L.R.A.(N.S.) 269.

The application of the maxim sic uters tuo ut alienum non lædas to injuries by blasting. 6 L.R.A. (N.S.) 570.

Application of maxim that one must use one's own rights in such a manner as not to interfere with those of another to interference by user of electricity with business or injury to property of another resulting from induction or use of earth as a return electric current. 2 B. R. C. 132.

Volenti non fit injuria as a defense to actions by injured servants. 47 L.R.A.

#### MAY.

When word "may" in statute is to be deemed mandatory. 5 L.R.A. (N.S.) 340.

### MAYHEM.

Mayhem as depending upon the means or instrument used to inflict the injury. 40 L.R.A. (N.S.) 1132.

Malice and premeditation as element of offense of mayhem or maiming. L.R.A.1916E, 494.

#### MAYOR.

Imputing to municipality knowledge of mayor of defect or obstruction in street. L.R.A.1918B, 650.

#### MEAD.

Judicial notice of intoxicating character of. 48 L.R.A. (N.S.) 316.

### MEALS.

Serving liquor with meals by proprietor of hotel or restaurant as a sale thereof. 25 L.R.A. (N.S.) 943; 52 L.R.A. (N.S.) 722.

### MEANDER LINE.

As boundary. 42 L.R.A. 510. of maxim quae ipso usu consumuntur. As basis for dividing accretions. 12 L.R.A. 16 L.R.A. (N.S.) 483. (N.S.) 687.

#### MEANING.

Parol evidence to show, see EVIDENCE, § 165.

#### MÉASURES.

See WEIGHTS AND MEASURES,

#### MEAT.

See FOOD, § 7.

#### MECHANICS' LIENS.

I. In general, §§ 1-4.

II. Right to lien, \$\$ 5-7.

III. Priority \$\$ 8, 9.

IV. For what work or materials, \$\$ 10-13.

V. To what property or interest lien attaches, § 14-18.

VI. Of subcontractors and materialmen, §§ 19-21.

VII. How waived or defeated, \$ 22. VIII. Enforcement; procedure, §§ 23-

### I. In general.

§ 1. Generally. .

As to liens, generally, see Liens.

Effect of provisions in contractor's bonds, see Bonds, § 10.

For improvements on leased premises, see LANDLORD AND TENANT, § 40.

Who are laborers within statute for. 18 L.R.A. 305.

What is an "appurtenance" for purposes of. 15 L.R.A. 653.

Protection of, by enjoining sales under other process. 30 L.R.A. 128.

Burden of proof in action between owner and contractor as to claims of mechanics and materialmen voluntarily paid by owner. 44 L.R.A.(N.S.) 80.

Estoppel to assert title or interest in real property against mechanics' lien by concealing the same or representing it to be in another. 48 L.R.A. (N.S.) 760.

§ 2. Validity and construction of stat-

Validity of statutory provision for attorney's fees in suit to foreclose. L.R.A.(N.S.) 910; L.R.A.1915E, 947.

§ 3. —as to subcontractors and materialmen.

Constitutionality of statutes as to effect on liens of subordinate claims of payments to contractors or subcontractors. 20 L.R.A. 565.

Constitutionality of statute making owner personally liable to laborers or materialmen because of noncompliance with provisions for their protection. 39 J R.A. (N.S.) 868.

MECHANICS' LIENS, I.—cont'd

Constitutionality of statute giving mechanics' lien contrary to agreement of contractor. 36 L.R.A. (N.S.) 574.

4. Indemnity against.

Broker's right to commission where sale or loan fails because of owner's refusal to give indemnity against possible liens. 15 L.R.A. (N.S.) 187.

#### II. Right to lien.

§ 5. Generally.

Mechanic's lien under contract made or per-formed in another state. 38 L.R.A. 410.

6. Consent of owner.

Mortgagee as owner within mechanics' lien

laws. 39 L.R.A. (N.S.) 84.

Requiring another to make improvements upon land at his own expense as a consent by the owner which will subject his interest to a lien. 11 L.R.A.(N.S.) 764.

Authority of agent to contract for services of other persons so as to entitle them to a mechanic's lien. L.R.A.1918F, 96.

§ 7. - power of lessee or vendee to subject owner's interests to liens. Mechanic's lien upon building erected by vendee. 62 L.R.A. 380.

Statute giving liens for improvements made under contracts with owner. 23 L.R.A.(N.S.) 601; L.R.A.1917D, 578.

Statutes giving liens on interests of the one causing the improvements to be made. 23 L.R.A.(N.S.) 605; L.R.A.1917D, 579.

Statutes giving liens for improvements made by contract with or at request of owner. 23 L.R.A. (N.S.) 607; L.R.A. 1917D, 580.

Statutes giving lien for improvements made by agents. 23 L.R.A.(N.S.) 608; L.R.A.1917D, 580.

Where statute gives lien for improvements made with consent of owner. 23 L.R.A. (N.S.) 612; L.R.A.1917D, 582.

Statutes giving liens for improvements made with permission of owner. 23 L.R.A.(N.S.) 617.

Statutes giving liens for improvements made with the written consent of the owner. 23 L.R.A.(N.S.) 617; L.R.A. 1917D, 583.

Statutes giving liens where owner with knowledge of the improvement fails to give notice of nonliability. 23 L.R.A. (N.S.) 618; L.R.A.1917D, 584.

#### III. Priority.

§ 8. Generally.

Priority of claims against property in hands of receiver over. 2 L.R.A. (N.S.) 1013.

MECHANICS' LIENS, III.—cont'd

Rights of seller of fixtures, retaining title thereto or lien thereon, as against holder of mechanics' lien. 1 B. R. C.

§ 9. — as to earlier mortgages. Unrecorded mortgages. 14 L.R.A. 30 Mortgage for advances. 14 L.R.A. 307. Purchase-money mortgages. 14 L.R.A. 307. Priority of statutory preference of claim for labor over pre-existing mortgage. 2 L.R.A.(N.S.) 615.

#### IV. For what work or materials.

§ 10. Generally. For sinking well. 6 L.R.A.(N.S.) 550; 43 L.R.A. (N.S.) 559.

For cultivation, care, or improvement of soil, or beautifying premises generally. L.R.A.1917D, 351.

Right to a lien for labor in preparing ma-terials in manufactured form, under a statute giving a lien for work or labor performed on the building or structure. 30 L.R.A.(N.S.) 82.

Food furnished contractor for employees and teams as material giving lien on railroad. 15 L.R.A.(N.S.) 509.

Right of servant to common law possessory lien or its statutory substitute for services in connection with property. 42 L.R.A.(N.S.) 731.

Right to statutory lien on property of third person for rental of personal property let to contractor for use in work of a

lienable nature. 16 L.R.A.(N.S.) 585. Right to mechanics' lien for labor or material furnished on order of architect before abandonment of contract by contractor. 20 L.R.A. (N.S.) 89.

Explosives as materials used in improving real property. 2 L.R.A. (N.S.) 288.

Are contractors or subcontractors within the protection of statutes giving liens to "laborers," "mechanics," "workmen," and the like. 30 L.R.A. 85.

Heating apparatus as part of realty for purpose of mechanics' lien. 1 B. R. C. 982.

For material or labor furnished under contract with executor or administrator. 52 L.R.A.(N.S.) 870.

Delivery upon the premises of material sold to contractor. L.R.A.1915E, 302.

§ 11. Materials furnished for struc-ture, but not actually used.

Materials furnished for structure, but not actually used therein, as basis of a mechanics' lien. 31 L.R.A.(N.S.) 749; L.R.A.1918D, 1041.

\$ 12. Materials used but not incorporated in structure.

Materials wholly or partially consumed in process of work, but not becoming a part of the structure. 36 L.R.A. (N.S.) | L.R.A. 374; L.R.A.1917C, 1121. 866; 51 L.R.A. (N.S.) 1040; L.R.A | Erection upon homestead lands. 62 L.R.A. 1915E, 986.

Consult also L.R.A. Digests of Cases.

MASTER AND SERVANT, IV. cont'd

Mechanics' lien upon premises for an im-provement not placed thereon but having a physical or beneficial con-nection therewith. 42 L.R.A. (N.S.) 354.

§ 13. Services of architect.

Right of architect to mechanics' lien. L.R.A. 600; 36 L.R.A.(N.S.) 354; L.R.A.1915D, 204.

#### V. To what property or interest lien attaches.

§ 14. Generally.

Power of lessee or vendee to subject owner's interests to mechanics' liens, see supra,

Right to mechanics' lien for improvements made on infant's land by authority of guardian. 15 L.R.A. (N.Š.) 1159.

Agreement between landlord and tenant as to removal of fixtures and improvements by latter as affecting third person claiming a mechanics' lien. 45 L.R.A.(N.S.) 100; L.R.A.1915E, 826.

Mechanics' lien on landlord's interest for labor or materials furnished tenant for the building or improvement removable by tenant. 6 L.R.A. (N.S.) 485; 41 L.R.A. (N.S.) 298.

Where building covers adjoining lots held in severalty. 30 L.R.A.(N.S.) 1219.

Show cases, shelving, etc., as fixtures to which lien will attach. 43 L.R.A.(N.S.) 680.

Claim of holder of mechanies' lien on fund arising from judicial sale of property under a prior or contemporaneous lien before distribution of the fund. L.R.A.(N.S.) 708.

Mechanics' lien on property of charitable or religious institution. 51 L.R.A. (N.S.)

Mechanics' liens on trust property. L.R.A. 1916B, 1267.

Homestead as subject of mechanics' lien. L.R.A.1918D, 1055.

Where homestead right is acquired after making of the contract or commencement of the work. L.R.A. 1918B, 818.

15. Several lots or buildings.

Right to file a single mechanic's lien against several buildings. 17 L.R.A. 314.

§ 16. Buildings distinct from land. In general. 62 L.R.A. 369; L.R.A.1917C, 1119.

Erection upon land of a stranger. L.R.A. 370; L.R.A.1917C, 1120.

Extension of erection upon adjoining land. 62 L.R.A. 373; L.R.A.1917C, 1121.

Erection by husband upon wife's land. L.R.A. 374; L.R.A.1917C, 1121.

375; L.R.A.1917C, 1121.

MECHANICS' LIENS, V .-- cont'd

Erection upon leasehold estates. 62 L.R.A. 375; L.R.A.1917C, 1121.

Erection by vendee of the land under a contract of purchase. L.R.A.1917C, 1122. 62 L.R.A. 380;

Erection upon land vested in third parties by deed of trust. 62 L.R.A. 381; L.R.A. 1917C, 1123.

Failure of description of the land in affidavit of claim. 62 L.R.A. 382; L.R.A. 1917C, 1123.

#### § 17. Extent of land to which lien attaches.

Statutes giving lien on "lot" or "tract."
26 L.R.A. (N.S.) 836.

Statute expressly giving lien on land necessary for use of improvement. 26 L.R.A. (N.S.) 838.

§ 18. Public property.

Generally. 35 L.R.A. 141; 20 L.R.A.(N.S.) 261; 41 L.R.A.(N.S.) 315.

Schoolhouses. 35 L.R.A. 142. Courthouses. 35 L.R.A. 143. Government land. 35 L.R.A. 144. Basis of rule. 35 L.R.A. 144. Exceptional cases. 35 L.R.A. 144. The rule in Kansas. 35 L.R.A. 145.

Personal judgment. 35 L.R.A. 145. Use must be public. 35 L.R.A. 145. On claim or interest in public lands for debts contracted before issuance of pat-

VI. Of subcontractors and materialmen.

ent. 34 L.R.A.(N.S.) 409.

19. Generally.

Validity of statutes as to, see supra, § 3. Provision in contractor's bond for payment of claims of, see Bonds, § 10.

Provision in contractor's contract for payment of claims of, see Building and CONSTRUCTION CONTRACTS, § 2.

Right of subcontractor to protection of statutes giving liens to "laborers," "mechanics," "workmen," and the like. 30 L.R.A. (N.S.) 85.

Right of subcontractor or materialmen to personal judgment against owner. 14 L.R.A.(N.S.) 1036; 24 L.R.A.(N.S.)

Effect, as against subcontractors and materialmen, laborers, of stipulation in principal contract that no lien shall be asserted. 50 L.R.A. (N.S.) 159.

#### § 20. Subsequent matters affecting right to lien.

Relation back of subcontractor's lien to the date of that of the original contractor. 16 L.R.A. 335.

Effect of death of principal contractor on rights of subcontractor or materialman to a lien, or to payment by owner. 20 L.R.A.(N.S.) 45.

Effect of bankruptcy of principal contractor upon lien rights of subcontractors or materialmen. 26 L.R.A.(N.S.) 409; 51 L.R.A.(N.S.) 68; L.R.A.1916F, 113.

MECHANICS' LIENS, VI.—cont'd § 21. - payments to contractors.

Payment to contractors or subcontractors as affecting liens of subordinate claimants. 20 L.R.A. 560.

Right of owner, as against subcontractor who filed lien, to credit for payments made to other subcontractors or materialmen, who did not file liens, before the expiration of the time allowed for that purpose. 14 L.R.A.(N.S.) 919.

Application of payments made by contractor to subcontractor or materialmen as between jobs of different owners. L.R.A.1916D, 1254.

#### VII. How waived or defeated.

#### § 22. Generally.

In case of subcontractors or materialmen. see supra, 19-21.

Discharge of lien, see infra, § 30.

Effect of bankruptcy of property owner on mechanics' liens. L.R.A.1915F, 1132.

Effect of judicial sale of property under prior or contemporaneous lien to devest mechanics' lien. 47 L.R.A.(N.S.) 706.

Provision in contract that no mechanics' lien shall be filed as affecting claimants. 50 L.R.A.(N.S.) 153.

Waiver of laborer's lien by attachment or execution. 50 L.R.A. 722.

Effect upon rights of owner of lien on building of its wrongful removal and attachment to third person's land without for-mer's consent. 14 L.R.A.(N.S.) 435.

Removal, removability, or destruction of work or improvement as affecting lien on the property improved. 41 L.R.A. (N.S.) 296; 45 L.R.A. (N.S.) 100; L.R.A.1915E, 826.

Acceptance of commercial paper as extinguishment of. 35 L.R.A.(N.S.) 93.

Recovering personal judgment against owner as waiver of mechanics' lien. 32 L.R.A.(N.S.) 1073.

Effect of discharge in bankruptcy on lien. 42 L.R.A.(N.S.) 295.

#### VIII. Enforcement; procedure.

### § 28. Generally.

Effect of sale to satisfy mechanic's lien upon wife's right of dower. 18 L.R.A. 77. Removal for separable controversy of proceedings to foreclose. 5 L.R.A. (N.S.)

Right to accept favorable part of decree and appeal from the rest. 29 L.R.A. (N.S.) 13.

Scire facias to fix amount of mechanics' lien. after judicial sale of property under prior or contemporaneous lien. L.R.A.(N.S.) 707.

In what courts liens are enforceable after bankruptcy of property owner. L.R.A.

MECHANICS' LIENS, VIII.-cont'd § 24. Parties.

Contractor as a necessary party to a bill to enforce a mechanics', lien. 33 L.R.A. (N.S.) 69.

§ 25. Costs; attorney's fee. Constitutionality of statute giving attorney's fee in suit to foreclose. 20 L.R.A. 565; L.R.A.1915E, 947.

§ 26. Notice; statement.

Failure of description of land in affidavit of claim and buildings distinct from land. 62 L.R.A. 382.

§ 27. — effect of filing excessive lien. Unintentional mistake. 29 L.R.A. (N.S.)

Intentional or fraudulent overstatement. 29 L.R.A.(N.S.) 317.

Specific statutory provisions. (N.S.) 317. 29 L.R.A.

§ 28. Time of filing lien.

First and last days in computing time for. 49 L.R.A. 236.

Work done, or material furnished, in perfecting original work, as lienable items to establish period for filing claim. 12 L.R.A. (N.S.) 864.

Right to tack different contracts to perform labor or furnish material for purpose of extending time to file lien. L.R.A. (N.S.) 299.

§ 29. — effect of addition of new items to extend time.

General rule. 35 L.R.A. (N.S.) 902.

Where gratuitous or voluntary. 35 L.R.A. (N.S.) 903.

Where trivial. 35 L.R.A.(N.S.) 904.

Effect of request of owner. 35 L.R.A. (N.S.) 904.

Where required by contract. (N.S.) 905. 35 L.R.A.

Effect of delay. 35 L.R.A.(N.S.) 906.

Where furnished to remedy defect. L.R.A.(N.S.) 907. 35

Extras. 35 L.R.A.(N.S.) 908. Repairs. 35 L.R.A.(N.S.) 909.

§ 30. Discharge of lien.

Devestiture of lien by judicial sale of property under prior or contemporaneous lien. 47 L.R.A. (N.S.) 706.

🖁 31. Personal judgment.

In action to enforce mechanic's lien on public property. 35 L.R.A. 145.

Right of subcontractor or materialmen to personal judgment against owner. 14 L.R.A.(N.S.) 1036; 24 L.R.A.(N.S.) 321.

Recovering personal judgment against owner as waiver of mechanics' lien. 32 L.R.A.(N.S.) 1073.

§ 32. Amount recoverable.

Amount recoverable under New York me-chanics' lien law. 13 L.R.A. 706.\* Consult also L.R.A. Digests of Cases.

### MEDICAL ASSISTANCE.

Master's duty as to, see Master and Serv-ANT, § 58.

#### MEDICAL ATTENDANCE.

Cost of, as element of damages, see Dam-AGES, § 58.

In general, see Physicians and Surgeons.

Cost of, as element of recovery under Workman's Compensation Act. L.R.A.1917D, 178.

Duty and liability of one other than a physician or surgeon who contracts to provide medical or surgical attention to another. 36 L.R.A. (N.S.) 50; L.R.A. 1915D, 884.

Criminal responsibility for failure to provide child with medical attendance and remedies. 6 B. R. C. 464.

Effect of failure to provide medical attendance to render one guilty of manslaugh-ter. 45 L.R.A.(N.S.) 559. Liability of relative for medical services to

pauper. L.R.A.1915E, 844.

Liability of husband for medical attendance during wife's last sickness. 47 L.R.A. (N.S.) 283.

As family necessaries for which husband is liable when furnished at request of wife. 47 L.R.A.(N.S.) 281.

As a family expense or necessary within statute rendering wife or her property liable therefor. L.R.A.1917F, 863.

### MEDICAL BOARDS.

Judicial power to review action of boards in respect to licenses of physicians, dentists, etc. 20 L.R.A. 355.

### MEDICAL BOOKS.

As evidence. 40 L.R.A. 553.

### MEDICAL COLLEGE.

Determining character or standing of, for purpose of license statutes. 22 L.R.A. (N.S.) 735.

### MEDICAL EXAMINATION.

Provision in workmen's compensation act for medical examination of injured workmen. L.R.A.1916A, 160.

#### MEDICAL EXPENSES.

In case of emergency, see EMERGENCY, § 5.

#### MEDICAL SERVICES.

See MEDICAL ATTENDANCE.

#### MEDICAL SUPERINTENDENT.

Right of woman to be. 38 L.R.A. 211.

#### MEDICAL TREATMENT.

Liability under accident policy for death or injury caused by. 26 L.R.A.(N.S.) 1004; L.R.A.1915E, 955.

Nondelegability of master's duty to furnish proper treatment. 54 L.R.A. 83.

## \*\*\* MEDICINAL COMPOUNDS.

Medicinal compounds containing alcoholic liquor as within prohibitory or regulatory statutes. L.R.A.1917F, 246.

### MEDICINE.

Liability of druggists as to, see DRUGS AND DRUGGISTS, § 5.

Validity of agreements as to, see Daugs

AND DEUGISTS, § 6.

Patent medicine, see PATENT MEDICINES.

Practice of, see PHYSICIANS AND SURGEONS.

Liability of seller for damage to live stock by improper medicine. L.R.A.1916B, 1108.

#### MEDIUM.

Of payment, see PAYMENT, §§ 6-11.

#### MEETING.

Of corporate officers, see Corporations, § 60.

Of stockholders, see CORPORATIONS, §§ 122-126.

Of religious societies, see Religious So-CIETIES, § 2.

Of school district, see SCHOOLS, § 26. Disturbing meeting, see DISTURBING MEET-ING.

Right of public to attend municipal council meetings. 1 B. R. C. 296. Begin with this book on every law question.

#### MEETING OF MINDS.

In execution of contract, see CONTRACTS, §§ 19-23.

#### MEMBERSHIP.

In religious society, see RELIGIOUS So-CIETIES, §§ 11-13.

#### MEMORANDA.

Within statute of frauds, see CONTRACTS, §

Admissibility of, in evidence, see EVIDENCE, § 135.

Making or altering of, as forgery, see For-GERY, § 6.

Right of stockholder to make, from books. 45 L.R.A. 449.

Forgery by making or altering. 54 L.R.A. 794.

Impeachment of enrolled bill by. 40 L.R.A. (N.S.) 31.

On back of note at time of execution as substantive part thereof. 15 (N.S.) 612. L.R.A.

Making of memorandum on negotiable instrument as an alteration. L.R.A. 1916D, 533.

Use of private memoranda by counsel in argument to jury. L.R.A.1918D, 80.

#### MEMORY.

Impairment of, as defense to prosecution for

perjury. 21 L.R.A.(N.S.) 993. Weakness of, as affecting testamentary capacity. 27 L.R.A.(N.S.) 42.

### MENACE.

See THREATS.

#### MENTAL ANGUISH.

Damages for, see DAMAGES, §§ 96-106.

Necessity of corroboration of admission or testimony of party to divorce in re-lation to mental suffering or other state of mind. 25 L.R.A.(N.S.) 45.

Of accused as affecting voluntariness of confession. 18 L.R.A. (N.S., 790.

### MENTAL CAPACITY.

Of testator, see WILLS, §§ 9-15.

#### MENTAL CONDITION.

As affecting criminal responsibility, see CRIMINAL LAW, 88 8, 9.

Right of witness to express opinion as to. L.R.A.1918A, 721.

As affecting admissibility of dying declarations. 56 L.R.A. 381.

As affecting voluntariness of confession. 50 L.R.A. (N.S.) 1082.

#### MENTAL HEALERS.

See MENTAL SUGGESTION.

#### MENTAL SUGGESTION.

Application of statutes regulating practice of medicine to treatment by. 3 L.R.A. (N.S.) 763; 24 L.R.A. (N.S.) 103; 25 L.R.A. (N.S.) 1297; L.R.A.1917C, 827.

#### MERCANTILE AGENCY.

See COMMERCIAL AGENCIES.

### MERCANTILE BUSINESS.

See MERCHANTS.

### MERCHANDISE.

Seller's liability for injuries due to defects in, see NEGLIGENCE, § 15.

Liability for failure to forward bonded merchandise. 4 L.R.A.(N.S.) 1060.

Sufficiency of selection or designation of part sold out of a larger lot. 26 L.R.A. (N.S.) 41.

Validity of chattel mortgage of stock of, as affected by provision or agreement giving mortgagor possession with power of sale. 36 L.R.A.(N.S.) 1181.

#### MERCHANTS.

Libel or slander of, see LIBEL AND SLANDER, §§ 16, 17, 26.

Unlawful combinations of, or against, see MONOPOLIES, II.

Liability for sale of dangerous or defective article or substance, see NEGLIGENCE, §

Validity of contract by unlicensed mer-chant. 12 L.R.A.(N.S.) 616.

Discrimination against nonresidents by statute or ordinance imposing license Of tax on. 40 L.R.A. (N.S.) 285.

Concult also L.R.A. Digests of Cases.

MERCHANTS—cont'd

Power of municipality to regulate use of scales by. 23 L.R.A.(N.S.) 266.
Liability for malicious acts of employees towards customers. 4 L.R.A.(N.S.)

Merchants as peddlers or hawkers within statutory or municipal regulations. L.R.A.1916B, 1296.

Validity of restrictive agreement ancillary to sale of mercantile business as affected by its territorial scope. L.R.A. 1916C, 630.

Validity of public restrictions as to location of mercantile business. 49 L.R.A.

(N.S.) 438; L.R.A.1917F, 1060.
Validity of statute or ordinance requiring closing of mercantile establishment at certain hours. L.R.A.1916A, 654.

#### MERCHANTS' DESPATCH.

Character of, as common carriers. 42 L.R.A. (N.S.) 902.

#### MERCY.

Intimation that recommendation to mercy would be entertained as ground for reversal of conviction. 40 L.R.A.(N.S.)

#### MERETRICIOUS RELATIONS.

See also Illicit Cohabitation.

Effect of meretricious relations between testator and beneficiary on validity of devise or bequest. 17 L.R.A.(N.S.) 477.

Right to recover for household services rendered while the parties were living in illicit relations. 29 L.R.A.(N.S.) 787; L.R.A.1917B, 683.

Character of presumption as to undue influence in bequest to mistress. 11 L.R.A.(N.S.) 554; 17 L.R.A.(N.S.) 11

Slander in charging woman with being one's mistress. 24 L.R.A.(N.S.) 611.

#### MERGER.

§ 1. Generally.

Of contracts, see CONTRACTS, § 60.

Of corporations, see Corporations, III.

Of mortgage, see MORTGAGE, § 58.

Of stipulations as to title in executory contract in subsequently executed convey-ance, see VENDOR AND PURCHASER, § 42.

In case of estate by entireties. 30 L.R.A. 313.

private injury for death of child in public wrong. 41 L.R.A. 807.

MERGER—cont'd

Effect of union of life estate and remote remainder or reversion in the same person, upon intermediate contingent re-

mainder. 7 L.R.A.(N.S.) 433.
Sale of collateral merging security in debt.
37 L.R.A.(N.S.) 714.

§ 2. In judgment.

Merger of cause of action in foreign judgment in personam. 20 L.R.A. 681.

Effect of judgment against garnishee to merge principal debtor's liability. 47 L.R.A. 131.

Judgment on judgment of sister state as merger of the original. 42 L.R.A. (N.S.) 360.

#### MERITS.

Affidavit of, see JUDGMENT, § 88.

#### MERRY-GO-ROUND.

Injunction against, by municipality. L.R.A. 322. Liability of person maintaining, for safety of patrons. 42 L.R.A.(N.S.) 1070.

### MESNE PROFITS.

Right of dowereas to. 21 L.R.A. 180. Liability of cotenant for. 28 L.R.A. 857. Claim for, as debt within provision as to imprisonment for debt. 34 L.R.A. 641.
Burden of proof in action to recover for failure to execute process. 3 L.R.A.
(N.S.) 420.

Recovery of, by landowner upon retaking possession of land upon which there are standing crops raised by one not in privity with him. L.R.A.1918A, 552.

#### MESSAGES.

Telegraph messages, see Telegraphs, § 8. By telephone, see Telephones, § 10.

### MESSENGER,

Improper influence or interference with grand jury by. 28 L.R.A. 371.

Duty and liability for conduct of messengers furnished for use of others. 2
L.R.A. (N.S.) 1091.

Liability for personal injury caused by district messenger. L.R.A.1918D, 360.

Begin with this book on every law question.

#### METALS.

Sufficiency of delivery of, on sale out of larger lot. 26 L.R.A.(N.S.) 44.

#### METERS.

Gas meter, see Gas, § 10. For water, see WATERS, § 124.

#### METHEGLIN.

Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 316.

#### MEXICAN GRANT.

Location of mining claim on, 7 L.R.A. (N.S.) 786.

#### MEXICAN REVOLUTION.

Litigation arising out of. L.R.A.1917A, 280; L.R.A.1918E, 361.

#### MIDDLEMAN.

Liability of seller for injury due to defects in things sold, see NEGLIGENCE, § 15.

Fraud and secret dealings of, as affecting commissions. 45 L.R.A. 51.

### MIDWIVES.

Midwifery as practice of medicine contravening statute. 17 L.R.A.(N.S.) 94.
Constitutionality of statute as to reporting and registering births, deaths, etc. 39 L.R.A.(N.S.) 1015.

#### MIGRATION.

As ground for forfeiting corporate charter. 24 L.R.A. 462.

### MIGRATORY BIRDS.

Constitutionality of the migratory birds provision in the act of Congress of March 4, 1913. L.R.A.1915F, 1031.

#### MILCH COWS.

Police regulations as to food for. 1 L.R.A. (N.S.) 932.

#### MILEAGE BOOKS.

Validity of statutes requiring issuance of, at reduced rates. 7 L.R.A.(N.S.) 1086. Validity of regulations by public concerning the manner of using. L.R.A.1915E, 902.

### MILITARY DUTY.

In general, see ARMY AND NAVY; MILITIA. Homicide in discharge of military duty. 67 L.R.A. 295.

Scope and effect of provision exempting insurer from loss caused by military power. 36 L.R.A.(N.S.) 1155.

### MILITARY LAWS.

Right to convict for offense against both military and civil authorities. 31 L.R.A.(N.S.) 710.

#### MILITARY POWER.

As to compulsory military service, see Com-PULSORY MILITARY SERVICE.

Power of governor, in exercise of power to suppress insurrection, to authorize arrest and detention of persons without turning them over to the civil authorities. 12 L.R.A. (N.S.) 979.

#### MILITARY RESERVATION.

Location of mining claim on. 7 L.R.A. (N.S.) 790. Cutting of timber on. 70 L.R.A. 909.

### MILITARY SERVICE.

See ARMY AND NAVY.

#### MILITIA.

Exemption of firemen from duty in, see Fire Department, § 2.

Giving of free service or reduced rates to state militia by public service corporation as an unlawful discrimination. L.R.A.1918D, 907.

Calling out, for service. 15 L.R.A. 116. Consult also L.R.A. Digests of Cases.

MILITIA—cont'd

Enlistment in, of minor without parent's consent, 39 L.R.A.(N.S.) 454.

Power of governor to disband. 23 L.R.A.

Power of governor to disband. 23 L.R.A. 510.

Are state militias subject to the articles of war of the United States. 40 L.R.A. (N.S.) 354.

Right conferred by statutory exemption of fireman from jury or militia duty. 8 L.R.A.(N.S.) 498.

Right of officer of regiment of, to maintain action for libel or slander based on charges against officers of regiment without naming any particular one. 23 L.R.A.(N.S.) 728.

Power to require carrier to transport militia at reduced rate. 41 L.R.A. (N.S.) 524.

Power of state under Federal Constitution to legislate with respect to militia. L.R.A.1918C, 307.

Power of legislature to make appropriation to compensate injured militiaman. 44 L.R.A.(N.S.) 83.

Power to change the duties or field of service of militiamen. L.R.A.1915E, 235.

Civil and criminal responsibility of militiamen. L.R.A.1915A, 1141.

#### MILK.

See FOOD, § 8.

#### MILKMEN.

Regulations as to generally, see Food, § 8. Milkmen as peddlers or hawkers. L.R.A. 1916B, 1297.

#### MILLDAM.

See DAMS.

#### MILLING IN TRANSIT.

See TRANSIT PRIVILEGES.

### MILL POND.

Right to fish in. 60 L.R.A. 513.
Right to consider value of property as part of natural waterpower in fixing compensation for taking land for. 3 L.R.A. (N.S.) 912.

### MILL RACE.

See RACE, § 3.

#### MILLS.

1. Generally, Milldams, see DAMS.

Grant of water power for, see WATERS, §§ 99, 100.

Situs of mill site or water power for purposes of taxation. L.R.A.1917F, 591. Servants in, as fellow servants. 50 L.R.A.

436, 461.

Persons operating, as independent contractors. 65 L.R.A. 467, 488; 17 L.R.A. (N.S.) 374.

Character of occupancy of employees in. 4 L.R.A. (N.S.) 715.

Interference with mill by damming back water of stream. 59 L.R.A. 819.

Loss of profits as elements of damages for interference with water power of mill. 52 L.R.A.(N.S.) 1004.

Right to exercise power of eminent domain for purpose of. 18 L.R.A. (N.S.) 356.

2. Conveyance of.

How far grant of mill includes water right.

58 L.R.A. 487.

What passes by devise of a mill. L.R.A. 1917D, 435, 436.

§ 3. Rights of upper and lower own-

Right as between appropriator, above, and junior appropriator below, mill, during periods when water is not used by mill. 30 L.R.A.(N.S.) 615.

4. Tolls, rates, and prices. Right to take toll without franchise. 37

L.R.A. 712. Legislative regulation of tolls of. 33 L.R.A. 182.

Business of, as affected with a public interest authorizing regulation of rates and prices. 6 L.R.A.(N.S.) 836.

### MINERAL LANDS.

Right to cut timber on. 70 L.R.A. 904.

#### MINERAL OIL.

See MINES, §§ 33-38.

#### MINERALS.

In general, see MINES. Begin with this book on every law question.

#### MINES.

I. In general, §§ 1-3. II. On public lands, §§ 4-26.

a. In general, §§ 4-8.

b. Location, \$\$ 9-21.

c. Relocation, §§ 22, 23.

d. Adverse or protest, \$ 24. e. Assessment work; abandon-

ment; forfeiture, \$\$ 25, 26. III. On private land, §§ 27-38.

a. In general, §§ 27-30.

b. Coal, §§ 31, 32.

c. Oil and gas, \$\$ 33-38.

In general, §§ 33, 34.
 Leases, §§ 35-38.

IV. Employees and independent contractors in, §§ 39-42.

### I. In general.

1. Generally.

Condemnation of land for mining purposes, see EMINENT DOMAIN, § 12.

Injunction against mining operations, see

INJUNCTION, § 24.
Mineral rights of life tenant, see LIFE TEN-

ANTS. §§ 3, 4.

Master's liability for injury to employee in, see Master and Servant, §§ 91, 91a. Mining corporation, see MINING CORPO-RATION.

Mining partnership, see MINING PARTNER-SHIP.

Pollution of water for mining purposes or by mining operations, see WATERS, § 58.

Organization of mining lands into municipal corporation, L.R.A.1918B, 1090. Operation of mine as a nuisance. L.R.A.

1917B, 313. Right to discharge water from, on lower land. 42 L.R.A. (N.S.) 714.

Right to partition mineral lands. L.R.A.

1916D, 1154. Working part of mine as adverse possession

of whole property. 3 B. R. C. 418. Extent of rights acquired by adverse pos-session of surface of land. 4 B. R. C.

§ 2. Minerals generally. Widow's dower right in minerals, see Dow-

Specific performance of contract for product of mine. L.R.A.1918E, 623.

Sufficiency of delivery of minerals on sale out of larger lot. 26 L.R.A.(N.S.) 44.

Right to mineral in railroad right of way as between company and fee owner. 45 L.R.A.(N.S.) 801.

Minerals as subject of larceny. 49 L.R.A. (N.S.) 966, 969.

Constitutionality of classification of minerals for purpose of taxation. L.R.A. 1916F, 164.

Effect of partition of premises leased for mining purposes on right to the royal-ty. L.R.A.1918B, 1089.

3. Acquiring property by eminent domain.

Right to minerals in highway, see High- Taking of property for mining purposes as ways. § 44. a public purpose. 22 L.R.A.(N.S.) 153.

MINES, L-cont'd

Production of gold as a public purpose for which the right of eminent domain may

be exercised. 15 L.R.A.(N.S.) 616.

Taking property for mining road under power of eminent domain. 1 L.R.A. (N.S.) 977; 22 L.R.A.(N.S.) 701.

Power to exercise right of eminent domain for purpose of securing right of way for tunnel. 4 L.R.A. (N.S.) 106.

### II. On public lands.

### a. In general.

4. Generally.

Specific performance of contract for interest in mining claim. L.R.A.1918E, 627. Conclusiveness of decisions or findings of the Land Department as to whether land is mineral or nonmineral. L.R.A.

1918D, 627. Question relating to mining claims as Federal question. 62 L.R.A. 534.

Custom as to prior appropriation of water for. 30 L.R.A. 669.

Pollution of stream by mining operations. 24 L.R.A. 64; 22 L.R.A. (N.S.) 276; 38 L.R.A. (N.S.) 272; L.R.A.1915D, 911.

Acquiring title to mining claim by adverse possession. 40 L.R.A.(N.S.) 817.

Right to cut timber on mineral lands. L.R.A. 904.

Descent of unpatented mining claim. L.R.A.(N.S.) 919.

Liability for removal of lateral or subjacent support of land by placer mining. 68 L.R.A. 674.

Interest of other than the owner of soil in mineral in situ as independent subject of taxation. L.R.A.1916D, 307.

Right to pump up water where the result is to carry away another's mineral in solution. 5 B. R. C. 254.

Right of owner or lessee of mineral in place, as to use of surface. 48 L.R.A. (N.S.) 883.

§ 5. Rights under tunnel-site locations.

Statutory authority for tunnel-site locations. 53 L.R.A. 794. Precedence as between tunnel locator and

surface locator. 53 L.R.A. 794. Extent of tunnel locator's right to veins dis-

covered in tunnel. 53 L.R.A. 795.

Necessity of following up discovery in tunnel by location on surface. 53 L.R.A. 795.

Right and duty of tunnel locator to "adverse" surface locations; meaning of "line of tunnel," 53 L.R.A. 796.

Expenditures on tunnel. 53 L.R.A. 799. Location and notice of tunnel claim. 53 L.R.A. 799.

Miscellaneous. 53 L.R.A. 799.

§ 6. Lodes or veins within placer claims.

Generally. 50 L.R.A. 289.

L.R.A. 289.

Consult also L.R.A. Digests of Cases.

MINES, II. a-cont'd

Entertaining applications, and granting pat-ents, for lode claims after issuance of placer patent. 50 L.R.A. 293.

Width of lode claim. 50 L.R.A. 294.

Adverse; effect of judgment in adverse suit. 50 L.R.A. 294.

Right to locate lode claim before applica-tion for placer patent. 50 L.R.A. 295. Miscellaneous. 50 L.R.A. 296.

§ 7. Veins intersecting, crossing, or uniting.

Veins intersecting or crossing, generally. 50 L.R.A. 209.

Necessity of adversing. 50 L.R.A. 212. Veins uniting. 50 L.R.A. 212.

Extent of tunnel locator's rights to veins discovered in tunnel. 53 L.R.A. 795.

§ 8. Right to follow vein on dip beyond surface lines.

In general. 53 L.R.A. 491.

Parallelism of lines. 53 L.R.A. 492.

When the apex crosses both side lines. 53 L.R.A. 495.

When the apex crosses an end line and a side line. 53 L.R.A. 496.

When the apex enters across a side line and departs across the same side line. 53 L.R.A. 497.

Identity of the vein or lode. 53 L.R.A. **497.** 

Conflict and priority of rights. 53 L.R.A.

Uniting interests; laying lines of junior, upon senior, location. 53 L.R.A. 501.

The right as affected by contract. 53 L.R.A. 502.

Degree of dip. 53 L.R.A. 503.

Right as to veins other than discovery vein. **53** L.R.A. 503.

Title to ore bodies that apex beyond claim, when adverse party cannot follow dip. 53 L.R.A. 504.

Miscellaneous. 53 L.R.A. 506.

### b. Location.

9. Generally.

Mining claim and location defined. 7 L.R.A. (N.S.) 765.

Right to locate lode claim before application for placer patent. 50 L.R.A. 295.

Effect of excessive location of mining claim. 28 L.R.A.(N.S.) 1029.

§ 10. Location previous to mining statutes.

Foundation of the right. 7 L.R.A.(N.S.) 768.

Miners' rules and regulations. 7 L.R.A.

(N.S.) 768. What land could be taken. 7 L.R.A. (N.S.) 769.

The question of possession. 7 L.R.A.(N.S.) 772.

Extent of claim. 7 L.R.A.(N.S.) 773. When lode excluded from placer patent. 50 Notice of appropriation. 7 L.R.A.(N.S.) 774.

MINES, II. b—cont'd § 11. Statutory authority for. The Federal statutes. 7 L.R.A.(N.S.) 775. Supplementary legislation by states and territories. 7 L.R.A.(N.S.) 776. Supplementary rules and regulations of miners. 7 L.R.A. (N.S.) 776.

8 12. What lands may be located.
Unoccupied, unappropriated public domain.
7 L.R.A.(N.S.) 777.
Mineral lands. 7 L.R.A.(N.S.) 791.
What substances in lands are mineral. 7 L.R.A.(N.S.) 805.
Placer deposits. 7 L.R.A.(N.S.) 809.
Coal and oil lands. 7 L.R.A.(N.S.) 810.

§ 13. Who may locate. The general rule. 7 L.R.A.(N.S.) 812. Citizens. 7 L.R.A.(N.S.) 812. Corporations. 7 L.R.A.(N.S.) 816. Nonresidents, minors, etc. 7 L.R.A.(N.S.) 816.

Agents, partners, etc. 7 L.R.A.(N.S.) 817.

§ 14. Discovery.

Necessity of. 7 L.R.A.(N.S.) 819.

Prospecting for. 7 L.R.A.(N.S.) 820.

What constitutes, 7 L.R.A.(N.S.) 821.

The apex with reference to discovery and holding surface. 7 L.R.A.(N.S.) 824.

By whom made. 7 L.R.A.(N.S.) 825.

Time of making. 7 L.R.A.(N.S.) 825.

Place of. 7 L.R.A.(N.S.) 826.

Determination as to existence and discovery of ore. 7 L.R.A.(N.S.) 829.
Discovery in placer mining. 7 L.R.A.(N.S.)

831.

Necessity of following discovery in tunnel by location on surface. 53 L.R.A. 795.

§ 15. Notice of.
When required. 7 L.R.A.(N.S.) 832.
The purpose or object. 7 L.R.A.(N.S.) 833.
Posting. 7 L.R.A.(N.S.) 833.
Contents. 7 L.R.A.(NS.) 834.
In placer mining. 7 L.R.A.(N.S.) 838.
Location and notice of tunnel claims. 53 L.R.A. 799.

§ 16. Discovery or development work. Provision for. 7 L.R.A.(N.S.) 839. Purpose and validity. 7 L.R.A.(N.S.) 839. Effect of noncompliance. 7 L.R.A.(N.S.) 839. Location of shaft. 7 L.R.A.(N.S.) 840.

Location of shaft. 7 L.R.A.(N.S.) 840. The disclosure of mineral. 7 L.R.A.(N.S.) 841.

Time of completion. 7 L.R.A. (N.S.) 842. Equivalent of the shaft. 7 L.R.A. (N.S.) 842.

§ 17. Surface area of.
The surface incident to lode. 7 L.R.A.
(N.S.) 842.
Location with reference to strike of vein.
7 L.R.A.(N.S.) 843.
Form. 7 L.R.A.(N.S.) 845.
Size. 7 L.R.A.(N.S.) 848.
Fixing boundaries; swinging claim. 7
L.R.A.(N.S.) 851.
Begin with this book on every law question.

MINES, II. b—cont'd Laying over adjoining claims. 7 L.R.A. (N.S.) 853.

8 18. Marking upon the ground. Provision for and purpose of. 7 L.R.A. (N.S.) 856.

Necessity of compliance. 7 L.R.A.(N.S.) 856.

Time of. 7 L.R.A.(N.S.) 857. Sufficiency of. 7 L.R.A.(N.S.) 858.

Marking placer claims. 7 L.R.A.(N.S.) 862.

Controlling character of marks. 7 L.R.A.
(N.S.) 863.

Removal or obliteration of marks. 7 L.R.A. (N.S.) 864.

Necessity of marking on the ground boundaries of placer claims on surveyed land of the United States. 3 L.R.A.(N.S.) 993.

§ 19. Record.

Necessity of, under the Federal statute. 7 L.R.A. (N.S.) 864.

Provisions for, by state and territorial statutes. 7 L.R.A.(N.S.) 865.

Provision for, by rules and regulations of miners. 7 L.R.A.(N.S.) 866.

Purpose and effect. 7 L.R.A.(N.S.) 867.

Purpose and effect. 7 L.R.A.(N.S.) 867. Application of rules to placer-mining claims. 7 L.R.A.(N.S.) 867.

Contents. 7 L.R.A.(N.S.) 868. Verification. 7 L.R.A.(N.S.) 875. The act of recording. 7 L.R.A.(N.S.) 877. The record as evidence. 7 L.R.A.(N.S.) 879.

§ 20. Additional or amended location. Authority for and purpose and nature of. 7 L.R.A.(N.S.) 880. By whom it may be made. 7 L.R.A.(N.S.)

881.

Defects which may be reached and changes made. 7 L.R.A.(N.S.) 882.

§ 21. Full performance as prerequisite to possessory title.

General rule. 7 L.R.A.(N.S.) 884.

The question of time of performance. 7 L.R.A.(N.S.) 885.

Exceptions based on possession. 7 L.R.A. (N.S.) 886.

#### c. Relocation.

§ 22. Generally.

Additional or amended location, see supra, § 20.

Right of cotenant, agent, or person standing in other fiduciary relation, to relocate a mining claim for his own benefit to the exclusion of other party. 50 L.R.A. 184.

Respective rights of one who relocates mining ground before, and one who relocates it after, the abandonment or forfeiture of a senior location. 16 L.R.A.

(N.S.) 162.

MINES, II. c-cont'd

When mining claim becomes segregated from public domain so as to be no longer subject to requirements for assessment work or liable to relocation. 38 L.R.A. (N.S.) 1121.

23. — as abandoned or forfeited. When claim subject to relocation. 68 L.R.A. 833.

Resumption of work. 68 L.R.A. 837. Who may relocate. 68 L.R.A. 841. When all or part of forfeited or abandoned claim was within lines of junior location, or subsequent right of wa 68 L.R.A. 842; 16 L.R.A. (N.S.) 162. Requisites and mode of relocation.

L.R.A. 845.

Right of relocator to be credited with value of improvements made by original lo-

cator. 68 L.R.A. 846. Character and availability rights. 68 L.R.A. 846. of relocator's

Burden of proof; pleading. 68 L.R.A. 847. Procedure when relocation made pending application for patent. 68 L.R.A. 847. Placer claims. 68 L.R.A. 848. Miscellaneous. 68 L.R.A. 848.

#### d. Adverse or protest.

34. Generally.

Right and duty of tunnel locator to "adverse" surface locations. 53 L.R.A. 796. Adverse; effect of judgment in adverse suit. 50 L.R.A. 294.

Necessity of adversing in case of veins intersecting, crossing, or uniting. L.R.A. 212.

Duty and right of excluded co-owner to file adverse or protest against application for patent to a mining claim. 4 L.R.A. (N.S.) 1126.

#### e. Assessment work; abandonment; forfeiture.

§ 25. Assessment work.

Discovery or development work as essential element of location, see supra, § 16.

Effect of performance of, or contribution to, assessment work by one not the owner of the legal title, nor his agent, to prevent forfeiture of mining claim.

9 L.R.A.(N.S.) 1136.
When mining claim becomes segregated from public domain so as to be no longer subject to requirements as to assessment work or liable to relocation. 38 L.R.A. (N.S.) 1121.

26. Abandonment; forfeiture.

Relocation of mining claim as forfeited. 68

L.R.A. 833.

Respective rights of one relocating a mining claim before and one relocating it after abandonment or forfeiture of senior location. 16 L.R.A.(N.S.) 162.

Effect of previous abandonment of opened mine on rights of tenant for life. 36 Of coal mine, see infra, § 32. L.R.A. (N.S.) 1103.

Consult also L.R.A. Digests of Cases.

MINES, II. e-cont'd

Effect of performance of, or contribution to assessment work by one not the owner of the legal title, nor his agent, to prevent forfeiture of mining claim. L.R.A.(N.S.) 1136.

### III. On private land,

#### a. In general.

27. Generally.

When the statute of limitations begins to run against action based upon removal of minerals from real estate. L.R.A. 1917C, 116.

Effect, upon remote grantee, of reservation or exception of mineral rights. 4

L.R.A.(N.S.) 477. Effect of mining rights on marketability of title. 38 L.R.A. (N.S.) 32. Right of dower in. 16 L.R.A. 247.

Mineral rights of tenant for life. 36 L.R.A. (N.S.) 1099.

Possession of surface as possession of minerals within rule against conveyance of land held adversely. 35 L.R.A.(N.S.) 745.

Fraudulent concealment or misrepresentation as to, by purchaser. 30 L.R.A. (N.S.) 751.

Jurisdiction of action for conversion of minerals from land in another state or country. 26 L.R.A.(N.S.) 940: 34 L.R.A. (N.S.) 994.

Interest of one other than owner of soil, in mineral, in situ as independent subject of taxation. 17 L.R.A. (N.S.) 688; L.R.A.1916D, 307.

Interference by owner of soil with removal of minerals or timber during term fixed by lease or sale as extending time for removal. 34 L.R.A.(N.S.) 120.

Ejectment to recover mining rights. 18 L.R.A. 787.

Pollution of stream by mining operations. 24 L.R.A. 64; 22 L.R.A.(N.S.) 276; 38 L.R.A.(N.S.) 272.

§ 28. Right to minerals under high-

See HIGHWAYS, § 44.

§ 29. Surface support.

As to lateral support of land and buildings, generally, see LATERAL SUPPORT.

Liability for removal of subjacent support by mining. 68 L.R.A. 675; 2 L.R.A. (N.S.) 1115; 41 L.R.A. (N.S.) 236.

Liability of lessor of mining right for inju-

ry to surface. 10 L.R.A. (N.S.) 822.
Injunction. against removal of subjacent, support by mining. 16 L.R.A. (N.S.) 851.

When does statute of limitations commence to run against action for injury to surface by mining operations or other excavations. 23 L.R.A.(N.S.) 805.

# 30. Leases.

Oil and gas leases, see infra, §§ 35-38.

MINES, III. a-cont'd

When instrument creating right in minerals in land is to be regarded as a lease, as distinguished from a license. L.R.A. 492; 26 L.R.A. (N.S.) 614.

Injunction against mining operations by lessee pending dispute as to forfeiture of lesse. 1 L.R.A.(N.S.) 333. Effect of lease on marketability of title.

38 L.R.A.(N.S.) 32.

#### b. Coal.

# 31. Generally.

Surface support, see supra, § 29.

Right of dower in mine. 16 L.R.A. 247. Right to drill through coal of another owner. 25 L.R.A. 225.

Coal as real estate for purposes of taxation. 15 L.R.A. 297.

Classification of coal for purpose of taxa-

tion. L.R.A.1916F, 164.
Discrimination by carrier in furnishing coal cars. 44 L.R.A. (N.S.) 651; L.R.A. 1918D, 274.

Rescission or abatement from price, because of deficiency in quantity under grant of coal in place. 51 L.R.A. (N.S.) 792.

Right of grantee of coal in place to transport coal from adjoining tract. 40 L.R.A. (N.S.) 826.

Right to locate coal lands. 7 L.R.A.(N.S.) 810.

### 8 32. Lease.

Distinction between lease and license as to minerals. 18 L.R.A, 492.

When agreement or instrument conferring right to mine and remove coal to be regarded as an absolute sale or conveyance of coal in place, as distinguished from a lease or a conditional sale. 4 L.R.A.(N.S.) 207.

Rescission or abatement from price because of deficiency in quantity under lease of coal in place. 51 L.R.A.(N.S.) 794.

Implied duty to develop premises under mining lease reserving royalty on product where lease contains no provision for payment of minimum royalties or forfeiture for delay. L.R.A.1915B, 561.

### c. Oil and gas.

### 1. In general.

33. Generally.

Rights of life tenant as to, see LIFE TEN-ANTS, § 4.

Oil or gas as a mineral within a grant or reservation of mineral or mineral

rights. L.R.A.1918A, 491.
Interest of other than the owner of the soil in oil and gas in situ as independent subject of taxation. 17 L.R.A. (N.S.) 688; L.R.A.1916D, 310.

Right to locate oil lands. 7 L.R.A. (N.S.) 810.

Discovery in placer mining for petroleum or mineral oil. 7 L.R.A.(N.S.) 832. Begin with this book on every law question.

MINES, III. c, 1—cont'd

Business of supplying natural gas. L.R.A. 443.

Right to forbid exportation of natural gas. 35 L.R.A.(N.S.) 1193.

Location of mining claim on oil lands. 7 L.R.A.(N.S.) 810.

Right to partition oil or gas lands. L.R.A. 1916D, 1154.

Injury to gas or oil well from acts done on neighboring premises. 48 L.R.A. (N.S.) 167.

Right of one who pumps oil, gas, or water on his premises to enjoin similar acts by his neighbor. 30 L.R.A.(N.S.) 1057.

Right to pump up water where the result is to carry away oil or gas in solution. 5 B. R. C. 254.

Constitutionality of statute to prevent waste of. 23 L.R.A. (N.S.) 436; L.R.A. 1918B, 134.

Pollution of stream by oil well refuse. 22 L.R.A.(N.S.) 280.

Right of municipality, in absence of contract, to restrain natural gas company from discontinuing the business of supplying gas. 26 L.R.A.(N.S.) 92.

# § 34. Nature of property in mlneral oil or gas. Natural gas. 25 L.R.A. 222. Petroleum. 25 L.R.A. 223.

Right to drill through coal of another own-er. 25 L.R.A. 225.

Nature of interest in leases. 25 L.R.A. 226. As real estate or personalty. 42 L.R.A. (N.S.) 472.

Gas in ground as real property. 25 L.R.A. 222.

Oil as part of realty. 25 L.R.A. 223.

Pipe line as real estate for purposes of taxation. 15 L.R.A. 299.

#### 2. Leases.

§ 35. Generally.

Covenants in, as to payment of taxes and assessments. L.R.A.1915A, 360.

Estoppel to deny lessor's title as affected by the fact that lessee did not recognize lessor's title to the particular property. 52 L.R.A.(N.S.) 705.

When instrument creating right in min-erals in land is to be regarded as a lease, as distinguished from a license.

18 L.R.A. 492; 26 L.R.A.(N.S.) 614. Nature of interest in lease. 25 L.R.A. 226. As real estate or personalty. 42 L.R.A. (N.S.) 472.

Surrender clause in oil or gas lease as ren-dering it unilateral. L.R.A.1917B, 1206.

Construction of oil or gas lease covering tracts of land owned by different persons in severalty. L.R.A.1917D, 1124.

Construction and effect of provision in mining lease excusing payment of minimum royalty. L.R.A.1917E, 1078.

Effect of partition of premises leased for mining purposes on right to the royalty. L.R.A.1918B, 1080.

MINES, III. c, 2-cont'd

Effect of provision for extension of term so long as oil or gas is produced. 43 L.R.A.(N.S.) 848.

What constitutes a gas well within an oil and gas lease. L.R.A.1915D, 1186.

Place of use of gas contemplated by covenant or reservation in an oil and gas lease. L.R.A.1915E, 570.

Rights and duties of lessee of oil and gas privileges as to the locations of wells. 41 L.R.A.(N.S.) 1108.

Liability of lessee for damages to lessor for failure to protect leased premises from wells on adjoining land. L.R.A.1917E,

Implied duty to develop premises under mining lease reserving a royalty on product, where lease contains no provision for payment of minimum royalties or forfeiture for delay. L.R.A.1915B, 561.

Liability of the lessee in oil or gas lease for damages for failure to develop the leased premises during the term for which he has paid delay rental. L.R.A. 1917A, 178.

Right of lessee in oil or gas lease to de-termine the extent of development thereunder. L.R.A.1915E, 1057.

Effect of lease on marketability of title. 38 L.R.A.(N.S.) 320.

# § 36. Liability for rent on oil and gas

In general, 33 L.R.A. 847.

Production in paying quantities. 33 L.R.A.

Liability under provision for rent in event of failure or delay in developing premises. 44 L.R.A.(N.S.) 50.

Termination of liability. 33 L.R.A. 850.

Effect of alternative provision for rent in oil and gas lease. 31 L.R.A. 674.

### § 27. Effect of assignment of oil and gas lease.

Liability of assigner. 34 L.R.A. 62. Liability of assignee. 34 L.A.A. 63.

## § 38. Forfeiture of oil and gas lease. Generally. 31 L.R.A. 673. Manner of enforcing forfeiture clause. 31

L.R.A. 673.

Effect of provision for minimum royalties or an annual rental upon right to forfeit mining lease for failure to prosecute work. 11 L.R.A.(N.S.) 417; 30 L.R.A.(N.S.) 176.

For failure to develop mining premises under lease reserving a royalty on product, but containing no provision for payment of minimum royalties or forfeiture for delay. L.R.A.1915B, 561.

Waiver. 31 L.R.A. 673. Estoppel. 31 L.R.A. 673.

How forfeiture clause regarded. 31 L.R.A. 674.

Absence of obligation clause. 31 L.R.A. 674.

Effect of alternative provision for rent. 31 | Supervising employees in, as vice princi-L.R.A. 674.

Consult also L.R.A. Digests of Cases.

MINES, III. c, 2-cont'd

Who may set up forfeiture. 31 L.R.A. 674. Effect of forfeiture provision on liability of lessee under provision for rent in event of failure or delay in developing premises. 44 L.R.A.(N.S.) 54.

Rights of parties to oil or gas lease for-feited for default in payment to be made in lieu of development. 43 L.R.A.(N.S.) 487.

Equitable relief against forfeiture of mining lease. 69 L.R.A. 858.

Right to declare forfeiture of oil and gas lease for failure of the lessee to market product after completing well. 28 L.R.A. (N.S.) 959; 38 L.R.A. (N.S.)

Equity jurisdiction to cancel oil or gas lease for failure to develop premises. 34 L.R.A.(N.S.) 34.

Is lessor entitled to declare forfeiture of oil and gas lease for failure of the lessee to market produce after completing well. 28 L.R.A.(N.S.) 959.

#### IV. Employees and independent contractors in.

#### § 39. Generally.

Relation of master and servant generally, see MASTER AND SERVANT.

Character of occupancy of employees in. 4 L.R.A.(N.S.) 716.

Statute requiring mine owner or operator to furnish wash rooms or similar conveniences for employees. L.R.A.1915B, 420.

### § 40. Liability for injury to.

Liability of master for injury to servant generally, see MASTER AND SERVANT.

Statutory provisions for protection of workmen in. 25 L.R.A. 848.

Employee's right of action for employer's violation of mining acts. 9 L.R.A. (N.S.) 382; L.R.A.1915E, 557.

Duty of owner of mine to servants of per-

son engaged in mining. 46 L.R.A. 72. Servant's assumption of risk from changing condition of excavations in, during progress of work. 19 L.R.A.(N.S.) 352.

Contributory negligence of servant in continuing work in mine notwithstanding master's promise to repair where danger is great and imminent. 29 L.R.A. (N.S.) 601.

Liability of mine owner for negligent injury to employee of independent contractor working the mine. 45 L.R.A. (N.S.) 930.

Evidence as to condition prior and subsequent to accident. 32 L.R.A. (N.S.) 1095, 1108.

#### § 41. - through negligence of fellow servants.

Servants in, as fellow servants. 50 L.R.A. 437, 461,

pals. 51 L.R.A. 534, 554, 582.

MINES, IV.—cont'd

Foremen in, as vice principals. 51 L.R.A.

Operator of elevator or other hoisting apparatus as fellow servant of other employees in mine. 41 L.R.A.(N.S.) 158. Nondelegability of duty to protect servants working in. 54 L.R.A. 77.

Imputing to master coservant's negligence in respect to dangers in. 54 L.R.A.

138.

Liability of master for negligence of supervising employee in nine for acts done outside the scope of his statutory duty. 48 L.R.A. (N.S.) 938.

§ 42. Independent contractors in. Persons operating, as independent contractors. 65 L.R.A. 467, 488.

Employer's nonliability for torts of inde-pendent contractor in work in. 65 L.R.A. 654.

Liability of mine owner for negligent injury to employee of independent contractor working the mine. 45 L.R.A. (N.S.) 930.

#### MINIMIZING DAMAGES.

See Damages, §§ 3-11.

#### MINIMUM RATES.

Right of light or water company whose rates are fixed by public authorities to establish. 26 L.R.A.(N.S.) 1109.

### MINIMUM WAGE.

Validity of statute, ordinance, or contract fixing minimum wage for person em-ployed on public work. 51 L.R.A. (N.S.) 686.

Constitutionality of Minimum Wage Law relating to private employment. L.R.A. 1918F, 547.

#### MINING CORPORATION.

Right of foreign company to engage in mining. 24 L.R.A. 327. Right of corporation to locate mining claim. 7 L.R.A.(N.S.) 816.

### MINING PARTNERSHIP.

Right of partners to locate mining claim. 7 L.R.A.(N.S.) 817. Liability of retiring member of mining

partnership for debts subsequently incurred. 22 L.R.A.(N.S.) 851. Homicide by, see Homicide, § 14. Begin with this book on every law question.

#### MINING RAILROAD.

As a common carrier. L.R.A.1918B, 685.

#### MINISTER.

In general, see RELIGIOUS SOCIETIES, § 6. Allowance for mental anguish caused by absence from sick bed because of negligence in transmission of telegram. 49 L.R.A.(N.S.) 235, 335.

#### MINISTERIAL DUTIES.

Mandamus to enforce, see MANDAMUS. Power of courts to enforce ministerial duties of heads of departments, see COURTS, § 17.

#### MINORITY.

Ignorance of minority of person to whom liquor is sold, see INTOXICATING LIQ-UORS. § 29.

When minority terminates, see INFANTS, § 1.

§ 1. Of stockholders in corporation. Condemnation of shares of, see CORPORA-TIONS, § 73.

Rights of, see Corporations, § 97.

§ 2. Of church members.

Rights of, on withdrawal of local church society from general body. 32 L.R.A. 92; 24 L.R.A. (N.S.) 692.

Right of minority in case of schism or di-vision in independent society. 24 L.R.A. (N.S.) 695.
Injunctive relief to minority of church

members. 3 L.R.A.(N.S.) 872.

### MINORS.

See INFANTS.

### MINUTES.

Of official stenographer, see STENOGRAPHER,

Use before grand jury of minutes taken by magistrate. 28 L.R.A. 320. Right of indicted person to inspect minutes of grand jury. 27 L.R.A.(N.S.) 558.

#### MISADVENTURE.

## MISAPPRÓPRIATION.

Of special deposit by bank or officer. 32 L.R.A. 775.

#### MISBEHAVIOR.

Effect of passenger's misbehavior on carrier's liability for assault by employee. 14 L.R.A. 738.

#### MISBRANDING.

Of food, see Food, § 4.

## MIŞCALCULATION.

As excuse for contributory negligence of person injured by defect in street. 21 L.R.A.(N.S.) 653.

#### MISCARRIAGE.

Measure of damages for, see Damages, § 60.

#### MISCEGENATION.

Conflict of laws as to. 57 L.R.A. 167; 43 L.R.A. (N.S.) 358.

Legislative power to forbid. 2 L.R.A. (N.S.) 532; 52 L.R.A. (N.S.) 778.

Statute prohibiting intermarriage of white and colored persons, as a denial of equal privileges and immunities. 14 L.R.A. 580.

Who is negro, mulatto, or person of color within statute not specifically defining the same. 31 L.R.A. (N.S.) 180; L.R.A. 1915A, 828.

Effect of repeal of statute prohibiting after commencement of cohabitation between white person and negro. 3 L.R.A. (N.S.) 247.

#### MISCONDUCT.

§ 1. Generally.

Of officer, effect on eligibility, see Officers, § 9.

Expulsion of pupil for, see Schools, § 11.

Liability of corporate directors for misconduct of executive officers and employees. 55 L.R.A. 756.

Receiver's right to be indemnified for costs of defending action charging him with. 2 B. R. C. 423.

Right of court to set aside award in eminent domain for misconduct of commissioners or jurors. 27 L.R.A.(N.S.) 567.

Consult also L.R.A. Digests of Cases. 59

MISCONDUCT-cont'd

Effect of misconduct of spectator during criminal trial. 12 L.R.A.(N.S.) 98; L.R.A.1918E, 959.

Causing trespasser to jump from moving wagon as actionable misconduct. 31 L.R.A.(N.S.) 1064.

Attorney's right to withdraw from suit because of client's misconduct. 35 L.R.A. (N.S.) 960.

As ground for disbarment of attorney. 19 L.R.A. (N.S.) 892.

Right to reject passenger because of. 43 L.R.A.(N.S.) 820.

Constructive eviction by misconduct of other tenants. L.R.A.1918D, 396.

§ 2. Of partner.

Right to compensation because of copartner's misconduct. 17 L.R.A.(N.S.) 395; L.R.A.1917F, 576.

Forfeiture of compensation by partner by. 17 L.R.A.(N.S.) 415.

§ 3. Of husband or wife.

Effect of, on right to dower, see Dower, § 10.

Competency of one spouse as witness to misconduct of other, see WITNESSES, §

Marital misconduct of one spouse as avoiding gift to other spouse. 35 L.R.A. (N.S.) 124.

Effect of, on question of desertion by spouse leaving because of other spouse's misconduct. 39 L.R.A.(N.S.) 1123, 1126.

## MISDELIVERY.

Of goods by carrier, see CARRIERS, § 119.

#### MISDEMEANOR.

Arrest for, generally, see Arrest.

Presence of accused on trial for, see CRIMINAL LAW, § 46.

Homicide in commission of. 63 L.R.A. 379. Homicide in attempting to prevent. 67 L.R.A. 536.

#### MISDESCRIPTION.

See DESCRIPTION.

### MISDIRECTION.

Carrier's liability for misdirection of passenger by employee. 2 L.R.A.(N.S.) 110; 24 L.R.A.(N.S.) 1178.

## MISFEASANCE.

Negligence or unskilfulness as. 12 L.R.A. (N.S.) 924.

Liability of corporate directors for. 55 L.R.A. 757.

Criminal responsibility of corporations for. 2 B. R. C. 233.

Liability of agent or servant to third persons for. 25 L.R.A. (N.S.) 346; L.R.A.

1916F, 570.

Effect of verdict for servant in action against master and servant for latter's misfeasance. 9 L.R.A.(N.S.) 880; 30 L.R.A.(N.S.) 404; L.R.A.1917E, 1029.

#### MISJOINDER.

In pleading, see Pleading, § 15.

#### MISNOMER.

See NAME, I. b.

#### MISQUOTATION.

Right of shipper where carrier negligently misquotes rate which has been filed or published as required by statute. 33 L.R.A.(N.S.) 391.

## MISREPRESENTATIONS.

See FRAUD AND DECEIT.

#### MISROUTING.

Loss or damage from, due to initial carrier's own negligence or breach of contract. 31 L.R.A. (N.S.) 85.

#### MISSILE.

Liability of carrier for injury to passenger by article thrown from window by fellow passenger and rebounding. 49 L.R.A. (N.S.) 812.

Liability of railroad company for personal injuries by objects thrown from mov-ing train. L.R.A.1917B, 916.

Contributory negligence of child injured by object thrown from train. L.R.A. 1917F, 150.

#### MISSING WILLS.

Evidence to establish. 38 L.R.A. 433. Begin with this book on every law question.

#### MISSIONS.

Validity of bequest for. 37 L.R.A.(N.S.) 10**0**5.

#### MISSPELLING.

Effect of misspelling name of person whose signature is charged to have been forged. 27 L.R.A.(N.S.) 1003.

#### MISSTATEMENT.

See FRAUD AND DECEIT.

#### MISTAKE.

1. Generally.

Recovery back of money paid under mistake, see Assumpsit, § 3.

Effect of, on criminal responsibility, see
CRIMINAL LAW, §§ 13, 14; INTOXICATING LIQUORS, §§ 29, 31, 33.
Effect of mistake in election of remedy, see

ELECTION OF REMEDIES, §§ 13-15.

As ground of equitable relief, generally, see EQUITY, § 6.

Parol evidence of, see EVIDENCE, §§ 177,

As to identity, see IDENTITY AND IDENTIFICATION, § 3.

With respect to liquor, see INTOXICATING LIQUOR, §§ 29, 31, 33.

As affecting statute of limitations, see LIMI-TATION OF ACTIONS, § 38.

In name, see NAME, § 14.

As to law of another state or country as one of law or of fact. 46 L.R.A. (N.S.) 174.

In marking of ballot by official. 47 L.R.A. 810.

Killing of dog by. 15 L.R.A. 252. As affecting liability of directors for acts in excess of their power. 55 L.R.A. 758.

Validity of tax sale when nonpayment is due to mistake or negligence of tax officers. 20 L.R.A. 487; L.R.A.1915C, 158.

Liability of attorney to client for. 52 L.R.A. 883.

Liability of surveyor for. 38 L.R.A. (N.S.) 1043.

Right of creditor to attack a judgment against debtor in favor of another creditor on ground of. 29 L.R.A.(N.S.) 1190.

Liability of registrar of deed for mistake in registering or indexing instrument affecting title to real property. 23 L.R.A.(N.S.) 127.

In amount of mechanics' lien. 29 L.R.A.
(N.S.) 306.

Effect of mistakes in courses and distances in description of mining claims. 7 L.R.A.(N.S.) 838.

MISTAKE—cont'd

Mistaken identity as justification for assault. 67 L.R.A. 565.

Equitable relief against forfeiture of estate due to mistake. 69 L.R.A. 849.

Validity of promise to remedy. 53 L.R.A. 358.

Effect of misspelling name of person whose signature is charged to have been forged. 27 L.R.A.(N.S.) 1003.

Unfair competition by retailer or jobber as against manufacturer by substitution of goods through mistake. 52 L.R.A. (N.S.) 899.

Effect of mistake on damages for cutting of timber, in action in nature of trover. 52 L.R.A.(N.S.) 93.

Effect of mistake as to age on liability for improperly issuing marriage license or performing marriage ceremony. L.R.A. 1917E, 869, 874.

2. Contractual matters generally. As ground for relief from contract generally, see CONTRACTS, §§ 147, 148.

As ground for rescission of contract, see CONTRACTS, § 154.

Right to reinstatement of mortgage discharged by mistake, see MORTGAGE, § 60.

As ground for reformation of instrument, see REFORMATION OF INSTRUMENTS.

Effect of, on right to specific performance, see Specific Performance, § 24.

Mistake regarding legal effect of wife's signing contract with husband. 1918A, 496. L.R.A.

Accepting bid with knowledge of mistake as to subject-matter. 43 L.R.A. (N.S.)

Right to avoid contract because of mistake as to identity of other party thereto. L.R.A.1916D, 801.

3. Matters as to accounts.

Effect of, on account stated. 27 L.R.A. 818. Conclusiveness of stated or settled account containing inaccuracy or error in method of mathematical calculation. 23 L.R.A. (N.S.) 787.

Mistake in statement of commodity furnished as affecting the right to recover for a larger amount actually furnished. L.R.A.1915B, 711.

§ 4. Matters as to commercial paper; banking matters.

Effect of mistake in name of payee in nego-22 L.R.A. (N.S.) tiable instrument.

As to identity of payee or indorser of bill or note. 17 L.R.A.(N.S.) 514.

Alteration of note by. 35 L.R.A. 467.

Alteration of instrument to correct mis-take in designation of party. 31 L.R.A. (N.S.) 127; L.R.A.1915A, 172.

Alteration of instrument to correct mistake as to date. 32 L.R.A.(N.S.) 517.

Who must bear loss when check or bill is issued or indorsed to impostor. 50 L.R.A. 75; 17 L.R.A.(N.S.) 514; 38 L.R.A. (N.S.) 1111.

Consult also L.R.A. Digests of Cases.

MISTAKE—cont'd

As affecting question whether commercial paper operates as payment of debt. 35 L.R.A. (N.S.) 75.

Commercial paper given by mistake as payment of partnership debt. 35 L.R.A. (N.S.) 54.

Right of bank to recover amount paid on check or other paper drawn upon or payable at it under mistaken belief that there were sufficient funds to meet it. 23 L.R.A. (N.S.) 1092; 33 L.R.A. (N.S.)

1023; L.R.A.1918F, 811. Right of bank to recover amount paid on check in ignorance of insolvency of drawer who was indebted to it. L.R.A.(N.S.) 963.

§ 5. Matters as to mortgages.

Effect of agreement to pay mortgage inserted in deed by mistake. L.R.A.1918A,

Release of mortgage by. 58 L.R.A. 788. Right to reinstatement of mortgage released or discharged by mistake. 26 L.R.A. (N.S.) 816; L.R.A.1917E, 1059.

§ 6. As to conveyances of real property.

Mistake in description of property as affecting record of instrument relating to real property. L.R.A.1916A, 530.

Parol evidence to show that instrument was intended to operate as mortgage or pledge where party to written instrument importing an absolute conveyance seeks relief therefrom on the ground of

mistake. L.R.A.1916B, 38.

As a ground for relief from a voluntary trust. 19 L.R.A. 767.

Effect of mistake in conveyance on notice of title from possession of land. 13 L.R.A. (N.S.) 81.

Rescission because of mistake as to extent of grantor's title to land. 15 L.R.A. (N.E.) 1039.

Specific performance as affected by vendor's ignorance of race or character of purchaser. 32 L.R.A.(N.S.) 125.

As ground for enforcement in equity of grantee's oral promise to grantor to hold in trust. 39 L.R.A.(N.S.) 928.

Right of grantee in possession to question grantor's right to collect purchase money in case of. 21 L.R.A.(N.S.) 395.

Effect of deed of land in adverse possession, made to correct mistake in prior deed. 35 L.R.A.(N.S.) 743.

False statements mistakenly made as to title to real property as fraud. 28 L.R.A. (N.S.) 204.

§ 7. As to contracts of sale of personalty.

Effect of mistake as to price on meeting of minds in contract for sale of personalty. 32 L.R.A. (N.S.) 433.

Seller's mistake as to identity of vendee, as affecting the passing of the title to the goods sold. 13 L.R.A.(N.S.) 413; L.R.A.1918B, 975.

MISTAKE-cont'd

Effect of retaining goods after notice of mistake in quoted price. 15 L.R.A. (N.S.) 368.

Rights and liabilities under contract for sale of personalty as affected by a vendor's mistake in fixing price. 23 L.R.A. (N.S.) 1109.

Relief from purchase at auction on ground of mistake. 34 L.R.A.(N.S.) 927.

§ 8. Insurance matters; relief fund. Of servant executing release on receiving benefits of relief fund. 11 L.R.A.(N.S.) 198; 48 L.R.A.(N.S.) 449.

As to strength of claim for damages by one electing to accept benefits out of relief fund. 11 L.R.A.(N.S.) 192.

As defense against action on assessment by mutual fire insurance companies. 32 L.R.A. 491.

Necessity for reforming insurance policy before recovery in case of. 2 L.R.A. (N.S.) 548.

Reformation of insurance policy for mistake of soliciting agent. 11 L.R.A.(N.S.)

Parol evidence rule as affected by waiver or estoppel in case of mistake of agent preparing application. 16 L.R.A.

(N.S.) 1233.

Effect of honest mistake in answer as to health of insured warranted by him to be true 15 L.R.A. (N.S.) 1277

be true. 15 L.R.A.(N.S.) 1277.

Retention of policy of insurance as waiver of mistake as to terms of policy. 67 L.R.A. 705; 38 L.R.A.(N.S.) 787.

Effect of mistake in designating time in notice of cancelation of fire policy. 50 L.R.A. (N.S.) 40.

Mistake as affecting divisibility of insurance. 51 L.R.A.(N.S.) 1063.

Settlement under accident policy under mistake as to the extent of the injury. L.R.A.1918E, 931.

## § 9. Matters as to carriers,—as to passengers.

Duty to passenger on wrong car or train by his own mistake. 3 L.R.A.(N.S.) 588; 28 L.R.A.(N.S.) 611.

Liability of carrier for charging excessive fare through mistake. 44 L.R.A. (N.S.)

Passenger's duty to pay fare where a mistake has been made by an employee of carrier in issuing the ticket. 14 L.R.A. (N.S.) 464.

Effect of mistake of ticket agent on limitation of time within which transportation ticket may be used. L.R.A.1918A, 783.

Liability of carrier for placing white person in car for colored persons. 2 L.R.A.(N.S.) 1108; 41 L.R.A.(N.S.) 958; L.R.A.1916E, 280.

§ 10. — as to freight.

Refusal of connecting carrier to surrender freight, induced by a mistake as to the rate due or as to the prepayment of charters, as a conversion. 6 L.R.A. (N.S.) 1048.

MISTAKE-cont'd

Liability of connecting carriers for detaining freight because of mistake as to amount due. 6 L.R.A.(N.S.) 1054; 32 L.R.A.(N.S.) 189.

Effect of shipper's mistake on passing of title by delivery to carrier. 22 L.R.A.

417.

Carrier's liability to bona fide holder on bill of lading issued by mistake of agent without delivery of any goods to carrier. 22 L.R.A.(N.S.) 828.

Right of shipper where carrier negligently misquotes rate which has been filed or published as required by statute. 33

L.R.A.(N.S.) 391.

#### § 11. Matters as to telegrams.

Telegraph company's duty as to discovering sendee in case of mistake in address. 22 L.R.A.(N.S.) 767.

Measure of damages where one purchases goods in reliance on a misquotation of price in telegram. 46 L.R.A.(N.S.) 412.

#### § 12. In wills.

Mistake in description, see WILLS, § 67.

Effect of execution by mistake of will intended for another person. 3 B. R. C. 341.

§ 13. Effect of, on compromise or settlement.

As affecting compromise. 25 L.R.A.(N.S.)

Relief from mistake of law as to compromise and settlement. 28 L.R.A.(N.S.) 841.

As to state of account or amount due as ground for release from compromise agreement. 46 L.R.A.(N.S.) 279.

#### § 14. Effect of, on release.

Avoidance of release of claim for personal injuries for mistake. L.R.A.1916B, 776.

Of servant, as to extent of injuries received by him for which he has given a release. 11 L.R.A.(N.S.) 201; 48 L.R.A. (N.S.) 449.

Servant's misconception as to the legal effect of a release from an injury received by him, the contents of which is known to him. 11 L.R.A.(N.S.) 198.

Estoppel to enforce contract of suretyship or guaranty released through mistake. 13 L.R.A.(N.S.) 576.

#### 15. Effect of, on award.

Effect of decision of architect, engineer, or umpire in case of. 1 L.R.A. (N.S.) 1050.

§ 16. Adverse possession in case of. Adverse possession due to ignorance or mistake as to boundary. 21 L.R.A. 829; 33 L.R.A. (N.S.) 923.

Possession taken under mistaken belief that land is part of public domain as adverse to true owner. 31 L.R.A. (N.S.) 153.

MISTAKE-cont'd

§ 17. In libel cases.

As to identity of person libeled or slandered. 47 L.R.A.(N.S.) 240.

Liability of newspaper proprietor for mis-takes resulting in libel. 26 L.R.A. 781.

Libel by publication of photograph as that of another person, 6 L.R.A. (N.S.) 919. Effect of mistakes of fact on liability for words or publication relating to public officer or candidate for office. L.R.A. 1918E, 54.

§ 18. In judicial proceedings.
As ground for injunction against judgment, see Injunction, § 55.
As ground for relief from judgment by de-

fault, see JUDGMENT, § 94.

In name or description in writ or process, see WRIT AND PROCESS, §§ 5, 6.

In name of estate in granting letters of administration. 46 L.R.A.(N.S.) 274.

Mistake as to name of juror in criminal case as ground for arrest of judgment, new trial, or reversal. 47 L.R.A. (N.S.) 714.

Mistake as to identity of juror as ground for new trial. 50 L.R.A.(N.S.) 972.

Right to impeach own witness in case of. 21 L.R.A. 424.

Effect of summons or notice to person by wrong initial. 15 L.R.A.(N.S.) 129.

Perjury in statements involving matters of opinion or belief under mistake of law. 25 L.R.A. (N.S.) 657.

Honest mistake of counsel in misstating facts, or stating facts, not in evidence, in argument to jury. L.R.A.1918D, 103.

§ 19. Larceny of property delivered by.

Larceny of money or property delivered by mistake. 52 L.R.A. 136.

Does wrongful appropriation of money received through mistake constitute embezzlement. 19 L.R.A.(N.S.) 371.

#### MISTRESS.

Gift to, see GIFT, § 8.

Effect of meretricious relations between testator and beneficiary on validity of devise or bequest. 17 L.R.A. (N.S.) 477.

Right to recover for household services rendered while parties were living in illicit relations. 29 L.R.A. (N.S.) 787; L.R.A.1917B, 683.

Slander in charging woman with being. 24 L.R.A. (N.S.) 611.

#### MISTRIAL.

Right to bail in capital case upon mistrial.

39 L.R.A.(N.S.) 766. Effect on conviction of failure to give accused an opportunity to plead where there has been a mistrial. 13 L.R.A. (N.S.) 814.

Consult also L.R.A. Digests of Cases.

MISTRIAL—cont'd

How long jury will be permitted to de-liberate before a mistrial may be or-dered in a criminal case. 11 L.R.A. (N.S.) 178.

#### MISUNDERSTANDING.

Effect of misunderstanding as to price in contract for sale of personalty. 32 L.R.A.(N.S.) 433.

#### MISUSER.

Reverter of land conveyed for school purbecause of. 44 L.R.A.(N.S.)

#### MITIGATION.

Of damages, see Damages, §§ 3-11.

#### MIXED DRINK.

As intoxicating liquors. 20 L.R.A. 646. Judicial notice of intoxicating character of. 19 L.R.A. (N.S.) 848.

#### MOBS AND RIOTS.

§ 1. Generally.

Liability of carrier for injury to passenger caused by. 55 L.R.A. 713; L.R.A. 1915C, 681.

Liability of insurer for property destroyed by mob or during riot. 20 L.R.A. (N.S.) 277.

Allowance of interest on value of property destroyed by. 18 L.R.A. 454.

2. Municipal liability for acts of. Municipal liability for property destroyed by, see MUNICIPAL CORPORATIONS, § 75.

What is mob or riot for the act of which a municipality is responsible. L.R.A. 1918C, 239.

8. Liability of members of.

Civil liability of member of a mob which makes hostile demonstrations against a

person. 38 L.R.A. (N.S.) 404.
Criminal responsibility for homicide in carrying out unlawful conspiracy for riot. 68 L.R.A. 196.

Liability of infant for riot. 36 L.R.A. 208. Cruel and unusual punishment for. L.R.A. 577.

Acting with mob as ground of disbarment, suspension or other discipline of attorney. L.R.A.1915C, 259.

#### MODELS.

Exhibition of models derogatory to parties to litigation as contempt of court. 2

#### MODIFICATION.

Of contract, see CONTRACTS, §§ 30, 144. decree for alimony, see DIVORCE AND SEPARATION, §§ 45a, 46.

Of will, see WILLS, § 33.

Of provision in divorce decree as to custody of children in case of refusal to permit access to or visitation of children as provided by decree. L.R.A.1917B, 290.

#### MOLASSES.

Sufficiency of delivery of molasses sold out of larger lot. 26 L.R.A.(N.S.) 35.

#### MONDAY.

Transfer of holiday from Sunday to Monday. 19 L.R.A. 320.

## MONEY.

Recovery back of money paid, see Assump-SIT, §§ 2-10.

Condition of money tendered as fare, see CARRIERS, § 19.

Confederate CONFEDERATE money, see MONEY.

Embezzlement of, see Embezzlement.

Obtaining by false pretenses, see FALSE PRETENSES.

Interest for use of, see INTEREST, II. Legal tender, see LEGAL TENDER. Money in court, see Money in Court. Payment of, see PAYMENT. Public money, see Public Money. Return of, see RETURN, § 2. Tender of, see TENDER.

Distinction between bailment and loan of money. L.R.A.1916F, 92.

Recovery for mental anguish caused by failure of telegraph company to transmit money promptly, or to deliver telegram asking for money. 49 L.R.A. (N.S.) 238.

Note payable in foreign money. 20 L.R.A.

Garnishment of money due from receiver. 26 L.R.A. 218.

Larceny of money delivered by mistake. 52 L.R.A. 136.

Tender of old, worn, or mutilated coin. 33 L.R.A. 824.

Title to money deposited in mail or with carrier. L.R.A.1918A, 534.

MONEY—cont'd

Title of one who takes money from thief or embezzler. 25 L.R.A. (N.S.) 631; L.R.A. 1917A, 707.

Omission of dollar sign or word "dollars" from verdict or judgment. 35 L.R.A. (N.S.) 653.

Creation of partnership by provision for taking profits from use of, as compensation. 18 L.R.A.(N.S.) 1047.

Right of attorney under local statute to lien on money in hands of adverse party to suit or proceeding in another state. 31 L.R.A.(N.S.) 1215.

Payment by commercial paper as affected by statutes requiring payment in money. 35 L.R.A.(N.S.) 82. Validity of contract for payment in coin.

29 L.R.A. 512.

Form of judgment on obligation to pay in coin. 29 L.R.A. 593.

Sufficiency of description of, in indictment for larceny. 36 L.R.A.(N.S.) 933.

#### MONEY IN COURT.

1. Generally.

Equitable remedy to subject to judgment after return of no property found. 63 L.R.A. 704.

Withdrawing funds in court as affecting right to appeal. 29 L.R.A. (N.S.) 18. Right to withdraw money paid into court, after tender. 5 L.R.A. (N.S.) 561.

§ 2. Garnishment or attachment of. Right to attach or garnish funds in the hands of officer of court after he has been ordered to pay the same to the party. 13 L.R.A.(N.S.) 757; 30 L.R.A. (N.S.) 720.

## MONEY IN HAND.

Debt as, on appointment of debtor as executor or administrator. 26 L.R.A. (N.S.) 414.

## MONEY LENDERS.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 121. License of, see License, § 32. Municipal control over, see MUNICIPAL COR-

## MONEY ORDER.

See Postoffice, § 7. Begin with this book on every law question.

PORATIONS, § 45.

#### MONEY PAID.

Recovery back of, see Assumpsit, §§ 2-10.

#### MONKEY.

Liability for injury by. 52 L.R.A. (N.S.)

## MONOPOLY AND COMBINATIONS.

I. In general, §§ 1, 2.

II. Combinations in restraint of trade, commerce, or competition, §\$ 3-15.

a. In general, §§ 3-12.

b. Remedy against, §§ 18, 14. c. Who may object to constitu-

tionality of anti-trust law,

#### I. In general.

§ 1. Generally.

As to conspiracies generally, see Con-SPIRACY.

Effect of monopoly on treatment of good will in public service property valuations. 48 L.R.A.(N.S.) 1147.

Validity of contract for material patented or held in monopoly where a letting to the lowest bidder is required. 46 L.R.A. (N.S.) 990.

Validity of monopoly or special privilege granted to third persons of providing facilities to shippers at place of shipment or destination. L.R.A.1915C, 250.

Constitutionality of grant of. 53 L.R.A. 763.

Distinction between franchise and mere monopoly. 4 L.R.A. 616.

Right of appropriator of water for distribution to public to grant exclusive or preferential rights to individuals. 29 L.R.A.(N.S.) 213.

Federal courts following state decisions as to construction and effect of statutes respecting. 40 L.R.A. (N.S.) 444.

§ 2. Creation of monopoly by municipality.

See MUNICIPAL CORPORATIONS, §§ 17, 54.

II. Combinations in restraint of trade, commerce, or competition.

#### a. In general.

§ 3. Generally.

As to boycotts, see CONSPIRACY, §§ 3, 4. Combinations of laborers, see CONSPIRACY,

As to contracts in restraint of trade, generally, see Contracts, §§ 107-109, 117, 118.

Validity of automobile distribution contract. L.R.A.1915B, 113. Consult also L.R.A. Digests of Cases.

MONOPOLY AND COMBINATIONS, II. a -cont'd

Trading stamp contract as a monopoly. L.R.A.1915D, 520.

Combination among farmers or stock raisers as a monopoly. 44 L.R.A. (N.S.) 1104. Corner as violation of antitrust or monopoly act. 44 L.R.A.(N.S.) 325.

Validity of contract by public service cor-poration for exclusive right of way across private property. (N.S.) 456. 36 L.R.A.

Combination to control prices in particular locality. 16 L.R.A. (N.S.) 223.

Combination among produce buyers as monopoly. 12 L.R.A. (N.S.) 150.

Validity of sale to promote. 12 L.R.A. (N.S.) 600.

Validity of agreement to sell entire output. 7 B. R. C. 551.

Validity of contract giving one an exclusive right to handle goods in a given locality. 9 L.R.A.(N.S.) 501.

Contract by selling shareholder not to engage in business in competition with the corporation. 23 L.R.A.(N.S.) 506.

Validity of agreement not to compete, ancillary to sale or lease of property, as affected by covenantee's purpose to procure a monopoly. 15 L.R.A. (N.S.) 846.

Validity of restriction in a deed as to use of property reserved for purpose of securing monopoly to the grantor. 14 L.R.A.(N.S.) 910; L.R.A.1915A, 679. 14

Validity of agreement at common law by which employer seeks to direct the trade of his employees to the other party. 24 L.R.A. (N.S.) 649.

Agreements collateral to contracts forming illegal combinations. 11 L.R.A.(N.S.) 368; 30 L.R.A.(N.S.) 580; 41 L.R.A. (N.S.) 1034.

Forbidding the sale of a commodity in a

particular locality at a lower rate than elsewhere, for the purpose of stifling competition. 42 L.R.A.(N.S.) 804.

Forbidding the payment of a higher price for a commodity in a particular community than elsewhere, for the purpose of stifling competition. 42 L.R.A.(N.S.) 821.

Legal restrictions on department stores. 48 L.R.A. 261.

May offense of conspiracy be predicated of an attempt to procure violations of the Elkins act. 17 L.R.A.(N.S.) 720.

Necessity or beneficent purpose as excuse or justification for combination to raise price of commodity. 51 L.R.A.(N.S.)

#### § 4. Illegal trusts under modern antitrust laws.

Generally. 64 L.R.A. 689.

Constitutionality of statute. 64 L.R.A. 689. Effect and construction of Federal anti-trust law. 64 L.R.A. 698.

Effect and construction of state anti-trust laws. 64 L.R.A. 719.

Contracts in partial restraint of trade as affected by modern anti-trust acts. 9 L.R.A.(N.S.) 446; L.R.A.1917A, 379. -cont'd

Is combination to control the price of labor or other personal service per se a vio-lation of statute against trusts and monopolies. 23 L.R.A.(N.S.) 1260.

Exempting wage earners from anti-trust laws. 52 L.R.A.(N.S.) 525.

Legality, under modern anti-trust acts, of combinations or agreements which restrict the class of persons to whom commodities shall be sold, or from whom they shall be bought. 5 L.R.A. (N.S.) 136.

Relation of contract or combination to interstate commerce which will bring it within Federal anti-trust act. 10 within Federal anti-trust act. L.R.A.(N.S.) 268.

Combination of dealers as giving right of action for damages, under Federal anti-trust law, to merchants thereby restricted in, or prevented from, obtaining goods. 7 L.R.A.(N.S.) 984.

Cruel and unusual punishment for violation of anti-trust law. L.R.A.1915C, 570.

May stockholder maintain action in the right of the corporation to recover penalty imposed by the Sherman Act. L.R.A.1917E, 1006.

§ 5. Control over resale.

Power of state to make invalid a provision in a sale of goods for resale, forbidding the purchaser to handle goods of other dealers. 11 L.R.A.(N.S.) 968.

- validity of contract provision for control of price on resale.

Validity of contract provision seeking to control price at which an article shall be resold. 27 L.R.A.(N.S.) 396; 51 L.R.A.(N.S.) 522; L.R.A.1917A, 1285.

Rights of manufacturer, not protected by patent or copyright, with respect to in-terference by third parties with selling system by which he seeks to control retail price. 12 L.R.A. (N.S.) 135.

§ 7. Of railroad companies or carriers.

Discrimination by carriers, generally, see CARRIERS, V. b.
Discrimination by carriers as to rates, see

CARRIERS, § 159.

Rebates by carriers, see Carriers, § 160.

Restrictions on consolidation of parallel or competing railroads. 45 L.R.A. 271.

Who are common carriers within constitutional or statutory provision directed specifically against suppression of competition between carriers. L.R.A.1915C, 865.

8. Of banks.

Validity and effect of agreement among banks to prevent competition for deposits of public money. 14 L.R.A. (N.S.) 1052.

9. Of brokers or jobbers.

Organization of brokerage concern by jobbers or dealers as an unlawful monopoly. 35 L.R.A.(N.S.) 464.

MONOPOLY AND COMBINATIONS, II. a | MONOPOLY AND COMBINATIONS, II. a -cont'd

10. Of telephone companies.

Validity of contracts between telephone companies for exclusive connection. 36 L.R.A.(N.S.) 124; 45 L.R.A.(N.S.)

Validity of contract for exclusive right to furnish telephone service. 32 L.R.A. (N.S.) 494.

§ 11. Of underwriters.

Legality of combination among insurance underwriters. 24 L.R.A.(N.S.) 153; 38 L.R.A.(N.S.) 459.

12. As to patented articles.

Contract provision for control of price of patented article on resale. 27 L.R.A. (N.S.) 401; L.R.A.1917A, 1286.

Municipal contracts for work or articles which embody a patented invention. 18 L.R.A. 45.

Measure of damages for infringement of patent as affected by holding close monopoly. 51 L.R.A. 809.

Effect of Federal anti-trust law in regard to patents. 64 L.R.A. 713.

Validity of contract for material patented or held in monopoly where a public letting to the lowest bidder is required. 5 L.R.A.(N.S.) 680; 46 L.R.A.(N.S.) 990; L.R.A.1917A, 442.

#### b. Remedy by or against.

§ 13. Generally.

As public nuisance; remedy by injunction. 12 L.R.A. 753.\*

§ 14. To whom available.

May a person not a party to an agreement, who is injured thereby in his business, assail the validity thereof, on the ground that it tends to create or promote a monopoly. 26 L.R.A. (N.S.) 148.
Combination of dealers as giving right of

action, where no statutory provision therefor exists, to merchant who cannot obtain goods because of such combination. 7 L.R.A. (N.S.) 976.

Enforcement by members of illegal combinations of agreements collateral to contracts forming such combinations. 11 L.R.A.(N.S.) 368; 30 L.R.A.(N.S.) 580; 41 L.R.A.(N.S.) 1034.

May stockholder maintain action in the right of the corporation to recover penalty imposed by the Sherman Act. L.Ř.A.1917E, 1006.

c. Who may object to constitutionality of anti-trust law.

15. Generally.

Who may raise objection that anti-trust laws involve unconstitutional discrimination. 32 L.R.A.(N.S.) 958.

#### MONTH.

What constitutes, see TIME, § 15.

#### MONUMENT.

§ 1. Reference to, in description of mining claim.

Description of mining claim with reference

to permanent monuments. 7 L.R.A.
(N.S.) 838.

Reference to permanent monuments in record of mining claim. 7 L.R.A. (N.S.) 870.

8 2. Over graves.
 Liability of decedent's estate for. 33 L.R.A.
 666; 52 L.R.A. (N.S.) 1153.

Is money set aside under will for purpose of caring for monument subject to inheritance tax. 23 L.R.A.(N.S.) 474; L.R.A.1918A, 767.

Validity of testamentary provision for erection of. 1 B. R. C. 931.

Allowance for, against deceased's estate. 28 L.R.A.(N.S.) 572.

#### MOOT QUESTION.

Power of court to decline jurisdiction of. 6 B. R. C. 340.

#### MOORING.

Liability for injuries caused by. 64 L.R.A. 981.

#### MORAL CHARACTER.

Evidence of specific instances to prove. 14 L.R.A.(N.S.) 689.

#### MORAL INSANITY.

As affecting testamentary capacity. L.R.A.(N.S.) 89.

### MORALITY.

See Mobals and Mobality.

## MORAL LIFE.

Protection of personal rights relating to. 37 L.R.A. 784.

## MORAL OBLIGATION.

As consideration for contract, see Con-TRACTS, § 13.

Consult also L.R.A. Digests of Cases.

MORAL OBLIGATION-cont'd

As basis of appropriations. 14 L.R.A. 477. Power of legislature to compel payment by municipalities of nonlegal demands. 48 L.R.A. 473.

Constitutionality of retroactive statute which attempts to base a right of action upon. 52 L.R.A. 934.

## MORAL QUALIFICATIONS.

Of executors. 16 L.R.A. 538.

#### MORALS AND MORALITY.

As to immorality, see IMMORALITY.

Injunction against nuisances affecting. 41 L.R.A. 321.

Municipal power as to nuisances affecting. 39 L.R.A. 520.

Constitutionality of discrimination based on race or color in police regulations affecting. 34 L.R.A. (N.S.) 604.

#### MORAL TURPITUDE.

Mandamus to restore to office one who has been removed for. 19 L.R.A.(N.S.) 74.

#### MORPHINE.

In general, see DRUGS AND DRUGGISTS.

Furnishing or prescribing by physician. L.R.A.1918E, 669.

### MORPHINISM.

As ground for divorce, see DIVORCE AND SEPARATION, § 27.
Effect on responsibility and capacity, see INCOMPETENT PERSONS, § 4. Of insured, see INSURANCE, § 97. Effect of, on competency as witness, see WITNESSES, § 15.

#### MORTALITY TABLES.

Admissibility in evidence, see EVIDENCE, § 147. Weight of, as evidence, see EVIDENCE, § 307.

#### MORTGAGE.

- I. In general, §§ 1-4. II. Nature, validity, and effect, \$\$ 5-34.
  - a. In general, \$\$ 5-12.
  - b. What constitutes, §§ 18-15.
  - c. What property subject to or covered by mortgage; description, §§ 16-19.
  - d. Validity, \$\$ 20-24.

938 INDEX TO L.R.A. NOTES. MORTGAGE, II.—cont'd MORTGAGE, I.-cont'd e. Effect of, generally, §§ 25, 26. f. Estates of parties in property mortgaged, § 27 g. Rights, remedies, and liabilities of parties generally, \$\$ 28-33.
1. In general, \$\$ 28-31. 2. As to taxes, § 32. 3. As to rents, earnings, and profits, § 33. h. Bondholders, § 34. III. Priority, §§ 35-39. IV. Sale of mortgaged property; assumption of debt, \$\$ 40-46. V. Assignment of mortgage, §§ 47-VI. Payment; discharge; release; extinction or extension of lien, §§ 52-60. a. In general, §§ 52-55. b. What operates as a discharge or satisfaction, §§ 56, 57. 1918F, 19. c. Merger; keeping alive; re-instatement, §§ 58-60. VII. Enforcement; powers of sale, §§ **61-84**. a. In general, §§ 61-64. b. On default of interest, instalment, taxes, etc.; accel-1917Ď, 828. eration, § 65. c. Who may enforce, §§ 66-68. d. Parties, §§ 69-72. e. Defenses, § 73. f. Decree, § 74. g. Power of sale; strict foreclosure, \$\$ 75-77.

h. Sale, \$\$ 78-82.

1. In general, \$\$ 78-79a. 2. Purchasers and their rights, title, liabilities, etc., §§

80-82. (a) In general, §\$ 80, 81.

(b) Under void sale, **§ 82.** 

4. Surplus; proceeds of sale, \$ 83.

j. Deficiency, § 84. VIII. Redemption, §§ 85-91.

1. Generally.

#### I. In general.

Acknowledgment of, 866 ACKNOWLEDG-MENT. Adverse possession by mortgagor and mortgagee, see Adverse Possession, § 7. Conflict of laws as to, see CONFLICT OF LAWS, §§ 6, 7a. Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 122.

Effect of death of party to, see DEATH, § 20. Dower in land mortgaged by husband, see DOWER, §§ 3, 4.

Parol evidence as to, see EVIDENCE, § 182. Disaffirmance of mortgage by infant, see INFANTS, § 21.

Notice to mortgagee of cancelation of insurance policy, see Insurance, § 51.

Change of title to insured property by, see-INSURANCE, § 72.

Effect on mortgagee of mortgagor's failure to give notice of loss, see INSURANCE, § 147.

As to recording laws, see RECORDS AND RE-CORDING LAWS, IV.

Effect of recording, see RECORDS AND RECORDING LAWS, §§ 24-27.

Contract for support of mortgagee, see Support, § 5.

Investments by trustee in mortgage securities, see Trusts, § 26a.

To building and loan association, see BUILD-ING AND LOAN ASSOCIATIONS, § 5.

Chattel mortgage, see CHATTEL MORTGAGE. On homestead on public land, see PUBLIC LANDS, § 17. On railroad property, see RAILBOADS, § 20.

Authority of agent of mortgagor to consent to employment by mortgagee of person to care for premises.

Specific performance of contract to give. 6 L.R.A.(N.S.) 585.

Alteration of, after delivery. 32 (N.S.) 289; L.R.A.1918B, 490. 32 L.R.A.

Addition of name of attesting witness to mortgage as an alteration. L.R.A.

Effect on mortgage, of alteration of note secured thereby. 16 L.R.A. 468.

Creation of tenancy by mortgagor's agreement as to payment for scrvices. L.R.A.(N.S.) 701.

Notice of title from possession by mort-gagee. 13 L.R.A. (N.S.) 120.

Estoppel of one attesting mortgage to assert title. 3 L.R.A. (N.S.) 879.

Paying interest on forged mortgage as estoppel to question the mortgage. 41 L.R.A.(N.S.) 740.

Admissibility of declarations by mortgagor made out of court as to his purpose in making a mortgage attacked as fraudulent as against creditors. 41 L.R.A.(N.S.) 1.

Estoppel of mortgagee to assert title or interest in property by concealing his interest or representing title to be in another. 48 L.R.A.(N.S.) 753, 759, 761, 764.

Marshaling assets for benefit of mortgagor. 47 L.R.A.(N.S.) 302.

Adjustment of mortgage indebtedness in determining compensation to be paid public utility company upon taking its plant. 47 L.R.A.(N.S.) 790.

Degree of proof requisite to establish fact and contents of lost mortgage. L.R.A. 1918B, 879.

§ 2. Taxation of.

Rights of parties to mortgage, as to taxes, see infra, § 32. Taxation on, as double taxation, see TAXES.

§ 10.

Situs for taxation of debts evidenced by mortgage, see TAXES, § 47.

Power to tax. 16 L.R.A. 59. Begin with this book on every law question.

MORTGAGE, I.—cont'd

tax. L.R.A.1916A, 865.

Effect of mortgage foreclosure to transfer immunity from taxation. 60 L.R.A.

#### § 3. — succession tax.

Debt due to nonresident secured by mortgage on land within the state as subject of inheritance tax. 9 L.R.A.(N.S.) 1104; 35 L.R.A.(N.S.) 784.

Deduction of, in computing succession tax.

16 L.R.A.(N.S.) 329.

#### § 4. Reformation of.

Effect of the statute of frauds upon the power of equity to reform. L.R.A. 1917A, 573.

Reformation of mortgage after foreclosure. 39 L.R.A.(N.S.) 90.

Mistake of law as ground for. 28 L.R.A. (N.S.) 823.

## II. Nature, validity, and effect.

#### a. In general.

#### 5. Generally.

Position of mortgagees of partnership. 28 L.R.A. 170.

Right of foreign corporation to take mort-gage on real property within the state. 24 L.R.A. 328.

## § . 6. Nature of, generally.

Preference by mortgage as an assignment for creditors. 37 L.R.A. 337.

## § 7. — of equitable mortgage. Equitable; nature of. 9 L.R.A. 544.

#### § 8. Execution.

Of chattel mortgage, see CHATTEL MORT-

Validity of acknowledgment of deed of trust taken by trustee. 16 L.R.A. 719. Signing by proxy. 22 L.R.A. 297.

Proof of signature by mark when attesting witnesses are dead or cannot remember transaction. 44 L.R.A. 146.

Implied authority to fill in name of mortgagee in blank left for that purpose at time of delivery. 38 L.R.A.(N.S.) 423.

## § 9. Power to give mortgage.

Power of trustee to mortgage trust estate for purpose of making improvements so as to render it productive. 7 L.R.A. (N.S.) 263.

## § 10. — of corporation.

Powers of president and vice president of corporation to give mortgage. 14 L.R.A. 359.

## § 11. — of partner.

Power of partner to give, on real estate. 28 L.R.A. 95.

Consult also L.R.A. Digests of Cases.

## | MORTGAGE, II. a-cont'd

Constitutionality of mortgage registration | § 12. What is a purchase money mortgage.

> Mortgage to secure money advanced to purchase property as a purchase money mortgage. 40 L.R.A.(N.S.)

#### b. What constitutes.

#### 18. Generally.

Effect of deed delivered in escrow as further security for a mortgage debt. 2 L.R.A. (N.S.) 628; L.R.A.1915B, 492.

### 14. Equitable mortgage. Equitable lien, see LIENS, §§ 5-7.

Equitable mortgage by deposit of title deeds. 19 L.R.A.(N.S.) 206.

Effect of borrowing money on deposit of certificate of title registered under the

Torrens Law. L.R.A.1916D, 80. Right to foreclose deed intended as security for debt as an equitable mortgage. 22 L.R.A.(N.S.) 572.

Necessity and character of one's previous interest in land essential to his claim as an equitable mortgagor. 37 L.R.A. (N.S.) 521.

Keeping alive after payment. 1 L.R.A. (N.S.) 405.

#### § 15. Deed absolute on face intended as mortgage.

Right to foreclose deed intended as security for debt, as an equitable mortgage. 22 L.R.A.(N.S.) 572.

Does a deed absolute on its face, but intended as a mortgage, convey the legal title. 11 L.R.A.(N.S.) 209.

Jurisdiction of equity over suit to have deed declared a mortgage as to land in another state or country. 69 L.R.A. 685.

Grantee's oral promise to grantor to hold in trust, as giving rise to constructive trust, where conveyance was made as security. 39 L.R.A.(N.S.) 922.

Protection of purchaser from apparent

vendee under instrument apparently a conveyance, but intended as a mortgage. 32 L.R.A. (N.S.) 1046; 38 L.R.A. (N.S.) 982.

Effect of failure to record defeasance as against creditors of the grantee. 5 L.R.A. (N.S.) 387.

Effect of judgment declaring husband's title to an estate to be that of mortgagee on dower right of wife who is not a party to the action. 13 L.R.A. (N.S.) 723.

Effect of debt becoming barred by limitations, upon rights and remedies under conveyance absolute on its face, but intended as a mortgage. 11 L.R.A.(N.S.) 825; 24 L.R.A.(N.S.) 840.

MORTGAGE, II. b-cont'd

Right to accept favorable part of decree on absolute deed decreed to be a mortgage, and appeal from the rest. 29 L.R.A. (N.S.) 11.

Parol evidence that a written instrument which on its face imports a complete transfer of a legal or equitable estate or interest in property was intended as a mortgage. L.R.A.1916B, 18.

c. What property subject to or covered by mortgage; description.

§ 16. Property subject to mortgage.

Right to mortgage privilege to use streets for quasi-public purposes. 47 L.R.A. 87; L.R.A.1917D, 707.

Right to mortgage burial lot. 67 L.R.A. 122.

17. Property covered.

Right to rents, earnings, and profits, see infra, § 33.

Mortgage of land as including crops. L.R.A. 1917C, 40.

§ 18. - after-acquired property.

Rails and other permanent fixtures annexed after execution of railroad mortgage. 66 L.R.A. 44.

Validity of mortgage, other than railroad mortgage, covering after-acquired property. 21 L.R.A.(N.S.) 843.

19. Description.

Validity and effect of mortgage executed in blank as to the land to be conveyed. L.R.A.1918A, 1155.

#### d. Validity.

§ 20. Generally.

Of chattel mortgage, see CHATTEL MORT-GAGE, §§ 4-6.

Validity of, as against creditors, see FRAUD-ULENT CONVEYANCES, §§ 8a, 9.

Validity of mortgage executed in blank as to the land to be conveyed. L.R.A. 1918A, 1155.

Mortgage executed by citizen of one belligerent to citizen of another. L.R.A. 1917C, 688.

Fictitious names, as affecting validity of. 39 L.R.A. 423.

Necessity of bond by guardian to make his mortgage of land valid. 33 L.R.A. 761.

Validity of mortgage upon public lands exexecuted by claimant under the homestead acts prior to patent or final proof. 6 L.R.A. (N.S.) 934; L.R.A.1915B, 681.

Validity of mortgage, other than railroad mortgage, covering after-acquired realty. 21 L.R.A.(N.S.) 843.

Validity of mortgage partially made on Sun-day and perfected on a secular day. 4

L.Ř.A. (N.S.) 1151.

MORTGAGE, II. d-cont'd

Mortgage procured by threats of prosecution of relative. 20 L.R.A. (N.S.) 484; L.R.A.1915D, 1118.

Effect of insolvency statutes upon mortgage preferring creditors. 37 L.R.A. 465.

Voidability of mortgage within four months of bankruptcy given pursuant to executory agreement antedating such period. 17 L.R.A. (N.S.) 937.

Validity of lien given to secure loans used by bankrupt to give one of his creditors a preference. 24 L.R.A.(N.S.) 184.

Right to enforce mortgage given by an incompetent who had not been declared such, 42 L.R.A.(N.S.) 343.

Validity of stipulation for attorneys' fees. L.Ř.A.1915B, 928.

Effect of mortgage on one who signs it but is not named in it. 13 L.R.A. (N.S.) 298; L.R.A.1915D, 196.

Validity of lien acquired by creditor of fraudulent transferrer through fraudulent transferee. 5 B. R. C. 277.

Validity of mortgage given to secure imperfectly executed note or bond. 44 L.R.A.(N.S.) 1153.

Power of surviving partner to mortgage partnership property for firm debt. 3 B. R. C. 577.

What misrepresentations as to the contents of an instrument will render it void in law. 4 B. R. C. 663.

Jurisdiction of equity over suit to cancel void mortgage on realty in other state or country. 69 L.R.A. 682.

21. Who may question validity. Who may set up defense of usury, see infra, § 24.

Right of subsequent ereditor to question corporate mortgage in favor of, or for the benefit of, directors, in absence of fraud. 12 L.R.A. (N.S.) 825.

§ 22. Consideration.

Pre-existing debt as consideration for mortgage as against other creditors or equities. 33 L.R.A. 305.

§ 23. Usury.

Effect of mortgage security upon question as to governing law with respect to usury. 62 L.R.A. 61; L.R.A.1916D, 755.

Does the lew rci sitæ with respect to interest and usury control in action to foreclose mortgage on real property. 55 L.R.A. 933.

Enforcement of mortgage valid by law where made and payable, but usurious by lea fori et rei sita. 4 L.R.A.(N.S.) 1191.

Requiring mortgagor to pay mortgage or recording tax. 51 L.R.A.(N.S.) 465; L.R.A.1918F, 383.

§ 24. — who may set up defense of. Right of vendee of land subject to mortgage to raise question of usury. 8 L.R.A.(N.S.) 814; 10 L.R.A.(N.S.) 857; 48 L.R.A. (N.S.) 840.

#### MORTGAGE, II.—cont'd

## e. Effect of, generally.

\$ 25. Generally.

Mortgage as breach of condition in insurance policy as to sole and unconditional ownership. L.R.A.1915D, 812.

Effect of mortgage to transfer reversion of leased premises. L.R.A.1915C, 200.

Effect of mortgage contemporaneous with note as defense to note. 43 L.R.A. 472.

Effect of provisions in, on liability of advanced member of loan association to assessment for losses. 29 L.R.A. 177.

As rendering title unmarketable. 38 L.R.A.

(N.S.) 30.

Effect of instrument in form of chattel mort-gage to create a lien on real estate. 11

L.R.A.(N.S.) 869.

As violation of covenant in lease against assignment or sale. 14 L.R.A. (N.S.) 1204.

Assumption of individual debts of partner by mortgage of partnership property. 29 L.R.A. 692.

Federal courts following state decisions as to construction and effect of. 40 L.R.A. (N.S.) 414.

Relief from mistake of law as to effect of. 28 L.R.A.(N.S.) 801, 823.

Joining in mortgage on property as a waiver of prior lien. 35 L.R.A.(N.S.) 348.

Effect of one spouse joining in the execution of the other's deed or mortgage to convey the former's separate property included therein. 28 L.R.A. (N.S.) 289.

#### § 26. On negotiability of note.

Effect of mortgage on negotiability of note. 35 L.R.A. 536.

Effect of stipulation for attorneys' fees in mortgage upon negotiability of note secured thereby. 26 L.R.A.(N.S.) 217.

Recital in note as to mortgage security as affecting negotiability. 32 L.R.A. (N.S.) 858.

#### f. Estates of parties in property mortgaged.

§ 27. Generally.

As affecting change of title or interest in insured property. 38 L.R.A. 562.

Effect of mortgage upon wife's right of dower. 18 L.R.A. 76.

Mortgagee as owner within mechanics' lien law. 39 L.R.A. (N.S.) 84.

Curtesy in equity of redemption. 20 L.R.A. (N.S.) 454.

Does a deed absolute on its face but intended as a mortgage convey the legal title. 11 L.R.A.(N.S.) 209.

## g. Rights, remedies, and liabilities of parties generally.

#### In general.

§ 28. Generally.

Of purchasers on foreclosure, see infra, §§ 80-81.

Consult also L.R.A. Digests of Cases.

MORTGAGE, II. g, 1—cont'd Right to redeem, see infra, §§ 86-89. Rights in fixtures on mortgaged premises, see FIXTURES, §§ 5, 7.

Rights of mortgagee to insurance money, see INSURANCE, § 185.

Right of insurer to subrogation to rights of mortgagee, see INSUBANCE, § 197.

Subrogation to rights under, generally, see Subrogation, § 4.

29. Of mortgagor.

Injunction against cutting of timber by mortgagor or mortgagee. 43 L.R.A. (N.S.) 268.

Dedication of land by mortgagor. 31 L.R.A. (N.S.) 1026.

Power of mortgagor to sell or contract with reference to mortgaged property, free from mortgage. 8 L.R.A. (N.S.) 404.

Right of mortgagor of mining claim to relocate same for his own benefit. 50 L.R.A. 186.

Effect of stipulation that mortgagor shall become a tenant. 49 L.R.A. 435.

Infecting premises with contagious disease as waste. 30 L.R.A.(N.S.) 474.

Liability of original mortgagor or intermediate grantee who has assumed the mortgage, as affected by extension of time given his grantee by the mortgagee. 5 B. R. C. 633.

Right of mortgagor, or those claiming through or under him, to set up outstanding title, or acquire outstanding title to defeat the mortgage. L.R.A. 1918B, 734.

When mortgagor excused from noncompliance with his undertaking to pay insurance premiums or other obligations to third party. L.R.A.1917D, 555.

Procuring of insurance by mortgagee as a violation of provision in policy of mortgagor against other or additional insurance. L.R.A.1917A, 607.

§ 30. Of mortgagee.

Of mortgagee purchasing on foreclosure, see infra, §§ 81, 82.

Right to redeem, see infra, § 89.

Accounting by or to mortgagee, see Accounting, § 2.

In eminent domain proceedings, see EMI-NENT DOMAIN, § 38.

Rights of mortgagee to insurance money, see INSURANCE, § 185.

Effect of mortgagor's acts on rights of mortgagee under insurance policy, see Insurance, § 82.

Liability of mortgagee under mortgage clause for insurance premium. L.R.A. 1917F, 379.

Right of mortgagee to set up Statute of Limitations against other creditors of his debtor. L.R.A.1918C, 1020.

Rights of mortgagee on condemnation of premises. 18 L.R.A. 113.

Right of mortgage creditor to question validity of attachment. 35 L.R.A. 768. Ejectment by mortgagee. 18 L.R.A. 788.

MORTGAGE, II. g, 1—cont'd Injunction in favor of mortgagee against execution sale. 30 L.R.A. 125.

Preliminary injunction which would have effect of transferring possession of property from mortgagor to mortgagee. 39 L.Ř.A.(N.S.) 34.

Jurisdiction of equity to award compensatory damages against mortgagee for breach of trust. 14 L.R.A.(N.S.) 900.

Injunction against cutting of timber by mortgagor or mortgagee. 43 L.R.A. (N.S.) 268.

Mortgagee of leasehold as an assignee liable to lessor for rent. 52 L.R.A. (N.S.) 987.

Rights of mortgagee as to captured property. 5 B. R. C. 1002.

Right of mortgagee to compensation for improvements made by one entering un-der permission from mortgagor before condemnation. L.R.A.1916F, 989.

Right of one taking mortgage of public land from holder of final certificate in event of its cancelation. L.R.A.1918E, 1002.

31. — mortgagee in possession.

Meaning of term and character of mortgagee in possession. 37 L.R.A. 841. Purchaser at void foreclosure sale as mort-

gagee in possession. 40 L.R.A.(N.S.) 839.

Rights of purchaser at void foreclosure sale as mortgagee in possession. 40 L.R.A. (N.S.) 842.

Does limitation run against mortgagee in possession. 34 L.R.A.(N.S.) 356.

Effect of entry by mortgagee by virtue of an interest in the property, but not under the mortgage, to enable him to hold as a mortgagee in possession. 16 L.R.A. (N.S.) 151.

Application of rents received by mortgagee in possession. 4 B. R. C. 829.

Right and duty of mortgagee in possession as to repair or improvement of property. 49 L.R.A.(N.S.) 122.

Right of mortgagee in possession to maintain action for trespass antecedent to his entry. 6 B. R. C. 92.

### 2. As to taxes.

§ 32. Generally.

Right of mortgagee to notice to redeem from tax sale. 44 L.R.A. (N.S.) 669, 676, 679.

Right of mortgagee, who has paid taxes, to maintain independent action against mortgagor for reimbursement before or after foreclosure of mortgage. 10 L.R.A. (N.S.) 679.

Right to prevent foreclosure of mortgage for default in taxes by payment of same before commencement of action. 22 L.R.A. (N.S.) 360.

Right of purchaser on foreclosure to recover amount paid to relieve land from tax from prior owner who should have paid same. 22 L.R.A. (N.S.) 562.

MORTGAGE, II. g-cont'd

3. As to rents, earnings, and profits.

§ 33. Generally.

During or after foreclosure, see infra, § 79.

#### h., Bondholders.

§ 34. Generally.

Right of bondholders to bring suit to enforce mortgage, see infra, § 68.

Bondholders as parties to foreclosure suit, see infra, § 72.

Extent to which bondholders are represented by trustee in mortgage or deed of trust securing the bonds. 16 L.R.A. (N.S.) 1006.

Whose servants are employees operating railroads for trustees of mortgage bond-holders. 37 L.R.A. 85.

Right of detached coupons to benefit of mortgage securing bonds. 43 L.R.A. (N.S.) 82.

#### III. Priority.

§ 35. Generally.

Marshaling assets for benefit of mortgagor. 47 L.R.A.(N.S.) 302.

Priority, as between dower and purchase money mortgage. 52 L.R.A.(N.S.) 540.

Efficacy of chattel mortgage as against realestate mortgage. 15 L.R.A. 57.

Priority of statutory preference of claim for labor over pre-existing mortgage. 2 L.R.A. (N.S.) 615.

Priority of statutory lien for work not bene-

ficial to the property, done in the exercise of the police power. L.R.A.1918C, 1024.

Priority of claims against property in hands of receiver over mortgage. L.R.A.(N.S.) 695.

§ 36. Unrecorded mortgage.

Of unrecorded mortgage as against purchaser at judicial sale. 21 L.R.A. 38.

Priority as between unrecorded mortgage and lien acquired by attachment. L.R.A. 1918A, 1089.

§ 37. Over mechanics' and laborers' liens.

See Mechanics' Liens, § 9.

38. Over local assessments.

Superiority as between special assessment for public improvement and private mortgage. 35 L.R.A. 372; 30 L.R.A. (N.S.) 769.

Necessity of giving mortgagee notice of pub-lic improvement. 37 L.R.A. (N.S.) 558.

§ 39. Of notes falling due at different times secured by same mortgage

In general. 24 L.R.A. 800; 42 L.R.A. (N.S.) 183.

Pro rata rule. 24 L.R.A. 800; 42 L.R.A. (N.S.) 185.

Validity and effect of purchase of tax title | Pro rata as to notes made to different by mortgagee. L.R.A.1917D, 522. parties. 24 L.R.A. 801.

MORTGAGE, III.—cont'd

24 Priority as regulated by maturity. L.Ř.A. 801.

Priority as regulated by contract of assignment. 24 L.R.A. 802.

The earlier maturity rule. 42 L.R.A.

(N.S.) 199.

The prior assignment rule. 42 L.R.A. (N.S.) 205.

## IV. Sale of mortgaged property; assumption of debt.

§ 40. Generally.

Covenants against mortgages, see Cove-NANTS, §§ 10, 11, 28-30.

Liability in inverse order of alienation, see MARSHALING ASSETS AND SECURITIES,

Rule as to inverse order of alienation as affected by assumption of mortgage debt. 39 L.R.A.(N.S.) 359.

Effect of assumption of debt, before notice of defective title, to sustain the bona fide character of purchaser of real estate. 7 L.R.A.(N.S.) 1120.

Relief from mistake of law as to assumption of mortgage. 28 L.R.A.(N.S.) 819.

Effect of transfer of part of tract of mortgaged land, to create easement. L.R.A.(N.S.) 343.

Structures erected by railroad company on right of way through land subject to previous mortgage. 66 L.R.A. 43.

Effect of purchase at tax sale, by or in the interest of mortgagor, guarantor of mortgage indebtedness, or purchaser of equity of redemption. 16 L.R.A.(N.S.) 121; 52 L.R.A.(N.S.) 877.

41. Rights of purchaser.

Right of purchaser of land subject to a mortgage to question the validity of the mortgage. L.R.A.1917C, 832.

Right of vendee of real estate subject to mortgage to raise question of usury. L.R.A. (N.S.) 814; 10 L.R.A. (N.S.) 857; 48 L.R.A. (N.S.) 840.

Right of one purchasing equity of redemption to cut out second mortgage by purchasing under foreclosure of first. L.R.A. (N.S.) 491.

42. Protection of one purchasing from apparent vendee in deed intended as a mortgage. general. 32 L.R.A.(N.S.) 1046; 38 L.R.A.(N.S.) 982.

43. Liability of purchaser.

Contingency of liability of grantee assuming mortgage as affecting presentation for claim against decedent's estate. 58 L.R.A. 89.

Parol evidence to show that grantee of deed assumed existing liens. 25 L.R.A. (N.S.) 1202.

Personal liability of purchaser of equity of redemption for mortgage debt in absence of express assumption thereof. L.R.A.1917C, 592.

Consult also L.R.A. Digests of Cases.

MORTGAGE, IV.—cont'd

Effect of agreement to pay mortgage inserted in deed by mistake. L.R.A.1918A, 1003.

Right of mortgagee whose mortgage is assumed by a vendee as part of the pur-chase price to enforce the vendor's lien. 47 L.R.A.(N.S.) 189.

Right of mortgagee to maintain personal action against grantee who has assumed payment. 6 L.R.A. 611; \* 25 L.R.A. 275.

Right of mortgagee to enforce purchaser's promise to pay the mortgage where the grantor or promisee was not himself liable. 22 L.R.A.(N.S.) 492; 39 L.R.A.(N.S.) 151; L.R.A.1916D, 154.

Mortgagee's right to sue where property is sold subject to mortgage. 25 L.R.A.

Liability of intermediate grantee who has assumed the mortgage as affected by extension of time given to his grantee by the mortgagee. 5 B. R. C. 633.

§ 44. Liability as between mortgagor and purchaser.

Release of mortgagor as surety by mortgagee's dealing with vendee who has assumed the mortgage. 16 L.R.A. 85.

Effect upon mortgagor's obligation of modification between mortgagee and subse-

quent grantee. 4 L.R.A.(N.S.) 666. Effect of payment or acknowledgment by mortgagor to toll statute of limitations as against his grantee. 28 L.R.A. (N.S.) 169.

§ 45. Effect of rescission of purchase on assumption of mortgage or lien thereon.

Rule that contract is not subject to rescission. 40 L.R.A.(N.S.) 673.

Rule that contract is subject to rescission prior to actual acceptance by mortgagee. 40 L.R.A.(N.S.) 674.

Effect of extrinsic circumstances or character of contract. 40 L.R.A. (N.S.) 675. Right to rescind after acceptance. 40 L.R.A. (N.S.) 676.

§ 46. Creation of indebtedness, by purchase by municipality.

Is mortgage debt upon property purchased by municipality without assuming payment, part of a municipal indebtedness. 3 L.R.A.(N.S.) 684.

Purchase of equity of redemption by municipality as creating indebtedness within debt limit provisions. 37 L.R.A. (N.S.) 1105; L.R.A.1917E, 454.

## V. Assignment of mortgage.

47. Generally.

Who must enter satisfaction of assigned mortgage within meaning of statute providing a penalty for failure to do so after payment. L.R.A.1918B, 601.

MORTGAGE, V.—cont'd

Lien of mortgage securing negotiable instruments assigned before maturity as affected by payment to payee without knowledge of assignment. 29 L.R.A. (N.S.) 577; 41 L.R.A. (N.S.) 462.

Effect of placing bond indorsed in blank in custody of another to estop as against purchaser in good faith. 29 L.R.A. (N.S.) 256.

Assignee of junior mortgage as necessary party to suit for foreclosure of senior mortgage. 36 L.R.A.(N.S.) 433.

Effect of negotiable character of note secured by junior mortgage on necessity of making assignee of such mortgage a party to a suit for foreclosure of senior mortgage, 36 L.R.A.(N.S.) 434.

As against subsequent bona fide purchaser or encumbrancer relying on an apparent discharge of mortgage by mortgagee. L.R.A.1915F, 554.

§ 48. Nature and effect of.

Pledge or assignment by mortgagee of his interest in the mortgage debt or property as affecting his right against insurer. L.R.A.1917E, 330.

§ 49. — effect of assignment by or with mortgagor's consent to third person after payment of debt originally secured.

Effect of intention to preserve lien after payment. 27 L.R.A.(N.S.) 111.

In absence of intention to preserve lien; payment before maturity. L.R.A.(N.S.) 113.

Payment by purchaser of equity of redemp-tion; effect of intention to preserve lien. 27 L.R.A. (N.S.) 117

Attempt after payment of principal debt, to assign mortgage indemnifying surety or indorser. 27 L.R.A.(N.S.) 119.

50. Rights of assignee.

As against subsequent bona fide purchasers or encumbrancers relying on apparent discharge of mortgage by mortgagee, 15 L.R.A.(N.S.) 1025.

To enforce option to declare entire mortgage due for default of payments. 15 L.R.A.(N.S.) 590.

Does assignee of mortgage as collateral security, who forecloses the same and purchases the property, hold the title subject to a trust in favor of the assignor. 7 L.R.A.(N.S.) 1094.

Right of mortgagee's assignee to purchase tax title. L.R.A.1917D, 522.

§ 51. Priority between assignees. Priority among assignees. 13 L.R.A. 298.\*

VI. Payment; discharge; release; extinction or extension of lien.

a. In general.

§ 52. Generally. Subrogation to rights of mortgage, see SUB-BOGATION, § 4. Begin with this book on every law question.

MORTGAGE, VI. a—cont'd Payment of illegal bonus for discharge of, pending foreclosure, as duress. L.R.A. (N.S.) 574.

Liability of advanced member of loan association to assessment for losses after release of mortgage. 29 L.R.A. 181.

Rights of assignee as against subsequent bona fide purchasers or encumbrancers relying on apparent discharge of the mortgage by mortgagee. 15 L.R.A.(N. S.) 1025; L.R.A.1915F, 554.

Effect upon lien of mortgage securing negotiable instruments assigned before maturity, of payment to payee without knowledge of assignment. 29 L.R.A. (N.S.) 577; 41 L.R.A.(N.S.) 462.

Rights of life tenant who pays mortgage as against remainderman. 29 L.R.A.(N.

S.) 153.

Right of lienor to proceeds where property is sold with his consent under agreement that proceeds shall be applied toward payment of debt. L.R.A.1915C,

Repudiating cotenancy as affecting right to contribution of cotenant paying encumbrance. L.R.A.1915B, 973.

Effect on mortgage of alteration of note secured by it. 41 L.R.A.(N.S.) 230. Effect of discharge in bankruptcy on lien of mortgage. 42 L.R.A. (N.S.) 295. Extent to which bondholders are repre-

sented by trustee in release of mort-

gaged property. 16 L.R.A.(N.S.) 1011. New obligation given by debtor to secure release of lien as novation of the original obligation. 36 L.R.A. (N.S.) 464.

Recovery of payment unlawfully demanded by mortgagees as made in duress of real property. L.R.A.1915B, 498.

§ 53. Application of payments. See PAYMENT, § 20.

54. Release of parcel. Effect of release of parcels by mortgagee. 5 L.R.A. 286.\*

§ 55. Extension of lien by renewal of secured debt.

Generally. 55 L.R.A. 673.

As against original debtor and mortgagor. 55 L.R.A. 673.

As against subsequent encumbrancers or grantees. 55 L.R.A. 677.

Effect of renewal by one, to secure whose debt, mortgage was given by another. 55 L.R.A. 684.

Absence from state as operating to renew debt. 55 L.R.A. 685.
Under provision of particular statute or

Code. 55 L.R.A. 688.

b. What operates as a discharge or satisfaction.

§ 56. Generally.

Waiver of junior lien by failure to assert it in foreclosure proceedings, see infra, § 64.

MORTGAGE, VI. b-cont'd

Who must enter satisfaction of assigned mortgage within meaning of statute providing a penalty for failure to do so after payment. L.R.A.1918B, 601.

Who may make a tender which will discharge the lien of a mortgage. L.R.A.

1918C, 186.

Effect of payment of debt by volunteer. 23 L.R.A. 131.

Effect of deed in partition on mortgage lien. 57 L.R.A. 340.

Waiver of lien of mortgage by attachment or execution. 50 L.R.A. 718.

Lien on mortgage securing negotiable instruments assigned before maturity as affected by payment to payee, without knowledge of assignment. 29 L.R.A. (N.S.) 577.

Effect upon lien of mortgage, of entry of judgment upon bond or note secured thereby. 24 L.R.A.(N.S.) 1095. Acceptance of renewal paper as satisfaction

of mortgage. 35 L.R.A. (N.S.) 86.

Payment to one not in possession of mort-gage. 23 L.R.A.(N.S.) 414; L.R.A. 1916B, 860.

Voluntary conveyance in which dower is not released, in satisfaction of a mortgage releasing dower. 31 L.R.A.(N.S.) 323.

§ 57. Effect of unaccepted tender on lien.

Before and at maturity. 33 L.R.A. 231; 23 L.R.A.(N.S.) 403.

After maturity. 33 L.R.A. 231; 28 L.R.A. (N.S.) 998.

By and to whom made. 33 L.R.A. 233. Tender of portion only. 33 L.R.A. 233. Sufficiency. 33 L.R.A. 233.

Ground of refusal. 33 L.R.A. 234.

Remedy of mortgagor. 33 L.R.A. 235. Equivalent to tender. 33 L.R.A. 235. Mortgage conditioned to support the mort-

gagne. 33 L.R.A. 235. Miscellaneous, 33 L.R.A. 235.

c. Merger; keeping alive; reinstatement.

58. Merger; keeping alive.

Keeping alive mortgage discharged or re-leased by mistake. 28 L.R.A.(N.S.) 904.

Keeping equitable alive mortgage after payment. 1 L.R.A. (N.S.) 405.

Proceedings to enforce mortgage for part of debt as affected by prior proceedings in matters of merger. 37 L.R.A. 758.

Merger of mortgage by conveyance from mortgagor to mortgagee or revival thereof after such conveyance, where there are intermediate encumbrances upon the property. 39 L.R.A. (N.S.) 834.

59. Revival; reinstatement.

Revival of mortgage after conveyance from mortgagor to mortgagee, where there are intermediate encumbrances on the Denial of matters as to, on information and property. 39 L.R.A.(N.S.) 834.

Consult also L.R.A. Digests of Cases. 60

MORTGAGE, VI. c-cont'd

Revival of discharged mortgage in favor of assignee of equity of redemption, who pays it, as against junior lien. 16 L.R.A.(N.S.) 470; 47 L.R.A.(N.S.) 1190.

§ 60. — right to reinstatement of mortgage released or discharged by mistake.

In general. 58 L.R.A. 788; 26 L.R.A. (N.S.) 816; 23 L.R.A.(N.S.) 825, 904; L.R.A. 1917E, 1055.

Mistake as to the effect of a decree. L.R.A. 788.

Where the release is unintentional. L.R.A. 788. 58

Where the wrong mortgage is released. L.R.A. 791.

Release without authority. 58 L.R.A. 792. Ignorance of intervening judgments and attachments. 58 L.R.A. 794.

Ignorance of intervening mortgage liens or deeds. 58 L.R.A. 796.

Ignorance of defective title. 58 L.R.A. 801. Mistake as to assets of debtor. 58 L.R.A. 804.

Mistake as to amount and consideration.

58 L.R.A. 804. Mistake of law. 58 L.R.A. 805; L.R.A. 1917E, 1057.

Mistake of fact. L.R.A.1917E, 1055.
Relief as affected by the equities between the parties. L.R.A.1917E, 1057.

Negligence of the mortgagee. L.R.A.1917E,

Laches of the mortgagee. L.R.A.1917E, 1058.

As to persons subsequently dealing with the mortgaged property. L.R.A.1917E,

Matters of procedure. L.R.A.1917E, 1059.

## VII. Enforcement; powers of sale.

#### **a.** In general.

§ 61. Generally.

Jurisdiction of action to foreclose mortgage on land in other state, see Courts, § 22.

Equity jurisdiction of suit, see EQUITY, § 10.

Right of set-off, see SET-OFF AND COUNTER-CLAIM, § 9.

Enforcement of mortgage against alien enemy. 5 B. R. C. 597; L.R.A.1918B,

Foreclosure of mortgage upon land in another state. 4 L.R.A. (N.S.) 986.

Enforcement of mortgage valid according

to law of place where made and payable, but usurious according to the lex fori et rei sitæ. 4 L.R.A. (N.S.) 1191.

Right to foreclose deed intended as security for debt as an equitable mortgage. 22 L.R.A. (N.S.) 572.

Reformation of mortgage after foreclosure. 39 L.R.A. (N.S.) 90.

belief. 30 L.R.A. (N.S.) 779.

MORTGAGE, VII. a—cont'd

Removal, for separable controversy, of proceeding to foreclose. 5 L.R.A.(N.S.)

#### § 62. Effect of foreclosure.

Pendency of foreclosure suit in both state and Federal courts sitting in same state. 42 L.R.A. 451.

Effect of foreclosure of one of several simultaneous mortgages upon the others. 39 L.R.A.(N.S.) 524.

Effect of foreclosure by taking possession before all of mortgage debt due. L.R.A. (N.S.) 343.

Effect of foreclosure of mortgage on leased premises to transfer reversion. L.R.A. 1915C, 204.

## § 63. Proceedings to enforce mortgage for part of debt.

Right to enforce. 37 L.R.A. 737.

Parties. 37 L.R.A. 741. Decree. 37 L.R.A. 743.

Stay of proceedings. 37 L.R.A. 749. Sale. 37 L.R.A. 751.

Redemption: right to. 37 L.R.A. 752.

As affected by prior proceedings. 37 L.R.A.

#### § 64. Waiver of junior lien by failure to assert it, in foreclosure proceedines.

Generally. 68 L.R.A. 323. Splitting claims. 68 L.R.A. 323. Where default was taken. 68 L.R.A. 325. Application of the proceeds of sale. L.R.A. 330.

#### b. On default of interest, instalment, taxes, etc.; acceleration.

## § 65. Generally.

When mortgagor is excused from noncompliance with his undertaking to pay insurance premiums or other obligations to third party. L.R.A.1917D, 555.

Right to enforce mortgage for interest in default. 37 L.R.A. 737.

Right of assignee of mortgage to enforce option to declare entire mortgage due for default of payments. 15 L.R.A. (N.S.) 590.

Right to prevent foreclosure of mortgage on real property for default in payment of interest or taxes by payment of same before commencement of action. 22 L.R.A.(N.S.) 360.

Effect of acceleration provision in mortgage to start the statute of limitations running. 12 L.R.A.(N.S.) 1190; 22 L.R.A. (N.S.) 1110; 51 L.R.A.(N.S.) 151; L.R.A.1918F, 169.

Place and requisites of tender of interest which will prevent acceleration of maturity of mortgage under interest clause. 36 L.R.A.(N.S.) 308.

Acceleration provision as affecting negotiability of notes secured. 35 L.R.A.(N.S.)

390; L.R.A.1915B, 473. Begin with this book on every law question.

MORTGAGE, VII. b—cont'd Provision in bond or note that interest when due and unpaid shall be added to the principal, as affecting right to foreclose mortgage securing the same for default in interest. 42 L.R.A. (N.S.)

Right of mortgagor or owner of equity of redemption to contest validity of tax paid by mortgagee. L.R.A.1915D, 432. Differences between bond or note and mort-

gage, affecting muturity. 46 L.R.A. (N.S.) 475.

#### c. Who may enforce.

#### 66. Generally.

Who is real party in interest by whom foreclosure action must be brought. L.R.A. 618.

Effect of foreclosure by unauthorized foreign corporation. 24 L.R.A. 320.

Right of assignee of mortgage to enforce op-tion to declare entire mortgage due for default of payments. 15 L.R.A.(N. S.) 590.

#### § 67. Junior encumbrancer.

Suit by junior encumbrancer. 334.\* 1 L.R.A.

Right of holder of junior mortgage to foreclose. 5 L.R.A. 291.

#### 68. Bondholders.

Right of bondholder to sue for enforcement of trust deed. 20 L.R.A. 535.

Foreclosure suit by bondholders in both state and Federal courts sitting in same state. 42 L.R.A. 449.

#### d. Parties.

§ 69. Generally. Effect of failure to make one a party, see Parties, § 34.

Parties to proceedings to foreclose mortgage for part of debt. 37 L.R.A. 741.

affected by prior proceedings in which the parties were different. 37 L.R.A. 752

Foreclosure as against persons not in being. 8 L.R.A.(N.S.) 70.

Judgment against trustee in mortgage as affecting beneficiary who was not a party. 35 L.R.A.(N.S.) 196.

Effect of foreclosure of one of several simultaneous mortgages without making other mortgagees parties to the suit. 39 L.R.A.(N.S.) 524.

## § 70. Junior encumbrancers.

Necessity of making junior encumbrancer a party to a suit for foreclosure of a senior mortgage. 36 L.R.A.(N.S.) 426.

### § 71. Trustee.

Trustee as necessary parties in action by bondholders. 20 L.R.A. 538; 16 L.R.A. (N.S.) 1017.

MORTGAGE, VII.-cont'd § 72. Bondholders.

Bondholders as necessary parties in suit by trustees. 16 L.R.A.(N.S.) 1008.

#### e. Defenses.

§ 73. Generally.

Effect of bar of other remedy to bar foreclosure suit, see LIMITATION OF AC-TIONS, § 14.

When statute of limitations runs on action to foreclose mortgage, see LIMITATION of Actions, § 28.

When action to foreclose mortgage is barred, see LIMITATION OF ACTIONS, § 50.

Mortgage contemporaneous with note as defense thereto. 43 L.R.A. 472.

Right to open default in foreclosure proceedings as affected by character of defense. L.R.A.1916F, 854. Existence of state of war as defense to

enforcement of mortgage against alien enemy. 5 B. R. C. 597.

#### f. Decree.

§ 74. Generally.

Decree for deficiency, see infra, § 84.

In proceedings to enforce mortgage for part of debt. 37 L.R.A. 743.

Judgment against trustee in mortgage as affecting beneficiary who was not a party. 35 L.R.A.(N.S.) 196.

Right of third person to have judgment of foreclosure set aside. 54 L.R.A. 763.

Collateral attack for fraud not affecting jurisdiction on judgment of foreclosure. 36 L.R.A.(N.S.) 985.

Right to accept favorable part of decree and appeal from the rest. 29 L.R.A. (N.S.) 12.

Right to open default judgment as affected by character of defense. L.R.A. 1916F, 854.

## g. Power of sale; strict foreclosure.

75. Generally.

Right to strict foreclosure of a mortgage. 20 L.R.A. 370.

Effect of foreclosure by taking possession before all of mortgage debt is due. 3 L.R.A. (N.S.) 343.

May a power of sale be implied where a mortgage gives no express power. 3 B. R. C. 925.

76. Revocation of power of sale. Does power of sale in a mortgage or deed of trust confer an interest which prevents its revocation by death of mortgagor. 70 L.R.A. 135.

§ 77. Sale under power.

As to rights of purchasers at sale under power, see infra, § 80.

Injunction against, see Injunction, § 44.

Sale under power contained in mortgage on property of alien enemy. L.R.A.1918B, ำฉล

·Consult also L.R.A. Digests of Cases.

MORTGAGE, VII. g-cont'd Right of mortgagee to exercise power of sale during pendency of foreclosure, or of action for debt secured. 2 B. R. C. 841.

Effect of bar of other remedies to prevent a sale of property under a power in a 13 L.R.A. trust deed or mortgage. (N.S.) 1210.

Right to enjoin sale under power in mort-gage against which the statute of limitations has run. 6 L.R.A. (N.S.) 510.

Reformation of mortgage after foreclosure under power of sale. 39 L.R.A. (N.S.) 93.

Dower in land sold under power of sale in mortgage given for purchase money. 52 L.R.A. (N.S.) 548, 550.

Amount of property to be sold on foreclosure under power of sale. L.R.A.1917B,

#### h. Sale.

## 1. In general.

78. Generally.

Under power in mortgage, see supra, § 77. Proceeds of, see infra, § 83. Injunction against sale, see Injunction, §§ 43, 44.

In proceedings to enforce mortgage for part of debt. 37 L.R.A. 751.

Effect of sale under mortgage on wife's right of dower. 18 L.R.A. 76.

Enjoining sale under trust deed pending bankruptcy. 2 L.R.A. (N.S.) 560.

Right of mortgagor to engage in competing business after sale of business and good will on foreclosure. 19 L.R.A.(N.S.) **765.** 

Right to proceeds of insurance where loss occurs after foreclosure sale but during the period of redemption. 6 L.R.A. (N.S., 448.

Necessity for change of possession to uphold sale under deed of trust as against creditors of former owner. 36 L.R.A.

(N.S.) 1021. What fund is chargeable with costs and expenses of sale when encumbered property is sold in bankruptcy free of liens. 29 L.R.A.(N.S.) 737.

First and last days in computing time for sales under. 49 L.R.A. 235.

Necessity of pleading statute of frauds in action to set aside sale under mortgage. 49 L.R.A.(N.S.) 37.

79. En masse or in parcels.

Effect of sale en masse by sheriff directed to sell parcels of land, separately mortgaged, separately. 15 L.R.A. (N.S.)

Amount of property to be sold under mortgage foreclosure. L.R.A.1917B, 517.

§ 79a. Right to rents and income. Right to rents or income after foreclosure decree and before purchaser's title is perfected. 1 L.R.A. (N.S.) 1079.

MORTGAGE, VII. h, 1-cont'd

Power of equity, in jurisdiction where mortgage does not convey the title, to impound rents and profits of mortgaged property pending foreclosure. 7 L.R.A. (N.S.) 1001.

## 2. Purchasers and their rights, title, liability, etc.

## (a) In general,

80. Generally.

Purchase by one cotenant under foreclosure of mortgage given by one through whom the cotenants derived title. 19 L.R.A.(N.S.) 591.

Right of purchaser to relief in equity against collection of bond and mort-

gage. 5 L.R.A. 46.

Right of purchaser at mortgage foreclosure sale to question the validity of the mortgage. L.R.A.1917C, 839.

Rights of purchaser at foreclosure sale with respect to fixtures. 7 L.R.A. 278.

Right of one purchasing equity of redemption to cut out second mortgage by purchasing under foreclosure of first. 8 L.R.A.(N.S.) 491. Right of purchaser at foreclosure sale to

recover amount paid to relieve land from tax from prior owner who should have paid the same. 22 L.R.A. (N.S.) 562.

Remedy of purchaser at sale under senior mortgage to which a junior mortgagee was not made a party. 36 L.R.A. (N.S.) 437.

Does a water right used in connection with land mortgaged prior to its acquirement pass on foreclosure. 15 L.R.A. (N.S.) 359.

Rights of seller of chattel retaining title thereto or a lien thereon as against purchaser on foreclosure of an existing mortgage on the realty to which the chattel was affixed by the owner. L.R.A.(N.S.) 123.

Liability of purchaser at mortgage sale of property charged with the payment of legacy. 30 L.R.A. (N.S.) 820.

Purchaser under foreclosure of junior mortgage as necessary party to suit for foreclosure of senior mortgage. 36 L.R.A.(N.S.) 434.

Subsequent completion of title acquired at foreclosure as inuring to benefit of grantee in quitclaim. 35 L.R.A.(N.S.) Ĭ190.

Estoppel as against purchaser at foreclosure sale to assert title or interest in property by concealing the same or representing it to be in another. 48 L.R.A. (N.S.) 753, 760.

Usury in mortgage as affecting rights of purchaser under foreclosure. 1915D, 349.

Liability to purchaser, of mortgagee who Begin with this book on every law question.

MORTGAGE, VII. h, 2 (a)—cont'd Right of mortgagor, or those claiming under him, to set up outstanding title acquired after foreclosure as against purchaser. L.R.A.1918B, 769.

Right of plaintiff in foreclosure suit in which a decree of sale was rendered to assert, as against a purchaser there-under, a title or interest not litigated in the suit. L.R.A.1917C, 888.

#### § 81. Mortgagee as purchaser. Under void sale, see infra, § 82.

Right of mortgagor, or those claiming under him, to set up outstanding title acquired after foreclosure, against mortgagee purchasing at foreclosure sale. L.R.A.1918B, 769.

Right of mortgagee who purchases on fore-closure to purchase at a tax sale for taxes accruing prior to foreclosure. L.R.A.1917D, 523.

#### (b) Under void sale.

§ 82. Generally.

Right of one in possession under invalid foreclosure sale to acquire a tax title. 38 L.R.A.(N.S.) 333.

Right of one in possession claiming under void foreclosure sale. 40 L.R.A. (N.S.) 839.

#### . i. Surplus; proceeds of sale.

§ 83. Generally.

Application of proceeds, see PAYMENT, § 21.

Does homestead exemption attach to the surplus upon foreclosure of a lien paramount to the homestead right. 18 L.R.A.(N.S.) 491.

Is surplus realized upon foreclosure sale of real estate after mortgagor's death to be deemed real or personal property. 19 L.R.A. (N.S.) 723.

Right of junior mortgagee as to surplus upon a foreclosure sale under a senior mortgage, in a proceeding to which he was not a party. 20 L.R.A.(N.S.) 47.

Effect of application of proceeds of sale under deed of trust or mortgage.

under deed of trust or mortgage upon running of limitations against the indebtedness secured. 14 L.R.A.(N.S.)

Right of mortgagor or owner of equity of redemption to maintain action for money had and received for surplus received by mortgagee on sale of property.

44 L.R.A. (N.S.) 1041.

Right of holders of concurrent mortgages or debentures ranking pari passu to have interest equalized before distributing proceeds of security. 7 B. R. C. 91.

## j. Deficiency.

§ 84. Generally.

In proceedings to enforce mortgage for part of debt. 37 L.R.A. 748.

sells under a power in the mort Deficiency judgment against nonresident gage. 49 L.R.A. (N.S.) 513. served constructively. 50 L.R.A. 583.

MORTGAGE, VII. j—cont'd Right of mortgagee who secures a deficiency decree to redeem from the sale. 35 L.R.A. (N.S.) 413.

Effect of statutory provision abolishing deficiency judgments for mortgage debts. 45 L.Ř.Ă.(N.S.) 247.

#### VIII. Redemption.

85. Generally.

Liability of purchaser of equity of redemption, see supra, § 43.

Improvements on redemption, see IMPROVE-MENTS, § 15.

From tax sale, see TAXES, §§ 82-85.

Compensation for right of redemption where property is taken in condemnation proceedings. L.R.A.1917F, 801.

Validity and character of agreements contemporaneous with mortgage, constituting clogs on equity of redemption. 6 B. R. C. 431.

In proceedings to enforce mortgage for part of debt. 37 L.R.A. 752, 756.

Impairment of obligation of contract by change of law as to. 31 L.R.A. 721.

Jurisdiction of suit to redeem land in another state or country. 69 L.R.A. 685.

Right of one who advances money to redeem from mortgage, to be subrogated to lien. 23 L.R.A.(N.S.) 190.

Right of owner of equity of redemption to maintain action for money had and received for surplus received by mortgagee on sale of property. 44 L.R.A.(N.S.) 1041.

Right of owner of equity of redemption to contest validity of tax paid by mort-gagee. L.R.A.1915D, 432.

Revival of discharged mortgage in favor of assignee of equity of redemption who pays it as against junior lien. 47 L.R.A. (N.S.) 1190.

Inchoate dower rights of wife of mortgage in equity of redemption under purchase money mortgage. 52 L.R.A.(N.S.) 547.

Usury in mortgage as affecting rights of foreclosure. redemptioners under L.R.A.1915D, 349.

86. Right of.

In proceedings to enforce mortgage for part of debt. 37 L.R.A. 752.

Effect of reformation of mortgage after foreclosure on right to redeem. 39 L.R.A. (N.S.) 94.

Right to redeem as affected by deed delivered in escrow as further security for debt. 2 L.R.A. (N.S.) 628; L.R.A. 1915B, 492.

Parol evidence that grantor in written conveyance absolute in form but intended as a mortgage has relinquished his right of redemption to the grantee. L.R.A.1916B, 581.

87. Who may redeem.

Right of junior encumbrancer to redeem. Insurable interest in life of. 54 L.R.A. 9 L.R.A. 677.\* 232.

Consult also L.R.A. Digests of Cases.

MORTGAGE, VIII.-cont'd

§ 88. — mortgagor's wife or widow. Right of wife during husband's lifetime to redeem from mortgage on his real property. 3 L.R.A. (N.S.) 1068.

Widow's right to redeem from mortgage because of her dower interest. 4 L.R.A. (N.S.) 1039.

🖁 89. — mortgagee or purchaser.

May a purchaser or mortgagee from the original owner, after a sale under a prior mortgage and during the redemption period, be a redemptioner. L.R.A.(N.S.) 508.

Right of mortgagee who secures a deficiency degree to redeem from the sale 35

L.R.A.(N.S.) 413,

90. Time.

Extension of time for, when last day falls on Sunday. 14 L.R.A. 122.

Power of court on equitable grounds to permit redemption from mortgage foreclosure sale after expiration of statutory period of exemption. L.R.A.1917E, 637.

#### MORTGAGEE IN POSSESSION.

See MORTGAGE, § 31.

#### MORTMAIN ACT.

Law governing validity of legacy under. 2 L.R.A. (N.S.) 440.

#### MORTUARY TABLES.

See MORTALITY TABLES.

## MOTHER.

Father's right to appoint guardian for child as against mother, see GUARDIAN AND WARD, § 3.

See also PARENT AND CHILD.

Inheritance by illegitimate from. 23 L.R.A. 754.

Father as sole next of kin to unmarried child to exclusion of mother. 1 B. R. C.

Mother's right to appointment as guardian of minor child. 33 L.R.A. (N.S.) 870.
Right to recover for injury to minor servant employed without mother's consent. 30 L.R.A.(N.S.) 314.

#### MOTHER-IN-LAW.

MOTHER-IN-LAW-cont'd

As member of family of insured. 3 L.R.A. (N.S.) 336.

Implied agreement to pay for services rendered to. 11 L.R.A. (N.S.) 886.

## MOTION PICTURES.

See Moving Pictures.

#### MOTIONS AND ORDERS.

1. Generally.

Motion in arrest of judgment, see Judg-

MENT, § 19.

Motion in arrest in criminal prosecution, see CRIMINAL LAW, § 58.

First and last days in computing time on. 49 L.R.A. 222.

Injunction against judgment for error and irregularity in rulings on. 30 L.R.A. 703.

Set-off on motion against judgment in hands of assignee. 23 L.R.A. 339. Pendency of motion as extending time to plead. 47 L.R.A. (N.S.) 853.

§ 2. When proper remedy.

Questioning validity of attachment by motion in court of law. 35 L.R.A. 771. Remedy by motion to obtain discharge of accused for delay of prosecution. 56

L.R.A. 544. Correction of record on appeal by motion. 31 L.R.A. (N.S.) 211.

## § 3. Orders.

What entry or record is necessary to complete order. 28 L.R.A. 621.

Effect of omission of internal revenue stamp from order. 48 L.R.A. 313.

Character and kinds of orders within rule that orders cannot be collaterally attacked for fraud. 36 L.R.A.(N.S.) 980.

Right to appeal from void order. 33 L.R.A. (N.S.) 733.

Right to accept favorable part of order and appeal from remainder. 29 L.R.A. (N.S.) 1.

Order of court requiring the doing or omission of an act as defense to a criminal L.R.A.1916B, 767. prosecution.

Liability of trustee for losses on invest-ments made under order of court. 44 L.R.A.(N.S.) 940.

Effect of failure to obtain order of court on liability of trustee for losses on investments. 44 L.R.A.(N.S.) 943.

#### 4. - disobedience of.

Disobedience of, as a contempt, see Con-TEMPT, §§ 8, 8a.

Power to punish disobedience to orders in case by striking out pleadings. 4 L.R.A. (N.S.) 1185; 27 L.R.A.(N.S.) 1062.

#### MOTIONS IN ARREST.

In criminal prosecution, see CRIMINAL LAW, § 58. In civil action, see JUDGMENT, § 19.

#### MOTIVE.

§ 1. Generally.

Presumption and burden of proof as to, see EVIDENCE, § 45.

Relevancy of evidence as to, see EVIDENCE, § 258.

Purpose, see Purpose.
Question for jury as to, see Trial, § 34. See also MALICE.

For obscene or indecent publication. 24 L.R.A. 111.

Of teacher in punishing pupil. 65 L.R.A. 894; 1 B. R. C. 723.

Of prosecutor in obtaining advice of counsel. 18 L.R.A. (N.S.) 62.

Necessity for bad or fraudulent motive to justify disbarment of an attorney. 18 L.R.A. 401.

"Children" as word of limitation, when indicative of motive. 12 L.R.A. (N.S.) 310.

Provision in conveyance or devise to religious or charitable organization directing particular purposes of grant as indicating motive of same: (N.S.) 1122. 7 L.R.A.

Basis of distinction between absolute and qualified rights as affecting right to inquire into motive. 29 L.R.A. (N.S.) 869.

Good motive as affecting criminal charge involving obscene, indecent or profane language or literature. L.R.A.1916B, 1121.

Power of court to inquire into the motives of the governor in exercising the pardoning power. 52 L.R.A. (N.S.) 113.

#### 2. Effect of.

Effect of bad motive to make actionable what would not otherwise be so, see MALICE, § 4.

Assault as affected by beneficent purpose. 45 L.R.A.(N.S.) 455.

Beneficent purpose as excuse or justification of combination to raise price of com-

modity. 51 L.R.A.(N.S.) 244.

As affecting personal liability of judicial officer. 14 L.R.A. 145.

As affecting right to recover statutory penalty from carrier. 12 L.R.A.(N.S.) **497**.

As affecting justification in libel or slander. 21 L.R.A. 503.

Stockholder's right to inspect corporate books as affected by. 20 L.R.A. (N.S.)

Fact that servant's motive for continuing work was fear of dismissal as affecting right to recover for injury. 47 L.R.A. 187.

MOTIVE—cont'd Effect of, on right to injunctive relief to compel or prevent the erection, maintenance, or removal of boundary fence. 7 L.R.A. (N.S.) 58.

Effect of personal motive on master's liability for injury done by servant to third person in use of dangerous agency placed in his custody. 10 L.R.A.(N.S.) 401.

Liability of labor union or its members to persons with whose employment it has interfered as affected by motive. B. R. C. 515.

Lawfulness of boycott by other than labor union where motive is malicious. 33 L.R.A. (N.S.) 1038.

Right of court to decline jurisdiction of suit because of plaintiff's motive or ulterior purpose. 6 B. R. C. 338.

#### MOTIVE POWER.

Of railroad train, see RAILBOADS, § 5. Of street railway, see STREET RAILWAYS, § 7.

#### MOTOR CYCLE.

As to automobiles, see AUTOMOBILES. As to bicycles, see BICYCLES.

Regulations affecting motor cycles. L.R.A. (N.S.) 1068.

Motor cycles as a motor vehicle within statutes regulating the latter and other similar vehicles. 21 L.R.A. (N.S.) 41.

Admissibility, in prosecution for driving at dangerous speed, of evidence of traffic reasonably to be expected upon highway. 2 B. R. C. 201.

Responsibility of owner of motor cycle for its negligent operation by another. L.R.A.1918C, 656.

#### MOTORMAN.

In general, see STREET RAILWAYS, IV. b. As fellow servants. 52 L.R.A. (N.S.) 1094.

## MOTOR VEHICLES.

See AUTOMOBILES; MOTOR CYCLE. Private action for violation of statute regulating use of. L.R.A.1915E, 540.

#### MOUNTAINS.

ipal corporation. L.R.A.1918B, 1091. Consult also L.R.A. Digests of Cases.

#### MOURNING APPAREL.

Allowance against deceased's estate for. 33 L.R.A. 665; 28 L.R.A. (N.S.) 572.

#### MOUTH.

Commission of sodomy by penetration of. 27 L.R.A. (N.S.) 478; 45 L.R.A. (N.S.)

#### MOVABLE PROPERTY.

Location of, as affecting insurance on. 26 L.R.A. 237.

#### MOVING BUILDINGS.

See Buildings, § 13.

#### MOVING PICTURE FILMS.

In general, see Moving Pictures.

Keeping of, on insured premises. L.R.A. 1917C, 278.

#### MOVING PICTURES.

License of moving picture shows, see LICENSE, § 34a.

Right to copyright motion picture film, and liability for infringement of such copyright. 6 B. R. C. 734.

Use of school property for purpose of moving picture shows. 50 L.R.A. (N.S.) 1182.

Right to exhibit on Sunday. 30 (N.S.) 465; L.R.A.1918B, 361.

As proper subject for exercise of police power. L.R.A.1917E, 318.

Regulation affecting moving pictures. 40 L.R.A. (N.S.) 193.

License. 40 L.R.A.(N.S.) 193. Place of exhibition. 40 L.R.A.(N.S.) 194; L.R.A.1916D, 99.

Character of pictures. (N.S.) 194. 40 L.R.A.

Censorship of films. 40 L.R.A. (N.S.) 194; L.R.A.1916C, 227; L.R.A. 1918A, 231.

Revocation of license. 40 L.R.A. (N.S.) 194.

Covenants with respect to "theater," "drama," etc., as including motion pictures. L.R.A.1918F, 393.

#### MOVING TRAIN.

Organization of mountain lands into munic | Negligence in getting on or off, see Car-RIERS, §§ 81, 82.

## MOVING VAN.

Liability of master for injury to person riding with servant by latter's invitation or permission. L.R.A.1917F, 425.

#### MUD.

As defect in dock or wharf. 61 L.R.A. 948.

#### MULATTO.

Who is, within statute not specifically defining the same. 31 L.R.A. (N.S.) 180; L.R.A.1915A, 828.

Stating that a white person is a mulatto as actionable. 36 L.R.A.(N.S.) 974.

#### MULE.

Servant's assumption of risk or contributory negligence in using unsafe mule. 18 L.R.A. (N.S.) 695.

#### MULTIFARIOUSNESS.

See ACTION OR SUIT, VI.

#### MULTIPLE RESIDENCE STRUC-TURES.

As violation of restrictive covenants. 4 L.R.A.(N.S.) 726; L.R.A.1918C, 873.

#### MULTIPLICITY OF ACTIONS.

As ground for equitable jurisdiction, see EQUITY, § 4; INJUNCTION, § 4.

For causing death. 34 L.R.A. 796.

#### MUNICIPAL BONDS.

See Bonds, III.

#### MUNICIPAL CORPORATIONS.

- I. In general, §§ 1-2a.
- II. Legislative control over, §§ 3-5.
- III. Organization; charter; form of government; initiative and referendum, §§ 6-9.
- IV. Territory; boundaries; annexation; division, §§ 10-13.

Begin with this book on every law question.

## MUNICIPAL CORPORATIONS-cont'd V. Powers, duties, and liabilities, \$9 14-111.

- a. Powers generally, §§ 14-17. b. Delegation of power, \$ 18.
- c. Legislative functions; ordinances; by-laws, \$\$ 19-52.
  - 1. In general, § 19.
  - 2. Council meetings; enactment and repeal of ordinances, §§ 20-22.
  - 3. Construction and effect of ordinances generally, **§** 23.
  - 4. Validity of ordinances, extent of power, \$\$ 24-50.
    - (a) In general, §\$ 24-26.
    - (b) As to streets, waters, drains, and sewers, \$\$ 27-20.
    - (c) As to public service, §\$ 30-32.
    - (d) As to health and
    - safety, § 33.
      (e) As to nuisances, \$\$ 34-41.
    - (f) Regulation business, §§ 42-
  - 5. Violation and enforcement of ordinance, \$ 51.
  - 6. By-laws, § 52.
- d. Contracts generally, §\$ 53-60.
  - 1. In general, §\$ 53-57.
  - 2. Implied contracts, §§ 58-60.
- e. Borrowing; indebtedness; expenditures, \$\$ 61-67.

  - 1. In general, §§ 61-64.
    2. Limitation of indebtedness, §§ 65-67.
- f. Property rights; municipal plants, §§ 68-71.
- g. Liability for damages, §§ 72-101.
  - 1. In general, §§ 72-80.
  - 2. For acts of officers or agents, §§ 81-84.
  - 3. For acts of licensees or independent contractors, § 85.
  - 4. As to drains, sewers, and waters generally, \$\$ 86-94.
  - 5. As to streets, bridges, and parks, \$\$ 95-97.
  - 6. As to buildings; prison, **\$\$ 98, 99.**
  - 7. Failure to enforce ordinance, § 100.
  - 8. Enforcement of ordinance, \$ 101. roid
- gg. Criminal liability, \$ 101a.

MUNICIPAL CORPORATIONS, V.—cont'd MUNICIPAL CORPORATIONS, I.—cont'd h. Claims against or in favor Private action against municipality, for of, \$\$ 102-108.

1. Claims against, §§ 102-107.

2. Claims in favor of, \$ 108.

i. Taxation, §§ 109-111. VI. Officers and employees, §§ 112-122.

#### I. In general.

#### § 1. Generally.

As to chamber of commerce, see CHAMBER OF COMMERCE.

Conditions to consent by, see CONDITIONS,

§ 4. Constitutionality of statutes as to, CONSTITUTIONAL LAW, §§ 124, 125.

Estoppel of, see Estoppel, I. Running of limitations against, see Limi-TATION OF ACTIONS, § 17.

Necessary parties in action against, see PARTIES, § 32.

Local improvement by, see Public IMPROVE-

Public funds of, see Public Money.

What constitutes a village. 35 L.R.A. 396. What objects or purposes may be combined in a single question submitted to voters of a municipality. 26 L.R.A. (N.S.) 665.

Right of subcontractor, materialman, or laborer to maintain action on contractor's bond running to. 27 L.R.A.(N.S.)

Duty of carrier to accept freight originating and terminating within city limits. 33 L.R.A.(N.S.) 443.

Violation by private citizen of decree against a municipality as contempt. 25 L.R.A.(N.S.) 226.

Use of public funds to pay expenses in-curred by citizen for benefit of municipality. L.R.A.1916D, 94.

Giving of free service or reduced rates by public service corporation to municipality as an unlawful discrimination. L.R.A.1918D, 907.

#### § 2. Right of taxpayer to inspect book of municipality.

Generally. 64 L.R.A. 418.

What is a sufficient interest. 64 L.R.A. 418. Necessity of a sufficient purpose. 64 L.R.A. 419.

The right under statutes. 64 L.R.A. 424. Effect of statutory authority to inspect, vested in designated board. 64 L.R.A.

Regulations as to manner of inspection. 64 L.R.A. 426.

## § 2a. Actions by, or against. Injunction against, see INJUNCTION, II. 1. Injunction by municipality against nuisance, see Injunction, § 29.

Taxpayer as real party in interest by whom rction must be brought. L.R.A. 619.

Consult also L.R.A. Digests of Cases.

Private action against municipality, for violation of statute not expressly conferring right of action. 9 L.R.A. (N.S.) 383.

State as proper party to maintain a bill to abate or enjoin a public nuisance in a city street. 19 L.R.A.(N.S.) 1173.

Venue of action against municipal corpora-

tion. 25 L.R.A.(N.S.) 711; L.R.A. 1915F, 1029.

Applicability of statute of limitations to actions by. L.R.A.1916E, 97.

Liability of municipal corporation to suit outside of state in which it is situated. L.R.A.1915F, 1025.

## II. Legislative control over.

## 3. Generally.

Authority of legislature to remove from trusteeship. 13 L.R.A. 217;\* 16 L.R.A.

Power to annex territory to municipality. 27 L.R.A. 737.

Power of legislature to require municipality to pension employees. 34 L.R.A. (N.S.) 608.
Power of legislature to compel payment

by municipal corporations of nonlegal demands. L.R.A.1915D, 927.

Statute requiring municipality to pay claim

against it as an invasion of powers of judiciary. L.R.A.1917E, 827.

Validity of limitation of hours of labor on public work. 8 L.R.A.(N.S.) 131; 24 L.R.A.(N.S.) 201; 34 L.R.A.(N.S.)

Power of legislature to authorize municipality to build, purchase, or operate railroad or street railway as affected by restrictions on power to aid private enterprises. 28 L.R.A. (N.S.) 412.

Power of legislature to compel municipality to establish water or lighting plant, or to purchase existing plant. 44 L.R.A. (N.S.) 1189.

## § 4. Classification of cities. See STATUTES.

## § 5. Local self-government. See Constitutional Law, § 20a.

III. Organization; charter; form of government; initiative and referendum.

### § 6. Organization.

Creation or incorporation of town, see Towns, § 2.

Character of territory which may be organized into municipal corporation. L.R.A. 1918B, 1086.

Physical characteristics necessary to municipal organization. 25 L.R.A. 755.

Who may maintain quo warranto to test

validity of organization of municipal corporation or political subdivision of state. 21 L.R.A.(N.S.) 685. 7. Charter.

Power of legislature to delegate to a municipality authority to form or amend its charter. 43 L.R.A.(N.S.) 339.

Combining in single question to voters of municipality question of charter amendments. 26 L.R.A.(N.S.) 673.

Estoppel of state because of laches to attack municipal charter. 13 L.R.A. (N.S.) 533.

§ 8. Commission form of government. Constitutionality of. 35 L.R.A.(N.S.) 802; 41 L.R.A.(N.S.) 111; 51 L.R.A.(N.S.) 632; L.R.A.1917A, 1260.

§ 9. Initiative and referendum. Initiative and referendum. 11 L.R.A. (N.S.)
1092; 33 L.R.A. (N.S.) 969; 50 L.R.A.
(N.S.) 196; L.R.A.1917B, 15.

## IV. Territory; boundaries; annexation; division.

§ 10. Boundaries.

Boundary of, on navigable waters. L.R.A. 520; 47 L.R.A.(N.S.) 1161.

Boundary of, on tidal waters. 45 L.R.A. 243.

Rule for determining the indebtedness within the meaning of debt limit provisions, where boundaries of different political units are wholly or partly coincident. 37 L.R.A.(N.S.) 1108; L.R.A.1917E, 468.

§ 11. Annexation; extension. Constitutionality of statutes as to, see CONSTITUTIONAL LAW, § 124.

Annexation or division of territory of town, see Town, § 3.

Power of municipality to use public funds to promote or defeat legislation as to. L.R.A.1917B, 358.

Power of legislature to annex territory to municipalities. 27 L.R.A. 737.

Incorporation of territory into municipality as affecting existing contract of public service corporation to supply a commodity of service in that territory. L.R.A.1916A, 1071.

Incorporation of territory into municipality as affecting prior rights as to use of highway. 47 L.R.A.(N.S.) 607.

Extension of city limits to include toll road as taking of property for which compensation must be made. 17 L.R.A. (N.S.) 1071.

Liability of annexed territory to pay proportionate share of existing debts. 27 L.R.A.(N.S.) 1147.

Municipal liability for defects or obstructions in streets in annexed territory. 20 L.R.A.(N.S.) 575.

Municipal taxation of rural land within corporate limits. 34 L.R.A. 193. Begin with this book on every law question.

MUNICIPAL CORPORATIONS, III.—cont'd | MUNICIPAL CORPORATIONS, IV.—cont'd § 12. — discrimination in.

Discrimination between residents or property owners in territory annexed, as to right to defend against annexation of territory to municipality. 17 L.R.A. (N.S.) 421.

Who may raise objection that statute annexing land to cities contains unconstitutional discrimination. 32 L.R.A. (N.S.) 957.

13. Division.

Division of territory of town, see Towns, § 3.

Power of municipality to use public funds to promote or defeat legislation as to. L.R.A.1917B, 358.

Division of territory of municipality, town, or county as affecting its assets and liabilities, in absence of statute on the point. 39 L.R.A.(N.S.) 285.

## V. Powers, duties, and liabilities.

#### a. Powers generally.

§ 14. Generally.

Power to exempt property from taxation, see infra, § 110.

Power to regulate carriers, see Carriers, V. Power of eminent domain, see EMINENT DOMAIN.

Power to compel change of grade of railway in street, see HICHWAYS, § 31.
Injunction by municipality, see INJUNC-

TION, § 29.

Power to make lease, see LANDLORD AND TENANT, § 11.

For what purpose public money may be used by, see Public Money, § 4. Of town, see Towns, §§ 4, 5.

Federal courts following state decisions, as to powers. 40 L.R.A.(N.S.) 442.

Estoppel as to assertion of governmental power. 16 L.R.A. 178.

Right to fish. 60 L.R.A. 514.

Right to build and regulate wharf. L.R.A. 645.

Rights of, as to wharfage charges. L.R.A. 205.

Right of municipality to collect tolls for use of bridge or highway. 42 L.R.A. (N.S.) 836.

Power to employ attorney. L.R.A.1917D,

On contingent fee. L.R.A.1917D, 263. Right, when entitled to services of official attorney, to employ other attorney in civil matters. 1917D, 251. L.R.A.

Power to employ private detectives. L.R.A.(N.S.) 391.

Power to remove officer in absence of statutory authority. 9 L.R.A.(N.S.) 572; 39 L.R.A.(N.S.) 519.

Right of, to recover back money paid out in violation of the Constitution. 13

L.R.A. (N.S.) 157.

MUNICIPAL CORPORATIONS, V. a-1 MUNICIPAL CORPORATIONS, V. c, 1cont'd

Power to control private charity. L.R.A. 1916D, 912.

Power of municipality to make binding contract as to rates of public service corporation. L.R.A.1915C, 264.

Power of municipality to assume part or all of burden of adapting street or bridges for use of railroads or street railways. 50 L.R.A.(N.S.) 143.

Police power of municipal corporation over school building within its limits. 47 L.R.A.(N.S.) 892.

§ 15. Power to administer trust.

As trustee for charitable bequest. 14

L.R.A. 69; 14 L.R.A. (N.S.) 112.

Validity of bequest to. 37 L.R.A. (N.S.)

§ 16. Power to engage in private enterprise.

Right of municipal corporation to engage in enterprise generally regarded as of a private character. 31 L.R.A.(N.S.) 117; 51 L.R.A.(N.S.) 1143.

17. Power to discriminate.

Monopoly or discrimination in contract, see infra, § 54.

Discrimination by municipality between its own residents and other residents of the same state. 16 L.R.A. 49.

Power of municipality to establish exclusive hack stands. 33 L.R.A.(N.S.)

Effect of discrimination by municipality in designating standing places for cabs and other similar vehicles. L.R.A. 1915F, 726.

Power of municipality operating a public utility to make a special rate to a particular company or person. L.R.A. 1916D, 996.

## b. Delegation of power.

18. Generally.

To municipality, see Constitutional Law, § 15.

Delegation of municipal power as to license, franchise, and buildings. L.R.A. 721.

Delegation by city council of power as to drainage. 61 L.R.A. 653.

Delegation by city council of power to determine width, grade, material, etc., of street, sidewalk, or sewer improvements. 20 L.R.A. 653.

Right to delegate power to impose license fee for use of streets by vehicles. 36 L.R.A. 416.

#### c. Legislative functions; ordinances; by-laws.

#### In general.

🖁 19. Generally.

Delegation of power by council, see supra, § 18.

Consult also L.R.A. Digests of Cases.

cont'd

Jurisdiction with respect to ordinances, see COURTS, § 6.

Judicial notice of ordinances, see EVIDENCE, § 4.

Injunction as to ordinances, see Injunc-TION, § 62.

License by, see LICENSE, II.

Duties imposed on railroad company by ordinance, see RAILBOADS, § 50.

Violation of ordinance by street railway company, see STREET RAILWAYS, § 11.

Violation of municipal ordinance as a public offense or crime. 48 L.R.A.(N.S.) 156.

Denial on information and belief of acts of city council. 30 L.R.A. (N.S.) 781.

#### 2. Council meeting; enactment and repeal of ordinances.

§ 20. Generally.

Right of public to attend municipal council meetings. 1 B. R. C. 296.

Vote of common council or similar body as affected by personal interest of members. 18 L.R.A. 367.

Presumption as to time of alteration in city council minute book. 39 L.R.A.(N.S.) 114.

#### § 21. Enactment.

As to initiative and referendum, see supra,

Injunction to prevent passage of municipal ordinance. 13 L.R.A. 844; 2 L.R.A. (N.S.) 152.

§ 22. Repeal.

Effect of repeal without savings clause of penal statute or ordinance upon prior conviction under it. 23 L.R.A.(N.S.) 243.

Power to repeal ordinance suspended by referendum and again legislate on subject-matter. L.R.A.1917B, 26.

## 3. Effect of ordinance generally.

§ 23. Generally.

Effect of ordinance on negligence in manufacture and storage of explosives. 29 L.R.A. 721.

Effect of ordinance on municipal liability for ice on streets or sidewalks. 21 L.R.A. 264.

Effect on character of estate in burial lot of ordinance closing cemetery. L.R.A. 125.

Effect on constructive or total loss of insured building of local ordinances or regulations preventing repair. 56 L.R.A. 791.

Rights under ordinance requiring award of contract to lowest bidder. 26 L.R.A. 707.

Hand car as a car within ordinance. L.R.A. 1915A, 817.

Who is a peddler or hawker within municipal regulations. L.R.A.1916B, 1293.

MUNICIPAL CORPORATIONS, V. c, 3-1 MUNICIPAL CORPORATIONS, V. c, 4 (a)

Is ordinance requiring covering of sidewalk where building is in process of construction for benefit of servants. 45 L.R.A. (N.S.) 550.

Effect of ordinance on question of right of way as between street car and vehicle at point where streets bisect or intersect. 49 L.R.A.(N.S.) 512.

Meaning of term "waterproof" employed in ordinance. L.R.A.1918B, 826.

## 4. Validity of ordinances; extent of power.

## (a) In general

§ 24. Generally.

Regulation of automobiles, AUTOsee MOBILES, § 1.

Power to regulate buildings, see Buildings, §§ 1-6.

Regulations as to fire limits, see BUILDINGS,

Regulations for fire protection, see Build-INGS, § 4.

Regulations as to fire escapes, see BUILD-INGS, § 5.

Power as to intoxicating liquors, see In-TOXICATING LIQUORS, II.
Ordinance as to speed of train, see RAIL-

ROADS, § 72.

Right in a collateral proceeding to raise the question of the validity of an ordinance upon which a proceeding in a criminal case is based. L.R.A.1918D, 1007.
Reasonableness of ordinance as a question

for court or jury. L.R.A.1915F, 1196.
Municipal liability for false imprisonment
and unlawful arrest under invalid ordinance. 47 L.R.A. 593.

Validity of ordinance vesting in officers discretion as to the subject-matter. 1 L.R.A.(N.S.) 940.

Validity of ordinance for prevention of cruelty to animals. L.R.A.1916A, 951. Power of municipality to regulate dancing

in public places. L.R.A.1917A, 1174.
Ordinance making it an offense to associate with disreputable persons. L.R.A. 1917**F**, 904.

Validity of regulations for fire protection other than building regulations. L.R.A.(N.S.) 456.

Power of municipal corporation to prohibit factories. 41 L.R.A.(N.S.) 177.

Implied power of municipal corporation to create the office of deputy or assistant to an incumbent of an office which is expressly authorized. 26 L.R.A. (N.S.) 660.

Validity of ordinance making property or property owner liable for light furnished tenant. L.R.A.1918D, 364.

Power to make use of property for particu-lar purpose or in a particular manner, conditional upon consent of neighbors. 8 L.R.A.(N.S.) 978.

Power of municipality to make right to transact certain business dependent on consent of municipal authorities. 9 L.R.A. (N.S.) 659.

-cont'd

Exercise of police power for esthetic purposes. 34 L.R.A. (N.S.) 998; L.R.A. poses. 34 1917A, 1220.

Municipal power as to regulation of signs and billboards. 21 L.R.A.(N.S.) 735.

Validity of segregation statute or ordinance prohibiting persons of different race or color from living in same locality. 47 L.R.A.(N.S.) 1087; L.R.A.1915D, 684; L.R.A.1918C, 220.

§ 25. Ordinances as to matters covered by state laws.

Power to legislate on subjects covered by state laws. 1 L.R.A.(N.S.) 382.

Power of municipality to punish what is also an offense under state law. 17 L.R.A.(N.S.) 49.

Validity of municipal ordinance declaring that all or certain classes of offenses denounced by the law of the state shall be offenses under the ordinance. 26 L.R.A.(N.S.) 493. Validity of license tax on automobiles as

affected by state regulation. 52 L.R.A. (N.S.) 958.

Conflict between state and local regulations as to speed of automobiles. L.R.A. 1918D, 137.

§ 26. Especial powers in time of epidemics.

In general. 26 L.R.A. 727. Pesthouses. 26 L.R.A. 727. Vaccination. 26 L.R.A. 728.

Physicians. 26 L.R.A. 728.

Nursing, attendance, and L.R.A. 729. support. 26

Effect of settlement of sick person. L.R.A. 729.

#### (b) As to streets, waters, drains, and sewers.

## § 27. As to streets.

As to drains in, see infra, § 29.

Power over nuisances affecting, see infra, § 36.

Liability with reference to streets, see infra, § 95.

Regulation and license of automobiles in, see Аптомовике, § 1a. Power as to hacks and hack stands, see

HACKS, § 2. Powers as to streets generally, see High-

WAYS, IV. Powers as to railroads in street, see Highways, IV. e.

Regulation of use of jitney buses on high-

ways, see JITNEY BUSSES. Powers as to street railway, see STREET

RAILWAYS, §§ 5, 6. As to nuisances in streets generally, see

HIGHWAYS, §§ 40, 41. License on vehicles generally, see LICENSE,

§ 43. License for use of streets generally, see LICENSE, § 44.

Power of city councils to vacate street. 26 L.R.A. 823.

MUNICIPAL CORPORATIONS, V. c, 4 (b) | MUNICIPAL CORPORATIONS, V. c, 4 (c) –cont'd

As affecting those engaged in handling United States mails. L.R.A.1918C, 940.

Power of municipality over interurban vehicles used for hire. L.R.A.1918B, 891.

Validity of statute or ordinance giving superior rights in public streets to certain vehicles. 43 L.R.A.(N.S.) 600.

Ordinance for direction of street traffic by police officers. L.R.A.1918F, 1113.

Regulations affecting motor cycles in streets.

42 L.R.A.(N.S.) 1068.

Power to limit municipal control or au-thority over street or over public ground as an incident of its acquisition of title or right therein. 9 L.R.A. (N.S.) 1045.

Delegation by city council of power to determine width, grade, material, etc., of street or sidewalk. 20 L.R.A. 653.

Power of municipality to prevent gathering or assembling of persons in street or on sidewalk. 52 L.R.A.(N.S.) 999.

Validity of ordinance against picketing. L.R.A.1918C, 282.

Power of municipality to compel removal of spur track, turnout, or switch from street or highway. L.R.A.1918B, 481.

§ 28. As to waters.

Power over nuisances affecting, see infra, § 36.

Ownership of waterworks plant, see infra, 8 70.

Liability as to, see infra, §§ 90-94.

Rights of municipal corporations with respect to surface water. 65 L.R.A. 250. Power to authorize obstruction of navigable

waters. 59 L.R.A. 77.
Power and duty of, as to improving navigability of stream. 67 L.R.A. 849.

Validity of ordinance making property or property owner liable for water furnished tenant. L.R.A.1918D, 364.

29. As to drains and sewers. Liability as to, see infra, §§ 86-89.

Delegation of power as to drainage. 61 L.R.A. 653.

Delegation by city council of power as to sewer improvements. 20 L.R.A. 653.

Power of municipality to authorize use of highway for private drain. 16 L.R.A. 715.

Power to compel connection of property with public sewer. L.R.A.1918C, 258. Effect of limitation of municipal indebted-

ness upon acquisition of sewer system. 59 L.R.A. 604.

Control of nuisances affecting drains and drainage. 38 L.R.A. 319; 20 L.R.A. (N.S.) 1050.

Institution of drainage proceedings by ordinance. 60 L.R.A. 168.

#### (c) As to public service.

\$ 30. Generally.

Powers as to railroads, see Highways, Validity of regulations concerning elevators IV. e. and hoistways. 42 L.R.A.(N.S.) 899. IV. e. Consult also L.R.A. Digests of Cases.

-cont'd

As to regulation of jitney busses, see JIT-NEY BUSSES.

Powers as to street railways, see STREET RAILWAYS, §§ 5, 6.

Power to regulate companies supplying city with water, see WATERS, § 110.

Power of municipality over interurban vehicles used for hire. L.R.A.1918B, 891.

Power of officers to make contracts as to, binding on their successors or for a

term of years. 16 L.R.A. 258.

Jurisdiction of Public Utilities Commission over rates as limited by constitutional or statutory power of municipality to regulate utilities. L.R.A.1918D, 315.

Power apart from contract, to regulate the rates to be charged by public service corporations. 33 L.R.A.(N.S.) 759; 43 L.R.A. (N.S.) 994.

Power of municipality to make binding contract as to rates of public service corporations. L.R.A.1915C, 264.

Power to require public service corporation to carry municipal wires on its poles. 32 L.R.A.(N.S.) 997.

#### § 31. Ferries.

License of, see LICENSE, § 27.

Power of municipality to establish and regulate or operate ferry. 59 L.R.A. 521; L.R.A.1916D, 832.

Power of municipality as to international or interstate ferries. 52 L.R.A. (N.S.) 574.

## § 32. As to light and heat; gas.

Ownership of lighting plant, see infra, § 69.

Period for which contract as to gas may be made. 16 L.R.A. 258.

Power of municipality to fix gas rates as incident of its power to authorize laying of gas mains. 18 L.R.A.(N.S.) 1197.

Right of municipality, in absence of contracts, to restrain a natural gas company from discontinuing the business of supplying gas. 26 L.R.A. (N.S.) 92. Delegation of power to gas and lighting companies. 20 L.R.A. 726.

Right of taxpayer in absence of statute to enjoin unlawful expenditures by municipality for lighting and heating. 36 L.R.A.(N.S.) 20.

Ordinance making property or property owner liable for light furnished ten-

ant. L.R.A.1918D, 364.

## (d) As to health and safety.

## § 33. Generally.

As to nuisances affecting, see infra, §§ 39,

As to health, generally, see HEALTH.

Validity of ordinances for protection or comfort of street car operatives. 42 L.R.A. (N.S.) 1060.

MUNICIPAL CORPORATIONS, V. c, 4, (d) | MUNICIPAL CORPORATIONS, V. c, 4, (e) —cont'd

Power of municipal corporation to grant exclusive right or create monopoly for removal of substances inimical to health. 21 L.R.A.(N.S.) 830; L.R.A. 1915D, 209.

Validity of ordinance for destruction of food products below prescribed standard or unfit for use. 29 L.R.A.(N.S.) 260.

Sanitary regulations as to stables.

LR.A.(N.S.) 575.

Power to prohibit or restrict use of tobacco.
51 L.R.A.(N.S.) 562.

Validity of ordinances for extermination of vermin. L.R.A.1916A, 1239.

Power of municipality to determine location of places of amusement. L.R.A. 1916D, 99.

#### (e) As to nuisances.

34. Generally.

Municipal liability as to, see infra, § 77. Regulation of animals, see Animals, § 22. Injunction by municipality against nuisance, see Injunction, § 29.

As to nuisances generally, see NUISANCES.

Municipal control over smoke as a public nuisance. 39 L.R.A. 551; 18 L.R.A. (N.S.) 156; 32 L.R.A.(N.S.) 554.

Sanitary regulations as to stables. L.R.A.(N.S.) 575.

§ 35. Power to define, prevent, and abate.

Right of, to sue to enjoin or abate public nuisance. 51 L.R.A. 657; L.R.A.1916D, 1020.

Power of municipality as well as state to punish for. 17 L.R.A.(N.S.) 53.

Derivation of power over nuisances. L.R.A. 593.

Nature of the power. 36 L.R.A. 594.

Questions of fact. 36 L.R.A. 594.

The question of judicial determination. 36 L.R.A. 595.

Power to define. 36 L.R.A. 596.

Power to declare particular kinds of amusement nuisances per se. 31 L.R.A. (N.S.) 548.

Extent of power to prevent or abate. 36 L.R.A. 599.

Limit of power to prevent or abate. 36 L.R.A. 606.

The question of discrimination. 36 L.R.A.

The methods of abatement. 36 L.R.A. 609. Effect of authority or license. 36 L.R.A. 609.

No infringement of constitutional rights. 36 L.R.A. 610.

Notice. 36 L.R.A. 613.

§ 36. Affecting highways and waters. As to nuisances in streets generally, see HIGHWAYS, §§ 40, 41. In general. 39 L.R.A. 650.

Removal of garbage, etc. 39 L.R.A. 653.

Begin with this book on every law question.

-cont'd

ions of and encroachments on streets. 39 L.R.A. 653. Obstructions

Injunction against. 42 L.R.A. 814. Nuisances relating to the use of streets. 39 L.R.A. 672.

Waters, water courses, etc. 38 L.R.A. 324; 39 L.R.A. 681.

Municipal power over electrical companies. 39 L.R.A. 609.

Injunction by municipality against nuisances in water and water courses. 40 L.R.A. 465, 470.

Right of municipality to create nuisance by pollution at a point where its sewers discharge. 20 L.R.A.(N.S.) 1050.

§ 37. On streets, created by street railroads and other electrical companies.

Street railroads. 39 L.R.A. 609.
Telegraph and electrical poles, etc. 39
L.R.A. 619.

Steam and electricity. 39 L.R.A. 621. Injunction against. 44 L.R.A. 565.

§ 38. Over buildings and other structures as nuisances.

Extent of power over buildings as such. 38 L.R.A. 161.

Limit of power. 38 L.R.A. 165.

Over the use of buildings. 38 L.R.A. 169. Wooden and frame buildings. 38 L.R.A. 170.

Injunction by municipality against nuisance of. 41 L.R.A. 328; 42 L.R.A.

§ 39. Relating to trade or business. In general. 38 L.R.A. 641.

Slaughterhouses. 38 L.R.A. 646.

Laundries. 38 L.R.A. 651. Fertilizers. 38 L.R.A. 653.

Livery stables. 38 L.R.A. 653.

Brick and lime kilns. 38 L.R.A. 654. Brick yards. 25 L.R.A. (N.S.) 247; 40 L.R.A.(N.S.) 898.

Stock yards. 38 L.R.A. 655; 28 L.R.A. (N.S.) 122.
Tallow, fat, hides, etc. 38 L.R.A. 655.
Dairies. 38 L.R.A. 657.

Pawnbrokers, junk and second-hand clothes dealers. 38 L.R.A. 657.

Power to prohibit the opening or working of a quarry. 2 L.R.A.(N.S.) 796. Power to determine location of places of

amusement. L.R.A.1916D, 99.

§ 40. Affecting public morals, decency, peace, and good order.

Nuisances affecting public morals and decency. 39 L.R.A. 520.

Nuisances affecting public peace and good order. 39 L.R.A. 524.

Right of municipal corporation to prohibit the keeping, standing, or exhibiting of stallions and jacks. 11 L.R.A.(N.S.) 736.

Validity of ordinance against bawdy house. L.R.A.1917B, 1083.

–cont'd

§ 41. Affecting safety, health, and personal comfort.

Matters as to trade or business affecting health and comfort, see supra, § 39.

Nuisances relating to public safety. L.R.A. 305.

Nuisances relating to health. 38 L.R.A. 311.

Drains and drainage. 38 L.R.A. 319; 20 L.R.A. (N.S.) 1050. Dead animals. 38 L.R.A. 330: 9 L.R.A.

(N.S.) 1197; 48 L.R.A.(N.S.) 979. The keeping of animals. 38 L.R.A. 332; 39 L.R.A. (N.S.) 266.
Injunction against. 40 L.R.A. 470; 41 38 L.R.A.

L.R.A. 322.

Right to establish contagious disease hospital beyond city limits. 5 L.R.A. (N.S.) 1028; 18 L.R.A. (N.S.) 260; 25 L.R.A. (N.S.) 228.

Power of municipality to regulate burials and cemeteries. 27 L.R.A. (N.S.) 262.

#### (f) Regulation of business.

§ 42. Generally.

Power as to nuisance affecting business, see supra, § 39.

License to engage in particular business, see Intoxicating Liquors, LICENSE, II.

Regulation of liquor traffic, see Intoxicat-ING LIQUORS, II.

Power of municipal corporation to make right to transact certain business dependent upon consent of municipal authorities. 9 L.R.A.(N.S.) 659.

Liability of municipality for attempting to enforce void ordinance regulating business or conduct of those within its limits. 18 L.R.A. (N.S.) 409; 34 L.R.A. (N.S.) 141.

Validity of public restrictions as to location mercantile business. 49 L.R.A. (N.S.) 438; L.R.A.1917F, 1060.

## 3 43. Bakeries.

Power to regulate location or condition of bakeries. 26 L.R.A.(N.S.) 842.

## § 44. Markets.

License of, see LICENSE, § 33.

Delegation of power as to. 20 L.R.A. 726.

### § 45. Money lenders.

License of, see License, § 32.

Validity of ordinance requiring persons engaged in business of loaning money on chattel security or security of wages to file a record of loans made. 25 L.R.A.(N.S.) 686.

#### § 46. Peddlers.

License of, see LICENSE, § 35.

Validity of ordinance regulating hawking and peddling. 14 L.R.A. 100.

Validity of ordinance regulating conduct of licensed street hucksters or peddlers. Injunction by private person to restrain vio-8 L.R.A.(N.S.) 304. lation. 5 L.R.A.(N.S.) 493.

Consult also L.R.A. Digests of Cases.

MUNICIPAL CORPORATIONS, V. c, 4 (e) | MUNICIPAL CORPORATIONS, V. c, 4 (f) -cont'd

> Power of municipality as well as state to punish for peddling. 17 L.R.A. (N.S.) 53.

## § 47. Restaurants.

Proprietor of hotel conducted on European plan as keeper of restaurant within ordinance. 17 L.R.A. (N.S.) 566.

Power of municipality to regulate dancing in. L.R.A.1917A, 1174.

§ 48. Second-hand business, junk, etc. License of, see License, § 31.

Power to regulate traffic in. 24 L.R.A. (N.S.) 1168.

Municipal power over business of dealers in, as nuisance. 38 L.R.A. 657.

Police power as exercised by municipalities over the business of pawn-brokers, junk dealers, and dealers in second-hand clothes. 32 L.R.A. 116.

## § 49. Telegraphs.

License of, see LICENSE, § 41.

## § 50. Miscellaneous.

Gasolene stations. L.R.A.1917F, 1005.

Right of municipal corporation to require theater to pay for services of fireman or policeman, performed at the theater or place of exhibition. 11 L.R.A.(N.S.)

Power of municipality to regulate use of scales by merchants. 23 L.R.A. (N.S.) 266.

Validity of ordinance for the settlement of weights as between buyer and seller by public weigher. 51 L.R.A.(N.S.) 731.

Validity of ordinance flxing minimum wage for person employed upon public work. 51 L.R.A. (N.S.) 686.

Validity of ordinance requiring commercial or mercantile establishments to close at certain hours. L.R.A.1916A, 654.

Ordinance forbidding speculation in theater tickets. L.R.A.1918D, 388. Power of municipality to determine loca-

tion of places of amusement. L.R.A. 1916D, 99. Right to forbid solicitation of patronage at

railway station. L.R.A.1917D, 690.

Power to regulate electricians and installation of electrical work. 36 L.R.A. (N.S.) 78.

## 5. Violation and enforcement of ordinance.

#### § 51. Generally.

Violation of ordinance as negligence, see NEGLIGENCE, § 10.

Private action for violation, see PRIVATE Ac-TION, § 2.

Death inflicted while defendant is violating a municipal ordinance as homicide. 28 L.R.A.(N.S.) 770.

MUNICIPAL CORPORATIONS, V. c, 5cont'd

Injunction against prosecutions under city ordinance. 21 L.R.A. 86.

Prohibition to prevent unfounded prosecu-tions for alleged violation of ordinance. 37 L.R.A.(N.S.) 448.

Collateral attack on conviction for violating unconstitutional ordinance. 39 L.R.A. 454.

Cruel and unusual punishment for violating. 35 L.R.A. 578; L.R.A.1915C, 569.

Power to remit penalties or punishment for violation of ordinances. 38 L.R.A. (N.S.) 196.

Municipal liability for attempting to enforce void ordinance regulating business or conduct within its limits. 18 L.R.A.

(N.S.) 409; 34 L.R.A.(N.S.) 141. Municipal liability for arrest and imprisonment under invalid ordinance. 47 L.R.A. 593.

Liability of officer for making arrest for breach of ordinance. 51 L.R.A. 207. Removal of officer for failure to enforce

criminal or penal ordinance. 50 L.R.A. (N.S.) 841; L.R.A.1918F, 1049.

Liability of municipality for failure to enforce ordinance in relation to animals. L.R.A.1915E, 448.

Violation of ordinance in relation to blocking railroad crossing as affecting liability for injury. 47 L.R.A. (N.S.) bility for injury.

May a municipal corporation question the validity of an ordinance or license under which a business is being conducted in a prosecution for carrying on such

business. 21 L.R.A.(N.S.) 299. Character of proceeding for violation of municipal ordinance as civil or criminal. 33 L.R.A. 33; 4 L.R.A.(N.S.) 782; 48 L.R.A.(N.S.) 156.

## 6. By-laws.

§ 52. Generally. By-law to compel acceptance of office. 24 L.R.A. 492.

#### d. Contracts generally.

#### In general.

§ 53. Generally. Liability on implied contract, see infra, § 59. Bonds of, see Bonds, III Bond of contractor, see Bonds, §§ 9, 10. Provision in, for payment of laborers and materialmen, see Building and Construction Contracts, § 2.

As to public contracts generally, see Con-

TRACTS, VIII.
Validity of and liability on contract with officer, see Contracts, §§ 99-101.

Letting of public contracts, see CONTRACTS, § 159.

Rights and remedies of lowest bidder, see CONTRACTS, § 160.

Specifications for public contracts, see Con-TRACTS, § 161.

Estoppel of municipality by contract, see Estoppel, § 2a.

MUNICIPAL CORPORATIONS, V. d. 1cont'd

With respect to gas, see GAS, § 2.

Contracts for local improvements, see Pub-LIC IMPROVEMENTS, §§ 7-9.

Delegation of power as to. 20 L.R.A. 727. Provision in, for payment in gold or silver. 29 L.R.A. 522.

Limitation of the doctrine of ultra vires, in respect to municipal corporations. 19 L.R.A. 619.

Contract for supplying city with water. 61 L.R.A. 61.

Right of municipal corporation to contract for free transportation or special rates on street cars. 16 L.R.A.(N.S.) 651.

Sufficiency of consideration received upon disposal of municipal property. L.R.A.(N.S.) 1137.

Rights and remedies where contracts are invalid. L.R.A.1915A, 904.

Ratification of invalid contract. 1915A, 1023.

May a municipal contract for a term exceeding authority be enforced to the extent to which it was authorized. 52 L.R.A.(N.S.) 512.

Lack of, or invalidity of franchise as defense to an action by a public service corporation against a municipality for service rentals. 52 L.R.A.(N.S.) 713.

Right of seller of property to municipal corporation under invalid contract to retake or remove the property upon re-fusal of payment. 20 L.R.A.(N.S.) 110; L.R.A.1915B, 173.

Liability of municipality for benefits re-ceived under invalid contract not expressly prohibited by statute or public policy where power to contract exists. 27 L.R.A.(N.S.) 1117.

Liability of municipality for labor per-

formed or services accepted by it under express contract which is invalid because irregularly executed. 27 L.R.A. (N.S.) 1126.

§ 54. Monopoly or discrimination in. Power to discriminate generally, see supra, § 17.

Monopoly in contract for removal of garbage. 27 L.R.A. 540.

Power of municipality to grant exclusive right or create monopoly for removal of substances inimical to health. 21 L.R.A.(N.S.) 830; L.R.A.1915D, 209.

Municipal contracts for work or articles which embody a patented invention. 18 L.R.A. 45.

Where public letting to lowest bidder is required. 5 L.R.A. (N.S.) 680; 46 L.R.A. (N.S.) 990; L.R.A.1917A, 442.

Right of municipality or other public body to discriminate in favor of organized labor. 23 L.R.A. (N.S.) 815; 52 L.R.A. (N.S.) 728.

Right of taxpayer in absence of statute to enjoin favoritism in contracts. 36 L.Ř.A.(N.S.) 10.

cont'd

55. Power to bind successors; duration of contract.

Period for which contract for public service may be made. 16 L.R.A. 258.

Power of public officers to make contracts binding on their successors or for term of years. 16 L.R.A. 257.

Power of board to make contract for term extending beyond its own term. LR.A. (N.S.) 652; L.R.A.1915E, 581.

May municipal contract for excessive term be upheld as one for authorized period. 52 L.R.A. (N.S.) 512.

#### § 56. Statutes legalizing invalid contracts.

General rules. 27 L.R.A. 696.

Bonds. 27 L.R.A. 697.

Subscriptions to internal improvements.

27 L.R.A. 701. Contracts to pay bounties. 27 L.R.A. 702. Land grants. 27 L.R.A. 702.

Other contracts. 27 L.R.A. 702.

Excessive indebtedness. 27 L.R.A. 703. Construction of statutes. 27 L.R.A. 704.

#### 57. Liability of other party for violation of.

Consumer's right to compel public service corporation to respect rates stipulated in contract with municipality. L.R.A. 1915D, 917.

Right of property owner to maintain action against water company for failure to supply sufficient water for fire purposes as required by its contract with municipality. 6 L.R.A. (N.S.) 1171; 21 L.R.A. (N.S.) 1021.

## 2. Implied contracts.

§ 58. Generally.

Liability of municipality on. 27 L.R.A. (N.S.) 1117; 39 L.R.A. (N.S.) 72; 41 L.R.A. (N.S.) 473; 46 L.R.A. (N.S.) 921.

> On implied contract for publishing notices in a newspaper. 27 L.R.A. (N.S.) 1130.

## § 60. — for labor performed or services accepted.

general. 27 L.R.A.(N.S.) 1125; 39 L.R.A. (N.S.) 43.

Where express contract is invalid merely because irregularly executed. 27 L.R.A. (N.S.) 1126.

Contract invalid because made with officer of municipality. 27 L.R.A. (N.S.) 1127.

Where contract violates statutory or charter restrictions on power to contract. 27 L.R.A.(N.S.) 1127.

Where contract is ultra vires. 27 L.R.A. (N.S.) 1128.

Liability upon implied contract in the absence of express contract. 27 L.R.A. (N.S.) 1129.

Consult also L.R.A. Digests of Cases, 61

MUNICIPAL CORPORATIONS, V. d, 1- | MUNICIPAL CORPORATIONS, V.-cont'd

e. Borrowing; indebtedness; expenditures.

#### 1. In general.

§ 61. Generally.

Municipal bonds, generally, see Bonds, III.

For what purposes public money may be
used by municipality, see Public MONEY, § 4.

Indebtedness of town, see Towns, § 7.

Validity of ordinance authorizing incurring of indebtedness or appropriation of money for two or more purposes. 14 L.R.A.(N.S.) 519.

Implied power of municipality to construct improvements on credit. 4 L.R.A. (N.S.) 746.

Right of taxpayer in absence of statute to enjoin unlawful expenditures by municipality. 36 L.R.A.(N.S.) 1.

Liability on its own obligations stolen from it. 39 L.R.A. (N.S.) 444.

Mandamus to compel payment of municipal debt by custodian of municipal funds. 14 L.R.A. 773.

Mandamus to compel issuance of municipal warrant to L.R.A.1916D, 325. to pay indebtedness

Equitable remedy to subject to judgment debt due from government or municipality. 63 L.R.A. 701.

ct of resolution to pay judgment against, to excuse creditor's failure to Effect of resolution to issue execution or revive judgment during statutory period. 2 L.R.A.(N.S.) 855.

Holders as necessary parties to proceedings to invalidate moneyed obligations of municipality. 3 L.R.A. (N.S.) 256.

62. Corporate stock.

Liability as between corporation and one acting in good faith to whom it issues new certificate of stock on forged authority. 2 B. R. C. 528.

# § 63. Liability for debts in case of annexation or division.

Liability of territory annexed to county, city, or other municipality, to pay proportionate share of existing debts. L.R.A.(N.S.) 1147.

Division of territory as affecting the liability of municipality in absence of statute. 39 L.R.A.(N.S.) 285.

#### § 64. Defense of limitations. See LIMITATION OF ACTIONS, § 17.

#### 2. Limitation of indebtedness.

65. Generally.

Rule for determining the indebtedness, within the meaning of debt-limit provisions, where boundaries of different political units are wholly or partly coincident. L.R.A.1917E, 468.

Right of municipal corporation to secure public utilities by piecemeal to avoid constitutional debt limit. 12 L.R.A. (N.S.) 433.

MUNICIPAL CORPORATIONS, V. e, 2-1 MUNICIPAL CORPORATIONS, V. f-cont'd cont'd

Effect of limitation of municipal indebtedness upon the acquisition of a water supply or sewer system. 59 L.R.A. 604.

What are "public utilities" within statute allowing municipality to exceed debt limit for purchase or repair of public utilities. 31 L.R.A.(N.S.) 556.

As to what time is the assessed valuation to be taken for purposes of determining the debt limit of a state or municipality. 28 L.R.A.(N.S.) 149.

Right of taxpayer in absence of statute to enjoin creation of excessive indebtedness by municipality. 36 L.R.A.(N.S.) 9.

Statutes legalizing excessive indebtedness. 27 L.R.A. 703.

§§ 66, 67. Creation of indebtedness. Definitions. 37 L.R.A. (N.S.) 1058; L.R.A. 1917E, 437.

Object of restricting indebtedness. 37 L.R.A.(N.S.) 1060; L.R.A.1917E, 438. When indebtedness arises. 37 L.R.A. (N.S.)

1062; L.R.A.1917E, 439.

Obligations payable out of special fund or current receipts. 37 1070; L.R.A.1917E, 442. 37 L.R.A. (N.S.)

Obligations imposed by law. 37 L.R.A. (N.S.) 1086; L.R.A.1917E, 447.

37 L.R.A.(N.S.) 1097; L.R.A. 1917E, 451.

Refunding transactions. 37 L.R.A. (N.S.) 1099; L.R.A.1917E, 451.

Purchase of equity of redemption. 3 L.R.A. (N.S.) 684; 37 L.R.Á.(N.S.) 1105; L.R.A.1917E, 45.

Interest. 37 L.R.A. (N.S.) 1106; L.R.A. 1917E, 455.

Judgments. 37 L.R.A. (N.S.) 1107; L.R.A. 1917E, 455.

Miscellaneous obligations. 37 L.R.A. (N.S.) 1103; L.R.A.1917E, 452.

Coincidence of boundaries of municipalities. 37 L.R.A. (N.S.) 1108; L.R.A. 1917E, 468.

## f. Property rights; municipal plants.

68. Generally.

Right to own or operate electric appliances, see Electricity, § 3.

to valuation, return, etc., see Public SERVICE CORPORATIONS.

Taxation of property of municipality, see TAXES, §§ 31, 32.

Property rights of town, see Towns, § 5.

Delegation of power as to. 20 L.R.A. 727. Right of municipality to be a part owner of property. 35 L.R.A. 737.

Power of municipality to acquire property for other than money consideration. 35 L.R.A.(N.S.) 547.

Taking of property for municipal purposes as a public purpose. 22 L.R.A. (N.S.)

Power to take property already devoted to (N.S.) 101.

Effect of language in grant specifying or restricting use of property for municipal purposes. 19 L.R.A. 265.

Right to permit the use of, or to lease, its public buildings for private purposes.

31 L.R.A. (N.S.) 580.

Power of municipality to construct assembly, convention, exhibition, or amusement hall. 26 L.R.A.(N.S.) 425.

Abandonment or sale by, of ground for cemetery. 42 L.R.A. (N.S.) 1216.

Power of legislature in respect to municipal property. 48 L.R.A. 485.

Power of legislature to authorize municipality to build, purchase, or operate railroad or street railway as affected by restrictions on power to aid private enterprises. 28 L.R.A.(N.S.) 412.

Liability of water company for destruction of property of municipality by fire in consequence of failure to maintain suf-

ficient pressure. 30 L.R.A.(N.S.) 526. May limitations be interposed against action to recover damages for injury to property of municipality. (N.S.) 245. 32 L.R.A.

Power of municipality operating a public utility to make a special rate to a particular company or person. L.R.A. 1916D, 996.

§ 69. Lighting plant.

As to valuation, return, etc., see PUBLIC SERVICE CORPORATIONS.

Power of legislature to compel municipality to establish lighting plant or to purchase existing plant. 44 L.R.A.(N.S.) 1189.

Power of municipal corporation to own electric light plant. 15 L.R.A.(N.S.) 711. Right of municipality to profit by its 'ight-

ing plant. 24 L.R.A. (N.S.) 290.

Power to make a special rate to a particular company or person. L.R.A.1916D,

Exemption of municipal light plant from taxation. 16 L.R.A.(N.S.) 867.

Liability for torts in connection with. L.R.A.(N.S.) 862; L.R.A.1916E, 316.

§ 70. Waterworks.

Liability in connection with, see infra, §§ 93, 94.

As to valuation, return, etc., see Public SERVICE CORPORATIONS.

Supply of water by private corporations, see Waters, III.

Right of municipal corporation as to use of percolating waters for water supply. L.R.A.1917F, 691.

Power of legislature to compel municipality to establish water plant, or to purchase existing plant. 44 L.R.A.(N.S.) 1189.

Contract to purchase plant for municipal water supply. 61 L.R.A. 46.

public by municipality. 37 L.R.A. Establishment and regulation of municipal water supply. 61 L.R.A. 34.

MUNICIPAL CORPORATIONS, V. f-cont'd | MUNICIPAL CORPORATIONS, V. g, 1-Right of municipality to make profit from its water or lighting plant. 24 L.R.A. (N.S.) 290.

Effect of limitation of municipal indebtedness upon the acquisition of a water

supply. 59 L.R.A. 604.

Right of taxpayer in absence of statute to enjoin unlawful expenditures for waterworks. 36 L.R.A. (N.S.) 20.

Taxation of waterworks owned by munici-

pality. 60 L.R.A. 851.

Taxation of waterworks located in one state or municipality but belonging to another. 50 L.R.A. (N.S.) 243.

Is power conferred upon a municipality to provide waterworks limited to establishment of a municipal plant. 19 L.R.A.(N.S.) 183.

Right of municipality to establish water plant in competition with company to which it has granted a franchise. L.R.A.1915C, 439.

Right of municipal corporation to require use of water meters and to impose expense of same on consumer. 1915A, 320.

Power to make a special rate to a particular company or person. L.R.A.1916D, 996.

71. Shore and tide lands.

Municipal ownership of tide lands. 64 L.R.A. 333.

Rights of, in respect to accretions to shore lands. 58 L.R.A. 203.

Grant of tide lands to. 3 L.R.A.(N.S.) 822.

## g. Liability for damages.

#### 1. In general.

72. Generally.

Liability on contract, see supra, §§ 53-60. Liability for injury by animals, see ANI-MALS, § 16.

Liability on contract with officer in which he is personally interested, see Con-TRACTS, § 100a.

Liability for injury by electricity, see

ELECTRICITY, § 13. Liability for false imprisonment, see FALSE

IMPRISONMENT, § 5. Liability as to health, see Health, § 4. Liability for improvement assessment, see

PUBLIC IMPROVEMENTS, § 19.

Taxation of plant, see Taxes, § 32. Supply of water by private corporations, see WATERS, III.

Liability of town, see Towns, § 7.

Immunity of drainage, levee, reclamation, sanitary, or sewer district from liability for damages. L.R.A.1918B, 1010.

For negligence as to electric wires. L.R.A. 581.

Liability of municipality in tort for acts beyond the scope of its powers. 42 L.R.A. (N.S.) 908. 42

Consult also L.R.A. Digests of Cases.

cont'd

Liability for safety of wharf or dock. L.R.A. 953.

Liability for damage to service mains by excavating in street. L.R.A.1917E,

For removal of lateral or subjacent support of land. 68 L.R.A. 698.

To persons injured in the performance of an ultra vires act. 2 L.R.A.(N.S.) 910.

Liability for impounding animals. 27 L.R.A. (N.S.) 138.

Liability of municipality for negligence or other tort of inmate of municipal prison. 52 L.R.A. (N.S.) 943.

Obligation of, as operator of ferry. 68 L.R.A. 155.

Liability of municipality for tort in connection with quarry worked by it. 38 L.R.A.(N.S.) 281.

Municipal liability for tort as indebtedness within debt limit provisions. 37 L.R.A. (N.S.) 1097.

Negligent operation of light plant. 5 L.R.A. (N.S.) 536; 43 L.R.A.(N.S.) 862; L.R.A.1915E, 316.

Duty as to property secured for public use, before it is thrown open to the public. 18 L.R.A. (N.S.) 595.

Civil liability of municipality for refusal to grant permit. 1 B. R. C. 349.

Liability of municipality in damages for repeal, or interference with enjoyment, of street franchise. 36 L.R.A.(N.S.) 861.

General liability of municipality which is unable or has failed to enforce assessments for local improvements. L.R.A.(N.S.) 163.

Liability of, for its own obligations stolen from it. 39 L.R.A.(N.S.) 444.

What is a mob or riot for the act of which a municipality is liable. 10 L.R.A. (N.S.) 925; L.R.A.1918C, 239.

Liability for failure to prevent riot in street. 23 L.R.A. (N.S.) 638.

Sufficiency of general allegations of negligence of. 59 L.R.A. 248.

Federal courts following state decisions as to. 40 L.R.A.(N.S.) 442.

§ 72a. Recovery over from wrongdoer.

See HIGHWAYS, § 95; INDEMNITY, § 4.

§ 73. Liability for negligence in performance of public function.

For various concrete phases of the distinction between public and private functions, see subsequent sections.

Distinction between public and private functions of municipal corporations in respect to liability for negligence. L.R.A. 452; 1 L.R.A.(N.S.) 665.

Distinction between public or governmental and private or corporate functions of municipality as affecting its liability in admiralty for torts of its agents. L.R.A.1918A, 1079.

Repudiation of distinction between public and private functions in determining liability for torts in connection with building used. 25 L.R.A.(N.S.) 97.

Liability of municipality for death caused by negligence in the performance of a

governmental function. 38 L.R.A. (N.S.) 151.

Private or governmental capacity of city in its maintenance or operation of bridge. L.R.A.1915F, 1063.

Street cleaning as a governmental function. L.R.A.1915C, 741.

Liability for injuries to health from compulsory 918. vaccination. L.R.A.1916B,

§ 74. Destruction of property.

For destroying buildings to stop spread of fire. 19 L.R.A. 197.

For destruction of property in abatement of public nuisance. 19 L.R.A. 195.

For destroying infected house. 22 L.R.A. (N.S.) 1128.

75. — property destroyed by mobs. Liability for property destroyed by mob. 24 L.R.A. 592; 44 L.R.A. (N.S.) 358.

What is a mob or riot for the act of which municipality is responsible. L.R.A.(N.S.) 925; L.R.A.1918C, 239.

Liability of municipal corporation for failure to prevent riot in street. 23 L.R.A. (N.S.) 638.

76. Spreading disease.

For spreading contagious disease by method of caring for patients. 13 L.R.A. (N.S.) 1190.

## § 77. Nuisances.

Power of municipality as to, see supra, §§ 34-41.

Nuisance caused by pollution of water, see

infra, § 89.
Injunction against nuisance maintained by municipality, see Injunction, § 27.

Municipal authority as defense to liability for nuisance, see Nuisances, § 27.

For authorizing dangerous nuisance, such as fireworks. 16 L.R.A. 395.

Liability for licensing a nuisance. 32 L.R.A. (N.S.) 895.

Criminal responsibility for maintaining or permitting a nuisance. 39 L.R.A. (N.S.) 411.

Liability of, for failure to abate a nuisance. 32 L.R.A.(N.S.) 890.

#### § 78. Dumping garbage; ground: ashes.

Liability for nuisance in throwing garbage on surface. 43 L.R.A.(N.S.) 1038; L.R.A.1915C, 747.

For injuries resulting from use of dumping ground. 6 L.R.A.(N.S.) 1013.

Fire in rubbish dump as attractive nuisance. L.R.A.1917F, 1036.

MUNICIPAL CORPORATIONS, V. g, 1—1 MUNICIPAL CORPORATIONS, V. g, 1 cont'd

For injuries inflicted by servant engaged in removing refuse. 5 L.R.A.(N.S.) 1005; 39 L.R.A.(N.S.) 649; L.R.A.1918C, 1188.

## § 79. For false imprisonment and unlawful arrest.

General rule. 14 L.R.A. 792; 44 L.R.A. 79**5**.

Application of the maxim Respondent superior. 44 L.R.A. 799.

Liability as affected by ratification. L.R.A. 800.

Reasons for the rule. 44 L.R.A. 800.

English and Canadian decisions. 44 L.R.A.

Arrest and imprisonment under invalid ordinance. 47 L.R.A. 593.

## § 80. For injuries to employees.

Applicability to municipalities of Work-men's Compensation Acts. L.R.A. men's Com 1918F, 190.

Liability for injury to servant in connection with waterworks system. 25 L.R.A. (N.S.) 241; 52 L.R.A. (N.S.)

Employees of, as fellow servants in common employment. 50 L.R.A. 436.

Supervising employees of, as vice principals. 51 L.R.A. 582.

#### 2. For acts of officers or agents.

## 81. Generally.

Liability for injury in highway through negligence of employees, see HIGHWAYS,

For torts of public officers.
(N.S.) 537.

For acts of officers, servants, or agents generally. 2 L.R.A.(N.S.) 147.

Distinction between public or governmental and private or corporate functions of municipality as affecting its liability in admiralty for torts of its agents. L.R.A.1918A, 1079.

Liability of municipality for injury by employee engaged in removing refuse. 5 L.R.A.(N.S.) 1005; 39 L.R.A.(N.S.) 649; L.R.A.1918C, 1188.

In connection with its lighting plant. 43 L.R.A.(N.S.) 862; L.R.A.1915E,

In connection with waterworks. 23 L.R.A. (N.S.) 204.

Liability for injuries by exhibition conducted by its officers or employees. 34 L.R.A.(N.S.) 464.

Liability for negligence of park commission-er. 2 L.R.A.(N.S.) 147.

Liability of eleemosynary institution maintained by municipality for personal tort of agent or servant. 4 L.R.A.(N.S.) 269.

Liability of municipality for acts of its officers in removing trespassers from public grounds. 35 L.R.A.(N.S.) 435. Begin with this book on every law question

MUNICIPAL CORPORATIONS, V. g, 2-1 MUNICIPAL CORPORATIONS, V. g, 4-

Liability for negligence or other tort of keeper of municipal prison. 25 L.R.A. (N.S.) 180; 52 L.R.A. (N.S.) 943.

Liability of municipality for negligence of bridge tender. 45 L.R.A.(N.S.) 98; L.R.A.1915F, 1062.

Liability of municipal corporation for trespass on private property where committed in connection with streets. L.R.A.1916D, 1086.

Liability for injuries to health from compulsory vaccination. L.R.A.1916B, 918. Liability for damages from enforcement of quarantine. L.R.A.1918E, 437.

### § 82. Police officers.

Liability of city for acts of. 14 L.R.A. 792; 15 L.R.A. 783.

Municipal liability for torts of. 12 L.R.A. (N.S.) 537; 42 L.R.A.(N.S.) 915; L.R.A.1915E, 460.

Liability of municipality for acts not essentially police functions but connected therewith. 17 L.R.A. (N.S.) 741.

#### 83. Fire department.

Municipal liability for acts or negligence of members of fire department. 15 L.R.A. 781; 4 L.R.A. (N.S.) 629; 44 L.R.A. (N.S.) 68.

Liability of municipal corporation for tort in connection with fire house. 25 L.R.A. (N.S.) 94.

§ 84. In instituting legal proceedings. Liability for wrongful legal proceedings instituted by its officers for its benefit. 32 L.R.A.(N.S.) 34,

#### 3. For acts of licensees or independent contractors.

🖇 85. Generally.

For acts of independent contractor. L.R.A. 833.

Liability for condition of highway due to acts of independent contractor. 66 L.R.A. 126.

Liability for acts of independent contractor in connection with waterworks system. 25 L.R.A. (N.S.) 242; 52 L.R.A. (N.S.)

### 4. As to drains, sewers, and waters generally.

### § 86. Injury to person by drains and sewers

Extent of liability, see DAMAGES, § 78.

Liability for open gutter or drain in highway causing injury to traveler. 61 L.R.A. 706; L.R.A.1916F, 708. Municipal liability for injury by holes, and

openings in streets for sewer purposes. 20 L.R.A.(N.S.) 631.

Duty to guard drainage ditch along sidewalk. 27 L.R.A.(N.S.) 1169.

drainage. 22 L.R.A.(N.S.) 940. Consult also L.R.A. Digests of Cases.

§ 87. Injury to property by drains and sewers.

Liability for injuries by drains and sewers. 61 L.R.A. 701; 20 L.R.A.(N.S.) 627.

Duty and liability of municipality with respect to drainage. 61 L.R.A. 673.
Liability for injuries to property from

sewerage system not constructed according to any plan adopted by competent authorities, or constructed upon a defective plan. 1 L.R.A.(N.S.) 952.

Liability for changing course of drainage to injury of private property. 5 L.R.A. (N.S.) 831; 30 L.R.A. (N.S.) 619.

Liability of counties for injury to real property from. 39 L.R.A. 69.

Liability for abandonment of surface water drain. 65 L.R.A. 286.

Duty of owner to protect his premises from flooding through drain or sewer. L.R.A. 1918D, 371.

Parties defendant in action against municipality for breach of duty as to drainage. 61 L.R.A. 711.

§ 88. - obstruction or overflow. Municipal liability for obstruction of. 65

Municipal liability for over-flow of stream used by it as a sewer. 3 L.R.A.(N.S.) 1053.

Measure of damages recoverable from municipality for overflow from defective sewer. 29 L.R.A.(N.S.) 860.

§ 89. - pollution of waters by. Injunction against city's drainage into water course. 23 L.R.A. 301.

Right of municipal corporation to drain sewage into waters. 48 L.R.A. 691; 61 L.R.A. 694; 20 L.R.A. (N.S.) 1050; 47 L.R.A. (N.S.) 137.

Prescriptive right of municipality to pollute streams with sewage or other harmful substance. 25 L.R.A.(N.S.) 589.

Right of municipality held liable for pollution of stream to recover indemnity or contribution from one responsible therefor. 40 L.R.A.(N.S.) 1165.

Liability of municipality for failure to prevent pollution of stream by others. L.R.A.1918B, 471.

Legislative authority as defense. 1 L.R.A. (N.S.) 124.

§ 90. Waters, generally. Power of city as to, see supra, § 28.

Pollution of waters with sewage, see supra, \$ 89.

Liability for injury by embankment, see EMBANKMENT, § 2.

Right of municipal corporation in respect of percolating waters. L.R.A.1917F,

For death or sickness caused by sewage or For damming back water of stream. 59 L.R.A. 853.

Municipal liability for interference with streams by defective plan for street construction. 67 L.R.A. 258.

Liability for obstructing or destroying rights of navigation. 59 L.R.A. 78.

Liability of municipality for confining flood water within banks of stream to injury of riparian owners. 26 L.R.A.(N.S.) 199.

Liability of municipality for damages by changing the channel or course of a stream. 47 L.R.A.(N.S.) 470.

91. Surface waters.

Duty to care for. 65 L.R.A. 250.

Negligent or wrongful acts. 65 L.R.A. 261.
Changing course of drainage. 65
L.R.A. 261; 5 L.R.A. (N.S.) 831; 29 L.R.A. (N.S.) 126.

Obstruction. 43 L.R.A.(N.S.) 792. Acquiring right of way for drain. 65 L.R.A. 273.

Plans. 65 L.R.A. 274.

Obstructed drains. 65 L.R.A. 275.

Unusual storms. 65 L.R.A. 277.

Right and duty of individual. 65 L.R.A. 277.

Nuisances. 65 L.R.A. 280. Embankments. 65 L.R.A. 281.

Remedy. 65 L.R.A. 281. Abandonment of drain. 65 L.R.A. 286.

§ 92. — injuries due to defects in

Measure of damages recoverable from municipality for overflow from defective street. 29 L.R.A.(N.S.) 860.

Municipal liability for injury to property rights by surface water due to defective plan of street construction. 67 L.R.A. 260.

Liability of municipal corporation for damming back surface water by grading of streets. 65 L.R.A. 250; 29 L.R.A. (N.S.) 126.

93. Water plant.

Liability of water company, see WATERS, §§ 118, 119.

Municipal liability for tort in connection with waterworks system. 61 L.R.A. 58; 25 L.R.A. (N.S.) 239; 52 L.R.A. (N.S.) 465; L.R.A.1918F, 1005.

Liability of municipality operating a water-works system, for breach of duty to consumer. 42 L.R.A.(N.S.) 286.

Liability of municipal corporation in respect of use of percolating waters for water supply. L.R.A.1917F, 691.

§ 94. — lack of water to extinguish fire.

Liability of water company, see WATERS, § 119.

For lack of water to extinguish fire. L.R.A. 146; 61 L.R.A. 95; 25 L.R.A. (N.S.) 239; 36 L.R.A. (N.S.) 1045; 52 L.R.A.(N.S.) 402, 466; L.R.A.1918F, 1005.

Begin with this book on every law question.

MUNICIPAL CORPORATIONS, V. g. 4- | MUNICIPAL CORPORATIONS, V. gcont'd

5. As to streets, bridges, and parks.

§ 95. Streets.

Power of city as to, see supra, § 27.

Injury by water due to defective street, see supra, § 92.

Liability for injuries to property in improving streets, see Highways, § 47s. Liability for injuries in grading street, see HIGHWAYS, §§ 50, 51.

Liability for changing grade of street, see Highways, §§ 52, 53.

For injury by defects or obstruction in streets, see Highways, §§ 57-77.

Liability for injuries from permitting or failure to prevent improper use of street, see Highways, §§ 76, 77.

Recovery over by municipality for injury due to defects in street, see HIGHWAYS, § 95.

Liability of municipality for temporarily interfering with access to property in making improvements. 46 L.R.A. (N.S.) 620.
Liability of municipal corporation for tres-

pass on private property where committed in connection with streets. L.R.A.1916D, 1086.

Liability for failure to prevent riot in street. 23 L.R.A. (N.S.) 638.

For permitting animals in streets. 27 L.R.A. 728.

For fire set by sparks set from steam roller engaged in repairing street. 6 L.R.A. (N.S.) 1094; 20 L.R.A. (N.S.) 654.

Injunction against municipality to prevent removal of lateral or subjacent support of land in laying out street. 68 L.R.A. 698.

Injury to one while coasting in street. 42 L.R.A.(N.S.) 865; L.R.A.1918F, 782.

§ 96. Bridges. See Bridges, §§ 5, 6.

§ 97. Parks.

Liability for injuries through unsafe conditions in parks or public grounds other than streets. 33 L.R.A.(N.S.) 523; L.R.A.1915C, 435.

Municipal liability for defects or obstructions in paths in. 20 L.R.A.(N.S.) 574.

Municipal liability for defects or obstructions in park strips, or sides of streets. 20 L.R.A.(N.S.) 593; 40 L.R.A.(N.S.) 94; L.R.A.1918D, 814.

For negligence of park commissioners. 2 L.R.A.(N.S.) 147.

### 6. As to buildings; prison.

§ 98. Buildings, generally. Municipal liability for defects or obstructions in passageways in public buildings. 20 L.R.A.(N.S.) 573.

Liability of municipal corporation for tort in connection with buildings used by it. 25 L.R.A. (N.S.) 88.

cont'd

Municipal liability for injuries from defects in building used for convenience or pleasure of its inhabitants. L.R.A. 1917E, 695.

City or townhall or courthouse. 25 L.R.A. (N.S.) 91.

### 99. Prisons.

Liability for injury to person in jail or prison, see Jails and Prisons, §§ 2, 3.
Liability for tort of keeper or inmate of, see Jails and Prisons, § 4.

Liability for injury to neighboring prop-erty from maintenance of prison. 34 L.R.A.(N.S.) 361.

### 7. Failure to enforce ordinance.

### 100. Generally.

Liability for failure to enforce health ordinance. 12 L.R.A.(N.S.) 638.

### 8. Enforcement of void ordinance.

### § 101. Generally.

For arrest and imprisonment under invalid ordinance. 47 L.R.A. 593.

Liability for attempt to enforce void ordinance regulating the business or conduct of those within its limits. 18 L.R.A.(N.S.) 409; 34 L.R.A.(N.S.)

### gg. Criminal liability.

### § 101a. Generally.

Criminal responsibility of a municipal corporation. 43 L.R.A.(N.S.) 954.

### h. Claims against or in favor of.

### 1. Claims against.

### § 102. Generally.

Interest on, see Interest, § 18.

Mandamus to compel payment of, see Man-DAMUS, § 8.

Power of legislature to compel payment by municipal corporations of nonlegal demands. L.R.A.1915D, 927.

Statute requiring municipality to pay claim against it as an invasion of powers of judiciary. L.R.A.1917E, 827.

Constitutionality of retroactive statute creating right of action against municipal corporations. 52 L.R.A. 940.
Right of municipal corporation, county, or

town authorities to reconsider action as to allowance of claim. 21 L.R.A. (N.S.) 289.

Right of creditor of taxing district to invoke aid of court to obtain satisfaction of debt, where ordinary remedies not available. 32 L.R.A.(N.S.) 1020.

Right to go behind judgment against municipality in mandamus proceedings to enforce same. 9 L.R.A.(N.S.) 1002.

Acceptance of partial allowance of claim as an accord and satisfaction. L.R.A. (N.S.) 119.

Consult also L.R.A. Digests of Cases.

MUNICIPAL CORPORATIONS, V. g, 6-1 MUNICIPAL CORPORATIONS, V. h, 1cont'd

### 103. Presentation of.

Character of claims within statute or ordinance requiring presentation as a condition of municipal liability. 50 L.R.A. (N.S.) 174.

§ 104. Notice as condition of liability. As condition of liability for injury in street or highway, see Highways, §§ 106, 107.

Does time of notice as condition of municipal liability begin to run from the accident or from the injury or death. 40 L.R.A.(N.S.) 749.

### 105. — sufficiency of,

In case of injury by defective street, see Highways, § 107.

Sufficiency of description of injury in notice. 20 L.R.A.(N.S.) 804.

May injured person's place of residence be required to be stated in notice of accident or injury. 20 L.R.A.(N.S.) 938; 35 L.R.A.(N.S.) 840.

Upon whom may notice of injury or claim against municipality be served. 46 L.R.A.(N.S.) 167.

### 106. - necessity for.

Validity of requirement of notice of injury as a condition of municipal liability. 36 L.R.A.(N.S.) 1136.

Character of claims within statute or ordinance requiring notice or presentation as a condition of municipal liability. 50 L.R.A.(N.S.) 174.

Necessity of written notice as to defect as condition of liability of municipal corporation for injuries due to positive act of its officers or servants. L.R.A.(N.S.) 282.

Lack of, as defense to municipal liability for injury by obstruction of drains or sewers. 61 L.R.A. 710.

107. — excuse for failure to give. Physical or mental incapacity as an excuse for failure to give notice of injury required as a condition of municipal liability. 32 L.R.A.(N.S.) 350.

### 2. Claims in favor of.

### § 108. Generally.

Presumption of payment from lapse of time. L.R.A.1916B, 739.

Right to surrender valid claim upon a partial payment thereof. 19 L.R.A. (N.S.) 320.

Right of taxpayer to maintain suit to enforce claim of. 14 L.R.A. (N.S.) 298.

#### i. Taxation.

### 109. Generally.

Delegation of power of taxation to municipal authorities. 15 L.R.A.(N.S.) 62.

MUNICIPAL CORPORATIONS, V. i—cont'd | MUNICIPAL CORPORATIONS, VI.—cont'd Liability of municipality for wrongful proceedings instituted by its officers to col-lect taxes. 32 L.R.A.(N.S.) 37.

§ 109a. For what purposes.

Assessments for public improvements, see PUBLIC IMPROVEMENTS, IV.

Municipal assessment of state property for local improvements, see Public Im-PROVEMENTS, § 18.

As to taxation, generally, see Taxes. Tax on property of, see Taxes, §§ 31, 32.

To defray cost of municipal waterworks. 61 L.R.A. 50.

Validity of ordinance authorizing the levying of taxes for two or more purposes. 14 L.R.A.(N.S.) 519.

## § 110. What taxable.

Municipal taxation of rural lands within corporate limits, see TAXES, § 22.

Power of city to extend exercise of taxing power beyond corporate limits. 15 L.R.A. (N.S.) 294; L.R.A.1918C, 528.

Taxation of property of another municipality or state. 50 L.R.A.(N.S.) 243.

Bicycles as subject of taxation by municipalities. 47 L.R.A. 304.

§ 111. Power of municipality to exempt property from taxation. In general. 15 L.R.A. 860; 29 L.R.A. (N.S.)

Legislative authority for exemptions. L.R.A. 861.

Exemption for a consideration. 15 L.R.A. 861.

### VI. Officers and employees.

183

§ 112. Generally. Acts of city council, see supra, V. c. Liability of municipality for acts of, see supra, §§ 81-84.
Validity of contract with, see CONTRACTS,

§§ 99-101.

Recall of municipal officers, see Initiative, REFERENDUM, AND RECALL, § 2.

As to officers generally, see Officers. Officers of town, see Towns, §§ 8-10.

By-law to compel acceptance of office. 24 L.R.A. 492.

As public officers. 17 L.R.A. 247.

Power of legislature as to. 48 L.R.A. 479. Statutes conferring powers on municipalities or counties in respect to their officers as a delegation of legislative power. L.R.A.1916D, 921.

Validity of limitation of hours of labor on public works. 8 L.R.A. (N.S.) 131; 24 L.R.A. (N.S.) 201; 34 L.R.A. (N.S.) 767.

Right of municipal officer not specially named to maintain action for libel or slander based on charges against group of such officers. 23 L.R.A. (N.S.) 728.

Report by, as privileged communication. 5 L.R.A.(N.S.) 163.

Competency as witnesses of officers of and residents in municipal corporation in suit between municipality and a personal representative. 27 L.R.A. (N.S.) 821.

Disqualification of city officers to serve as commissioners or jurors in eminent domain proceedings. 47 L.R.A.(N.S.)

Character and extent of relief by mandamus against officer who has rendered a decision on a ground not within his discretion. 7 L.R.A.(N.S.) 525.

Denial on information and belief of matters within knowledge of municipal officers. 30 L.R.A.(N.S.) 779.

Duty of municipal officer to account for profits made in transaction with municipality. 48 L.R.A.(N.S.) 842.

Action against officers of cities as action against the state. 44 L.R.A.(N.S.) 199.

Parol evidence to vary or supplement records of municipal council or other officers. 50 L.R.A. (N.S.) 99.

#### 113. Who are.

Who are public officers generally, see Offi-CERS, § 2.

Who are city officers. 14 L.R.A. 646.

#### § 114. Deputies.

As to deputies generally, see DEPUTY.

Implied power of municipal corporation to create the office of deputy or assistant to an incumbent of an office which is expressly authorized. 26 L.R.A. (N.S.) 660.

#### § 115. Appointment.

Appointment of officers generally, see Or-FICERS, §§ 10-14.

May appointment of municipal officers be constitutionally delegated to courts or judges thereof. 19 L.R.A.(N.S.) 579.

### § 116. Term.

Term of office generally, see Officers, § 16.

Power of board to appoint officer for term extending beyond its own term. 2 L.R.A. (N.S.) 652; L.R.A.1915E, 581.

Power of municipal board or committee to employ one of its own members as counsel, or to render other special service. 3 L.R.A.(N.S.) 849.

### 117. Removal.

Removal of officers generally, see Officers, §§ 22-24.

Of town officers, see Towns, § 10.

Right to remove summarily. 15 L.R.A. 95.

Power to remove officer in absence of statutory authority. 9 L.R.A. (N.S.) 572. Is power conferred upon municipality to remove its officers exclusive. 20 L.R.A. (N.S.) 1128.

Begin with this book on every law question.

MUNICIPAL CORPORATIONS, VI.-cont'd Power of municipality to remove officer in absence of statutory authority. L.R.A.(N.S.) 519.

### § 118. Contest of title.

Contest of title to office generally, see Or-FICERS, § 27.

Provision for testing election of, before city council or other municipal body as exclusive of remedies in the courts. 26 L.R.A.(N.S.) 207.

## § 119. Powers.

Of council, see supra, V. c.

Power to make contract extending beyond term of office, see supra, § 55.

Power to make contract in which they are personally interested, see CONTRACTS, § 100a.

Powers of officers generally, see Officers, §§ 28-30.

Of town officers, see Towns, § 9.

Power to act as determined by place of performance. 33 L.R.A. 86.

Validity of ordinance granting discretion to officials. 1 L.R.A.(N.S.) 940.

#### § 120. Compensation.

Compensation of officers generally, see Or-FICERS, §§ 31-37, 44.

Right of taxpayer in absence of statute to enjoin payment of illegal fees and salaries to officers. 36 L.R.A.(N.S.) 11.

Right of municipal employee to recover for extra work done on Sunday. 30 L.R.A. (N.S.) 660.

Exemption of salary of municipal officer. 54 L.R.A. 573.

Power of legislature to require municipality to pension employees. 34 L.R.A. (N.S.) 608.

### § 121. Liability.

Liability of officers generally, see Officers, §§ 38-42.

Personal liability to other contracting party of one who, without authority, assumes to contract as agent for a municipality. 34 L.R.A.(N.S.) 523.

### 122. De facto officers.

De facto officers generally, see Officers, §§ 37, 43, 44.

De jure office as condition of de facto officer. 15 L.R.A.(N.S.) 105.

### MUNICIPAL COURTS.

May judges of, be vested or burdened with powers or duties of a nonjudicial character. 19 L.R.A.(N.S.) 615.

#### MUNICIPAL PLANTS.

See MUNICIPAL CORPORATIONS, §§ 68-70. Consult also L.B.A. Digests of Cases.

#### MURDER.

See HOMICIDE.

#### MURDERER.

Descent of property to, see DESCENT AND DISTRIBUTION, § 8.

#### MUSEUM.

Occupancy of curator of. 4 L.R.A. (N.S.) 705.

#### MUSIC.

Instruction in, as a necessary for an infant. 42 L.R.A. (N.S.) 1115.

Power to prescribe teaching of, in public schools. 47 L.R.A. (N.S.) 203.

Perforated rolls and wax cylinders as infringement of copyright of sheet music. 2 B. R. C. 91.

### MUSICAL COMPOSITIONS.

Employer's right to musical compositions composed by employees. 5 L.R.A. (N.S.) 1189.

### MUTILATED COIN.

Tender of. 33 L.R.A. 824.

### MUTILATED CURRENCY.

Character or condition of currency that may be tendered in payment of fare. 35 L.R.A.(N.S.) 1030.

### MUTILATION.

Of corpse, see Corpse, § 3. Revocation of wills by, see WILLS, §§ 39,

Mental suffering arising from contemplation of, as element of damages for personal injuries. 15 L.R.A.(N.S.) 775.

In books of account as affecting admissi-bility in evidence. 52 L.R.A. 575. Liability for mutilation or spoliation of will. L.R.A.1917B, 558.

#### MUTINY.

Prosecutions under the Espionage Act of June 15, 1917, for attempting to cause. L.R.A.1918F, 410.

#### MUTUAL ACTIONS.

For specific performance of agreement to permit maintenance of license on land Right of set-off in case of. 17 L.R.A. 461. of another. 49 L.R.A. 513.

## -MUTUAL AGREEMENTS.

As defense to promissory note. 43 L.R.A. 467.

#### MUTUAL BENEFIT ASSOCIATION.

In general, see BENEFIT Societies. Insurance by, see Insurance.

### MUTUAL COMBAT.

Effect on civil liability for assault of fact that combat was by mutual consent of parties. 20 L.R.A.(N.S.) 907. Right to set up self-defense in case of. 45 L.R.A. 704.

Homicide while engaged in. 63 L.R.A. 384; 45 L.R.A. (N.S.) 646

Insulting words or conduct as provocation to homicide where mutual combat results. 4 L.R.A.(N.S.) 157.

### MUTUAL COMPANIES.

Mutual insurance campanies, see Insurance. Taxation of capital stock of. 58 L.R.A. 525.

### MUTUAL CONSENT,

To rescission or abandonment of contract. 30 L.R.A. 40.

### MUTUAL COVENANTS.

Who may enforce mutual covenants containing restrictions as to use of prop-37 L.R.A. (N.S.) 25; L.R.A. 1917A, 330.

### MUTUAL CREDITS.

#### MUTUAL DEBTS.

Right of set-off in case of. 17 L.R.A. 461.

### MUTUAL INSURANCE COMPANY.

See INSURANCE.

#### MITTIALITY.

Of contract, generally, see CONTRACTS, \$ 18. Of claims as essential to right of set-off, see SET-OFF AND COUNTERCLAIM, § 6.

As condition of right to specific performance of contract, see Specific Perform-ANCE, §§ 21, 22.

Of duty to request arbitration of insurance laws. 15 L.R.A.(N.S.) 1067.

Necessity of mutuality of claims which are the subject of an account stated. 45 L.R.A.(N.S.) 537.

### MUTUAL TELEPHONE COMPANIES.

As public utilities. L.R.A.1918C, 827.

### MUTUAL VITUPERATION.

Effect of, on right to recover for libel or slander, see LIBEL AND SLANDER, § 39.

#### MUTUAL WILLS.

See Wills, §§ 6, 35, 49.

N

### NAIL.

Master's liability for injuries sustained by servant from falling over nail projecting from floor. 19 L.R.A. (N.S.) 242.

Begin with this book on every law question.

#### NAME.

I. Of persons, \$\$ 1-18.

a. In general, §§ 1-18. b. Mistake in; omission of;

idem sonans, §§ 14-16.

NAME, I.—cont'd

c. Use of name in connection with business, §§ 17, 18. II. Of articles or things, \$ 19.

### I. Of persons.

### a. In general.

§ 1. Generally. On official ballots, see Elections, § 19a. Nickname, see NICKNAME.

Validity and enforceability of contract in consideration of naming child. L.R.A.(N.S.) 1108.

Form of Christian name required by re-cording acts. 24 L.R.A. 543. Of locator in record of mining claim. 7

L.R.A.(N.S.) 868.

Under what surname may action brought. 2 L.R.A.(N.S.) 1089. Ъe

Of person summoned as grand juror. L.R.A. 780, 783.

Character, as creating a condition precedent or subsequent, of testamentary provision that beneficiary shall assume or use a certain name. 7 B. R. C. 192.

 Implied or apparent authority as to filling in blank left for the name of the payee in commercial paper. L.R.A.1918D, 1064.

\$ 2. Acquisition and use of. Use of, in connection with business, see infra, §§ 17, 18.

Form of the Christian name. 14 L.R.A. 690.

"Junior" and "Senior." 14 L.R.A. 691. Right to change name. 14 L.R.A. 692.

Business name. 14 L.R.A. 693.
Signature and indorsement on commercial paper. 14 L.R.A. 693.

Name for carrying on suit. 14 L.R.A. 694.

Effect on criminal prosecutions. 14 L.R.A. 694.

Use of abbreviations. 14 L.R.A. 694. Signature of Christian names by their initials. 14 L.R.A. 694.

### 3. Abbreviations.

Use of. 14 L.R.A. 694.

Abbreviation of officer's name in acknowledgment. 14 L.R.A. 815.

Use of, in books of account, as affecting their admissibility in evidence. L.R.A. 573.

### 4. Initials.

To show official character. 14 L.R.A. 815. Sufficiency of, in signature. 14 L.R.A. 693,

Signature of Christian names by their initials. 14 L.R.A. 691.

Sufficiency of initials as signature by testa-

tor. L.R.A.1915D, 904. Use of initials instead of Christian name in publication of process. 28 L.R.A. (N.S.) 436.

Effect of summons or notice to person by

Consult also L.R.A. Digests of Cases.

NAME, I. a-cont'd

Certainty and accuracy necessary in respect to, in record or index relied on as imparting constructive notice. 7 L.R.A. (N.S.) 415; 25 L.R.A. (N.S.) 1211; L.R.A.1916D, 1211.

Mistake in use of initials in conveyance as affecting marketability of title. 38 L.R.A.(N.S.) 21.

§ 5. Suffixes.
Use of terms "junior," and "senior." L.R.A. 691.

§ 6. Maiden name.

Publication of process against married woman in her maiden name. 19 L.R.A. (N.S.) 984.

§ 7. Alias.

Necessity of proving that person bore both real name and the alias by which the indictment purports to describe him.

30 L.R.A. (N.S.) 134.

§ 8. Fictitious or assumed name.

In negotiable instrument, see BILLS AND Notes, § 13.

Use of fictitious name as affecting validity of instrument. 39 L.R.A. 423.

Right of individual to transact business and make contracts under an assumed name. L.R.A.1915D, 982.

What name or designation are within statutes requiring the filing of a certificate giving certain information regarding a business conducted under an assumed or fictitious name or a designation not showing the names of the persons interested. L.R.A.1916D, 355.

Validity of contracts made by individual or partnership under an assumed name in violation of statute. L.R.A.1915D,

988.

Validity of sale by one conducting business under fictitious name. 12 L.R.A. (N.S.)

Sufficiency of assumed name as signature to will. L.R.A.1915D, 904.

### 9. Business name,

Doing business under fictitious or assumed name, see supra, § 8.

Acquisition of business name by individual. 14 L.R.A. 693.

Liability of one who sells business for supplies subsequently furnished therefor on credit while it is being conducted under the same name. L.R.A.1915F, 711.

Liability of principal adopting agent's other name as business name on paper executed by him. 21 L.R.A.(N.S.) 1076.

§ 10. Partnership name,

Doing business under fictitious or assumed name, see supra, § 8.

wrong initial. 15 L.R.A.(N.S.) 129; May a partnership sue or be sued in the 42 L.R.A.(N.S.) 151. firm name. 29 L.R.A.(N.S.) 282.

NAME, I. a-cont'd

Validity of constructive service upon partnership in firm name. 29 L.R.A.(N.S.)

§ 11. Identity.

Presumption of identity from. 17 L.R.A.

Identity of name as evidence of identity of person in criminal cases. 4 L.R.A. (N.S.) 539.

12. Change of.

Right to change name. 14 L.R.A. 692; L.R.A.1915D, 982.

Effect upon common-law right to change one's name of statutes providing for such change by judicial proceedings. 26 L.R.A.(N.S.) 1167.

Changing name of payee of note as a material alteration. L.R.A.1915A, 166.

As interrupting statute of limitations. 39 L.R.A.(N.S.) 741.

§ 13. In indictment.

Necessity in indictment for forgery, or uttering forged instrument, of naming person to whom instrument was passed. 31 L.R.A.(N.S.) 1046.

Variance as to name of deceased as ground for reversal in homicide. 38 L.R.A.

(N.S.) 187.

### b. Mistake in; omission of; idem sonans.

§ 14. Mistake in, generally.

Mistake in name in writ or process, see WRIT AND PROCESS, §§ 5, 6.

Effect of misnaming estate in granting letters. 46 L.R.A.(N.S.) 274.

Correcting by second deed mistake in name of grantee in first deed. (N.S.) 850. 44 L.R.A.

Mistake as to name of juror in criminal case as ground for arrest of judgment, new trial, or reversal. 47 L.R.A.(N.S.)

Mistake in name or description of corporation as affecting judgment by default against it. L.R.A.1916F, 728.

Effect of mistake in name of payee in negotiable instrument. 22 L.R.A.(N.S.) 506.

Alteration of instrument to correct mistake in designation of party. 31 L.R.A. (N.S.) 127.

Misnomer of parties as ground for attacking divorce decree. L.R.A.1917B, 439.

Misnomer of trustees in charitable bequest. 14 L.R.A.(N.S.) 107; 37 L.R.A.(N.S.)

Misnomer of beneficiary in bequest for charity or religion. 37 L.R.A.(N.S.) 1010.

Certainty and accuracy necessary in respect of Christian names or initials in record or index relied on as imparting constructive notice. 7 L.R.A. ing constructive notice. 7 L.R.A. (N.S.) 415; 25 L.R.A. (N.S.) 1211; L.R.A.1915D, 1211.

Begin with this book on every law question.

NAME, I. b—cont'd Liability of officer for making arrest by wrong name. 51 L.R.A. 219.

As affecting marketability of title. L.R.A.(N.S.) 21. 38

Variance as to name of deceased as ground for reversal in homicide. 38 L.R.A. (N.S.) 187.

Effect of misspelling name of person whose signature is charged to have been forged. 27 L.R.A.(N.S.) 1003.

15. Omission of.

Effect of omission of name in replevin bond after it has served its purpose. L.R.A.(N.S.) 749.

Omission of Christian name in publication of process. 11 L.R.A.(N.S.) 676; 28 L.R.A. (N.S.) 436.

§ 16. Idem sonans.

Applicability of doctrine of idem sonans to interchange of "d" and "t." 18 L.R.A. (N.S.) 643.

Applicability of doctrine of idem sonans where final "s" is added or omitted. 52 L.R.A.(N.S.) 937.

Applicability of doctrine of idem sonans to substituted or constructive service of process. 30 L.R.A.(N.S.) 122; L.R.A. 1915B, 1149.

### c. Use of name in connection with business.

§ 17. Generally.

As to business name, see supra, § 9.

As part of good will of business. 15 L.K.a.

Right of one selling business and good will to use similar name in competing business. 19 L.R.A.(N.S.) 765.

Use of, as infringement of common-law right in intellectual productions. 51 L.R.A. 378; 43 L.R.A. (N.S.) 639.

Right to use of name on expiration of copyright or patent. 16 L.R.A.(N.S.) 550.

Right of action for use of name for advertising purposes. 24 L.R.A. (N.S.) 991; 34 L.R.A. (N.S.) 1137; L.R.A.1915C. 839; L.R.A.1918D, 1152.

Provision in contract with independent con tractor prohibiting use of employer's name. 65 L.R.A. 507.

§ 18. Use of, as trademark or trade

Trademark generally, see TRADEMARK. Tradename generally, see TRADENAME.

Limitation of right to use one's own name as tradename. 1 L.R.A.(N.S.) 660; 28 L.R.A.(N.S.) 934; L.R.A.1916C, 255.

Transferability of, as trademark. 1 L.R.A.

(N.S.) 711.

Right to use one's own name as a trademark or tradename when already used by another as affected by difference in appearance in other respects. L.R.A. (N.S.) 731.

NAME-cont'd

### II. Of articles or things.

§ 19. Generally.

Of association, see Associations. Of business establishment as part of good will, see Good Will, § 5.

Trademark, see TRADEMARK. Tradename, see TRADENAME.

Of mining claim as part of notice of location. 7 L.R.A. (N.S.) 835.

Right of members of organization to protection in use of name which their efforts have made valuable. 28 L.R.A. (N.S.) 458.

Right at expiration of patent or copyright

right at expiration of patent or copyright to use of name by which article has become known. 1 B. R. C. 649.

Warranty that seed sold is true to name. 37 L.R.A.(N.S.) 80; L.R.A.1916C, 1012.

Description of property by local appellation as satisfying statute of frauds. 36 L.R.A.(N.S.) 154.

#### NAPHTHA.

In general, see Explosions and Explosives. Liability for injury to employee by explosion of. L.R.A.1918B, 864.

Liability for injury to children from explosion.

sion of naphtha left accessible to them. L.R.A.1917A, 1297.

Keeping of, on insured premises. L.R.A. 1917C, 278.

### NARCOTICS.

In general, see DRUGS AND DRUGGISTS. As affecting testamentary capacity. L.R.A. (N.S.) 31; L.R.A.1915A, 450.

### NARROW CROSSING.

Liability of railroad company for injury by collision of train at. 14 L.R.A. (N.S.) 315.

### NARROW SEAS.

Jurisdiction over. 46 L.R.A. 266.

### NATIONAL BANKS.

See BANKS, §§ 45-48.

### NATIONALITY.

Competency to testify as to one's nationality. 37 L.R.A.(N.S.) 760. Consult also L.R.A. Digests of Cases.

#### NATURAL CHILDREN.

See ILLEGITIMACY.

### NATURAL GAS.

In general, see Gas; MINES, § 33.

Right to gas in railroad right of way as between company and fee owner. 45 L.R.A.(N.S.) 803.

### NATURAL HEIRS.

Meaning of term. 45 L.R.A.(N.S.) 1163.

### NATURALIZATION.

See ALIENS, § 5.

### NATURAL RESOURCES.

Conservation of, see Constitutional LAW, § 48.

### NATURE.

Crime against nature, see SODOMY.

### NAVAL RESERVATION.

Location of mining claim on. 7 L.R.A. (N.S.) 790.

### NAVIGABLE WATERS.

See WATERS, I.

#### NAVIGATION.

As to collision, see Collision. Control of, see Commerce, § 3. Rights of, see Waters, §§ 18-21. Improvement of, see WATERS, §§ 19, 20. Right to obstruct or destroy rights of, see WATERS, § 21.

Question relationg to, as a Federal question. 62 L.R.A. 538.

NAVY.

See ARMY AND NAVY.

#### NEAR BEER.

Judicial notice as to intoxicating character As imprisonment for debt. 34 L.R.A. 671; of. 48 L.R.A.(N.S.) 315, 316. L.R.A.1915B, 651. Constitutional power to prohibit or regulate sale of. 26 L.R.A. (N.S.) 872.

#### NEAREST MALE HEIRS.

Meaning of devise to. 7 B. R. C. 982.

#### NEARSIGHTEDNESS.

Right to show, on issue of contributory negligence without allegation thereof. L.R.A.1917D, 558.

### NECESSARIES.

Furnished to married woman, see HUSBAND AND WIFE, §§ 7, 8a.
Wife's liability for, see Husband and Wife, § 21.

Furnished to infant, see INFANTS, §§ 18,

What supplies furnished in foreign port are. 70 L.R.A. 403.

Power of guardian or committee of insane to procure necessaries for family of his ward. L.R.A.1917B, 678.

#### NECESSARY PARTIES.

See Parties, §§ 27-32.

#### NECESSITY.

Way by, see EASEMENTS, § 14. Necessity for taking land by eminent domain, see EMINENT DOMAIN, § 4. Presumption and burden of proof as to, see EVIDENCE, § 109.
For execution, see Execution, § 8. For notice, see NOTICE, §§ 2-4. Work of, see SUNDAY, § 6.

Question for jury as to, see TRIAL, § 25. Justifying entry on another's land. L.R.A.(N.S.) 152.

### NECROMANCY.

Prohibition of fortune telling and kindred superstitions. 43 L.R.A.(N.S.) 203.

Begin with this book on every law question.

#### NE EXEAT.

L.R.A.1915B, 651.
What constitutes breach of ne exeat bond.
20 L.R.A.(N.S.) 76.

Ne exeat to prevent removal of property from state. L.R.A.1916C, 407.

#### NEGATION.

Of defenses or exceptions in indictment, see INDICTMENT, INFORMATION, AND COM-PLAINT, § 8.

### NEGATIVE.

Use of, without consent of party paying for same. 56 L.R.A. 397. Negativing employee's knowledge of defects and incompetency in pleading. 59 L.R.A. 266.

### NEGATIVE EVIDENCE.

Proof of negative by books of account. 52 L.R.A. 719.

Proof of character by. 22 L.R.A.(N.S.) 666.

Establishment of good character by. 14 L.R.A.(N.S.) 696.

Admissibility of evidence that no previous accident had ever happened from condition complained of. 32 L.R.A.(N.S.)

Express authority to certain train employees to eject trespassers as negativing implied authority of other employees. 32 L.R.A.(N.S.) 1164.

### NEGATIVE INFERENCES.

Admissibility in evidence. L.R.A.1918A. 743.

### NEGATIVE RELIEF.

Necessity of judgment to negative relief to creditors in equity. 23 L.R.A.(N.S.) 15.

### NEGLECT OF DUTY.

As ground for discharge of one employed in executive or supervisory capacity. L.R.A.1918C, 1038.

#### NEGLIGENCE.

I. As basis of action, §§ 1-30. a. In general, §§ 1-5.

b. Causing injury to person or property, §§ 6-30.

1. In general, \$\$ 6-12.

2. Dangerous agencies, §\$ 18-15.

(a) In general, 💈 🕻 18, 14.

(b) Negligence of seller or manufac-

turer, § 15. 3. Dangerous premises, §§ 16-23a.

(a) In general, \$\$ 16-18.

(b) Liability to trespassers and licensees, §§ 20-23a.

> (1) In general, §§ 2Ō, 21. (2) Children,

22-23a. **4**. On highways, private ways, or waters, \$\$ 24-

29a. 5. Who liable, \$ 30.

II. Contributory negligence, §§ 31-55. a. Injury to person, §§ 31-52.

1. In general, §§ 31-35. 2. Of children or their

parents, §§ 36, 37. 8. On highways, \$\$ 38-40.

4. Imputed negligence, §§ 41-49.

5. Last clear chance; humanitarian doctrine, **§§** 50-52.

6. Where defendant's negligence was wanton or wilful, § 52a.

b. Injury to property, §§ 53-55.

#### I. As basis of action.

### a. In general.

§ 1. Generally.

Of title abstracter, see ABSTRACTS, § 2.

Of expert accountant, see ACCOUNTANTS. As to animals, see Animals.

Of architect, see Architects.

Of attorney toward client, see ATTORNEYS, § 11.

Of corporate officers and directors, see Cor-PORATIONS, §§ 52-59.

Of telegraph company, see TELEGRAPHS, III.

Imputing attorney's negligence to client, see ATTORNEYS, § 17.

Habit as to, see Custom and Usage, §§ 2,

Measure of damages for negligence in regard to telegrams, see DAMAGES, §§ 41, ĭ02, 103, 117.

Estoppel by, see ESTOPPEL, § 27.

Presumption and burden of proof as to, see EVIDENCE, III. g.

Consult also L.R.A. Digests of Cases.

NEGLIGENCE, I. a-cont'd

Opinion evidence as to, see EVIDENCE, § 196.

Evidence of character or reputation to show, see EVIDENCE, § 253.

Evidence as to, generally, see EVIDENCE, §§ 266-269.

Sufficiency of evidence of, see EVIDENCE, § 294.

As a cause for, and as a bar to, injunctions against judgments, see Injunction, § **5**7.

As affecting judgment, see JUDGMENT, § 94. Limitation of action based on, see LIMITA-TION OF ACTIONS, §§ 35, 40, 41, 51.

Pledgee's liability to pledgeor for negligence, see PLEDGE AND COLLATERAL SECURITY, III. a.

Reasonableness of matters relating to, see REASONABLENESS, § 5.

Of trustee in making investments, see TRUSTS, § 26a.

As to telegrams, see TELEGRAPHS, III. c. Gross negligence, see GROSS NEGLIGENCE.

May action for alienation of affections rest upon a negligent tort. L.R.A.1917B, 680.

Care required in selecting bank for deposit of public funds. 7 L.R.A.(N.S.) 1084.

Care demanded of trustee to sell real estate. 3 L.R.A.(N.S.) 415.

Of surety as affecting liability in case of fraud of obligee. 21 L.R.A. 413.

Of party against whom judgment has been obtained on unauthorized appearance by attorney. 21 L.R.A. 857.

Effect of negligence on right to equitable relief from contract by which one has been overreached. 5 L.R.A. (N.S.) 799.

As affecting right to relief from mistake of law as to effect of instrument. 28 L.R.A.(N.S.) 882.

Effect of shipper's negligence on passing of title by delivery to carrier. 22 L.R.A. 417.

Liability of vendor of seeds. 37 L.R.A. (N.S.) 79.

Liability for negligence in furnishing relief to poor person, 39 L.R.A. (N.S.) 168.

Liability of insurance broker to insured for negligence. 38 L.R.A.(N.S.) 631.

Liability of notary, or other officer for negligence in certifying to acknowledgment or affidavit. 49 L.R.A.(N.S.) 47.

Liability of engineer for negligence in issuing certificates. 4 B. R. C. 859.

Negligence in extending credit to person in whose name title to real property is permitted to stand by real owner. 30 L.R.A.(N.S.) 13.

Carrier's liability to bona fide holder on bill of lading negligently issued by agent without delivery of any goods to carrier. 22 L.R.A. (N.S.) 828.

Of maker of note, execution of which was obtained by fraud. 36 L.R.A. 437.

Right of convicted person to maintain an action against witness for negligently giving false evidence. 3 B. R. C. 251.

NEGLIGENCE, I. a-cont'd

§ 2. Of bank or bank officers.

Of bank in paying checks, see BANKS, §§ 23-25.

In collection of commercial paper, see BANKS, §§ 31-35.

Negligence of officers, see Banks, § 7. Recovery back of money negligently paid to one presenting negotiable paper, see BANKS, §§ 28, 29; BILLS AND NOTES,

§ 3. Effect of, on broker's right to commissions.

Of principal, as affecting real estate broker's right to commissions. 43 L.R.A. 593. Of real estate broker as affecting his right to commissions. 45 L.R.A. 39.

§ 4. Effect of, on liability of personal representative.

Personal liability of executor or administrator to distributees for interest where settlement of estate is delayed by negligence of attorneys. 31 L.R.A. (N.S.)  $\bar{3}59.$ 

Liability of personal representative for negligence in management of business carried on by him on behalf of estate. 40 L.R.A.(N.S.) 214.

Liability for personal injury resulting from negligence in care or management of property of estate. 38 L.R.A.(N.S.)

5. Negligent breach of contract.

Tort for negligent breach of contract between private parties. 12 L.R.A. (N.S.) 924.

Sufficiency of compliance with provisions in employers' liability or other indemnity policies requiring immediate notice of accident, claim, or suit. 3 B. R. C. 723.

b. Causing injury to person or property.

### 1. In general.

§ 6. Generally.

Act of God as negligence, see Act of God. In connection with places of amusement, see AMUSEMENTS, §§ 5-7.

As to animals, see ANIMALS.

Negligence of architect, see ARCHITECTS. Of owner of boat livery, see BOAT LIVERY. Negligence in blasting, see BLASTING. As to bridges, see BRIDGES.

In regard to fire escapes, see BUILDINGS, Liability for communicating contagious dis-

ease, see Contagious Diseases, § 2. Liability of elevated railroad company for injury to person on surface of street. see ELEVATED RAILBOADS, § 4.

In use of elevators, see Elevators, §§ 3-7. Liability for injury caused by fright, see FRIGHT, §§ 2, 3.

Of or towards incompetent persons, see In-COMPETENT PERSONS, §§ 11, 12.

Towards infant, see INFANTS, §§ 37-39. Liability of infants for, see INFANTS, III. c.

Begin with this book on every law question.

NEGLIGENCE, I. b, 1-cont'd

Liability of innkeepers, see INNKEEPERS, §§ 6-12.

Liability for injury to person confined in jail or prison, see JAILS AND PRISONS. §§ 2-4.

Joint liability in case of, see JOINT CRED-ITORS AND DEBTORS, §§ 3-7.

Of master, see MASTER AND SERVANT, III, a. Liability for safety of wharf or dock, see

Wharves, § 7. Limitation of carrier's liability for injury from, see CARRIERS, §§ 28, 29, 91, 128-135.

To passenger, see CABRIERS, III. j; .ELE-VATED RAILBOADS, § 3.

Limitation of carrier's liability in case of. see CARRIERS, § 132.

Measure of damages for negligence of carrier towards passenger, see Damages, §§ 15, 43-45, 105.

Measure of damages against carrier for negligence as to baggage, see DAMAGES, §§ 15, 46, 106.

Measure of damages against carrier for negligence as to freight, see DAMAGES, §§ 47, 118.

Measure of damages for negligent injury, see Damages, §§ 18, 57-67, 100, 101. Measure of damages for negligent injury to

personalty, see DAMAGES, § 68.

Measure of damages for injury to realty, see DAMAGES, §§ 71-79.

Right of action for death caused by negligence, see DEATH, II.

Physical examination in negligence action, see DISCOVERY AND INSPECTION. Effect of intoxication, see DRUNKENNESS,

§§ 5-9.

Negligent homicide, see HOMICIDE.

Of physician or surgeon, see Physicians AND SURGEONS, III. Presumption and burden of proof as to, see

EVIDENCE, III. g.
Proximate cause of negligent injury, see
PROXIMATE CAUSE.

Release of claim for, see RELEASE. Liability of school district for, see Schools,

§ 31.

In operation of railroad, see RAILROADS. Question for jury as to, see TRIAL, §§ 39-

Gross negligence, see Gross Negligence.

Liability of owner or occupant of land for spread of weeds or noxious vegetation to adjoining premises. 52 L.R.A. 293.

Liability of railroad company for injury to persons, not employees, caused by defectively loaded car. 26 L.R.A. (N.S.) 204.

Liability for damages caused by slutting off water or gas from premises. 21 L.R.A. (N.S.) 468.

In respect to safety of wharf or dock. 61 L.R.A. 946.

As to ambulance. 38 L.R.A.(N.S.) 482. Duty and liability to inspectors who enter premises in performance of their duty. 31 L.R.A.(N.S.) 380.

Liability for personal injury to one using telephone. 36 L.R.A. (N.S.) 279.

NEGLIGENCE, I. b, 1—cont'd Liability for injuries to one blinded by headlight. 42 L.R.A. (N.S.) 876; 48 L.R.A. (N.S.) 827.

Liability for injuries to buildings on adjoining land by negligent removal of lateral support of the soil. 6 L.R.A. (N.S.) 243.

Duty as to maintenance and repair of retaining wall. L.R.A.1917F, 683.

Liability for injuries from matter precipitated upon adjoining property. L.R.A.(N.S.) 1171.

Care required in sudden emergency not to injure another person. 37 L.R.A. injure another person. (N.S.) 60.

Liability of private person for damages in abating a nuisance. L.R.A.1917C, 1042. Liability of one who renders ice unsafe for skating or travel. L.R.A.1918A, 408.

How far statutes imposing liability for negligence regarded as abrogating maxim that one cannot profit by his own wrong. 25 L.R.A. 572.

Power to require one who has caused injury to identify himself. 40 L.R.A.(N.S.) 622.

May one recover for injuries which would have been avoided by performance of defendant's duty toward another. 46 L.R.A. (N.S.) 338.

Liability of street railway company for damages in removing obstructions from its tracks. 43 L.R.A.(N.S.) 126.

Prenatal injury to infant as ground of action. 45 L.R.A. (N.S.) 625.

Permitting articles to roll down hillside or decline. L.R.A.1915B, 426.

Claim against state for damages from. 42 L.R.A. 64.

Power of equity to take jurisdiction because of multiplicity of actions at law for personal injuries growing out of a single tort. 40 L.R.A. (N.S.) 464.

Right of one to testify as to his intent in cases involving negligence. 23 L.R.A. (N.S.) 399.

Effect of admission to change burden of proof and right to open and close in action for negligence. 61 L.R.A. 538, **557.** 

Statements made some time after accident as res gestæ. 42 L.R.A.(N.S.) 917.

Exceptions to rule as to functions of court and jury in negligence cases. 15 L.R.A. 332.

Requisites of special verdict in negligence action. 24 L.R.A. (N.S.) 21.

Federal courts following state decisions as to. 40 L.R.A.(N.S.) 437.

### 7. Pleading.

Plaintiff's pleading in action for injury by, see Pleading, §§ 23-30.

Alleging in single count two or more acts of negligence capable of contributing to injury. 27 L.R.A.(N.S.) 792.

Right to join in one complaint claims of ordinary and gross negligence arising out of one state of facts. 31 L.R.A. (N.S.) 158.

Consult also L.R.A. Digests of Cases. 62

NEGLIGENCE, I. b, 1—cont'd

Right to recover for ordinary negligence under allegation of gross, wilful, or wanton negligence, or vice versa. 69 L.R.A. 601.

Denial upon information and belief as to negligence. 30 L.R.A.(N.S.) 777.

Right to plead inconsistent defenses in actions relating to. 48 L.R.A. 197.

### § 8. Concurrent negligence of third person.

In injury to servant generally, see Master and Servant, § 49.

Concurring negligence of master and fellow servant, see Master and Servant, §§ 133, 134.

Effect of intervening act on recovery for personal injury. 48 L.R.A.(N.S.) 105

Where defendant's negligence is the efficient and proximate cause of the injury. 17 L.R.A. 33.

Where the negligence of both persons was necessary to produce the injury. 17 L.R.A. 35.

Where the third person's negligence is the cause of the injury. 17 L.R.A. 38.

Intoxication of person injured as affecting

liability in case of concurrent negligence. 40 L.R.A. 139.

Liability of negligence with respect to electric current as affected by third person's concurring negligence. 7 L.R.A. (N.S.) 293.

Liability of one responsible for a fire for destruction of property after such fire united with another for which he was not responsible. 48 L.R.A. (N.S.) 700.

Effect of negligence of third persons contributing to negligent homicide. 61 L.R.A. 298.

### § 9. Criminal negligence.

In general, see CRIMINAL LAW, § 30; HOMI-

CIDE, § 15. Effect of negligence in treatment or care of wound on responsibility for homicide, see Homicide, § 25.

§ 10. Violation of statute or ordinance. By employer, see MASTER AND SERVANT, §§ 54, 55.

street railway company, see STREET Вy RAILWAYS, §§ 11. 13.

Disobedience of statute as negligence. L.R.A.(N.S.) 339.

Private action for violation of statute not expressly conferring it. L.R.A.1915E,

Private action for violation of statutes regulating dangerous wares. 9 L.R.A. (N.S.) 382.

Violation of statute prohibiting or regulating sale of poisons as civil negligence. 30 L.R.A.(N.S.) 522.

Violation of statute or ordinance relating to explosives as negligence per se giving right of private action. 48 L.R.A.(N.S.) 879. NEGLIGENCE, I. b, 1-cont'd

Violation of police ordinance as ground for private action. 5 L.R.A.(N.S.) 253.

Violation of speed limits by automobile as negligence. 25 L.R.A. (N.S.) 40.

Violation of statute or ordinance giving one vehicle right of way as against another as affecting liability for injury. L.R.A. 1915D, 1021; L.R.A.1917D, 693.

Violation of ordinance as to part of street or highway to be used by vehicles as negligence. L.R.A.1916C, 999.

Violation of ordinances as to leaving horse unhitched in highway. 10 (N.S.) 854.

May wrongdoer take advantage of general statutory imposition of damages for negligent injuries? 28 L.R.A. 749.

Denial of liability for negligence in failing to take precautions required by statute, on ground that they would have been insufficient to prevent injury. 21 L.R.A. 723.

Requisites of averments in complaint as to causal connection between violation of ordinance by railroad company and injury. 8 L.R.A. (N.S.) 987.

# § 11. Liability for another's negli-

Liability of carrier for negligence of servant toward passenger, see CARRIERS,

Master's liability for negligence of fellow servant, see MASTER AND SERVANT, III.

Liability of master for negligence of servant, see Carriers; Master and Servant, IV., VI.

Liability of municipality for negligence of employees or agents, see MUNICIPAL COBPORATIONS, §§ 81-84.

Liability of parent for negligence of child, see PARENT AND CHILD, § 10.

Liability of proprietor of private sanitarium or hospital for negligence of nurse or attendant. 6 L.R.A. (N.S.) 306; L.R.A.1915D, 334.

Liability of educational institution for negligence of instructor causing injury to pupil. 2 L.R.A.(N.S.) 556.

### § 12. Care due to sick or otherwise helpless person to whom no contract relation is sustained.

In general. 69 L.R.A. 513.

No duty between strangers. 69 L.R.A. 513. Principles which determine duty in certain relations. 69 L.R.A. 514.

Duty to avoid injury. 69 L.R.A. 518.

Duty of persons inflicting injury to care for those injured. 69 L.R.A. 533. Knowledge of disability. 69 L.R.A. 536.

Duty to discover another's peril or disability. 69 L.R.A. 539.

Presumptions in absence of actual knowledge of disability. 69 L.R.A. 550. Begin with this book on every law question.

NEGLIGENCE, I. b-cont'd

### 2. Dangerous agencies.

### (a) In general.

§ 13. Generally.

Automobile as dangerous agency, see Au-TOMOBILES.

Negligence in blasting, see BLASTING.

In regard to electricity, see ELECTRICITY, §§ 10-17.

Negligent injury by explosion generally, see Explosions and Explosives, §§ 3-9. Liability for negligence in escape and ex-

plosion of gas, see Gas, §§ 11-14.

Negligent injury by fire, see FIRE, §§ 3-11; RAILROADS, §§ 77, 78. Negligence as to firearms, see FIREARMS.

Negligence in displaying fireworks, see FIREWORKS, § 2.

Private action for violating statutes regulating sales of commodities inimical to public welfare. L.R.A.1915E, 560.

Private action for violation of statutes regulating dangerous wares. 9 L.R.A. (N.S.) 382.

Doctrine of attractive nuisance as applied to road vehicles. 50 L.R.A. (N.S.) 1147.

Liability to servants of other persons for injuries by. 46 L.R.A. 116.

Effect of servant's wantonness, malice, or personal motive in using dangerous agency on contributory negligence of person injured. 10 L.R.A. (N.S.) 403.

## § 14. Vapors; gases; oil; waters. Escape and explosion of gas generally, see GAS, §§ 11-14.

Liability for turning steam or other dangerous vapors or gasses into sewer. 15 ..R.A.(N.S.) 957

Liability of one for injury caused by escape of dangerous substance stored on his premises. 15 L.R.A.(N.S.) 535.

### (b) Negligence of seller or manufacturer.

15. Generally.

Liability of druggist, see DRUGS AND DRUG-GISTS, § 5.

Liability of seller for injury by unwholesome food, see Food, § 5.

Liability of manufacturer of dangerous article. 15 L.R.A. 818.

Liability of manufacturer, packer, or vendor to persons not in privity of contract, for injuries from defects in article sold. 19 L.R.A.(N.S.) 923; 48 L.R.A.(N.S.) 213; L.R.A.1916B, 879.

Liability of manufacturer of dangerously defective machine. 2 L.R.A.(N.S.)

303; 5 L.R.A.(N.S.) 1103.
Liability of seller to purchaser's servant for injuries caused by condition of goods delivered. 46 L.R.A. 108.

Liability of dealer for personal injuries from article not obviously dangerous. 13 L.R.A.(N.S.) 382.

NEGLIGENCE, I. b, 2, (b)—cont'd Liability of manufacturer or dealer for personal injuries caused by defects in automobile. 37 L.R.A. (N.S.) 560; L.R.A. 1915E, 287; L.R.A.1916F, 704.

Duty of vendor of dangerous goods to warn purchaser. 3 B. R. C. 449.

Liability of seller for damage to live stock by improper food or medicine. L.R.A. 1916B, 1108.

Liability of one who sells dangerous instrumentality to child in violation of statute or ordinance for injury inflicted thereby upon child or third person. L.R.A.1915C, 460.

Negligence in manufacture of explosives. 29 L.R.A. 718.

Applicability of rule res ipsa loquitur to explosion of bottle. L.R.A.1916E, 1078.

Right of one liable for damages from defective article to recover over against vendor or manufacturer. L.R.A.1915C,

Personal injuries as element of damages for breach of warranty. 3 L.R.A.(N.S.)

Duty of employer as to inspection of instrumentalities manufactured by himself. 41 L.R.A. 70.

Contributory negligence as defense in case of explosion of oil below standard. 38

L.R.A.(N.S.) 412. Use of article or appliance with knowledge of defects therein as affecting liability of manufacturer or vendor for consequential damages caused thereby. L.R.A.1918B, 204.

### 3. Dangerous premises.

#### (a) In general.

**16. Generally.** 

Duty as to fire escapes on building, see Buildings, § 5.

Defective condition at station, see CARRIERS, §§ 70-72.

As to elevators, see Elevators, §§ 3-7. Liability for injury by falling objects, see FALLING OBJECTS.

Inn premises, see INNKEEPERS, § 10.

Liability of landlord for injury from defect in premises, see LANDLORD AND TENANT, §§ 58-72.

At railroad crossing, see RAILROADS, §§ 58-

Liability of school district or school corporation as to, see Schools, § 31.

Liability of owner of private residence for injury to person invited therein.. 13 L.R.A. (N.S.) 442.

Liability to invitee who departs from regular walk or way in going to or from premises. L.R.A.1916F, 280.

Duty as to entrances to building located on street with ascending grade. 22 L.R.A. (N.S.) 730.

Duty of store or shopkeeper toward customer to condition of premises. L.R.A. (N.S.) 456; L.R.A. 1915F, 572. Consult also L.R.A. Digests of Cases.

NEGLIGENCE, I. b, 3, (a)—cont'd

Applicability of rule res ipsa loquitur as between storekeeper and customer. 16 L.R.A. (N.S.) 931.

Liability for injury to clothing worn by customer or patron. 43 L.R.A.(N.S.)

To whom is the duty to keep office building in proper condition, owing. 26 L.R.A. (N.S.) 1213.

Liability of owner of building in process of erection for injury to contractor or latter's employees from defects existing at the time they commence to work. 22 L.R.A.(N.S.) 857.

Liability of county for injury to real property on account of condition of buildings. 39 L.R.A. 70.

Presumption of negligence from occurrence of accident to person on defendant's premises. 15 L<sub>2</sub>R.A. 35.

§ 17. Liability for dangerous condition of private grounds lying open beside highway or frequented path.

In general. 26 L.R.A. 686; L.R.A.1918A, 849.

Duty as to uninclosed property. 26 L.R.A. 687; 5 L.R.A. (N.S.) 733.

Suffering the use of property for a footpath. 26 L.R.A. 688; L.R.A.1918A, 856. Duty and liability of owner of land which

appears to be part of a public street or highway. 51 L.R.A.(N.S.) 1215.

Excavations or obstructions immediately adjoining highway L.R.A.1918A, 850. highways. 26 L.R.A.689;

Duty to trespasser with respect to. 5 L.R.A. (N.S.) 733.

Excavations not immediately adjacent to

highway. L.R.A.1918A, 853.
Devotion to public use. 26 L.R.A. 692;
L.R.A.1918A, 859.

Obstructions in street. 26 L.R.A. 693.

Private ways. 26 L.R.A. 693.
Excavations adjacent to private way.

L.R.A.1918A, 858. Statutory liability. 26 L.R.A. 693.

Property raised above street. 26 L.R.A. 693.

Highway raised above lot. L.R.A.1918A, 856.

Excavation older than highway. 26 L.R.A.

18. To fireman or policeman.

Liability of owner of property for injury to fireman or policeman in discharge of duty. 30 L.R.A. (N.S.) 60; L.R.A. 1916B, 792.

(b) Liability to trespassers and licensees.

### (1) In general.

§ 20. Generally.

Duty of carrier toward licensees and trespassers at stations and on trains, see CARRIERS, §§ 54, 55, 58, 72.

Duty and liability to trespasser generally, see Trespassers, § 3.

NEGLIGENCE, I. b, 3, (b), (1)—cont'd
Duty of owner of premises to protect licensee against hidden dangers. 17
L.R.A.(N.S.) 916.

Liability to servants of other persons entering premises as licensees. 46 L.R.A. 59.

Liability to trespasser for dangerous condition of private grounds lying open beside a highway or frequented path. 5 L.R.A. (N.S.) 733; L.R.A.1918A, 849.

Duty to member of public on private way used by public generally. 21 L.R.A. (N.S.) 977.

Is one who goes upon property on business with the owner deprived of the right to protection against defects by the fact that he temporarily turns aside to pursue a purpose of his own. 14 L.R.A. (N.S.) 1118.

Duty of owner of land which licensees are accustomed to cross, to guard against injuries in consequence of changes in the condition. 13 L.R.A.(N.S.) 1126; 39 L.R.A.(N.S.) 217.

Duty and liability of owner to one on premises for purpose of seeing his employees. 24 L.R.A. (N.S.) 497.

injury to one examining industrial plant. 21 L.R.A.(N.S.) 466.

Causing trespasser to jump from moving wagon as actionable misconduct. L.R.A.(N.S.) 1064.

Liability of owner of elevator for injury to trespassers or licensee. 15 L.R.A.

(N.S.) 402.

Measure of duty of company maintaining electric wires on another's premises toward trespasser or licensee on such premises. 3 L.R.A. (N.S.) 988; 34 L.R.A. (N.S.) 1089.

Liability to trespasser or bare licensee from active as distinguished from passive negligence. 36 L.R.A. (N.S.) 492.

Employer's liability for negligent work of independent contractor dangerous to persons invited onto his premises. 65 L.R.A. 855.

Liability for injury to bystander watching progress of work. L.R.A.1916F, 117.

§ 21. Spring gun, man trap, etc. Liability for killing or injuring trespassers by means of spring guns, traps, and other dangerous instruments. 29 L.R.A. 154; 24 L.R.A.(N.S.)

Criminal responsibility for death caused by spring gun on one's own premises. 14 L.R.A. (N.S.) 346.

### (2) Children.

§ 22. Generally.

Duty of property owner to trespassing child. 32 L.R.A.(N.S.) 559.

Liability of lessor for injury to trespassing child. L.R.A.1916F, 1135.

Injuries to children because of dangerous condition of private grounds lying open beside a highway or frequented path. L.R.A.1918A, 860.

NEGLIGENCE, I. b, 3, (b), (2)—cont'd Duty in stringing electric wires to guard against danger to children. L.R.A. 1918E, 1039.

§ 23. Dangerous attractions; tables.

Attractive nuisance. 19 L.R.A.(N.S.) 1094. Wreck as attractive nuisance. L.R.A.1917F, 1031.

Doctrine of attractive nuisance as applied 50 L.R.A. (N.S.) to road vehicles. 1147.

Liability for injury to children from explosives left accessible to them. 14 L.R.A. (N.S.) 586; 24 L.R.A.(N.S.) 1257; L.R.A.1917A, 1295.

Duty to child trespassing on cars.

L.R.A. (N.S.) 572.

Liability of railroad companies for injury to children playing on turntables. 14 L.R.A. 781; 4 L.R.A.(N.S.) 80; 16 L.R.A.(N.S.) 1129.

Contributory negligence of child injured on turntable. L.R.A.1917F, 111.

Duty to guard against injury to trespassing children by fire. 39 L.R.A.(N.S.) 1058; L.R.A.1917F, 1036.

§ 23a. — hot water or ashes; ponds, etc.

Doctrine of "attractive nuisance" as applied to injury from hot water or ashes. 3 L.R.A. (N.S.) 149; 19 L.R.A. (N.S.) 1124.

Doctrine of "attractive nuisance" as applied to ponds, reservoirs, waterways, etc. 19 L.R.A. (N.S.) 1143; 47 L.R.A. (N.S.) 1101.

23b. — walls, fences, etc.

Doctrine of attractive nuisance as applied to walls, fences, etc. L.R.A.1915D, 160.

### 4. On highways, private ways, or waters.

§ 24. Highways.

As to areaway, see Arraway, § 2.

Negligence of owner or operator of automobile, see AUTOMOBILES, §§ 2, 3.

Liability for injury by falling object, see FALLING OBJECTS.

As to liability for defect in highway, see HIGHWAYS, §§ 56a-95.

Liability for frightening horse, see Horses, §§ 7-13.

At railroad crossing, see RAILROADS, §§ 58-

In operation of railroad trains longitudinally along public street, see RAIL-ROADS, § 52a.

street railway companies, see STREET RAILWAYS, §§ 10-19.

Question for jury as to, see TRIALS, § 42.

Dectrine of "attractive nuisance" as applied to attractions in highway. 19 L.R.A. (N.S.) 1154.

Applicability of res ipsa loquitur to injury by vehicle on highway. 32 L.R.A. (N.S.) 1177.

Begin with this book on every law question.

NEGLIGENCE, I. b, 4-cont'd

Duty of driver to guard against persons coming in contact with sides or rear of vehicle. 36 L.R.A.(N.S.) 1094.

Reciprocal duties of bicyclists and other persons traveling on highways. L.R.A. 292.

Driving blind horse as negligence or contributory negligence. 48 L.R.A. (N.S.)

Precautions to be observed when about to stop vehicle in highway. 46 L.R.A. (N.S.) 644.

Liability for striking one engaged about an automobile in a highway. L.R.A. 1917B, 319.

Duty owed to others by one blinded by light

on highway. L.R.A.1917E, 1045. Signal of traffic officer as affecting duty of travelers to exercise care. 1917B, 137.

Sufficiency of general allegations of negli-gence in management of carriages in highway. 59 L.R.A. 273.

### 25. — rule of the road.

Violation of, as contributory negligence, see infra, § 40.

Law of the road as applied to bicyclists. 47 L.R.A. 293.

Applicability of rule of road where highway is being used for other than ordinary purpose of travel. L.R.A.1915E, 1028.

Rule of the road governing vehicles pro-ceeding in the same direction. 41 L.R.A. (N.S.) 337.

Rules of the road governing vehicles proceeding in opposite directions. 41 L.R.A.(N.S.) 322.

Rule of the road as affecting street cars and vehicles meeting or passing. 42 L.R.A. (N.S.) 1188.

Turning to wrong side of road to avoid approaching vehicle which is itself on wrong side, as contributory negligence on the part of a plaintiff, or negligence on the part of a defendant. 7 B. R. C. 705

Rules of road governing vehicles at intersection of streets and when turning across street. 41 L.R.A.(N.S.) **346**.

Law of the road as affecting pedestrian injured by automobile. 38 L.R.A. (N.S.) 496.

Violation of ordinance as to part of street or highway to be used by vehicles as negligence. L.R.A.1917C, 999.

Violation of statute or ordinance giving one vehicle right of way over another as affecting liability for injury. 5 L.R.A. (N.S.) 252, 256; L.R.A.1915D, 1021; L.R.A.1917D, 693.

### 36. — speed.

Speed of automobiles, see AUTOMOBILES, § 5.

Duty as to speed owed to others by one blinded by light on highway. L.R.A. 1917E, 1045.

Consult also L.R.A. Digests of Cases.

NEGLIGENCE, I. b, 4—cont'd

Violation of ordinance against fast or reckless driving as ground for private action. 5 L.R.A.(N.S.) 254.

Admissibility in prosecution for driving at dangerous speed of evidence of traffic reasonably to be expected on highway. 2 B. R. C. 201.

Evidence as to speed of automobiles or other road vehicles. 34 L.R.A.(N.S.) 778.

§ 27. — leaving horse unhitched.

Negligence in leaving horse unhitched in 10 L.R.A.(N.S.) 845; 20 highway. 10 L. L.R.A. (N.S.) 958.

Violation of ordinance as to unfastened and unguarded animals on street as ground for private action. 5 L.R.A. (N.S.) 255.

### § 28. Private ways.

Injury due to defects in, see HIGHWAYS, § 56b.

In case of private way. 6 L.R.A. (N.S.) 310.

Duty to member of public on private way used by public generally. 21 L.R.A. (N.S.) 977.

#### § 29. Waters.

As attractive nuisance, see supra, § 23a. Negligence of municipality, see MUNICIPAL CORPORATIONS, §§ 86-94.

In use of navigable stream. 70 L.R.A. 279. In use of water of stream as between upper and lower proprietors. 41 L.R.A. 743.

Liability for injuries caused by attempted exercise of right of navigation. L.R.A. 977.

Duty of steamer to avoid imperiling small boat by swells. 7 L.R.A.(N.S.) 920.

Liability to riparian owner for negligence in running logs in stream. 41 L.R.A. 494.

### § 29a. — escape of.

Liability for escape of water stored on premises. 15 L.R.A.(N.S.) 541; 33 premises. 15 L.R.L.R.A.(N.S.) 1061.

Liability of one who cuts bank of stream, for damages from escaping water. 41 L.R.A.(N.S.) 1221.

### 5. Who liable.

### 30. Generally.

Liability of seller or manufacturer, see supra, § 15.

Person maintaining place of amusement, see AMUSEMENTS, §§ 5-7.

Bailee, see BAILMENT, §§ 5-10.

Bailor, see BAILMENT, §§ 11, 12.

Carrier, see Carriers.

Charitable institution, see CHARITIES, § 12. County, see Countres, § 8.

Druggists, see DRUGS AND DRUGGISTS, § 5. Hospital, see Hospitals, § 4.

Married woman for safety of her premises, see Husband and Wife, § 25. Infants, see INFANTS, § 24.

Innkeepers, see Innkeepers, §§ 6-12.

NEGLIGENCE, I. b, 5-cont'd Landlord, see LANDLORD AND TENANT, IV. d. Livery-stable keeper, see LIVERY STABLE. Master for negligence of servants, see Mas-

TER AND SERVANT, IV. Servants or contractors, see Master and

SERVANT, §§ 196-198.

Joint liability of master and servant, see MASTER AND SERVANT, § 199.

Third person for negligent injury to servant, see MASTER AND SERVANT, §§ 200-202.

Municipal corporation, see MUNICIPAL COB-PORATIONS, §§ 72-101.

Officer, see Officers, § 40.

Physician or surgeon, see Physicians and Surgeons, §§ 12-16.

Pilot, see Pilots, § 4.

Agent, see Principal and Agent, § 42, Railroad company, see RAILBOADS, VII. a. State, see States, § 11.

Street railways, see STREET RAILWAYS, §§ 10-19.

Warehouseman, see WAREHOUSEMAN, § 4.

Right of contractor with public to immunity which latter enjoys from liability for damages. L.R.A.1916D, 511.

Civil liability of insane persons. 26 L.R.A. 1549 42 L.R.A.(N.S.) 83.

Personal liability of arbitrator. 42 L.R.A. (N.S.) 278.

Liability of school district or school corporation to action for damages from negligence. 37 L.R.A. 301; 49 L.R.A. (N.S.) 1026.

Liability of officers of a corporation for its negligence. 28 L.R.A. 427.

Personal liability of officer or director of corporation for personal injuries from torts in connection with its business. 39 L.R.A. (N.S.) 901; L.R.A.1915C, 874.

Liability of partnership for. 51 L.R.A. 477. Liability of fire insurance patrol for injuries. 21 L.R.A.(N.S.) 810.

Liability of benevolent or fraternal society for injury to person during initiation or expulsion. 13 L.R.A.(N.S.) 314; L.R.A.1917C, 476.

Liability of married woman for use and safety of premises owned by her. 19 L.R.A. (N.S.) 531.

Liability of executor or administrator for personal injury resulting from negligence in care or management of property of estate. 38 L.R.A.(N.S.) 379.

Liability of owner of bees for injury done by them. 62 L.R.A. 132.

Duty and liability of owner of bathing resort. 3 L.R.A.(N.S.) 982; 3 L.R.A. (N.S.) 1132; 32 L.R.A.(N.S.) 713; 38 L.R.A. (N.S.) 72.

Liability of keeper of bath house for loss of guest's valuables. 6 L.R.A.(N.S.) 828.

Responsibility of lender of chattel for injuries to borrower or a third person due to its unsafe condition. 12 L.R.A. (N.S.) 632.

NEGLIGENCE-cont'd

#### II. Contributory negligence.

#### a. Injury to person.

#### 1. In general.

§ 31. Generally.

Of person injured by automobile, see Auro-

MOBILES, § 6.
Of operator of automobiles, see AUTOMO-BILES, § 7.

On bridge, see BRIDGES, § 7.
Of person injured by falling building, see Buildings, § 12.

Of passenger, see CARRIERS, §§ 75-84: Of deceased or his parent as defense to action for death, see DEATH, § 13.

Of one injured by electric wire, see ELEC-TRICITY, § 18.

On elevator, see ELEVATORS, § 8.

Of person injured by explosion, see Ex-PLOSIONS AND EXPLOSIVES, § 10.

Of fireman, see FIRE DEPARTMENT, § 8.

Of person injured by defects in highway, see Highways, §§ 96-101.

Of driver of frightened horse, see Horses, § 14.

Of servant, see Master and Servant, §§ 123-131.

Of person injured by railroad train, see RAILROADS, §§ 79-86.

On street car track, see STREET RAILWAYS, §§ 20-23.

Of trespasser, see TRESPASSERS, § 4.

Intoxication as affecting, see Drunkenness, §§ 5-9.

Presumption and burden of proof as to, see Evidence, §§ 80-84.

Evidence as to generally, see EVIDENCE, § 269.

Effect of, on right to recover on policy, see Insurance, § 169.

Effect of patient's negligence on liability of physician for malpractice, see PIIYSI-CIANS AND SURGEONS, § 15.

Effect of obeying or disobeying physician on injured person's remedy against person inflicting injury, see PHYSICIANS AND Surgeons, § 18.

Negativing contributory negl pleading, se PLEADING, § 29. negligence

As a question for jury, see TRIAL, §§ 45-49. Instructions as to, see TRIAL, § 66.

Grant of new trial on issue of contributory negligence only. L.R.A.1915E, 249. Conflict of laws as to. 56 L.R.A. 221.

Contributory wilfulness as a defense against an action for personal injury based on wilfulness of defendant. L.R.A.1918D,

Effect of contributory negligence on right of action for violation of statute not expressly conferring it. 9 L.R.A. (N.S.) 342; L.R.A.1915E, 520.

Application of doctrine of contributory negligence to negligent homicide.

L.R.A. 298. Begin with this book on every law question.

NEGLIGENCE, II. a, 1—cont'd Of person injured by dangerous condition of private grounds lying open beside a highway or frequented path. L.R.A. 1918A, 861.

Of owner in failing to protect his premises from flooding through drain or sewer. L.R.A.1918D, 371.

On wharf or dock. 61 L.R.A. 955.

As to ambulance. 38 L.R.A. (N.S.) 482.

In walking through doorway leading to place of danger. 24 L.R.A. (N.S.) 246; L.R.A.1917D, 892.

Contributory negligence of person on surface of street injured by elevated railway company. 42 L.R.A.(N.S.) 91.

In case of falling walls or buildings. 34 L.R.A. 563.

Forgetfulness of obstacle or defect as contributory negligence. 39 L.R.A. (N.S.) 896.

Defective hearing of person injured as bearing upon contributory negligence. 41 L.R.A.(N.S.) 193.

Contributory negligence as a defense to an action for mental anguish in telegraph case. 49 L.R.A.(N.S.) 270. Of guest at inn. 43 L.R.A.(N.S.) 663.

Of one seeking to hold notary or other officer certifying to acknowledgment or affidavit liable for negligence or fraud. 49 L.R.A. (N.S.) 54.

Effect of contributory negligence of lessee on landlord's liability to tenant for damage by water. L.R.A.1917B, 234, 246.

Use of article or appliance with knowledge of defects therein as affecting liability of manufacturer or vendor for consequential damages caused thereby. L.R.A.1918B, 204.

Effect of wantonness, malice, or personal motive of servant in using dangerous agency on contributory negligence of person injured. 10 L.R.A. (N.S.) 403.

Rule as to pleading contributory negligence. 59 L.R.A. 275.

Right to show disability of adult on issue of contributory negligence without allegation thereof. L.R.A.1917D, 558.

Probative effect of admission by injured party of responsibility for accident. 15 L.R.A. (N.S.) 1096.

Burden of proof as to. 33 L.R.A. (N.S.)

Federal courts following state decisions as to. 40 L.R.A. (N.S.) 437.

§ 32. Care required of one in sudden emergency.

See EMERGENCY.

§ 33. Voluntarily incurring danger to save life of another.

In general. 49 L.R.A. 715; 27 L.R.A. (N.S.) 1069.

Illustrations. 49 L.R.A. 716. Exceptions. 49 L.R.A. 719.

Effect of previous contributory negligence. 49 L.Ř.A. 720.

Consult also L.R.A. Digests of Cases.

NEGLIGENCE, II. a, 1-cont'd

§ 34. After occurrence of original injury.

Duty to keep down damages, see DAM-AGES, §§ 3-11.

Injured person's duty to apply or obtain treatment. 48 L.R.A.(N.S.) 108.

Patient's own negligence or failure to follow instructions as affecting liability of physician or surgeon for malpractice. 17 L.R.A. (N.S.) 1242; 48 L.R.A. (N.S.) 110.

In treatment or care of wound as affecting criminal responsibility for homicide. 22 L.R.A. (N.S.) 841; 28 L.R.A. (N.S.) 665; L.R.A.1915F, 608.

Subsequent conduct of injured person in its relation to proximate cause, as distinguished from contributory negligence. 18 L.R.A.(N.S.) 640.

§ 35. Of tenant or his guests or serv-

Of tenant injured by defect in premises. 34 L.R.A. 830; 34 L.R.A.(N.S.) 808; 48 L.R.A.(N.S.) 921; L.R.A.1916D, 1228; L.R.A.1918E, 221.

Effect of contributory negligence of lessee on landlord's liability to him for sickness due to unsanitary condition of premises. L.R.A.1917A, 996.

Effect of negligence of injured person on liability of landlord for personal injuries to persons in privity with tenant. L.R.A.1916F, 1092.

Contributory negligence of tenant's guests and servants injured by defects in premises. 34 L.R.A. 616.

### 2. Of children or their parents. •

36. Of child.

Of child injured on railroad, see RATLEGADS, § 84 a.

Of child injured by street car, see STREET RAILWAYS, § 22.

Standard of care required. L.R.A.1917F, 13.

Age at which doctrine of contributory negligence may be applied. L.R.A.1917F,

Age at which infant's conduct is to be measured by same standard as that of adult. L.R.A.1917F, 73.

The term "sui juris." L.R.A.1917F, 83. As question for jury. 17 L.R.A. 79; L.R.A. 1917**F**, 84, 172.

Particular applications. L.R.A.1917F, 92. Injuries by animals. L.R.A.1917F, 92. Injuries by automobiles. 26 L.R.A. Injuries by automobiles. (N.S.) 425, 51 L.R.A.(N.S.) 1008; L.R.A.1918A, 245.

Injuries by other vehicles or passing teams. 19 L.R.A.(N.S.) 161; 39 L.R.A.(N.S.) 482; L.R.A.1917F, 98.

Injury while coasting in street. L.R.A. 1918F, 782.

Defects or obstructions in streets or

highways. L.R.A.1917F, 95.

Dangerous machinery and appliances
generally. L.R.A.1917F, 94.

NEGLIGENCE, II. a, 2-cont'd

Drawbridge. L.R.A.1917F, 99. Electricity. L.R.A.1917F, 100.

Emergencies in general. L.R.A.1917F,

Excavations, shafts, and embankments. L.R.A.1917F, 105. Elevators. L.R.A.1917F, 195.

Falling objects. L.R.A.1917F, 106. Fires. L.R.A.1917F, 108.

Ponds, reservoirs, and waters generally. L.R.A.1917F, 109. Turntables. 14 L.R.A. 784; 4 L.R.A. (N.S.) 80; L.R.A.1917F, 111.

Jumping on or off moving railroad train. 29 L.R.A. (N.S.) 846.

Contributory negligence of child as bar to parent's recovery for its death. 17 L.R.A. 78.

37. Of parent.

Imputing parent's negligence to child, see infra, §§ 46-48.

Unexplained presence of unattended child non sui juris in place of danger as prima facie evidence of negligence of parents. 16 L.R.A.(N.S.) 395.

### 3. On highways.

§ 38. Generally.

Of children, see supra, § 36.

Of person injured by automobile, see AU-TOMOBILES, §§ 6, 7.

Of traveler receiving shock of electricity from wires strung along highway, see

ELECTRICITY, § 18.
Of person injured by defects in highway, see HIGHWAYS, VI. m.

At railroad crossing, see RAILROADS, §§ 81-

Of person injured by railroad trains operated longitudinally along public street,

see Raileoads, § 52a.
On street car track, see Street Railways, §§ 20-23.

Signal of traffic officer as affecting duty of travelers to exercise care. 1917B, 137.

Standing on driven vehicle as negligence. 19 L.R.A. (N.S.) 223.

Voluntary obstruction of view while on highway as contributory negligence. 33 L.R.A. (N.S.) 784.

Driving blind horse as contributory negligence. 48 L.R.A.(N.S.) 141.

Contributory negligence of passenger riding in automobile driven by another precluding recovery against third person for injury. L.R.A.1915B, 955.

§ 39. Duty of pedestrian crossing or traveling street to avoid passing teams.

general. 19 L.H. L.R.A. (N.S.) 481.

Children. 19 L.R.A.(N.S.) 161; 39 L.R.A. (N.S.) 482.

Person of impaired faculties. 19 L.R.A.

(N.S.) 163. Begin with this book on every law question.

NEGLIGENCE, II. a, 3-cont'd

Duty to look and listen. 19 L.R.A.(N.S.) 163; 39 L.R.A.(N.S.) 481.

Failure to discover approaching vehicle. 19 L.R.A.(N.S.) 163; 39 L.R.A.(N.S.)

Where approaching vehicle is seen. L.R.A.(N.S.) 165; 39 L.R.A.(N.S.)

Articles projecting or dragging from ve-19 L.R.A. (N.S.) hicle. L.R.A.(N.S.) 484.

Acts in emergency. 19 L.R.A.(N.S.) 165; 39 L.R.A.(N.S.) 485.

Vehicles approaching from behind. 19 L.R.A.(N.S.) 165; 39 L.R.A.(N.S.) 485.

Reliance upon presumption of exercise of due care by driver. 19 L.R.A.(N.S.) 166; 39 L.Ř.A.(N.S.) 486.

Subsequent negligence of driver. 19 L.R.A. (N.S.) 166.

Duty when traveling in street or crossing where there is no crosswalk, 39 L.R.A. (N.S.) 481.

§ 40. Violation of rule of the road. Of child injured by automobile. L.R.A.. 1918A, 245.

Violation of law of the road by person injured on defective street. 13 L.R.A. (N.S.) 1267; 21 L.R.A. (N.S.) 668.

Violation of statute or ordinance giving one vehicle right of way as against another. L.R.A.1917D, 693.

Violation of ordinance as to part of street or highway to be used by vehicles as contributory negligence. L.R.A.1917C, 999.

Rule of the road governing vehicles proceeding in the same direction. L.R.A.(N.S.) 337.

Rule of the road governing vehicles proceeding in opposite directions. L.R.A. (N.S.) 332.

Turning to wrong side of road to avoid approaching vehicle which is itself on wrong side, as contributory negligence on the part of a plaintiff. 7 B. R. C. 705.

Rule of the road governing vehicles at intersection of streets and when turning a cross street. 41 L.R.A.(N.S.) 336.

### 4. Imputed negligence.

§ 41. Generally.

In case of injury to property, see infra, § 54.

Imputing negligence of one fireman to another, see FIRE DEPARTMENT, § 7.

Doctrine of last clear chance in case of. 26 L.R.A.(N.S.) 309.

19 L.R.A.(N.S.) 161; 39 Lmputing third person's negligence to person 181. son injured on defective street. 21 L.R.A.(N.S.) 161; 39 L.R.A. L.R.A.(N.S.) 670.

In case of injury by violation of ordinance affecting operation of railroads. L.R.A. (N.S.) 240.

NEGLIGENCE, II. a, 4-cont'd 42. Of driver to passenger.

Of husband to wife while latter is driving, see infra, § 44.

Imputed negligence of driver to passenger. 8 L.R.A.(N.S.) 597; L.R.A.1915A, 761.

Imputing negligence of driver of fire apparatus to fireman. 19 L.R.A.(N.S.) 629; L.R.A.1917E, 422.

Imputed negligence of passenger riding in automobile driven by another precluding recovery against third person for injuries. L.R.A.1915B, 953.

43. Of husband to wife.

Husband's negligence as bar to recovery for injury to wife, see HUSBAND AND WIFE,

Of husband as bar to recovery for wife's injuries. 22 L.R.A. 460.

§ 44. — while husband is driving. Whether imputable to wife injured while riding with husband. 14 L.R.A. 733; L.R.A.1915A, 764.

§ 45. Of coservant to master.

Imputing to master coservant's negligence in respect to preparation or structural modification of instrumentalities or their parts. 54 L.R.A. 136.

Imputing to master negligence of coserv-ants whose duty it is to keep instrumentalities in proper condition. 54 L.R.A. 153.

46. Of parent to child.

Presumption and burden of proof as to, see EVIDENCE, § 84.

Imputing negligence of parent to child. 3 .L.R.A. 385; 6 L.R.A. 545; 8 L.R.A. 495;\* 17 L.R.A. 79.

§ 47. — bar to action by child.

Contributory negligence of parent or cus-todian as a bar to action by child for negligent injuries. 21 L.R.A. 76; 18 L.R.A.(N.S.) 320.

§ 48. - bar to action by parent or administrator.

Effect of parent's negligence to defeat his recovery for injury or death of child. 10 L.R.A. 653; 17 L.R.A. 79.

Contributory negligence of parent as bar to action by parent or administrator for death of child non sui juris. 18 L.R.A. (N.S.) 328; 38 L.R.A.(N.S.) 754.

Imputing negligence of custodian of child non sui juris to parent in action by latter, or by administrator, for death or injury of child. 32 L.R.A.(N.S.) 410.

§ 49. Of landlord to tenant, and vice

Is the landlord's negligence in relation to the premises imputable to the tenant, or vice versa, so as to prevent a recovery from a negligent third person. 19 L.R.A.(N.S.) 498.

Consult also L.R.A. Digests of Cases.

NEGLIGENCE, II. a-cont'd

5. Last clear chance; humanitarian doctrine.

§ 50. Generally.

Origin, function, and mode of operation of doctrine. 55 L.R.A. 418.

Doctrine of last clear chance as affected by question whether negligence of plaintiff or deceased and of defendant was concurrent. 7 L.R.A.(N.S.) 132; L.R.A. (N.S.) 152; 17 L.R.A. (N.S.) 707; 10 L.R.A. (N.S.) 446 (and references); 27 L.R.A. (N.S.) 379.

Exercise of due care by plaintiff after defendant's negligence. 33 L.R.A. (N.S.)

1211.

Last moment to which presumption that person in dangerous condition will seek place of safety may be indulged. 69 L.R.A. 554.

Applicability of doctrine of last clear chance to case of imputed negligence. L.R.A.(N.S.) 309.

As distinguished from rule that contributory negligence is not a defense against a wanton or wilful injury. 21 L.R.A. (N.S.) 427.

Recovery for injury to child in attempting to cross street car tracks notwithing his contributory negligence. L.R.A. (N.S.) 174.

§ 51. Applicability of doctrine where danger not discovered.

Applicability of doctrine of last clear chance where danger not actually discovered. 55 L.R.A. 418; 36 L.R.A. L.R.A. (N.S.) 957.

§ 52. Intoxication of person on railroad track as affecting applicability of doctrine.

Where no duty to keep a lookout for tres-

passers. 31 L.R.A.(N.S.) 1032.
Where duty to keep lookout fully performed. 31 L.R.A.(N.S.) 1033.

Where object seen on track not known to be a human being. 31 L.R.A.(N.S.) 1033.

Where train men justified in assuming person would leave track. (N.S.) 1034. 31 L.R.A.

Breach of duty after actual discovery of danger. 31 L.R.A.(N.S.) 1035.

Effect of intoxication to interrupt trespasser's original negligence. 31 L.R.A. (N.S.) 1035.

6. Where defendant's negligence is wanton or wilful.

§ 52a. Generally.

May wantonness or wilfulness, precluding defense of contributory negligence, be predicated of the omission of a duty before the discovery of a person in a position of peril on a railroad or street railway track. 21 L.R.A.(N.S.) 427.

### NEGLIGENCE, II. a, 6-cont'd

### b. Injury to property.

§ 53. Generally.

Of depositor where deposit is paid to wrong

party, see Banks, §§ 23-25a. Negligence of guest at inn, see INNKEEPERS, § 9.

In case of injury to property by fire, see FIRES, II.; RAILBOADS, § 86.

Duty and negligence with respect to lateral support, see LATERAL SUPPORT.

Of shippers of live stock with respect to injury at pens or yards at stations. 44 L.R.A. 294.

Effect of contributory negligence on liability as to infected animals. 26 L.R.A. **540.** 

In case of property destroyed by mob. 24 L.R.A. 597.

Contributory negligence as defense against municipal liability for injury by drainage. 61 L.R.A. 706.

Negligence of officer or agent of a municipality contributing to the injury of its property as a bar to its recovery against a third person. 30 L.R.Å. (N.S.) 209.

Of one whose property is destroyed by mob. 44 L.R.A. (N.S.) 360.

Contributory negligence of passenger in case of loss of hand baggage or other effects in his custody or control. L.R.A. 1915B, 612, 619.

## § 54. As to waters.

Liability for injuries by floating, rafting, or driving logs, see Logs and Logging, § 8.

In obstruction of navigation. 59 L.R.A.

In case of injuries by navigation. 64 L.R.A. 987.

Of riparian owner injured by running logs in stream. 41 L.R.A. 497.

As affecting liability for damming back water of stream. 59 L.R.A. 904.

Failure to protect property against surface water as contributory negligence. 33 L.R.A. (N.S.) 369.

### § 55. Imputed negligence.

Imputing negligence of bailee to bailor in action by the latter against third person for destruction of property. L.R.A.(N.S.) 925; 27 L.R.A.(N.S.) 690.

Is negligence of attorney attributed to party under statute for relief from judgment taken by inadvertence, surprise, or excusable neglect. 27 L.R.A.(N.S.) 858.

### NEGLIGENT HOMICIDE.

### NEGOTIABILITY.

See Bills and Notes, §§ 19-23; Bonds, § 18; CHECKS, § 4.

#### NEGOTIABLE INSTRUMENTS.

See BILLS AND NOTES; CHECKS.

#### NEGROES.

Separation of white and colored passengers. see CARRIERS, § 43. Civil rights of, see CIVIL RIGHTS.

Right to serve as jurors, see CIVIL RIGHTS, § 4.

Actionability of charge that one has negro blood, see LIBEL AND SLANDER, § 9.

Intermarriage of whites and negroes, see MISCEGENATION.

As slave, see SLAVES.

Color of delinquent fellow-servant as tending to show negligence of master. 48 L.R.A. 379.

Specific performance as affected by vendor's ignorance that purchaser is a negro. 32 L.R.A.(N.S.) 125.

Who is a negro, mulatto, or a person of color within statutes not specifically defining same. 31 L.R.A.(N.S.)
180; L.R.A.1915A, 828.
Libel or slander where "sting" is due to
prejudice against. L.R.A.1916E, 679.
Validity and enforceshiller of the control of the c

Validity and enforceability of contract or covenant in relation to real property which discriminates against persons because of color. L.R.A. 1916B, 1208.

### NEIGHBORS.

In general, see Adjoining Owner.

Power to make use of property for particular purpose or in particular manner conditional on consent of. 8 L.R.A. (N.S.) 978.

Right to enjoin maintenance of house of prostitution. 11 L.R.A.(N.S.) 1060; 42 L.R.A. (N.S.) 1041; L.R.A.1918D, 819.

#### NEPHEW.

Insurable interest in life of.

Extrinsic evidence to identify person intended by testator using term. 47 L.R.A. (N.S.) 533.

### NEPOTISM

Libel or slander by charge of, against pub-lic officer or candidate. L.R.A.1918E,

See Homicide, § 15. Begin with this book on every law question.

#### NERVOUS SHOCK.

In general, see Fright, §§ 2, 3.

As an accident within the meaning of the Workmen's Compensation Act. L.R.A. 1917D, 112.

#### NET EARNINGS.

What constitutes the net earnings of a public service corporation for rate-making purposes. 52 L.R.A.(N.S.) 16.

### NET PROFIT.

Net profit rule as to existence of partnership, see PARTNERSHIP, § 7.

#### NETS.

See FISHERIES, § 6.

#### NEURALGIA.

Application of statute regulating practice of medicine to persons giving special kinds of treatment. 3 L.R.A.(N.S.) 762; 24 L.R.A(N.S.) 103; 25 L.R.A. (N.S.) 1297.

### NEUTRALITY.

Effect of warranty of, on liability under policy of marine insurance for losses arising out of state of war. 5 B. R. C. 11.

### NEW ACTION.

After statute of limitations has run, see LIMITATION OF ACTIONS, § 64.

Reversal on merits without remanding as bar to. 30 L.R.A.(N.S.) 377.

### NEWLY DISCOVERED EVIDENCE.

As ground for new trial, see NEW TRIAL, \$\$ 10, 11.
As ground for bill of review, see REVIEW,

As ground for injunction against judgment. 30 L.R.A.(N.S.) 571.

ground for opening decree of divorce. L.R.A.1917B, 466.

Consult also L.R.A. Digests of Cases.

#### NEW PROMISE.

Consideration for, where original contract unenforceable, see Contracts, § 13. married woman after discoverture, effect, see Husband and Wife, § 19. As affecting statute of limitations, see LIM-ITATION OF ACTIONS, §§ 68-71.

#### NEWSBOY.

Carrier's liability for injury to, see CARRI-ERS, § 55.

As a passenger. 22 L.R.A. 796.

#### NEWSPAPER.

Freedom of the press, see Constitutional Law, § 29a.

Publication in as a contempt, see Con-

TEMPT, §§ 6, 7.
Opinions gained from, as disqualification to act as juror, see Jury, § 12. Libel by, see LIBEL AND SLANDER.

As a necessary within statute rendering wife or her property liable therefor. L.R.A.1917F, 864.

Contract by, to indemnify against accident as insurance contract. 47 L.R.A.(N.S.) 299.

Use of newspaper articles by counsel in arguing to jury. L.R.A.1918D, 82.

Jury in criminal case reading newspaper account of trial as ground for new trial. 46 L.R.A.(N.S.) 741.

Publication and sale of, on Sunday. L.R.A. 1916C, 1151.

Admissibility of newspaper files to prove the publication or contents of an order of publication. L.R.A.1915C, 690.

Extracts from, as evidence. 40 L.R.A. 574. As manufactures. 14 L.R.A. 108.

Liability of municipality or county on implied contract for publishing notices in newspaper. 27 L.R.A. (N.S.) 1130.

Newspaper opinion as disqualification of juror in criminal case. 35 L.R.A.(N. 8.) 985.

Newspaper pass as violation of statute prohibiting discrimination in passenger rates. 23 L.R.A. (N.S.) 217; 31 L.R.A. (N.S.) 657.

### NEWSPAPER QUOTATIONS.

As evidence of value. 16 L.R.A.(N.S.) 758.

### NEW SPRING.

Right to water of. 30 L.R.A. (N.S.) 1158.

#### NEW TRIAL.

I. In general, §§ 1, 2. II. Grounds for, §\$ 3-11.

a. In general, § 3.

b. Errors in verdict, §§ 4-6.

c. Matters as to jury, §§ 7-9.

d. Newly discovered evidence, §§ 10, 11.

III. Practice, §§ 12-14.

#### I. In general.

Generally.

In ejectment, see EJECTMENT, § 13.

Setting aside award in condemnation proceedings, see EMINENT DOMAIN, § 35. Relief from judgment, generally, see JUDG-

MENT, §§ 87-97. Bill of review, see REVIEW.

Lack of remedy by, as ground for injunction against judgment. 30 L.R.A. 560. Waiver of right to appeal from order grant-

ing, by accepting favorable part of order. 29 L.R.A.(N.S.) 27.

Right to a new trial after satisfaction of the judgment. 68 L.R.A. 126.

Effect of prior decision on statutory new trial in real actions. 40 L.R.A. 825. Effect of repeal of civil statute on pending motion for. 37 L.R.A.(N.S.) 934.

Power of public prosecutor to dismiss prosecution after grant of. 35 L.R.A. 716. Admissibility on subsequent trial of admis-

sion made fer purpose of defeating a continuance. 25 L.R.A.(N.S.) 169.

Effect of granting new trial after conviction to extend liability on accused's bond. 20 L.R.A.(N.S.) 861.

Effect of granting new trial on entry of second judgment without vacation or reversal of first. 44 L.R.A.(N.S.) 346.

Raising objection of duplicity in indictment by motion for new trial. 49 L.R.A. (N.S.) 457.

Question whether suit for statutory penalty is a civil or criminal prosecution as affecting right to new trial. 27 L.R.A. (N.S.) 752.

§ 2. Power of court to grant, generally. Effect of provision that jury shall determine, the law and the facts in libel cases on court's power to set aside a verdict. 33 L.R.A.(N.S.) 209.

Right of court to grant new trial on its own motion, or on grounds other than those urged by the moving party. 40 L.R.A.(N.S.) 291.

Permitting chancery to set aside a verdict upon an issue directed by it to a law court, as an unconstitutional infringement upon the latter's powers. L.R.A. (N.S.) 866.

### II. Grounds for.

### a. In general,

3. Generally.

Loss or incompleteness of record for purpose of appeal. L.R.A.1915B, 353. Begin with this book on every law question.

NEW TRIAL, II. a-cont'd

Perjury as ground for new trial. 51 L.R.A. (N.S.) 286.

Because of demeanor of witnesses. L.R.A. (N.S.) 855.

Because of death of judge before signing bill of exceptions. 2 L.R.A. (N.S.) 1000.

Inconsistent testimony in another suit as ground for. 42 L.R.A. 692.

Comment by prosecuting attorney on failure of defendant to produce witness as ground for. 34 L.R.A.(N.S.) 811.

Misstatement of facts or statement of facts

not in evidence by counsel to the jury. L.R.A.1918D, 45.

Admonishing or warning witness by judga in criminal case. L.R.A.1917E, 859. Effect of misconduct of spectator during

criminal trial. L.R.A.1918E, 959.

Refusal to allow cross-examination on relevant matters covered by examination in chief as ground for new trial. 25 L.R.A.(N.S.) 683.

Power of court to disregard testimony because contrary to scientific principles. 7 L.R.A.(N.S.) 357; 15 L.R.A.(N.S.) 701; 28 L.R.A.(N.S.) 648; L.R.A. 1916D, 301.

### b. Errors in verdict.

§ 4. Generally.

As remedy for correction of special verdict. 24 L.R.A. (N.S.) 76.

§ 5. Excessiveness of damages or sen-

Curing excessiveness by remittitur, see NEW TRIAL, § 14.

Granted by appellate court on account of excessive damages. 26 L.R.A. 391; 51 L.R.A. (N.S.) 388.

Granting new trial because of excessive verdict as interference with constitutional right to jury trial. 51 L.R.A.(N.S.)

§ 6. Inadequacy of damages.

Inadequacy of damages as a ground for set-ting aside a verdict. 47 L.R.A. 33.

Actions for assault and battery and other torts. 47 L.R.A. 44; 39 L.R.A.(N.S.) 487.

### c. Matters as to jury.

§ 7. Generally.

Effect of failure to swear jury. L.R.A. 1917D, 399.

Permitting separation of jury in capital case. 24 L.R.A.(N.S.) 776.

For coercion of disagreeing jury. 16 L.R.A. 643.

Because of communication by judge with jury not in open court. 17 L.R.A.(N. S.) 609; L.R.A.1915D, 719.

NEW TRIAL, II. c-cont'd

Right to reversal or new trial where jury disregard erroneous instructions.

L.R.A.(N.S.) 852. Employment of person to watch jury to guard against their being tampered with. 48 L.R.A. (N.S.) 540.

Juror in criminal case reading newspaper account of trial as ground for new trial. 46 L.R.A.(N.S.) 741.

Attack out of court in presence of jurymen upon credibility of witness as ground for new trial. L.R.A.1917B, 248.

Mistake as to name of juror in criminal case as ground for new trial. 47 L.R.A. (N.S.) 715.

Consumption of liquor by jury. L.R.A. 1915C, 302.

Unauthorized view by juror or jury. L.R.A.1915B, 703.

§ 8. Treating jurors.

Treating jurors as ground for new trial. 19 L.R.A.(N.S.) 733; 49 L.R.A.(N.S.) 889.

§ 9. Disqualification of juror.

General statement of the law. 18 L.R.A.

Objections on the ground of age of jurors. 18 L.R.A. 475.

Alienage. 18 L.R.A. 476.

Want of property qualifications. 18 L.R.A. 476.

Irregularities of selection. T8 L.R.A. 476.

Bias of jurors. 18 L.R.A. 476. Criminality of juror. 18 L.R.A. 478.

Unknown disqualification of juror existing at time of his selection as ground for new trial. 50 L.R.A. (N.S.) 933.

### d. Newly discovered evidence.

§ 10. Generally

As ground for bill of review, see REVIEW, § 3.

Bill of review because of newly discovered evidence after affirmance or reversal by appellate court. 4 L.R.A.(N.S.) 865; 30 L.R.A.(N.S.) 1030.

Subsequent events disproving character or extent of bodily injury for which recovery was had, as ground for new trial. 45 L.R.A. (N.S.) 87.

Physical condition of plaintiff, after verdict in an action for personal injuries, tending to show falsity of testimony as to extent or character of his injury, as ground for new trial. L.R.A. 1915B, 243.

Insanity of accused at the time of the offense, raised for the first time on motion for new trial. L.R.A.1918B, 1146.

### § 11. Cumulative evidence.

Cumulative evidence as ground for new trial in criminal cases. 46 L.R.A. (N.S.) 903.

Cumulative evidence as ground for new trial in civil cases. L.R.A.1916C,

Consult also L.R.A. Digests of Cases.

NEW TRIAL, II. d-cont'd

### III. Practice.

§ 12. Generally.

First and last days in computing time for. 49 L.R.A. 225.

Power to limit the issues in granting new trial. L.R.A.1915E, 239.

When objection must be made to consumption of liquor by jury urged as ground for new trial. LR.A.1915C, 318.

Objecting to jurors who have served in same or similar case by motion for new trial. 68 L.R.A. 885.

Review by appellate court of ruling of trial court on motion to grant a new trial in action for bodily injuries on ground of inadequacy of damages awarded. 28 L.R.A. (N.S.) 130.

Rights of individual tort feasors against whom a joint verdict has been obtained • to make separate motions for new trial. L.R.A.1918C, 974.

May a judgment against two or more tort feasors be set aside as to some and allowed to stand as to the others. L.R.A.(N.S.) 209; L.R.A.1918C, 970.

§ 13. Testimony or affidavit of jurors. Admissibility of affidavit of juror to show misconduct outside the jury room and not in hearing in verdict. 31 L.R.A. (N.S.) 930.

Impeachment of nonunanimous verdict by affidavits or testimony of dissenting jurors. L.R.A.1918C, 149.

§ 14. Remittitur.

Power of trial court to cure an excessive verdict by requiring or permitting a reduction where true measure of damages not ascertainable by mere computation. 39 L.R.A. (N.S.) \ 1064.

Power of court to make a reduction of damages a condition of refusing a new trial of an action for unliquidated damages, without consent of defendant. 6 B. R. C. 10.

#### NEXT FRIEND.

Right of insane person to institute proceedings by, see Incompetent Persons, § 19.

Representation of infant by, see INFANTS, § 32.

As proper party to bring suit, see PARTIES, § 24.

### NEXT OF KIN.

Right to testify in favor of the estate L.R.A.1918C, 918.

NEXT OF KIN-cont'd

Right of persons claiming through deceased relative to participate with those standing in equal degree of relationship with

such relative, in provision for "next of kin." 28 L.R.A.(N.S.) 479.

Beneficiaries and parties plaintiff to action for death where statute provides for recovery for benefit of next of kin of deceased. L.R.A.1916E, 118.

Who is, within meaning of Workmen's Compensation Statutes. L.R.A.1918F, 485.

#### NICKNAME.

As evidence of incompetency of fellow servant. 41 L.R.A. 99; 48 L.R.A. 391.

#### NIECE.

Insurable interest in life of. 54 L.R.A. 233. As member of family of insured. 3 L.R.A. (N.S.) 334.

Extrinsic evidence to identify person intended by testator using term. L.R.A.(N.S.) 533.

### NIGHT.

Right to use stream for water power during. 7 L.R.A.(N.S.) 289.

### NITRO GLYCERIN.

Keeping of, on insured premises. 1917C, 278.

Negligence in the manufacture and storage of. 29 L.R.A. 718.

Regulating keeping or storing of. 41 L.R.A. (N.S.) 460.

Liability for injury to children from explosion of nitroglycerin left accessible to them. L.R.A.1917A, 1295.

### NODS.

Admissibility as dying declarations of answers by. 2 B. R. C. 922.

### NOISE.

Liability for frightening horses by, see Horses, §§ 7-11. As element of damages, see DAMAGES, § 87b. As nuisance, see Nuisances, § 4.

#### NOLLE PROSEQUI.

Power to enter in criminal case. 35 L.R.A.

Begin with this book on every law question.

NOLLE PROSEQUI—cont'd

Necessity of the consent of court to entry of nolle prosequi in a criminal case. 45 L.R.A.(N.S.) 1120.

Entry of, as to one charge in indictment where objection of duplicity is raised. 49 L.R.A.(N.S.) 455.

As ground for discharge of accused. 56 L.R.A. 522.

Entry of, as to one joint tort feasor, effect. on liability of other. 58 L.R.A. 303. Termination of criminal prosecution by entry of, so as to support suit for ma-licious prosecution. 2 L.R.A.(N.S.) 938, 942.

#### NOLO CONTENI

Plea of. 41 L.R.A. (N.S.) 70.

#### NOMINAL DAMAGES.

See Damages, § 2.

#### NOMINAL PAYMENT.

For bonus stock. 38 L.R.A. 492.

### NOMINATIONS.

See Elections, §§ 25, 26.

#### NONACCESS.

Competency of husband or wife as witness as to, see WITNESSES, § 20.

### NONASSESSABLE STOCK.

Assessments on. 45 L.R.A. 653.

### NONATTENDANCE.

Liability of physician for. 37 L.R.A. 834.

### NONCLAIM.

Statute of nonclaim as equivalent of limitation within rule that running of the latter against debt secured will bar remedy on the mortgage. 31 L.R.A.(N. S.) 1013.

Effect of, to bar suit to compel guardian to account, or to recover on his bond. 47 L.R.A.(N.S.) 457.

NONCLAIM—cont'd

Waiver or tolling of statute of, by personal representative as to an indebtedness of the estate. L.R.A.1915B, 1042.

#### NONEXPERTS.

Opinions of, see EVIDENCE, VIII.

### NONFEASANCE.

Negligent breach of contract as. 12 L.R.A. (N.S.) 929.

Liability of corporate directors for. L.R.A. 757.

Liability of agent or servant to third persons for. 28 L.R.A. 433; 25 L.R.A. (N.S.) 349; L.R.A.1916F, 570.

### NONINTOXICATING LIQUORS.

Constitutional power to prohibit or regulate, see Intoxicating Liquors, § 4 Sale of, see Intoxicating Liquors, §§ 30,

Validity of license tax on sale of, as affected by amount. L.R.A.1917C, 463.

### NONJOINDER.

Effect of husband's nonjoinder in wife's executory contract to convey, where his joinder is essential to a conveyance. 30 L.R.A.(N.S.) 353.

#### NONLEGAL DEMANDS.

Power of legislature to compel municipalities to pay. 48 L.R.A. 473.

### NONMAILABLE MATTER.

When one not personally mailing nonmailable matter may be regarded as causing it to be deposited in the mails. L.R.A. (N.S.) 424.

### NON-NEGOTIABLE INSTRUMENTS.

Distinction between negotiable and non-negotiable. 18 L.R.A. 34.

Condition against taking effect until others have signed. 45 L.R.A. 348.

Set-off against assignee of, of claim against assignor. 23 L.R.A. 330. Action on, after loss of. 16 L.R.A. 205.

Consult also L.R.A. Digests of Cases.

NON-NEGOTIABLE INSTRUMENTScont'd

Effect of putting non-negotiable paper or securities indorsed in blank into another's possession to estop owner as against purchaser in good faith. 29 L.R.A.(N.S.) 254.

Effect of permitting assignor of a contract to receive non-negotiable instruments issued in payment thereof to estop assignee as against subsequent assignee of such instrument. 11 L.R.A.(N.S.) 472.

### NON OBSTANTE VEREDICTO.

See JUDGMENT, § 13.

#### NONRESIDENTS.

Generally.

As to aliens, see ALIENS.

Attachment against, see ATTACHMENT, § 4. Discrimination against generally, see Con-STITUTIONAL LAW, § 127. Discrimination against as to licenses, see

LICENSE, § 46a.

to foreign corporations, see CORPORA-TIONS, XI.

As to residence generally, see DOMICIL AND RESIDENCE.

Jurisdiction of divorce suit by or against, see DIVORCE AND SEPARATION, §§ 8, 9. Effect of appearance by, in divorce suit, see DIVORCE AND SEPARATION, § 12.

Appointment of, as administrator, see Ex-ECUTORS AND ADMINISTRATORS, § 6.

Garnishment of, see Garnishment, § 12. As to foreign judgments generally, see Judg-MENT, V.

Effect of nonresidence on running of limitations, see LIMITATION OF ACTIONS, § 46. Removal of cause to Federal court where

one party is a nonresident, see REMOVAL OF CAUSES, §§ 7-9.

Nonresidence as affecting taxation, see Tax-ES, §§ 17, 42, 100.

Situs of property or debts due to, for taxation, see TAXES, § 42.

Inheritance tax against, see Taxes, § 100. Service of process on, see WRIT AND PROC-

ESS, §§ 13, 18. Privilege of, from service of process, see WRIT AND PROCESS, §§ 32, 34, 36.

Foreign corporations as. 14 L.R.A. 185. Municipal power over nonresidents as to defining, preventing, and abating nuisances. 36 L.R.A. 603.

Civil liability of, for damage done by stock while straying in district prohibiting running of animals at large. 22 L.R.A. (N.S.) 1098.

Law governing validity of discrimination against, in assignment for creditors. 65 L.R.A. 354.

Reimbursement or subrogation of purchaser on annulling judicial sale in proceedings against. 69 L.R.A. 52. NONRESIDENTS-cont'd

Nonresidence as ground of equitable set-off 30 L.R.A.(N.S.) 21; L.R.A.1918B, 425.

Necessity of exhaustion of remedy as to nonresident or absent debter as condition precedent to creditors' bill. 23 L.R.A.(N.S.) 85.

Nonresidence of maker of note as excuse for delay in enforcing liability. 18 L.R.A.(N.S.) 560.

Right or duty of municipality to supply nonresidents with water. 34 L.R.A.(N. S.) 542.

Necessity of consent or notice to nonresident parent on adoption of child. 30 L.R.A. (N.S.) 151.

Applicability to vehicles owned by nonresidents of city ordinance imposing license on use of vehicles. 23 L.R.A.(N. S.) 453.

Of defendant as affecting jurisdiction of equity over suits affecting real property in another state or country. 69 L.R.A. 677.

Service of notice in proceedings to revive judgment on nonresident of state. 37 L.R.A. (N.S.) 1163.

Right to protection on ground of unfair competition against simulation of geographical name by a nonresident. 26 L.R.A.(N.S.) 80.

Right of sheriff or constable to appoint nonresident deputies. LR.A.1916B, 900.

Debtor's right of action against his nonresident creditor for collecting debt in state of creditor's domicil in evasion of exemption laws of domicil of debtor. 47 L.R.A.(N.S.) 689.

Application to, of regulations as to draymen. 45 L.R.A. (N.S.) 1155.

Discrimination as to nonresidence in license tax upon automobiles. 52 L.R.A. (N.S.) 951.

Unknown nonresidence of juror as ground for new trial. 50 L.R.A.(N.S.) 975.

Effect of nonresidence of family whose head is a resident on latter's right to homestead. 52 L.R.A.(N.S.) 746.

2. Rights of.

Right of nonresident widow to statutory allowance, see EXECUTORS AND ADMINISTRATORS, § 55a.

Right to claim exemption, see EXEMPTION, § 10.

Right to become stockholders in corporation. 24 L.R.A. 252.

Right to act as executor or administrator. 1 L.R.A.(N.S.) 341, 349.

Right to locate mining claim. 7 L.R.A.(N. S.) 816.

Validity of statute or regulations affecting right to practise medicine or surgery of one who has practised in another state or is a nonresident. 49 L.R.A. (N.S.) 150.

Validity of statute giving nonresident of school district right to attend school without charge. 24 L.R.A. (N.S.) 1104. Right of, to sue. 70 L.R.A. 513.

Begin with this book on every law question.

NONRESIDENTS-cont'd

Right of action for benefit of nonresident aliens. 3 L.R.A. (N.S.) 473; 21 L.R.A. (N.S.) 267.

Right of alien nonresident to maintain statutory action for death of other person. 54 L.R.A. 934.

Right of nonresident insane person having no committee within jurisdiction to institute proceedings by next friend. 64 L.R.A. 529.

§ 3. Injunction against.

Nonresidence as ground for injunction against judgment for purchase money. 31 L.R.A. 749, 766.

Effect of vendor's nonresidence on right to injunction against collection of purchase money where title to land is defective. 7 L.R.A.(N.S.) 451.

Effect of nonresidence of defendant on right to injunction against trespass to cut timber. 43 L.R.A.(N.S.) 267.

§ 4. Effect of judgment against.

Effect of judgment against part of joint obligors to release others where some of debtors are nonresidents. 43 L.R.A. 162.

Conclusiveness of judgment rendered in foreign country against nonresident. 20 L.R.A. 678.

### NONRIPARIAN LANDS.

Correlative rights of upper and lower proprietors as to use of water on. 41 L.R.A. 740.

Right to make use on nonriparian lands of water rights incident to riparian lands. 22 L.R.A. (N.S.) 383; 49 L.R.A. (N.S.) 57.

### NONSUIT.

Conclusiveness of judgment on, see Judg-MENT, § 31a.

In general, see TRIAL, §§ 56-59.

Collateral attack on judgment of, for fraud not affecting the jurisdiction. 36 L.R.A.(N.S.) 986.

#### NONSUPPORT.

Husband's liability for, see HUSBAND AND WIFE, § 70.

### NONTIDAL RIVERS.

Title to land under. 42 L.R.A. 165. Navigability of. 42 L.R.A. 305.

### NONTRIBAL INDIANS.

Jurisdiction to punish crimes committed by. 21 L.R.A. 173.

#### NONUSER.

Loss of easement by, see EASEMENTS, § 27. Discontinuance of highway by, see High-WAYS, § 110.

Loss of rights in water by, see WATERS, § 37.

Reverter of land conveyed for school purposes, because of. 44 L.R.A. (N.S.) 1227.

#### NORMAL SCHOOL.

Use of common school or teachers' training school. 20 L.R.A. (N.S.) 1033.

### NORTHWESTERN TERRITORY.

Effect of admission of state into the Union upon ordinance of 1787. 52 L.R.A. (N.S.) 305.

### NOTARIES.

Right of woman to be. 38 L.R.A. 214; 5 L.R.A.(N.S.) 415; L.R.A.1915F, 898. Place at which official acts of, may be per-

formed. 33 L.R.A. 92. Power as to contempt. 36 L.R.A. 822.

Right to attach or correct certificate of acknowledgment after date of acknowledgment. 22 L.R.A.(N.S.) 216.

Presumption as to authority of notary public of another state or country to administer an oath. L.R.A.1916A, 1169.

Liability of notary or other officer certifying to acknowledgment or affidavit. 49 L.R.A. (N.S.) 45.

Liability of collecting bank for acts and omissions of notaries public employed as subagents. 52 L.R.A. (N.S.) 656.

NOTES.

See BILLS AND NOTES.

#### NOTICE.

- I. In general, §§ 1-11.
- II. Constructive notice, § 12.
- UII. Imputed notice, §§ 13-15.
- IV. Of rights in real property, \$\$ 16,

Consult also L.R.A. Digests of Cases. 63

#### NOTICE-cont'd

### I. In general.

§ 1. Generally.

Of assignment, see Assignment, § 12.

Of equities to transferee of commercial paper, see BILLS AND NOTES, § 42.

Of nonpayment of bill or note, see BILLS

AND NOTES, §§ 43-53.
Of claim against carrier, see CARRIERS, §§ 133, 134.

Of arrival of goods at destination, see CAR-RIERS, § 118.

Of eminent domain proceedings, see EMI-

NENT DOMAIN, §§ 32, 33.
Of accounting by personal representative, see EXECUTORS AND ADMINISTRATORS, § 51.

To purchaser from fraudulent grantor, see

FRAUDULENT CONVEYANCES, § 12.
Of acceptance of guaranty, see GUARANTY, § 7.

Of default to guarantor, see GUARANTY, § 8. Of defects in highway, see Highways, §§ 102-105.

Of injury, see Highways, §§ 106, 107; MASTER AND SERVANT, §§ 57, 64; MU-NICIPAL CORPORATIONS, §§ 104-107; STREET RAILWAYS, § 24.

Of lunacy proceedings, see INCOMPETENT Persons, § 6.

intent to cancel insurance policy, see INSURANCE, § 51.

Of insurance premiums, see INSURANCE, § 108.

Of loss, injury, or death, see INSUBANCE, § 145.

To produce, see Evidence, § 120a.
To quit, see Landlord and Tenant, § 95. Of pendency of action, see LIS PENDENS.

To servant of danger, as affecting question of assumption of risk, see MASTER AND

SERVANT, § 113.
Of mechanics' lien, see Mechanics' Liens, §§ 26, 27.

Of discovery of mine, see MINES, § 15.

Of dissolution of partnership, see PARTNERвнір, § 30.

Of application for appointment of receiver, see RECEIVERS, § 1.

Of unrecorded conveyance, see RECORDS AND RECORDING LAWS, § 22.

Of defect causing injury, see STREET RAIL-WAYS, § 24.

Of tax sale, see Taxes, § 73.

Of redemption from tax sale, see TAXES, § 85.

Of trial, see TRIAL, § 6.

Of probate proceedings, see Wills, § 53.
By publication, see Writ and Process, §§ 20, 21.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, §§ 187, 188.

Presumption and burden of proof as to, see EVIDENCE, § 37.

condition of municipal liability, see MUNICIPAL CORPORATIONS, §§ 104-107. Question for jury as to, see TRIAL, § 35.

Presumption as to receipt of notice sent through mail. 49 L.R.A. (N.S.) 458.

NOTICE, I.—cont'd

Of withdrawal from building and loan association. 49 L.R.A.(N.S.) 1133.

Of forfeiture of corporate stock. 27 L.R.A.

To corporation claiming lien on stock of pledge or sale thereof. 39 L.R.A. (N.S.) 298.

To pledgee or purchaser of corporate stock of corporation's claim to lien thereon. 39 L.R.A.(N.S.) 293.

Of conveyance by one cotenant to third person and adverse possession founded on such conveyance against others. 32 L.R.A.(N.S.) 707.

To purchaser or mortgagee of firm prop-

erty. 28 L.R.A. 174.

Of sale or mortgage of future crops. 23 L.R.A. 462; L.R.A.1917C, 32.

To remove standing timber conveyed without conveying title to the land. L.R.A. 535.

Of assessment to members of mutual fire insurance companies. 32 L.R.A. 502.

Of assignment of policy to creditor. 50 L.R.A. 37.

Priority of notice of assignment to trustee as giving priority of right. 66 L.R.A. 760.

Of withdrawal from loan association. 35 L.R.A. 292.

Of condition that bond shall not take effect until signed by others. 45 L.R.A. 327, 347.

Of time, place, and manner of sale of collateral bonds and commercial paper. 53 L.R.A. 862.

Of attorney's lien. 37 L.R.A.(N.S.) 226.

Of change of ownership of trademark. L.R.A. (N.S.) 725.

Of limitation on agent's power to waive conditions existing at inception of policy. 13 L.R.A.(N.S.) 858.

Of tunnel claim. 53 L.R.A. 799.

Of location of mining claim. 7 L.R.A. (N.S.) 832.

To bind surety or guarantor by judgment against principal. 40 L.R.A.(N.S.) 737; L.R.A.1918E, 814.

To patrons of telegraph company as to office hours. 53 L.R.A. 733.

Of defect in street car track. 52 L.R.A. 456.

To employee of railroad company injured by defectively loaded car. 13 L.R.A. (N.S.) 391; 49 L.R.A.(N.S.) 1011.

By owner of premises of presence of spring guns, traps, and other dangerous instruments. 29 L.R.A. 158.

To person injured by escape and explosion of gas. 29 L.R.A. 358.

Materiality of, in case of set-off against

judgment in hands of assignee. L.R.A. 337.

In proceedings to determine rights of mother or reputed father to custody or control of illegitimate child. 65 L.R.A.

Of proceedings to abate nuisance. 36 L.R.A. 613.

proceedings to vacate highway. 26 L.R.A. 828.

NOTICE, I.—cont'd

Of drawing of grand jury. 27 L.R.A. 783. Notice to adverse party of application to correct record on appeal. 31 L.R.A. (N.S.) 211.

Conclusiveness of decision of tribunal of association or corporation as to notice of meeting at which member was expelled. 49 L.R.A. 368.

Burden of proving notice of fraud to subvendee of chattels when original seller seeks to rescind for fraud of first purchaser. 8 L.R.A.(N.S.) 448.

Reliance on receiving notice from opposing counsel as excuse for default. 4 L.R.A.

(N.S.) 196.

Holding over after expiration of lease with option for extension or renewal without formally exercising such option where notice is required by lease. 29 L.R.A. (N.S.) 177; L.R.A.1916E, 1234.

Law governing validity of stipulation as-to notice of claim against telegraph company. 41 L.R.A.(N.S.) 224.

Signing notice by proxy. 22 L.R.A. 298. Effect of holding over after notice of intention to quit. L.R.A.1915A, 235.

Fact that check is postdated as notice of bank officer's lack of authority to certify it. L.R.A.1917F, 1099.

§ 2. Necessity for.

As condition precedent to bringing of suit, see Action or Suit, § 10.

As essential to punishment for disobedience, see CONTEMPT, § 9.

Necessity of notice of acceptance of guaranty, see GUARANTY, § 7.

Of injury as essential to recovery on employer's liability insurance policy, see INSURANCE, § 216.

essential to recovery on insurance policy generally, see INSURANCE, § 145.

condition of municipal liability, see MUNICIPAL CORPORATIONS, § 106.

As essential to liability of purchaser for nuisance, see Nuisances, § 17.

Of defect as prerequisite to recovery on warranty, see Sale, § 56.

Duty to notify sender of telegram of its nondelivery, see TELEGRAPHS, § 14.

Notice required by workmen's compensation acts, see Workmen's Compensation, § 14.

What notice is necessary to due process of law in tax proceedings. L.R.A.1916E.

Necessity for notice to party secondarily liable on bill or note of reservation of rights against him upon granting extension of time to party primarily liable. 46 L.R.A. (N.S.) 93.

Right of abutting owner to notice and opportunity to do the work before municipality contracts for improvements in street. 44 L.R.A. (N.S.) 553.

Necessity of notice of default to bind guarantor. 20 L.R.A. 257.

As condition of cotenant's liability for repairs. 29 L.R.A. 459.

Begin with this book on every law question.

NOTICE, I.—cont'd

Necessity of notice to owner of intention to assess his property for supposed benefits. 36 L.R.A.(N.S.) 40. Necessity of giving mortgagee or other lienor notice of public improvement.

37 L.R.A.(N.S.) 558. Effect of omitting notice of copyright from licensed publication. 66 L.R.A. 444. licensed publication.

Duty of bailee to give bailor notice of legal proceedings affecting the property. 33 L.R.A.(N.S.) 693.

Duty of shipper of explosives to give notice of dangerous nature of goods. L.R.A.1916B, 731.

Duty of carrier to give notice before selling goods or otherwise disposing of them contrary to shipping directions. 45 L.R.A.(N.S.) 18.

To passenger of limitation of time within which transportation ticket may be used. L.R.A.1918A, 782.

Necessity of notice, actual or constructive, of transfer not required to be recorded or registered to start the four months' period relating to preferences, under § 60 of the bankruptcy act. 9 L.R.A.

(N.S.) 585.

Necessity of beneficiary's knowledge of trust. 10 L.R.A.(N.S.) 616.

Notice to vendor as condition of vendee's right to refuse subsequent deliveries after breach as to earlier deliveries. 8 L.R.A.(N.S.) 1110.

Necessity of actual notice of retirement of member of firm to relieve retiring member from liability on obligation renewed after his retirement. 4 L.R.A. (N.S.)

Necessity of notice of appointment of umpire or third arbitrator and of proceedings before him. 19 L.R.A.(N.S.) 696.

Necessity of notice to revoke power of attorney. 1 L.R.A.(N.S.) 577.

Law governing stipulation in contract making notice of damages a condition of right of action. 7 L.R.A.(N.S.) 191.

Failure to serve statutory notice of libel on right to actual damages. 13 L.R.A. (N.S.) 525.

Statute requiring notice of claim before commencing an action as a statute of limitations. 8 L.R.A. (N.S.) 997.

To officer levying writ on tenant's goods and chattels, that rent will be charged for use of leased premises. 43 L.R.A. (N.S.) 529.

Duty to notify insurer of facts, developing after submission of application, but before delivery of policy or certificate. 8 L.R.A.(N.S.) 983.

To insured, of contract of reinsurance. 44 L.R.A. (N.S.) 318.

Applicability to premium notes of statute requiring notice of maturity of premiums. 5 B. R. C. 434.

Necessity of notice to stockholder to bind him by an order for unpaid stock subscription in insolvency proceedings. 36 L.R.A. (N.S.) 177.

Consult also L.R.A. Digests of Cases.

NOTICE, I.—cont'd

Necessity of notice to tenant before taking advantage of covenants in lease as to payment of taxes and assessments. L.R.A.1915A, 354.

Necessity for notice of reletting to tenant who has abandoned premises. 13 L.R.A.(N.S.) 401.

Notice to landlord of defect in premises as essential to his liability to tenant for injuries therefrom. 34 L.R.A. (N.S.) 808; 48 L.R.A. (N.S.) 921.

Notice to landlord of defective condition to render him liable to tenant for damage by water. L.R.A.1917B, 231.

Necessity of giving purchaser who refuses to accept goods notice of resale or of intention to resell; as affecting right of action against him. 42 L.R.A.(N.S.) 677.

Of danger of destruction of property by mob. 44 L.R.A.(N.S.) 360.

Of intent of mob to destroy property. 24 L.R.A. 598.

To adjoining owners before setting fire. 21 L.R.A. 262.

Notice of defect in highway as prerequisite to personal liability of highway officers. 22 L.R.A. 829; 52 L.R.A. (N.S.) 146.

Validity of requirement of written notice of defect to render municipal corporation liable for injuries caused by defective highway. 11 L.R.A. (N.S.) 391.

Necessity of notice to purchasing railroad company to construct culverts, where road was originally constructed without them. 12 L.R.A.(N.S.) 571.

Constitutionality of requirement of notice of defect, or of injuries, as a condition of liability for personal injuries. 15 L.R.A. (N.S.) 203.

Necessity of, to make owner of premises liable for continuing nuisance created by predecessor. 27 L.R.A.(N.S.) 164; 50 L.R.A.(N.S.) 595.

Duty of telegraph company to notify sender of delay in transmission or delivery of message. 16 L.R.A.(N.S.) 870.

Sufficiency of general allegations of negligence as affected by necessity of notice of nature of claim. 59 L.R.A. 216.

Necessity of notice of intention to exercise option reserved in contract of sale to return or resell property. 50 L.R.A. (N.S.) 595.

Notice to mortgagor of intention to exercise implied power of sale. 3 B. R. C. 924.

Notice of contact of wires carrying electric current as condition of liability for injury resulting therefrom. 52 L.R.A. (N.S.) 605.

Necessity of notice not to give wife credit to protect husband from liability for necessaries furnished her while living apart from him. L.R.A.1917A, 968.

Before removal by municipality of spur track, turnout, or switch from street or highway. L.R.A.1918B, 482.

Notice to creditors under Bulk, Sales Law. L.R.A.1917F, 230.

NOTICE, I.-cont'd

§ 3.—in judicial proceedings generally.

Necessity of, to constitute due process, see Constitutional Law, § 187.

Necessity of notice of intention by attorney to withdraw from suit because of client's misconduct. 35 L.R.A.(N.S.) 963.

Necessity of, for entry of judgment nunc pro tunc. 20 L.R.A. 147.

Injunction against judgment obtained in violation of agreement to give notice. 30 L.R.A. 789.

Of distribution in probate proceedings as jurisdictional. 37 L.R.A.(N.S.) 368.

When may notice of application for appointment of receiver of growing crop be dispensed with. 11 L.R.A. (N.S.) 960.

To parent as condition of valid adoption of child. 30 L.R.A.(N.S.) 146.

Notice of application by guardian for leave to sell infant's real estate as jurisdictional. 8 L.R.A. (N.S.) 1215.

Of application for alimony as prerequisite to contempt proceedings to compel payment. 24 L.R.A. 437.

Necessity of notice of injunction to render one not a party guilty of contempt in disobeying it. 23 L.R.A.(N.S.) 1295.

Right of one charged with contempt to notice and hearing. 10 L.R.A. (N.S.) 198.

Necessity of notice to make conclusive on

Necessity of notice to make conclusive on the courts, decisions of tribunal of mutual benefit society, suspending or expelling a member. 52 L.R.A.(N.S.) 811.

§ 4. — in proceedings affecting lunatic. Necessity of notice to alleged lunatic of lunacy proceedings. 23 L.R.A. 737; 26 L.R.A. (N.S.) 232.

Collateral attack on lunacy proceedings for want of notice to lunatic. 23 L.R.A. 743; 12 L.R.A.(N.S.) 895; 26 L.R.A. (N.S.) 237.

Necessity of notice to insane person of application for sale of his property to pay debts. 29 L.R.A.(N.S.) 147.

§ 5. Sufficiency of.
Constructive notice, see infra, § 12.
Of judicial sale, see JUDICIAL SALE, § 5a.
As condition of municipal liability, see

MUNICIPAL CORPORATIONS, § 105. Sufficiency of notice of contents of telegram,

see Telegraphs, § 19.
Notice required by workmen's compensation acts, see Workmen's Compensation,

1 14.

Of assignment of claim sufficient to prevent set-off. 23 L.R.A. 310.

Of notice of alleged lunacy proceedings. 26 L.R.A. (N.S.) 232.

Of notice of injunction to render one not a party guilty of contempt in disobeying it. 23 L.R.A.(N.S.) 1295.

Of notice to creditors of assumption of debts on dissolution of partnership. 9 L.R.A.(N.S.) 89; 48 L.R.A.(N.S.) 553.

NOTICE, I.—cont'd

Effect of notice to person by wrong initial. 15 L.R.A.(N.S.) 129; 42 L.R.A.(N.S.) 151.

Sufficiency of notice of condemnation proceedings to occupant only. 16 L.R.A. 186.

What amounts to notice that corporate stock is held in trust. 15 L.R.A. 643.

Necessity and sufficiency of statement of grounds in notice of protest required as condition of recovering back payment of an unlawful tax. 36 L.R.A. (N.S.) 476.

Enactment of law giving superior lien to local assessment as notice to encumbrancers of priority of subsequent assessment. 35 L.R.A. 376.

Effect of public records as notice or evidence of notice which will set statute of limitations running against action based on fraud. 22 L.R.A.(N.S.) 208.

Mere existence of party wall as notice to grantee of agreement by predecessors to contribute to cost in event of use. 24 L.R.A.(N.S.) 1038.

When telegraph company charged with notice of importance of commercial message. 41 L.R.A.(N.S.) 1188.

Sufficiency of service of notice necessary to

Sufficiency of service of notice necessary to fix contract rights upon bankrupt after initiation of bankruptcy proceedings but before appointment of trustee.

41 L.R.A.(N.S.) 276.

Definiteness of complaint to employer to charge him with notice of defect causing injury. 2 L.R.A.(N.S.) 469.

Sufficiency of notice of injury under employers' liability act. 21 L.R.A.(N.S.) 233.

Delinquent servant's general reputation as notice of incompetency to master. 41 L.R.A. 97.

Of notice of postponement of judicial sale. L.R.A.1915B, 640.

Of notice of prior assignment to give it priority over garnishment. L.R.A. 1916E, 90.

To passenger of limitation of time within which transportation ticket may be used. L.R.A.1918A, 782.

Sufficiency of notice by surety to creditor to proceed in the enforcement of the obligation against the principal. L.R.A. 1918C, 19, 28.

Sufficiency of notice to insured of cancelation of fire policy. 50 L.R.A. (N.S.) 35.

Sufficiency of notice to member of benefit society to render his expulsion or suspension conclusive on the courts. 52 L.R.A.(N.S.) 811.

Sufficiency of notice of contact of wires carrying electric current. 52 L.R.A. (N.S.) 606.

What constitutes notice of intended misappropriation which will render bank liable for failure to prevent misappropriation of funds by a fiduciary. L.R.A. 1915C, 530.

What notice is necessary to due process of law in tax proceedings. L.R.A.1916E, 5.

Begin with this book on every law question.

NOTICE, I.—cont'd § 6. Effect of.

Effect of, cn servant's assumption of risk, see Master and Servant, § 113.

Rights of one completing contract in disregard of notice to desist. 16 L.R.A. 655.

To holder affecting validity of note for patent right. 20 L.R.A. 606.

Effect of notice to purchaser of defect in title on right to injunction against col-lection of purchase money. 7 L.R.A. (N.S.) 460.

Knowledge of pendency of action as affecting right to equitable relief from judgment rendered without personal jurisdiction over defendant. 9 L.R.A. (N.S.)

Effect of notice of agency on right of defendant in action by undisclosed principal to avail himself of defenses that would have been available in an action by the agent in his own right on the contract. 28 L.R.A. (N.S.) 231; L.R.A. 1916A, 1215.

Effect of omission of statement that owner is unknown in notice of tax sale. 36 L.R.A. (N.S.) 1065.

Effect of purchaser's knowledge of encum-brance in an action for breach of covenant. 4 L.R.A.(N.S.) 309; 32 L.R.A. (N.S.) 737.

Making time of essence of contract by. 15 L.R.A. 737.

Lien acquired by service of, in supplement-ary proceedings. 3 L.R.A.(N.S.) 123. Publication by notice of matters derogatory to parties to litigation as contempt of

court. 2 B. R. C. 498. Effect of notice to purchaser or creditor of previous transfer of corporate stock. 67 L.R.A. 677.

Liability of transferee with notice of corporate stock on unpaid subscription. 30 L.R.A.(N.S.) 284.

Effect of notice to tradesmen on husband's liability for necessaries furnished wife. 65 L.R.A. 532, 538, 544; 47 L.R.A. (N.S.) 280, 281; L.R.A.1917A, 968.

Effect of notice on carrier's liability for loss of profits incident to delay in delivery of articles intended for use. 30 L.R.A.(N.S.) 486; L.R.A.1918F, 1053.

Effect of notice on purchaser's liability for damming back water of stream. 59 L.R.A. 861.

Duty as to electric wires over highway as affected by notice that wire is down. 22 L.R.A.(N.S.) 1175; 1 B. R. C. 807.

Effect of giving purchaser who refuses to accept goods notice of resale or of intention to resell, as affecting right of action against him. 42 L.R.A.(N.S.)

Effect on priority of garnishment over prior assignment. L.R.A.1916E, 81.

Effect of notice not to pay on liability of § 11. Time of.

stakeholder or depositary of funds to be held in connection with an illegal transaction. L.R.A.1918F, 975.

Consult also L.R.A. Digests of Cases.

NOTICE, I.—cont'd

Effect of, on right to set up estoppel of public corporaton to deny validity of bonds. L.R.A.1915A, 917.

up estoppel of public corporation to deny validity of contract. L.R.A. 1915A, 1007. Effect of notice of defects on right to set

Right of seller of chattel retaining title or lien as against a purchaser of realty to which it is affixed who has notice of seller's rights. 49 L.R.A.(N.S.) 399.

Notice to insurer's agent of presence of prohibited articles as affecting provision in fire insurance policy prohibiting pres-ence of designated articles on premises. 3 B. R. C. 43.

Effect of notice on right to set-off against judgment in hands of assignee. L.R.A. 1917F, 1011.

7. Effect of lack of notice.

Effect of ignorance on criminal responsibility, see CRIMINAL LAW, § 13.

Effect of lack of notice to creditors under Bulk Sales Law. L.R.A.1917F, 230.

Lack of actual notice in case of construc-

tive service as ground for relief from judgment. 31 L.R.A. (N.S.) 1068. Right of bank remitting for or paying forged check as against the depositor or correspondent bank as affected by the latter's negligence in failing to give notice of the forgery. 20 L.R.A.(N.S.) 79; L.R.A.1918F, 282.

Right of bettor to recover his stake from the stakeholder where it has been paid over without notice or demand. L.R.A. 1918F, 976.

Inadmissibility of evidence of condition before accident for lack of notice. L.R.A. (N.S.) 1100.

Effect on priority of garnishment over prior assignment. L.R.A.1916E, 81.

Right of seller of chattel retaining title or lien as against purchaser without no-tice of realty to which it is affixed. 49 L.R.A.(N.S.) 396.

8. Service of.

Service of notice in proceedings to revive judgment, see Judgment, § 80.

9. — mode of service.

Service by mail, see Postoffice, § 5.

What constitutes "personal service." L.R.A. 200.

Validity of notice sent by telegraph. L.R.A. 933.

§ 10. Publication of.

Publication of, in foreign language. L.R.A. 64.

Liability of municipality or county on implied contract for publishing notices in newspaper. 27 LR.A.(N.S.) 1130.

As to time of giving notice or commencing suit against carrier, see CARRIERS, § 133.

NOTICE, I.-cont'd

Time for notice of loss to insurance company, generally, see Insurance, § 146.

First and last days in computing time of. 49 L.R.A. 221.

Time of notice to warrant special damages for carrier's failure to deliver property. 3 L.R.A.(N.S.) 1111.

Giving of, on holidays. 19 L.R.A. 319. Before sale of property by pledgee. 43 L.R.A. 750.

Time of notice of claim for compensation under workmen's compensation acts. L.R.A.1916A, 86; L.R.A.1917D, 138; L.R.A.1918E, 559.

Delay in giving notice required by policy insuring against liability for personal injuries to third person. L.R.A.1918E, 114.

#### II. Constructive notice.

§ 12. Generally.

From possession of land, see infra, § 17. Record as, see RECORDS AND RECORDING LAWS, §§ 26, 27.

Corporate by-law as. 25 L.R.A. 48.

Constructive notice of lode or vein within placer claim. 50 L.R.A. 291.

What circumstances will charge one with notice that other contracting party is of unsound mind. 31 L.R.A. (N.S.) 1159.

Of servant as bearing on master's duty to instruct him. 44 L.R.A. 42.

As element of employer's liability for injury to servant. 41 L.R.A. 43.

Implied notice to municipality of defects or 20 L.R.A. obstructions in streets. (N.S.) 705.

Taking note from maker or payee as constructive notice of accommodation character of an irregular indorsement and lack of authority for such indorse! ment. 2 L.R.A.(N.Š.) 525.

Notice to put purchaser on inquiry as to vendor's intent to defraud creditors. 32 L.R.A. 44.

Constructive notice of contact of wires carrying electric current. 52 L.R.A. (N.S.) 606.

What constitutes notice to bank of true character of funds where it applies deposit to indebtedness of one depositing in his own name the funds of another. LR.A.1915A, 722.

Check drawn by corporate officer payable to his own order as imparting notice to drawee bank of an intended misappropriation. L.R.A.1915B, 715.

Notice imported to holders by commercial paper payable to a public body or offi-cer thereof. L.R.A.1915B, 725.

Matter in letterhead, billhead or on margin of paper on which contract is written as notice affecting the rights of the Imputing insurance agent's knowledge to parties. L.R.A.1916D, 1072. Company, see Insurance, § 20.

NOTICE—cont'd

### III. Imputed notice.

13. Generally.

Imputing to landlord knowledge of defect in leased premises. 34 L.R.A.(N.S.) 802.

Owner's imputed knowledge of dangerous character of dog. 24 L.R.A. (N.S.) 462; 51 L.R.A. (N.S.) 47.

When knowledge of danger of low bridge will be imputed to trainman injured thereby. 47 L.R.A.(N.S.) 495.

Is officer or employee of corporation chargeable with its knowledge of infirmities in commercial paper purchased from it. 48 L.R.A.(N.S.) 65; L.R.A.1915D, 1099.

§ 14. Of agent or employee to principal or employer.

The effect of notice to a subagent. L.R.A. 340.

Whose knowledge of defects is imputed to employer. 41 L.R.A. 132.

What knowledge of scientific facts imputed to employer. 41 L.R.A. 56.

To master of probable future accidents. 41 L.R.A. 55.

Admissibility of report by agent or employee to employer to show notice to principal. 18 L. L.R.A. (N.S.) 830. 18 L.R.A. (N.S.) 231; 47

Imputing knowledge by officers or agents of defect in highway to municipality. 20 L.R.A.(N.S.) 697; L.R.A.1918B, 649.

Imputing agent's knowledge of vicious character of dog to owner. 24 L.R.A. (N.S.) 463.

Is principal chargeable with knowledge of agent acquired prior to the agency. L.R.A.1918B, 929.

Imputing to principal notice to agent while acting in other capacity. (N.S.) 444. 3 L.R.A.

Knowledge by agent that his own act is in excess of authority as notice to principal. 29 L.R.A.(N.S.) 82.

Effect of notice to purchaser's agent of vendor's intent to defraud his creditors. 32 L.R.A. 62.

Notice to traveling salesman as notice to his employer. 25 L.R.A.(N.S.) 231. Notice to trustee in mortgage or deed of

trust as notice to bondholders. L.R.A.(N.S.) 1013.

Knowledge of plaintiff's agent as defense in action for false and fraudulent misrepresentation, where his knowledge was not disclosed to plaintiff. 6 B. R. C. 952,

Agent's knowledge of defense to bill or note belonging to him and indorsed or transferred by him to his principal, as affecting the latter's character as a bona fide holder. L.R.A.1918C, 902.

15. - corporate officer or agent.

Imputing knowledge of officer to bank, see BANKS, § 8a.

company, see Insurance, § 20.

Begin with this book on every law question.

NOTICE-cont'd

How far corporation charged with knowledge of managing officer engaged in illegal act. 2 L.R.A.(N.S.) 993.

### IV. Of rights in real property.

§ 16. Generally. Record as, see Records and Recording LAWS, §§ 26, 27.

Effect of knowledge of existence of easement over land, see EASEMENTS, § 5.

That real estate is partnership property. 27 L.R.A. 480.

Physical conditions which will charge purchaser of servient estate with notice of casement. 8 L.R.A.(N.S.) 418.
Right of grantee in possession with notice

of defective title to question grantor's right to collect purchase money. 21 L.R.A.(N.S.) 363.

Of rights of tenant to transferee of reversion of leased premises. L.R.A.1915C,

§ 17. Possession as notice of title. To one claiming estoppel to set up title, see ESTOPPEL, § 7a.

General rules as to effect of possession. 13 L.R.A.(N.S.) 51.

General rules as to the scope of the inquiry. 13 L.K.A.(N.S.) 66.
Restriction as to particular title. 13 L.R.A.

(N.S.) 68. The possession. 13 L.R.A.(N.S.) 73.

Application of rules to particular classes

of cases. 13 L.R.A. (N.S.) 96.

Application of rules to easements. 13 L.R.A.(N.S.) 132. Estoppel of possessor to assert claim. 13

L.R.A. (N.S.) 135. Possession by tenant as notice to transferee of reversion. L.R.A.1915C, 195.

NOTICE TO PRODUCE.

See EVIDENCE, § 120a.

#### NOTICE TO QUIT.

See Landlord and Tenant, § 95.

#### NOTORIETY.

As essential element of adverse possession. 15 L.R.A.(N.S.) 1200.

### NOVATION.

Commercial paper, as payment, see PAYMENT, § 11.

Distinction between novation and accord executory. 12 L.R.A.(N.S.) 1134.

Liability of consolidated railroad company for debts of predecessor. 23 L.R.A. 231. Consult also L.R.A. Digests of Cases.

NOVATION—cont'd

Effect of judgment against garnishee to merge or satisfy liability of principal debtor. 47 L.R.A. 131.

New obligation given by debtor to creditor to secure the release of a lien as a novation of the original obligation. 36 L.R.A.(N.S.) 464.

Is promise by a third party to pay claim arising out of performance of contract between two other persons tainted by the illegality of that contract. 28 L.R.A.(N.S.) 996.

Effect of novation of contract on right of purchaser of chattel to avail himself of breach of warranty made to the seller. 51 L.R.A. (N.S.) 1111.

Secondary agreement abrogating, altering or supplementing prior contract as a novation. LR.A.1915B, 59.

Release of original debtor as a condition of novation by substitution of debtors. L.R.A.1918B, 113.

#### NOXIOUS VAPORS.

Presumption as to statutory authority of railroad to commit nuisance by emitting. 70 L.R.A. 594.

### NOXIOUS VEGETATION.

Validity and construction of statute in relation to. 43 L.R.A.(N.S.) 1090. Liability for permitting spread of, to adjoining property. 52 L.R.A. 293.

### NUISANCES.

I. What are, §§ 1-9. II. Liability for; right to maintain;

remedies, §§ 10-31.
a. In general, § 10.

b. Who liable, \$\$ 11-19.

c. Remedies; right of action **\$\$** 20-25.

d. Defenses, \$\$ 26-29. e. Criminal liability; punishment, \$\$ 30, 81.

Constitutionality of statutes as to, see CONSTITUTIONAL LAW, § 128. Affecting health, see HEALTH, § 11.

Liquor nuisance, see Intoxicating Liquors, § 37.

Nuisance on leased premises, see LANDLORD AND TENANT, § 62.

Attractive nuisances, see Negligence, §§ 23, 23a.

### I. What are.

§ 1. Generally.

Places of amusement as, see AMUSEMENTS,

Fences as, see FENCES, § 5.

NUISANCES, I.—cont'd In street or highway, see Highways, § 41. What constitutes a liquor nuisance, see In-TOXICATING LIQUORS, § 37.

§ 2. As to waters; drains and sewers. By pollution, see WATERS, § 57.

Surface water as. 65 L.R.A. 280. Obstruction of navigable water as. 4 L.R.A. 209; \* 59 L.R.A. 90; 51 L.R.A.(N.S.) 1172.

§ 3. Trees near boundary.

Trees near boundary as. 2 B. R. C. 901; 46 L.R.A. (N.S.) 6.

Removal of trees near boundary as. 21 L.R.A. 730.

### § 4. Noise as element.

Noise with or without vibration incident to lawful industrial business, as. L.R.A. (N.S.) 287; 44 L.R.A. (N.S.)

Keeping of barking dogs as. 7 L.R.A.(N.S.) 349.

Bowling alley as. 40 L.R.A.(N.S.) 75. Noisy dancing as. 18 L.R.A.(N.S.) 699. On street, as a nuisance subject to municipal control. 39 L.R.A. 672.

Liability of railroad for creating a nuisance by. 32 L.R.A.(N.S.) 371. Garage as nuisance. L.R.A.1917E, 369.

§ 5. Smoke, dust, etc.; odors. Stockyards, see STOCKYARDS, § 2.

Municipal control over smoke as a public nuisance. 39 L.R.A.(N.S.) 551; 18 L.R.A.(N.S.) 156; 32 L.R.A.(N.S.) 554.

Use of soft coal as. 13 L.R.A.(N.S.) 465. Coal yards as. 32 L.R.A.(N.S.) 522. Operation of brick kiln as. 2 L.R.A.(N.S.)

92. From operation of mine. L.R.A.1917B, 313. Oil refinery as. L.R.A.1918C, 230. Gas plant as. 20 L.R.A.(N.S.) 466.

Driving foul air against neighbor's windows as. 9 L.R.A.(N.S.) 695.

Keeping pigs. L.R.A.1917C, 212.

Stable for horses as. 17 L.R.A. (N.S.) 1025; 49 L.R.A. (N.S.) 958.

Burning slack, culm, or other waste material as a nuisance. 48 L.R.A.(N.S.)

Throwing garbage on surface. 43 L.R.A. (N.S.) 1037; L.R.A.1915C, 747.

### § 6. Explosives.

Fireworks as nuisance, see FIREWORKS, § 2.

Storage of explosives as. 16 L.R.A. (N.S.) 691; L.R.A.1915A, 615.

Storage of oil, gasolene, or gas as nuisance because of explosive or combustible quality. 52 L.R.A. (N.S.) 930.

By maintaining powder magazines. L.R.A. 306.

Begin with this book on every law question.

NUISANCES, I.—cont'd

§ 7. Hospital or pesthouse. Hospital as. 29 L.R.A. (N.S.) 49; 52 L.R.A. (N.S.) 1032.

Insane asylum or hospital for insane as. 40 L.R.A.(N.S.) 647.

& 8. Undertaker's establishment; cemetery.

Undertaker's establishment as. 31 L.R.A. (N.S.) 608; L.R.A.1918A, 829. Cemetery as. 31 L.R.A.(N.S.) 945; 34

L.R.A. (N.S.) 565.

§ 9. Miscellaneous.

Animals as, see Animals, §§ 21, 22. Auction as, see Auction, § 2.

Bridges as, see Bridges, § 2.

Matters relating to gas, see GAS, § 3. Spur tracks and sidings as, see SPUR

TRACKS AND SIDINGS, § 4.

Dancing as. 18 L.R.A.(N.S.) 699. Garage. L.R.A.1917E, 369. Pool selling as. 10 L.R.A.(N.S.) 992; 21 L.R.A.(N.S.) 836; 44 L.R.A.(N.S.)

Coasting as. 42 L.R.A. (N.S.) 867.

Bees as. 62 L.R.A. 133.
Operation of mine as a nuisance. L.R.A. 1917B, 313.

Keeping of pigs. L.R.A.1917C, 212.

Spring guns, traps, and other dangerous instruments on premises as. 29 L.R.A.

Projection of building or other structure over the boundary as. 32 L.R.A.(N.S.) 1010.

Exhibitions of anatomical subjects as nuisance. 45 L.R.A.(N.S.) 23.

Stable for horses as a nuisance. 17 L.R.A. (N.S.) 1025; 49 L.R.A.(N.S.) 958. Theater queue. 7 B. R. C. 124.

Illicit cohabitation as a nuisance. L.R.A.

II. Liability for; right to maintain; remedies.

### a. In general.

§ 10. Generally.

1916C, 653.

Liability for blasting, see BLASTING.

Measure of damages for, see DAMAGES, \$\$

Municipal control over, see MUNICIPAL COB-PORATIONS, §§ 34-41.

Duty-end liability of one maintaining temporary obstruction in street for purpose of leading or unloading vehicles. 24 L.R.A. (N.S.) 97.

Right as against public, as to nuisance created by damming back water of stream. 59 L.R.A. 848.

### b. Who liable.

§ 11. Generally. Criminal responsibility, see infra, § 30. 38 Municipal liability in respect of, see MUNIC-

IPAL CORPORATIONS, § 77.

NUISANCES, II. b-cont'd

Liability in damages of one of several polluters of a stream. 24 L.R.A.(N.S.) 1185.

Liability of owner of vacant property for using it, or permitting it to be used, in such a way as to collect crowds, to the injury of the neighborhood. L.R.A. (N.S.) 463.

Joint liability of successive owners of property for nuisance maintained thereon.

46 L.R.A.(N.S.) 1187.

Liability of abutting owner for nuisance created by a predecessor in title upon the highway or adjoining property. B. R. C. 581.

Liability of school district or corporation for. 49 L.R.A.(N.S.) 1032.

Liability of corporation for nuisance arising while it was in the hands of a receiver. L.R.A.1918F, 321.

Liability of receiver for continuance of nuisance created before his appointment. L.R.A.1916F, 1020.

Theater queue as nuisance for which proprietor of theater is responsible. 7 B. R. C. 124.

§ 12. What connection with, or participation in, essential to liability. Failure of municipality to abate nuisance. 32 L.R.A. (N.S.) 890.

Active contribution to creation or maintenance. 32 L.R.A.(N.S.) 897.

Permitting nuisance on one's premises. 32 L.R.A. (N.S.) 899.

Authorizing nuisance. 32 L.R.A. (N.S.) 900. Adopting nuisance. 32 L.R.A.(N.S.) 900. Miscellaneous. 32 L.R.A.(N.S.) 900.

13. Employer.

Liability of employer for nuisance committed by independent contractor. L.R.A. 751; 66 L.R.A. 146.

Liability for acts of independent contractor in work constituting nuisance. L.R.A. 833.

Employer's liability for injuries occurring in performance of work by independent contractor through failure to remedy nuisance. 66 L.R.A. 948.

14. Contractor.

Liability of contractor to third persons for nuisance caused by defect in his work after its completion and acceptance. 26 L.R.A. 506.

15. Vendor.

Liability of one erecting or creating a nui-sance upon his land for continuance of same after he has parted with the title. 25 L.R.A.(N.S.) 731.

# 16. Purchaser.

Liability of purchaser for adding to nuisance by damming back flow of stream. 59 L.R.A. 860.

17. — necessity of notice.

Necessity of notice to make owner of premises liable for continuing nuisance created by predecessor. 27 L.R.A.(N.S.) 164; 50 L.R.A.(N.S.) 929.

Consult also L.R.A. Digests of Cases.

NUISANCES, II. b—cont'd

Necessity of notice to purchasing railroad company to construct culverts, where road was originally constructed without them. 12 L.R.A. (N.S.) 571.

§ 18. Landlord.

Liability to third persons, see LANDLORD AND TENANT, § 62.

Liability of landlord for, to tenant of part of premises. 23 L.R.A. 158.

19. Railroad.

Damage from operation of road. 32 L.R.A. (N.S.) 372. Roundhouses and yards. 32 L.R.A.(N.S.)

374.

Terminals, stations, etc. 32 L.R.A. (N.S.) 374.

Use of spur or side track. 32 L.R.A. (N.S.) 375.

Damage from stock pens and oil. 32 L.R.A. (N.S.) 375.

Causing overflow, accumulation, or pollution of water. 32 L.R.A. (N.S.) 376.

Miscellaneous. 32 L.R.A.(N.S.) 377. Liability for nuisances caused by negligence of another company using the road under a lease, license, or other contract. L.R.A.1918E, 263.

Necessity of notice to purchasing railroad company to construct culverts where road was originally constructed without them. 12 L.R.A. (N.S.) 571.

### c. Remedies; right of action.

§ 20. Generally.

Indictment for, see Indictment, Informa-TION, AND COMPLAINT, § 25.

Injunction against, see Injunction, §§ 25-29, 65.

Right of property cwner to damages or in-junction for maintenance of electric light plant in vicinity of his property. 27 L.R.A. (N.S.) 237.

Power of health authorities to require alterations of private property in a particular manner. 24 L.R.A. (N.S.) 241.

Remedy for obstruction or destruction of

rights of navigation. 59 L.R.A. 91.

Remedy for protection from pollution of source of municipal water supply. 11 L.R.A.(N.S.) 1166; L.R.A.1918E, 957. Right of private citizen to destroy liquor

illegally kept for sale. 26 L.R.A. (N.S.) 996.

Sufficiency of general allegations as to maintenance of public nuisance. L.R.A. 269.

Effect of legislative authority on remedy. 1 L.R.A. (N.S.) 131.

\$ 20a. Continuing nuisance.

Character of nuisance as continuing; when cause of action arises; successive actions. L.R.A.1916E, 997.

21. Abatement.

Right to abate nuisance by interference with fishing rights. 80 L.R.A. 524.

NUISANCES, II. e-cont'd

Judgment in suit to abate, as bar to action for damages therefor. 58 L.R.A. 735.

Validity of statutory provision for attorney's fee in proceeding by statute to abate a liquor nuisance. L.R.A.1915E, 949.

Vacancy of property as affecting right to enjoin nuisance affecting it. 46 L.R.A. (N.S.) 642.

Remedy in equity for wrongful issuance of license for sale of intoxicating liquor. L.R.A.1915E, 408.

Abatement of bawdyhouse. L.R.A.1918D, 819.

# § 22. — who may abate or maintain suit for.

Special damage from awning or structure overhanging street which will sustain action by private person to abate it. 48 L.R.A.(N.S.) 173.

Obstruction in highway preventing access to property except by circuitous route as a special injury entitling owner to maintain suit for abatement. 8 L.R.A. (N.S.) 227; 21 L.R.A. (N.S.) 75; L.R.A. 1917A, 1155.

Right of one who navigates stream or floats logs therein to abate nuisance arising from bridge. 51 L.R.A.(N.S.) 1172.

Right of lessee to maintain suit to abate a nuisance affecting possession. 3 L.R.A. (N.S.) 448.

Right of municipality to maintain suit to abate nuisance. 51 L.R.A. 657; L.R.A. 1916D, 1020.

State as proper party to maintain bill to abate nuisance in city street. 19 L.R.A. (N.S.) 1172.

Who may maintain suit to abate bawdy-house. L.R.A.1918D, 819.

Interference with pleasurable use of stream as causing special damage or peculiar injury which will sustain suit for abatement by private individual. L.R.A.1917F, 208.

Statute empowering or requiring public or local authorities to maintain suit to abate public nuisance as affecting the right of an individual peculiarly affected to maintain the suit. L.R.A. 1917E, 1009.

§ 23. — right to compensation for property injured or destroyed in abating public nuisance.

Nuisances in highways. 19 L.R.A. 196. Killing animals. 19 L.R.A. 196. Liquor nuisance. 19 L.R.A. 197. Gaming apparatus. 19 L.R.A. 197. Fish nets. 19 L.R.A. 197.

Liability for removing buildings on account of fire. 19 L.R.A. 197.

Other cases of destroying buildings and other property. 19 L.R.A. 198.

Liability of private person for damages to property in abating a nuisance. L.R.A. 1917C, 1042.

Begin with this book on every law question.

NUISANCES, II. c-cont'd

§ 24. Who may maintain action for. Action for abatement, see supra, § 22. Who may sue for injunction, see INJUNC-

TION, §§ 25-29, 65.

In case of continuing nuisance. L.R.A.

1916E, 997.

Necessity of interest or estate in premises affected by nuisance to sustain action for death or bodily injury from the nuisance. 43 L.R.A.(N.S.) 871.

How far property right necessary to sustain action for. 15 L.R.A. 689.

Right of one in possession to maintain action for nuisance without proving title. 34 L.R.A.(N.S.) 560.

# § 25. — private right of action; special damages.

Violation of statute or ordinance relating to explosives as nuisance giving right of private action. 48 L.R.A. (N.S.) 878.

Private right of action for obstruction of navigable stream. 3 L.R.A.(N.S.) 1126; 38 L.R.A.(N.S.) 763.

Interference with pleasurable use of stream as causing special damage or peculiar injury which will sustain an action by a private individual for nuisance. L.R.A.1917F, 208.

As basis of recovery by abutter for injury to property from railroad in street. 36

L.R.A. (N.S.) 756.

Obstructions in highway, preventing access to property except by a circuitous route, as a special injury entitling owner to maintain action for damages. 8 L.R.A.(N.S.) 227; 21 L.R.A.(N.S.) 75; L.R.A.1917A, 1155.

Interference with one's use of a highway as a special damage which will sustain an action by him against the wrongdoer. 28 L.R.A.(N.S.) 1053; L.R.A.1915D, 142.

Right of owner to recover damages to property from nuisance, not of a permanent character, existing before the commencement, or at time of the renewal, of the tenancy. 3 L.R.A.(N.S.) 1060.

#### d. Defenses.

🖇 25a. In general.

Doctrine of comparative injury in suit toenjoin nuisance. L.R.A.1916C, 1269.

Estoppel by encouraging or acquiescing in erection of building or plant to complain of it as a nuisance. L.R.A. 1916C, 940.

Doctrine of comparative injury in suit toenjoin nuisance. 31 L.R.A.(N.S.) 881.

§ 26. Prescriptive right to maintain. General doctrine. 53 L.R.A. 891.

Matters relating to health. 53 L.R.A. 893. Highways and places held for public use. 53 L.R.A. 897.

Prescriptive right of municipality or individual to pollute stream with sewage or other harmful substance. 25 L.R.A.

(N.S.) 589.

NUISANCES, II. d—cont'd

Prescriptive right to maintain nuisance caused by gas plant. 20 L.R.A.(N.S.) 472.

Estoppel by encouraging or acquiescing in erection of building or plant to complain of it as a nuisance. L.R.A.1916C, 940.

§ 27. Municipal authority as. Municipal authority to justify. 9 L.R.A. 712.\*

§ 28. Legislative authority as a defense.

Legislative authority as defense to a public nuisance. L.R.A.1915B, 1207.

Effect of legislative authority upon liability for private nuisance. 1 L.R.A. (N.S.) 49.

Legislative authority to manufacture gas. 20 L.R.A.(N.S.) 469.

Legislative authority as defense to nuisance created by pollution at point where sewers of municipality discharge. 47 L.R.A. (N.S.) 137.

§ 29. — statutory authority to commit not to be presumed. In general. 70 L.R.A. 579.

Grants of authority to municipal corporations. 70 L.R.A. 580.

Grants of authority to railroad corporations. 70 L.R.A. 585.

Grants of authority to other corporations. 70 L.R.A. 594.

Grants of authority to individuals. 70 L.R.A. 597.

### e. Oriminal liability; punishment.

30. Criminal liability.

Criminal responsibility of corporation. B. R. C. 251.

Criminal or penal liability for maintenance of, by servant, agent, or partner. 41 L.R.A. 655.

Criminal responsibility for maintenance of dam in non-navigable stream which creates a nuisance injurious to public health. 22 L.R.A.(N.S.) 1259.

Criminal responsibility of municipality for maintaining or permitting a nuisance. 39 L.R.A.(N.S.) 411.

Criminal responsibility of public officers for nuisance. L.R.A.1916F, 582.

§ 31. Punishment for maintaining. Cruel and unusual punishment for maintaining. 35.L.R.A. 576.

Liability for punitive damages for maintaining. 3 L.R.A.(N.S.) 1119.

#### NUMBER.

Of grand jurors, see GRAND JURY, §§ 4, 5. Of judges, see JUDGES, § 5. Of jurors, see JURY, § 15. Consult also L.R.A. Digests of Cases,

NUMBER—cont'd

Of trustees, see Trusts, § 21.

Of witnesses, limitation of, see WITNESSES,

Duty of master to provide a sufficient number of employees, see MASTER AND SERVANT, §§ 106, 169a.

Of examinations of insured as to loss. 52 L.R.A. 427.

Unfair competition in use of combination of geographical name with numeral. 34 L.R.A.(N.S.) 1040.

Right of witness to express opinion as to. L.R.A.1918A, 698.

#### NUMBERING.

Of ballots, see Elections, § 20.

Requiring numbering of automobiles. 1 L.R.A. (N.S.) 215.

#### NUNC PRO TUNC.

Entry of judgment, see JUDGMENT, § 18.

#### NUNCUPATIVE WILLS.

See Wills, § 59.

#### NURSE.

Municipal power to provide during epidemic. 26 L.R.A. 739.

Liability of railroad company for services of nurse employed by physician. 20 L.R.A. 697.

Liability of operating surgeon for negligent acts of hospital nurse in caring for patient. 27 L.R.A.(N.S.) 1174; L.R.A. 1918C, 134.

Liability of proprietor of private sanitarium or hospital for negligence of. 6 L.R.A. (N.S.) 306; L.R.A.1915D, 334.

### NURSERY.

Power of state to regulate nursery business. 15 L.R.A.(N.S.) 138.

Discrimination against nonresidents by statute or ordinance imposing license tax on agents for nursery stock. 40 L.R.A. (N.S.) 290.

#### NURSERY STOCK.

Liability of vendor of, see Sales, § 36a.

О

#### OATH.

#### § 1. Generally. See also Affidavit.

Effect of failure to swear jury. L.R.A. 1917D, 399.

Failure of officer to take proper oath as affecting his status as a de facto officer. L.R.A.1918B, 1124.

Presumption as to authority of notary public of another state or country to administer an oath. L.R.A.1916A, 1169.

Of party to correctness of books of account

offered in evidence. 52 L.R.A. 590. Law governing form of oath, as consideration for chattel mortgage. 64 L.R.A. 363.

Effect of denial under oath to purge one of criminal contempt. 9 L.R.A.(N.S.) 1119; L.R.A.1917E, 654.

Sufficiency of averment in indictment or information for perjury as to jurisdiction or authority to administer oath. 32 L.R.A.(N.S.) 142.

Furnishing proofs of loss not under oath as substantial compliance with policy requiring proofs under oath. 28 L.R.A. (N.S.) 651.

Validity of oath taken over telephone. 30 L.R.A.(N.S.) 358.

Voluntariness of confession made under oath. 18 L.R.A.(N.S.) 872; 50 L.R.A. (N.S.) 1089.

### § 2. To grand jury or officers in charge of them.

To grand jury. 27 L.R.A. 788. To officer in charge of grand jury. 27 L.R.A. 779, 784.

Failure of record to show that grand jury was sworn. 49 L.R.A.(N.S.) 1215.

### 3. To witnesses.

Necessity of, to infant witness. 19 L.R.A.

To witnesses before grand jury. 28 L.R.A. 320.

### 4. Of voter.

Duty of election officers to accept sworn vote. 36 L.R.A.(N.S.) 968.

#### OBEDIENCE.

By employee, see MASTER AND SERVANT, §§ 4, 70, 117, 126, 127.

Of improper direction of physician as affecting remedy of injured person against person injuring him. 49 L.R.A. 826. Begin with this book on every law question.

#### **OBJECTIONS.**

To raise question on appeal, see APPEAL AND ERBOR, §§ 24, 24a. During trial, see TRIAL, § 18.

#### OBLITERATION.

Cancelation of will by, see WILLS, §§ 39,

Alteration of instrument by obliterating material provision without substituting new matter. 32 L.R.A.(N.S.) 519.

### OBNOXIOUS CONDUCT.

Employer's liability for obnoxious conduct of servant sent to commit trespass. 70 L.R.A. 736.

#### OBSCENE LITERATURE.

### § 1. Generally.

Instigation to offense as to. 25 L.R.A. 345.

Evidence of other crimes in prosecution for sending obscene letter. 62 L.R.A. 239. Cruel and unusual punishment for. 35 L.R.A. 578.

### § 2. Unlawfulness of.

At common law. 24 L.R.A. 110.

Indecent pictures. 24 L.R.A. 110. Tests of decency. 24 L.R.A. 110.

Questions for court and jury. 111.

Motives and object of publication. L.R.A. 111.

Mailing obscene letters. 24 L.R.A. 112. Constitutionality of statutes. 24 L.R.A.

Propriety of legislation. 24 L.R.A. 112.

#### OBSCENITY.

Obscene literature, see OBSCENE LITERATURE. Sending obscene matter through the mail, see Postoffice, § 10.

As ground for divorce. 12 L.R.A.(N.S.) 820.

As disturbance of public peace. 32 L.R.A. (N.S.) 505.

Carrier's liability for obscene language by employees to passengers. 14 L.R.A. 739. Necessity of use of words per se obscene to

constitute offense under statute relating to obscenity. 22 L.R.A.(N.S.) 225; L.R.A.1918E, 771.

OBSCENITY-cont'd

Good motive as affecting criminal charge involving obscene language or literature. L.R.A.1916B, 1121.

#### OBSCURITIES.

Deciphering of, in proof of handwriting. 65 L.R.A. 155.

#### OBSOLESCENCE.

Consideration of, in treatment of depreciation in estimating return of public service corporation for rate-making purposes. 52 L.R.A. (N.S.) 37.

#### OBSTRUCTING JUSTICE.

By resisting arrest, see Arrest, §§ 7, 8. Escaping or aiding in escape, see ESCAPE.

Procuring one having knowledge of offense to leave jurisdiction. 33 L.R.A.(N.S.)

Resisting service of civil process fair on its face, but invalid in fact, as an offense. 21 L.R.A.(N.S.) 66.

What constitutes offense of attempt to influence officers of court. 21 L.R.A. (N.S.) £05.

Publication of matters derogatory to parties to litigation as an attempt to pervert or obstruct course of justice, or as contempt of court. 2 B. R. C. 483.

Claiming or taking possession of property from officer who has seized it under a writ. 47 L.R.A.(N.S.) 1146.

### OBSTRUCTION.

§ 1. Generally.

Loss or abandonment of easement by, see EASEMENT, § 25.

In highways, see Highways, §§ 26-39, 65-75, 77

Municipal liability for obstruction of drains and sewers, see MUNICIPAL CORPORA-TIONS, § 88.

Of navigation, see WATERS, § 21.

Of water, generally, see WATERS, §§ 46-50, 63, 75.

Of wharf rights, see WHARVES, § 5.

Wharf as obstruction to navigation, see WHARVES, § 6.

Of free right of way. 3 L.R.A.(N.S.) 461. Negligence of railroad company in permitting obstructions on its right of way which obscure view of track from highway crossing. 12 L.R.A.(N.S.) 1067.

§ 2. On railroad track.

Of traveler's view at railroad crossing, see | Effect of bad motive on liability for injury RAILBOADS, § 61.

Consult also L.R.A. Digests of Cases.

OBSTRUCTION—cont'd

Obstructing crossing, see RAILBOADS, § 62. Criminal liability for, see RAILBOADS, § 87.

Carrier's liability for injury to passenger caused by obstruction placed on track by stranger. 12 L.R.A.(N.S.) 840.

Duty of railroad company to remove obstructions on right of way interfering with lookout from trains. L.R.A. 1916F, 130.

#### **OBVIOUS DANGERS.**

Servant's assumption of risk of, see Mas-TER AND SERVANT, § 113.

#### OBVIOUS DEFECTS.

Assumption by servant of risk of, see Mas-TER AND SERVANT, § 113.

Landlord's liability for injury to tenants from. 34 L.R.A. (N.S.) 804; 48 L.R.A. (N.S.) 917; L.R.A.1916D, 1224; L.R.A. 1918E, 221.

#### OCCULTISM.

Prohibition of fortune telling and kindred superstitions. 43 L.R.A.(N.S.) 203.

### OCCUPANCY.

Of insured premises, see INSURANCE, § 75.

### OCCUPANT.

Liability of occupant of building for injury caused by article falling or thrown from window or other opening. 14 L.R.A. (N.S.) 426.

#### OCCUPATION.

Constitutionality of statutes regulating, see CONSTITUTIONAL LAW, §§ 39-176.

Of insured, see INSURANCE, § 95. Libel or slander injurious to, see LIBEL AND

SLANDER, §§ 14-20, 24-27. Tax on, generally, see LICENSE, II.

Tax on, as interference with commerce, see COMMERCE, § 18.

Of master's premises, see MASTER AND SERV-ANT, § 3.

Of real property, see Use and Occupation.

Notice of title to land from occupation. 13 L.R.A.(N.S.) 91.

Occupation of premises as a servant and as a tenant. 4 L.R.A.(N.S.) 698.

to. 62 L.R.A. 694.

#### OCCUPATIONAL DISEASES.

Recovery for, under Workmen's Compensation Act, see Workmen's Compensa-TION, § 10.

#### OCCUPATION TAX.

See LICENSE, II.

## OCCUPYING CLAIMANTS' ACTS.

See IMPROVEMENTS, § 7.

#### OOEAN.

Jurisdiction over. 46 L.R.A. 264.

#### OCULISTS.

Application to, of statutes regulating practice of medicine. L.R.A.1917C, 826.

## odors.

As nuisances, see Nuisances, § 5.

Right of witness to express opinion as to. L.R.A.1918A, 742.

Municipal liability for odors from sewage 61 L.R.A. 669.

Liability of railroad company for damage from. 32 L.R.A.(N.S.) 375.

Municipal regulation as to nuisance of. 38 L.R.A. 322.

Identification of substance by. 42 L.R.A. (N.S.) 854.

Presumption as to statutory authority to commit nuisance by obnoxious vapora 70 L.R.A. 594.

#### OFFER.

False statement as to offer for property, see FRAUD AND DECEIT, § 10.

Unaccepted offer of compromise as tolling statute of limitations. 37 L.R.A. (N.S.)

Changing terms of offer of prize after efforts to secure it have begun. 37 L.R.A. (N.S.) 183.

#### OFFER AND ACCEPTANCE.

See CONTRACTS, §§ 22, 23, 29.

#### OFFICE.

Vacancy in, see Officers, §§ 14, 17.

### OFFICE BUILDING.

To whom is the duty to keep office building in proper condition, owing. 26 L.R.A. (N.S.) 1213. Liability of landlord of, for injury to per-

son calling on tenant on business. L.R.A.1916F, 1118.

#### OFFICE HOURS.

Rules of telegraph company as to. 53 L.R.A.

#### OFFICERS.

I. In general; who are, \$\$ 1, 2. II. Selection; incumbency; tenure, \$\$ 3-27.

a. In general, § 3.

b. Eligibility; qualifications, §\$ 4-9.

c. Appointment; election; acceptance, §§ 10-15.

d. Term of office; vacancy holding over, \$\$ 16-18.

e. Resignation or deprival of office; restoration, §§ 19-26.

f. Contest of title; usurpation of office, \$ 27.

III. Rights, powers, duties, compensa-tion, and liability, §\$ 28-

a. Rights, powers, and duties, generally, §\$ 28-30.

b. Compensation; fees, §§ 31-37.

c. Liability, **§\$** 38-42. IV. De facto officers, \$\$ 43, 44.

### I. In general; who are.

### § 1. Generally.

Arrest by, see ARREST.

Resistance of, see ARREST, §§ 7, 8; OB-STRUCTING JUSTICE.

Recovery back of money from, see Assumpsir, §§ 8, 9. Right of subcontractor, materialman, or

laborer on contractor's bond running to, see Bonds, §§ 9, 10.
Bonds of, see Bonds, §§ 12-15.
Bribery of, see Bribery.

Civil service laws, see CIVIL SERVICE. Power of legislature as to municipal officers, see Constitutional Law, § 20a.

Constitutionality of statutes as to, see Con-

STITUTIONAL LAW, § 129.
Validity of contract affecting official action, see CONTRACTS, §§ 95, 98, 100, 102.

Begin with this book on every law question.

OFFICERS, I.—cont'd

Validity of contract in which officer is personally interested, see CONTRACTS, § 100a.

Validity of contracts with public officers, generally, see Contracts, §§ 99-100b. Deputy officers, see DEPUTY.

Domicil of, see DOMICIL AND RESIDENCE,

Embezzlement by, see Embezzlement, § 4. Judicial notice as to, see EVIDENCE, § 11. Voluntariness of confession to, see Evi-DENCE, 1X.

Homicide in resistance of, see HOMICIDE, \$ 11.

Homicide by officers of justice, see Homi-CIDE, § 12.

Injunction as to offices, see Injunction, § 39.

Injunction against, see Injunction, §§ 61, 62.

Larceny by, see Larceny, § 6.

Libel or slander of, see LIBEL AND SLANDER, § 21.

Privileged character of complaints by, see LIBEL AND SLANDER, § 25.

Mandamus to, see Mandamus, §§ 3-11. Liability of municipal corporation for acts

, of officers, see MUNICIPAL CORPORA-TIONS, §§ 81-84.

As proper parties to bring action, see PAR-TIES, § 9.

Service of foreign corporation by service on, see WRIT AND PROCESS, §§ 26, 28.

Of bank, see Banks, §§ 6-8a. Of corporation, see Corporations, VI.

County officers, see Counties, § 12.

Highway officers, see HIGHWAYS, §§ 87, 114. Judicial officers, see JUDGES.

Officers of municipality, see MUNICIPAL COR-PORATIONS, §§ 112-122.

Receivers, see RECEIVERS.

Referees, see REFERENCE.

Of church, see RELIGIOUS SOCIETIES, § 10. School officers, see Schools, §§ 23-25.

Sheriff, see Sheriff.

Tax officers, see Taxes, §§ 60, 61. Of towns, see Towns, §§ 8-10.

Statutes conferring powers upon municipalities or counties in respect to their officers as a delegation of legislative power, L.R.A.1916D, 921.

When action against officers is deemed to be action against the state. 44 L.R.A. (N.S.) 189.

Notice imported to holders by commercial paper payable to a public body or officer thereof. L.R.A.1915B, 725.

Liability of carrier for compelling officer in charge of negro prisoner to ride in car for colored persons. L.R.A.1916E, 280.

Liability of county for damages by default of. 39 L.R.A. 74.

As grand jurors. 28 L.R.A. 200. Right to inspect books of. 27 L.R.A. 83.

Occupancy by, as a tenancy. 4 L.R.A. (N.S.) 698, 707, 725, 727.

Improper influence or interference with grand jury by. 28 L.R.A. 371. Consult also L.R.A. Digests of Cases.

OFFICERS, I.—cont'd

Unauthorized presence of officer in grand jury room as affecting indictment. L.R.A.1916D, 1125.

Use of public funds to pay expense incurred by officer in litigation. L.R.A.1916D, 92.

Expenses incurred by public officers or employees in attending conventions, etc., as a proper charge on public funds. L.R.A.1917E, 332.

Official meeting as a meeting within purview of offense of disturbing meeting. 30 L.R.A.(N.S.) 832; 45 L.Ř.A.(N.S.)

Service on state officer in suit against foreign corporation. 23 L.R.A. 499.

Erroneous or mistaken marking of ballot by. 47 L.R.A. 810.

Right to attach or garnish fund in hands of, after he has been ordered to pay same to party. 13 L.R.A.(N.S.) 758; 30 L.R.A.(N.S.) 720.

Right to compel public employee to submit to physical examination to determine fitness. 33 L.R.A.(N.S.) 259.

Connivance in misuse of funds as affecting liability of sureties on depositor's bond. 26 L.R.A.(N.S.) 865.

Liability to public servants entering premises in discharge of official duties. 46 L.R.A. 81.

Denial on information and belief of matters within knowledge of public officials. 30 L.R.A.(N.S.) 779. Presumption that alteration in instrument

by public officer was made before execution. 39 L.R.A.(N.S.) 114. Competency of, as expert witnesses for

comparison of handwriting. 63 L.R.A. 942.

Conclusiveness of judgment as between plaintiff and one not a party or privy who voluntarily conducted the defense in an action against officers. 37 L.R.A. (N.S.) 965.

Validity of agreement by which compensation is dependent on success in procuring contract with public officer or board. 39 L.R.A. (N.S.) 747; L.R.A. 1915C, 823.

§ 2. Who are.

Who are municipal officers, see MUNICIPAL CORPORATIONS, § 113.

Generally. 13 L.R.A. 177. Definitions. 17 L.R.A. 243.

What distinguishes an office from a mere 17 L.R.A. employment or contract. 244.

Attorneys as. 17 L.R.A. 244.

Attendants of courts. 17 L.R.A. 245.

Clergymen. 17 L.R.A. 245.

Marshals, sheriffs, and their deputies. 17 L.R.A. 245.

Policemen and firemen. 36 L.R.A.(N.S.) 881.

Keepers of public money. 17 L.R.A. 246. Officers of public institutions. 17 L.R.A. 246.

Officers of school districts. 17 L.R.A. 247.

OFFICERS, I.—cont'd Constables. 17 L.R.A. 247. Municipal officers. 17 L.R.A. 247. Tax collectors. 17 L.R.A. 247. Members of Congress and of the state legislature. 17 L.R.A. 247. Miscellaneous instances. 17 L.R.A. 247. Instances of persons performing public du-ties who have been held not to be public officers. 17 L.R.A. 249. Who are city officers. 14 L.R.A. 646.

### II. Selection; incumbency; tenure.

#### a. In oeneral.

\$ 3. Generally.

Right to inspect public records as to title to office. 27 L.R.A. 85.

Power of legislature to add to or vary the constitutional method of selecting judges. L.R.A.1916E, 834.

### b. Eligibility; qualifications.

§ 4. Generally.

Eligibility to office of judge, see JUDGES,

Disqualification of judge, see JUDGES, § 4.

Libel or slander by charge that officer or candidate has not the necessary quali-

fications. L.R.A.1918E, 27.

Right to hold office as a privilege or immunity of a citizen of the United States. 14 L.R.A. 580.

Power to determine eligibility to office of one nominated at primary election. 39 L.R.A.(N.S.) 826.

Constitutionality of primary election laws imposing new restrictions or qualifications on candidates. 22 L.R.A.(N.S.)

1142; L.R.A.1917A, 262. Is eligibility to be determined as of time of election or appointment, or of induction into office. 23 L.R.A. (N.S.) 1228; 41 L.R.A. (N.S.) 1119.

Right of candidate receiving next highest number of votes where person receiving highest number is ineligible. 13 L.R.A. (N.S.) 1013; 34 L.R.A. (N.S.) 240.

§ 5. Incompatibility of offices.

Incompatibility of offices at common law. L.R.A.1917A, 216.

Offices within constitutional or statutory provisions against holding two offices. L.R.A.1917A, 231.

Acceptance of one as resignation of other. 23 L.R.A. 683.

Right of person to hold two judicial positions at the same time. 8 L.R.A. (N.S.) 1107; L.R.A.1917A, 216.

#### § 6. Infants.

Infants as deputy sheriffs. 13 L.R.A. 721.\*

## § 7. Women.

As clerks, see CLERKS, § 4. As deputy, see DEPUTY, § 4.

In general. 38 L.R.A. 208; 27 L.R.A. (N.S.) 532; L.R.A.1915F, 898.

Begin with this book on every law question.

OFFICERS, II. b—cont'd
Distinction between the right to hold elective office and right to hold appointive office. 38 L.R.A. 208.

Right to hold judicial office. 38 L.R.A. 209. Right to hold legislative office. 38 L.R.A.

Right to hold administrative office. L.R.A. 210.

As grand jurors. 28 L.R.A. 204.

#### § 8. Residence.

Constitutionality of statute making residence within the district a qualification of a public officer. 32 L.R.A.(N.S.)

#### § 9. Misconduct.

Re-election of public officer after ouster for misconduct. 6 L.R.A. (N.S.) L.R.A.1916D, 959.

### c. Appointment; election; acceptance.

10. Generally.

Validity of contract for sale or purchase of office, see CONTRACTS, § 101.

Matters as to election of, generally, see ELECTIONS.

Appointment of municipal officers, see Mu-NICIPAL CORPORATIONS, § 115.

Validity of agreements tending to influence clections or appointments to office. 51 L.R.A.(N.S.) 549.

Appointment as distinguished from election. 15 L.R.A. 106.

Power of appointment under civil service-laws. 34 L.R.A.(N.S.) 484,

Provision for testing election of city officer before city council or other municipal body as exclusive of remedies in the courts. 26 L.R.A.(N.S.) 207.

Constitutionality of statute regulating appointment to public office with reference to party affiliation. 27 L.R.A. (N.S.) 720.

Appointment or election of officers in case of tie vote. 47 L.R.A. 563.

Right of candidate receiving next highest number of votes where person receiving highest number is ineligible. 13 L.R.A. (N.S.) 1013; 34 L.R.A.(N.S.) 240.

Statutes restricting vote of elector to less than all when several officers are to be chosen for same office. 33 L.R.A. 141.

Attempted appointment for fixed term as restriction of power to remove at pleasure. 35 L.R.A.(N.S.) 866.

Denial of official appointments on information and belief. 30 L.R.A.(N.S.) 781.

§ 11. Who may appoint.

Constitutional power of courts or judges to appoint officers. 16 L.R.A. 737.

May appointment of municipal officers be constitutionally delegated to courts or judges thereof. 19 L.R.A. (N.S.) 579.

### § 12. Of person having appointing power.

Appointment of member of body having appointive power. 31 L.R.A. (N.S.) 875.

OFFICERS, II. c-cont'd Power of municipal board or committee to employ one of its own members as counsel. 3 L.R.A.(N.S.) 849.

§ 13. For term extending beyond term of appointing officer.

Power of board to appoint officer for term extending beyond its own term. L.R.A. (N.S.) 652; L.R.A.1915E, 581.

May officer make prospective appointment, the term of which cannot begin until after his own term has expired. 26 L.R.A.(N.S.) 514.

§ 14. To fill vacancy.

Term of one appointed to fill vacancy. 50 L.R.A. (N.S.) 337.

Appointment or election of officers in case of tie on vote to fill vacancy. 47 L.R.A.

Right of governor or President to make an ad interim appointment to an office whose fixed term expires before the senate's adjournment, where the incumbent is authorized to hold over until his successor is appointed. 46 L.R.A. (N.S.) 1202.

Power of legislature to add to or vary the constitutional method of filling vacancy in office of judge. L.R.A.1916E, 844.

15. Acceptance.

Mandamus to compel, see MANDAMUS, § 9.

Compelling citizen to accept office. L.R.A. 492.

Necessity of, to complete resignation office. 23 L.R.A. 681; 12 L.R.A. (N.S.) 1010.

#### d. Term of office; vacancy; holding over.

16. Term of office.

Appointment for term extending beyond term of appointing officer, see supra, § 13.

Of municipal officer, see MUNICIPAL CORPO-BATIONS, § 116.

First and last days in computing time in case of. 49 L.R.A. 244.

Power to extend term, by postponing time for election. 3 L.R.A. (N.S.) 887; L.R.A.1915C, 378.

Effect of detachment from a political division, of territory in which an officer resides, upon his tenure of the office. 20 L.R.A.(N.S.) 358.

· Tenure of office under civil service laws. 34 L.R.A.(N.S.) 485.

Of one appointed to fill vacancy. 50 L.R.A. (N.S.) 237.

§ 17. Vacancy.

Appointment to fill vacancy, see supra, § 14. In office of governor, see GOVERNOR, § 3. .

Effect of death of person elected before taking office, or of his failure to qualify. 50 L.R.A.(N.S.) 374.

Consult also L.R.A. Digests of Cases.

OFFICERS, II. d-cont'd

Vacancy in office by failure to file bond within the time prescribed. 16 L.R.A. 140.

§ 18. Holding over.

Extension of liability on official bond while holding over. 35 L.R.A. 88.

Right of governor or president to make an ad interim appointment to an office whose fixed term expires before the senate's adjournment, where the incumbent is authorized to hold over until successor is appointed. 46 L.R.A.(N.S.) 1202.

Purpose and effect of provision that incumbent shall hold his office until his successor is elected and qualified. 50 L.R.A.(N.S.) 365.

### e. Resignation or deprival of office; restoration.

19. Resignation.

Effect of resignation before appointment or election. L.R.A.1915E, 401.
Right of referee to resign. 46 L.R.A.(N.S.)

68.

Necessity of an acceptance to complete resignation of an office. 23 L.R.A. 681; 12 L.R.A.(N.S.) 1010.

Right to repudiate or withdraw resignation.

16 L.R.A.(N.S.) 1058; L.R.A.1917F, 547.

Liability on official bond after resignation. 35 L.R.A. 93.

🕯 20. Surrender,

Mandamus to compel, see MANDAMUS, § 10.

21. Abolishing office.

Effect of, on de facto officer. 15 L.R.A. (N.S.) 98.

§ 22. Removal or suspension.

Recall of, see Initiative, Referendum and RECALL, § 2.

Of municipal officer, see MUNICIPAL CORPO-RATIONS, § 117.

Of town officer, see Towns, § 10.

Is power conferred upon municipality to remove its officers exclusive. 20 L.R.A. (N.S.) 112.

Mandamus to compel exercise of power to remove or suspend public officer. L.R.A. (N.S.) 194; 46 L.R.A. (N.S.) 9.

Privilege as to proceedings for. 25 L.R.A. (N.S.) 455.

Power of court to review action of governor

in removing. 39 L.R.A.(N.S.) 788. Re-election of public officer after ouster for misconduct. L.R.A.1916D, 959.

23. — right of.

Right to remove officers summarily.

L.R.A. 95.

Power of town or municipality to remove officer in absence of statutory authority. 9 L.R.A. (N.S.) 572; 39 L.R.A. (N.S.) 519.

OFFICERS, II. e-cont'd

Attempted appointment for fixed term as restriction of power to remove at pleasure. 35 L.R.A.(N.S.) 866.

§ 24. — grounds for.

Intentional disregard of law without corrupt intent as ground for removal. 31 L.R.A.(N.S.) 566.

Acts during prior term as ground for removal. 50 L.R.A.(N.S.) 553.

Removal for failure to enforce criminal or penal law or ordinance. 50 L.R.A. (N.S.) 841; L.R.A.1918F, 1049.

Removal for drunkenness. 50 L.R.A.(N.S.) 912.

Promise to accept less than compensation fixed by law as affecting right to hold office. L.R.A.1917B, 196.

§ 25. Impeachment.

Privilege as to proceedings for. 25 L.R.A. (N.S.) 455.

Acts during prior term as ground for impeachment. 50 L.R.A. (N.S.) 553.

§ 26. Restoration to office.

Mandamus to compel, see MANDAMUS,
§ 10a.

### f. Contest of title; usurpation of office.

§ 27. Generally.

By mandamus proceeding, see Mandamus, § 9.

To municipal office, see MUNICIPAL CORPO-BATIONS, § 118.

Use of public funds to pay expenses incurred by officer in establishing title to office. L.R.A.1916D, 94.

Mandatory injunction as to officers. 20 L.R.A. 167.

Injunction to try title to office claimed under unconstitutional statute. 8 L.R.A. (N.S.) 128.

Mandamus to compel payment of salary to officer whose title is disputed. 1 L.R.A. (N.S.) 588.

Question relating to title to office as Federal question. 62 L.R.A. 534.

### III. Rights, powers, duties, compensation, and liability.

# a. Rights, powers, and duties, generally.

3 28. Generally.

Powers of clerks, see CLERKS, § 5.

Power to make contracts, see CONTRACTS, §§ 99-101.

Powers of judicial officers, see Judges, §§ 6,

Mandamus to compel performance of duty by public officer, see MANDAMUS, §§ 3-11.

Powers of municipal officers, see MUNICIPAL CORPORATIONS, § 19.
Of school officers, see Schools, § 24.

Of school officers, see Schools, § 24. Rights of sheriff, see Sheriffs, § 2. Power of town officer, see Towns, § 9.

Begin with this book on every law question.

OFFICERS, III. a-cont'd

Duty of government official to know signature of drawer of draft. L.R.A.1915D, 797.

Powers of fish officers. 39 L.R.A. 589.

Validity of acts done on holidays. 19 L.R.A. 320.

Jurisdiction or authority of officer to act in the matter as element of bribery. 15 L.R.A. (N.S.) 1173.

Right of, in executing criminal process, to take possession of evidentiary articles. 18 L.R.A.(N.S.) 253; L.R.A.1916C, 1017.

Right of peace officer to carry weapons outside his district. 38 L.R.A.(N.S.) 998. Right of officer to kill in self-defense. 67 L.R.A. 304.

Power to require carriers to transport persons in public service at reduced rates. 33 L.R.A.(N.S.) 956.

Right of former sheriff to maintain action in respect of a sale made by him while in office. 29 L.R.A.(N.S.) 792.

When sheriff may act by deputy. 3 L.R.A. 440.

Rights in literary work done in connection with official duties. 5 L.R.A.(N.S.) 1193; 1 B, R. C. 329.
Right of public to benefit of discoveries, in-

Right of public to benefit of discoveries, inventions, devices, data, etc. made or prepared by officer. L.R.A.1917B, 1183.

Power of officer not specially authorized, to take bonds for benefit of subcontractors, materialmen, or laborers. 27 L.R.A.(N.S.) 581.

May estoppel to deny authority to receive money alleged to have been embezzled. be invoked against officer de facto charged with embezzlement. 23 L.R.A. (N.S.) 763.

§ 29. Power to act as determined by the place of performance.

County, city, town boards and school officers. 33 L.R.A. 86.

Courts and judges. 33 L.R.A. 87.

Justice of the peace. 33 L.R.A. 90. Notary public. 33 L.R.A. 92.

Surveyor. 33 L.R.A. 92.

Sheriffs and constables. 33 L.R.A. 92.

At execution and judicial sales. 33 L.R.A. 92.

At trustees' sales. 33 L.R.A. 96. At tax sales. 33 L.R.A. 96.

§ 30. In whose name acts by deputy officers to be performed.

In general. 19 L.R.A. 177; 42 L.R.A. (N.S.) 877.

Where both principal and deputy seem to have acted. 19 L.R.A. 178.

Where the act is in the name of the principal "by" deputy. 42 L.R.A.(N.S.) 877.

Where the act is in the name of the principal alone. 19 L.R.A. 178; 42 L.R.A. (N.S.) 878.

Where the designation of the office is erroneous or incomplete. 19 L.R.A. 178; 42 L.R.A. (N.S.) 879.

OFFICERS, III. a-cont'd Acts by a special deputy. 19 L.R.A. 179; 42 L.R.A. (N.S.) 880.

Where the act is in the name of the deputy. 19 L.R.A. 179; 42 L.R.A.(N.S.) 880.

As to actions by and against deputies. 19 L.R.A. 181; 42 L.R.A.(N.S.) 887. Miscellaneous. 42 L.R.A. (N.S.) 888.

### b. Compensation; fees.

§ 31. Generally.

Of clerks, see CLERKS, § 6.

Of municipal officers, see MUNICIPAL CORPO-BATIONS, § 120.

Yalidity of contract as to, see CONTRACTS, § 99a.

Right to reward, see REWARD, § 4.

Meaning of term perquisites in statutes or ordinances in relation to officers. L.R.A. 1918E, 675.

Requisites of appropriation for official salary or expenses. 16 L.R.A.(N.S.) 631; 27 L.R.A.(N.S.) 537; 49 L.R.A.(N.S.) 67.

Claim against state for salary.: 42 L.R.A. **53.** 

Right of public officer to be paid quantum meruit. 17 L.R.A.(N.S.) 1263.

Right of clerk on salary basis to retain fee for naturalization. 30 L.R.A.(N.S.) 810.

Right of prosecuting attorney to compensation from individual. 38 L.R.A. (N.S.)

Right of officer conducting judicial sale to his fee where property is bid in by person at whose instance sale was made. 48 L.R.A.(N.S.) 542.

Acceptance of partial allowance of claim for, as an accord and satisfaction.

L.R A. (N.S.) 121.

Taking of illegal fees by, under belief of right thereto as extortion. 40 L.R.A. (N.S.) 802.

Power of state to tax salary of Federal officer or of Federal government to tax salary of state officer. 34 L.R.A. (N.S.) 1215.

Right of taxpayer, in absence of statute, to enjoin payment of illegal fees and salaries by municipality. 36 L.R.A. (N.S.) 11.

Mandamus to compel payment of salary to, where title is disputed. 1 L.R.A. (N.S.)

Admissibility of books of account to prove fees for official services. 52 L.R.A. 699.

§ 32. Assignment.

Validity of assignment of salary to be earned. 5 L.R.A.(N.S.) 565.

Effect of assignment of unearned salary or fees of public officer to put the same when earned beyond the reach of creditors. 31 L.R.A.(N.S.) 374.

33. Change of.

Constitutional prohibition against change of salary during term as affecting fees. | Liability for failure to serve process, see 23 L.R.A. 609. WELL AND PROCESS. § 40.

Consult also L.R.A. Digests of Cases.

OFFICERS, III. b-cont'd

Applicability to nonconstitutional officer of constitutional provision against increase of salary of officer during his term of office. 26 L.R.A.(N.S.) 289.

Change of salary of deputy or other subordinate, as violation of constitutional provision against change of salary of public officer during term of office. 37 L.R.A.(N.S.) 388.

Provision for compensation of additional deputy or assistant as violation of constitutional inhibition of increase of officer's salary during term. L.R.A. 1918C, 561.

Right to increased compensation when statute or ordinance increases duties after election or appointment. L.R.A.1918E,

34. Liability for debts.

Equitable remedy to subject salary to judgment after return of no property found. 63 L.R.A. 673.

35. — exemption of. See EXEMPTIONS, § 5a.

§ 36. Recovery back; rights of public. Recovery of fees exacted by public officer for performing act for which he was not authorized to demand compensation. 15 L.R.A.(N.S.) 183.

Right of public to fees unlawfully collected by officer for his own benefit. 20 L.R.A. (N.S.) 1015.

§ 37. Effect of payment to de facto

Right of de facto officer to salary, see infra, § 44.

Payment made to de facto officer as defense to action for salary by de jure officer. 19 L.R.A. 689; 16 L.R.A. (N.S.) 794; 24 L.R.A. (N.S.) 475; L.R.A.1918C, 373.

#### c. Liability.

§ 38. Generally.

On bond, see Bonds, §§ 12-15.

Liability for false imprisonment, see FALSE IMPRISONMENT, §§ 6-8.

Liability for interest, see Interest, § 14. Liability for wrongful levy, see LEVY AND SEIZURE, §§ 10-12.

Privileged communications by, see LIBEL AND SLANDER, § 25.

Municipal liability for acts of officers, see MUNICIPAL CORPORATIONS, §§ 81-84.

Of clerks, see CLERKS, § 7. Of municipal officer, see MUNICIPAL CORPO-

BATIONS, § 121. Of governor, see Governor, § 4.

Of judges, see JUDGES, § 8.

Of postmaster, see Postoffice, § 3.

Of school officers, see Schools, § 25.

Of sheriff, see SHERIFFS, § 3.

Of tax officer, see Taxes, §§ 60, 61.

Of officer serving process, see WRIT AND PROCESS, § 39.

WRIT AND PROCESS, § 40.

OFFICERS, III. e-cont'd

Of infant as officer. 57 L.R.A. 688.

For defects in abstract of title. 22 L.R.A.

Duty of municipal officer to account for profits made in transaction with a municipality. 48 L.R.A.(N.S.) 842.

Liability of officer executing invalid search warrant. 49 L.R.A.(N.S.) 770.

Personal liability of public officer for failure to take bond, or for taking insufficient bond, from contractor, conditioned for payment of claims of subcontractors, materialmen, and laborers. 49 L.R.A. (N.S.) 1199.

Personal liability of members of board of health or health officers. 5 L.R.A.

(N.S.) 635.

Personal liability of highway officers for acts in excess of their authority. 13 L.R.A. (N.S.) 233.

Liability of tax officers or their bond for failure of tax purchaser's title on account of irregularities in procedure. 41 L.R.A. (N.S.) 967.

Liability of officer for making arrest. 51 L.R.A. 193; 42 L.R.A. (N.S.) 69; L.R.A.

1915B, 505.

Variance between execution and judgment as affecting amercement of officer for failure to return execution. 42 L.R.A. (N.S.) 895.

Personal liability of an election officer for rejecting ballots. 11 L.R.A.(N.S.) 501. Liability of officer who turns over articles

taken from prisoner to a third person in recognition of the latter's adverse elaim. 19 L.R.A.(N.S.) 833. Liability of, for interest. 15 L.R.A. 456;

18 L.R.A. 456; L.R.A.1918B, 811.

Statement of account of. 27 L.R.A. 821. When police regulation is construed to apply to public official. 1 L.R.A. (N.S.) 878.

Action against, as suit against state. L.R.A. (N.S.) 727.

Duty of officer to account for money or property he has recovered as result of litigation. 42 L.R.A.(N.S.) 697.

Right to maintain action to recover property in specie against officer executing writ. 18 L.R.A. (N.S.) 1272.

Constitutionality of statute releasing public officer or his surety from liability for loss of public fund. 41 L.R.A.(N.S.) 97.

Removal to Federal court of causes against Federal officers. 53 L.R.A. 577.

Sufficiency of general allegations as to breach of duty. 59 L.R.A. 267.

Burden of proof in action against officer for failure to execute process. 3 L.R.A. (N.S.) 420.

Effect of judgment establishing title to property seized under execution, as against officer making seizure, who was not a party thereto. 14 L.R.A.(N.S.) 530.

Character and extent of relief against an officer vested with discretion, who has rendered a decision upon a ground not within his discretion. 7 L.R.A.(N.S.)

OFFICERS, III. c—cont'd Imprisonment of officers of court for debt. 34 L.R.A. 669.

§ 39. On contract.

Liability of public officers on contracts made by them for the public. 15 L.R.A. 509; 43 L.R.A. (N.S.) 565.

Personal liability of public officer on contract which he attempts to make for public in excess of his authority. L.R.A.(N.S.) 428.

Personal liability of officer to sell property for broker's services. 38 L.R.A.(N.S.) 777.

Personal liability of officer who signs contract by adding words indicating representative capacity to his signature. 42 L.R.A. (N.S.) 6.

§ 40. For negligence or torts.

Liability for false imprisonment, see False IMPRISONMENT, §§ 6-7a.

Liability for wrongful levy, see LEVY AND SEIZURE, §§ 10-12.

Liability of police officer, see Police, § 5.

Criminal responsibility for nuisance. L.R.A. 1916F, 582.

Liability of public prosecutor to action for malicious prosecution. L.R.A.1917F,

Personal liability of highway officers for negligence. 22 L.R.A. 824; 52 L.R.A. (N.S.) 142; L.R.A.1916B, 1186.

Liability of officer who uses criminal process to collect a debt. 24 L.R.A. (N.S.) 301.

Liability of registrar of deeds for neglect, delay, or mistake in registering or indexing instrument affecting title to real property. 23 L.R.A. (N.S.) 127.

Liability of officers to bondsmen of another officer for neglect to require proper settlement of latter's accounts. 28 L.R.A. (N.S.) 115.

Robbery by, after making an arrest. I L.R.A.(N.S.) 1024; 3 L.R.A.(N.S.)

Larceny while acting under writ of execution. 3 L.R.A. (N.S.) 508.

Liability of postmaster for illegal acts done in accordance with directions of superior officer. 24 L.R.A.(N.S.) 309.

Liability as, of receivers for torts or negligence of servants. 63 L.R.A. 234.

Liability of public, or officers having charge of public charitable institution, for negligence toward inmate. 6 B. R. C. 552.

Civil liability of officer for injury inflicted by prisoner in his custody upon another prisoner. L.R.A.1918C, 1163.

Homicide by peace officer in attempting to enforce his commands against innocent persons. L.R.A.1918D, 379.

For wrongful act of corporate board of which officer is a member. 5 L.R.A. (N.S.) 463.

Right to break and enter dwelling to serve civil writ of process. L.R.A.1916D,

Liability of live stock inspectors. L.R.A. 1915B, 1013.

Begin with this book on every law question.

OFFICERS, III. e-cont'd

When statute begins to run against action by private person based on breach of duty by rublic officer. 52 L.R.A. (N.S.) 701.

§ 41. For loss by failure of bank.

Liability on bond for loss of money by theft or bank failure. 22 L.R.A. 449. Public funds. 7 L.R.A.(N.S.) 1084; 36

L.R.A. (N.S.) 285.

Private funds. 36 L.R.A.(N.S.) 292.

Express legislation; curative acts. L.R.A. (N.S.) 294.

§ 42. For judicial acts.
Liability of judicial officer to civil action for acts of judicial nature. 14 L.R.A. 138; 44 L.R.A.(N.S.) 164.

For acts in excess of jurisdiction. 27 L.R.A.

#### IV. De facto officers.

#### § 43. Generally.

Of municipality, see MUNICIPAL CORPORA-TIONS, § 122.

Failure of officer to take proper oath or give proper bond as affecting his status as a de facto officer. L.R.A.1918B, 1124.

Under unconstitutional statute. 21 L.R.A. 141.

De jure office as a condition of a de facto officer. 15 L.R.A.(N.S.) 94; 24 L.R.A. (N.S.) 408.

Right to try in mandamus proceeding the question who is de facto officer. 13 L.R.A. (N.S.) 661.

May bond of officer de facto be enforced as a common law bond. 21 L.R.A. (N.S.) 766.

May estoppel to deny authority to receive money alleged to have been embezzled be invoked against officer de facto charged with embezzlement. 23 L.R.A. (N.S.) 763.

Effect of abolishing office on de facto officer. 15 L.R.A. (N.S.) 98.

Validity of acts of de facto justice of peace. L.Ř.A.1918D, 1079.

Effect of selection of grand jury by de facto officer. L.R.A.1917C, 221.

### § 44. Right to salary.

Effect of payment to de facto officer, see supra, § 37.

Right of de facto officer to salary of office. 32 L.R.A.(N.S.) 949; L.R.A.1918F, 587.

#### OFFICIAL MEETING.

ing meeting. 30 L.R.A.(N.S.) 832; 45 Liability for injury due to. L.R.A.1917F, L.R.A.(N.S.) 108. Character of, essential to offense of disturb-

Consult also L.R.A. Digests of Cases.

#### OFFICIAL REPORT.

As privileged communication. 5 L.R.A. (N.S.) 163.

### OFFICIAL STENOGRAPHER.

See STENOGRAPHER, §§ 2, 3.

### OFFSPRING.

Loss of, as element of damages for injuries resulting in miscarriage. 23 L.R.A. (N.S.) 347.

#### OIL.

As part of realty, see MINES, §§ 33-38. As dangerous agency, see Negligence, § 14. As to pipe lines, see Pipe Lines.
Keeping of, on insured premises. L.R.A. 1917C, 278.

Regulating keeping L.R.A. (N.S.) 458. keeping or storing of. 41

Storage of, as nuisance. 52 L.R.A.(N.S.)

Violation of statute or ordinance relating to, as ground of private action. L.R.A.(N.S.) 879.

Right to require that flaxseed or linseed oil offered for sale shall answer a designated standard of purity. 41 L.K.A.

(N.S.) 150. Sale of oil from wagon as peddling within statutory or municipal regulations. L.R.A.1916B, 1296.

Right to oil in railroad right of way as between company and fee owner. 45 L.R.A. (N.S.) 803.

Liability for injury caused by escape of oil stored on one's premises. 15 L.R.A. (N.S.) 535.

Discharging oil into stream or bay as proximate cause of fire resulting therefrom. 30 L.R.A. (N.S.) 1210.

Contributory negligence as defense in case of explosion of oil below statutory standard. 38 L.R.A.(N.S.) 412.

Liability of railroad company for damage

from. 32 L.R.A.(N.S.) 375. Sufficiency of delivery of essential oils sold out of larger lot. 26 L.R.A.(N.S.) 37. Use of coloring matter in, as adulteration. 25 L.R.A. (N.S.) 1234.

#### OILING STREET.

#### OIL REFINERY.

As a nuisance. L.R.A.1918C, 230.

#### OLD AGE.

As total disability of insured. 38 L.R.A.

As proof of testamentary incapacity. 27 L.R.A. (N.S.) 25; L.R.A.1915A, 450.

#### OLEOMARGARIN.

See Food, § 9.

#### OMISSIONS.

Parol evidence of, see EVIDENCE, § 179. From will, see WILLS, § 61.

Of corporate promoters. 25 L.R.A. 92.

### OMITTED PROPERTY.

Assessment of, see TAXES, § 54a.

OMNIBUS.

See HACKS.

#### OPEN COURT.

Hearing witnesses before grand jury in. 28 L.R.A. 323.

#### OPEN HOUSE.

Condition in liquor dealer's bond that licensee shall keep an open house. L.R.A. 1916E, 274.

### OPENING STATEMENTS.

Effect of admissions on right as to, see TRIAL, § 9.

Right to direct verdict or enter nonsuit on opening statement of counsel. 29 L.R.A. (N.S.) 218.

#### OPEN POLICY.

Conflict of laws as to. 63 L.R.A. 843.

Begin with this book on every law question.

#### OPEN SHOP.

Controversy over "open" or "closed" shop as justification for means employed to aid strike. 17 L.R.A.(N.S.) 162; 35 L.R.A.(N.S.) 787; L.R.A.1917F, 760.

### OPERATING EXPENSES.

Treatment of, in estimating the return of a public service corporation for rate-making purposes. 52 L.R.A. (N.S.) 15.

#### OPERATION.

Performance of operation without consent of patient, see Physicians and Surgeons, § 14.

Duty of injured person to submit to, on advice of physician or surgeon. 48
L.R.A. (N.S.) 111.

Duty of injured employee seeking compensation under Workmen's Compensation Act to submit to operation. L.R.A. 1917D, 174.

#### OPERATOR.

Of automobile, see Automobiles, §§ 2-4, 7.

### OPHTHALMOLOGIST.

Application of statute regulating practice of medicine to persons giving special kinds of treatment. 3 L.R.A. (N.S.) 763; 24 L.R.A. (N.S.) 103; 25 L.R.A. (N.S.) 1297.

### OPINION EVIDENCE.

See EVIDENCE, VIII.

#### OPINIONS.

§ 1. Generally.

As evidence, see EVIDENCE, VIII.

Expression of, as fraud, see FRAUD AND DE-CEIT, § 7.

As disqualification of juror, see Jury, § 12.

Disqualifying grand juror. 28 L.R.A. 200. Libel by expressing without misstating. 28 L.R.A. 667.

§ 2. Of court.

As part of record on appeal, see APPEAL.

AND ERROR, § 22.

Criticism of, as ground for disbarment; see ATTORNEYS, § 5.

OPINIONS—cont'd

Criticism or publication of, as contempt, see CONTEMPT, §§ 6, 7.

Propriety of referring in argument to jury to opinions on appeal in previous trials in the same cause. L.R.A.1918D, 64.

3. Statement of, as perjury.

Perjury in statements involving matters of opinion or belief. 25 L.R.A.(N.S.) 654. May perjury be predicated of testimony as to the effect of an understanding or agreement. 22 L.R.A.(N.S.) 1216.

#### OPIUM.

In general, see DRUGS AND DRUGGISTS.

Furnishing or prescribing by physician. L.R.A.1918E, 669.

### OPIUM HABIT.

Application of statute regulating practice of medicine to persons giving treatment for. 3 L.R.A.(N.S.) 763; 24 L.R.A. (N.S.) 103; 25 L.R.A.(N.S.) 1297; 33 L.R.A.(N.S.) 179.

### OPPONENT.

As witness, right to impeach. 21 L.R.A. 425.

#### OPPRESSION.

Injunction against action or proceeding in foreign jurisdiction to prevent. L.R.A. (N.S.) 268.

Libel or slander by charge of, against public officer or candidate. L.R.A.1918E, 40.

#### OPPROBRIOUS WORDS.

As provocation for homicide. 4 L.R.A.(N. S.) 154.

### OPTHALMOLOGISTS.

Application to, of statutes regulating practice of medicine. L.R.A.1917C, 826.

#### OPTICIAN.

Application of statute regulating practice of medicine to persons giving special kinds of treatment. 3 L.R.A. (N.S.) 762; 24 L.R.A. (N.S.) 103; 25 L.R.A. (N.S.) 1297; 33 L.R.A. (N.S.) 179.

Consult also L.R.A. Digests of Cases.

#### OPTION.

Assignability of, see Assignment, § 4. As to mutuality, generally, see CONTRACTS, § 18.

Rights conferred by, generally, see Con-

TRACTS, § 23.

Validity of wagering contracts, generally, see Contracts, §§ 105, 106, 115, 116.

Of insured, see Insurance, § 56.

Of insurer to rebuild, see INSURANCE, § 174. Of insurer as to person to receive proceeds of policy, see Insurance, § 194.

To renew lease, see LANDLORD AND TENANT.

To servant to accept benefits from relief fund, see MASTER AND SERVANT, § 53. To declare mortgage due for default of pay-

ments, see MORTGAGE, § 65. For purchase of personal property, see SALE, 8 2.

Rights and liability under option for purchase of personalty, see SALE, § 41.

As affecting specific performance, see Spe-CIFIC PERFORMANCE, § 22.

For purchase of real estate, see VENDOR AND PURCHASER, § 4.

Right to damages for breach of option contract which is not specifically enforceable because it contravenes the rule against perpetuities. 4 B. R. C. 292.

Right of broker to compensation upon procuring customer to take an option. 43 L.R.A. (N.S.) 91.

Contract for indefinite option or indefinite renewal of, as perpetuity. 9 L.R.A.(N. 8.) 913.

To take interest or profits from person in fiduciary relation. 29 L.R.A. 625.

Exercise of option to retire obligation before maturity as stopping interest. 43 L.R.A. (N.S.) 1146.

As to maturity of paper as affecting negotiability. 35 L.R.A. (N.S.) 390; L.R.A. 1915B, 472.

As taxable credit. 10 L.R.A.(N.S.) 1061; 34 L.R.A.(N.S.) 1221. Effect on contract of leaving option between different amounts. 53 L.R.A. 292.

Renewal of contract under option as extending the undertaking of a surety for the performance of the contract. 41 L.R.A. (N.S.) 422.

Of cestui que trust to require a conveyance or otherwise terminate the trust as subjecting the same to the claims of creditors. 25 L.R.A.(N.S.) 236.

Promise to pay a fixed sum conditional upon exercise of an option by promisee, the time for which had not expired at the time of bankruptcy, as basis of provable claim. 28 L.R.A.(N.S.) 349.

Validity of contract or option by director for purchase of stock of employee of corporation upon discontinuance of employment. L.R.A.1916D, 1117.

Validity of agreements giving mortgagee right to retain property on additional payments. 6 B. R. C. 435.

Specific performance of provisions for appraisal of property preliminary to exercise of option. L.R.A.1917C, 813. OPTION—cont'd

Who may exercise option under a contract calling for a maximum or minimum amount of commodity. L.R.A.1918D, 583.

Insurable interest of holder of option on property. L.R.A.1918A, 393.

### OPTOMETRISTS.

Application to, of statutes regulating practice of medicine. L.R.A.1917C, 826.

#### ORAL CONTRACTS.

Generally, see CONTRACTS, §§ 25-59. Of insurance, see Insurance, §§ 36, 43. Specific performance of, see Specific Per-FORMANCE, §§ 11-13.

#### ORAL EVIDENCE.

See EVIDENCE, VII.

#### ORAL WILL.

Revocation of former will by. 37 L.R.A. 582.

#### ORANGE MINT.

Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 316.

### ORCHARDS.

Validity and construction of statutory regulations as to infected orchards. 43 L.R.A.(N.S.) 1080; L.R.A.1915F, 894.

Effect of constitutional or statutory exemption of, from condemnation proceedings. L.R.A.1916A, 1103.

#### ORDER.

Admissibility of, in evidence, see EVIDENCE, § 130.

Forgery of, see Forgery, § 9.

Obedience of, by servants, see MASTER AND SERVANT, §§ 4, 70, 117, 126, 127. Of court, see MOTIONS AND ORDERS.

Of trial, see TRIAL.

Of proof, on trial, see TRIAL, § 13.

Liability of county for interest on. L.R.A.(N.S.) 552.

Larceny by making or procuring fraudulent orders on public funds. 32 L.R.A.(N. S.) 234,

Negotiability of postoffice money orders. 36 L.R.A. (N.S.) 143.

Begin with this book on every law question.

#### ORDINANCE.

In general, see MUNICIPAL CORPORATIONS,

Municipal liability for failure to enforce, see MUNICIPAL CORPORATIONS, § 100. Municipal liability for enforcement of void ordinance, see MUNICIPAL CORPORA-TIONS, § 101.

#### ORDINANCE OF 1787.

Ordinance of 1787, see ORDINANCE OF 1787.

Effect upon, of admission of state into the Union. 52 L.R.A. (N.S.) 305.

#### ORES.

In general, see MINES.

Sufficiency of delivery of, on sale out of larger lot. 26 L.R.A.(N.S.) 44.

#### ORGANIZATIONS.

Of grand jury, see GRAND JURY, § 2.

Of petit jury, see JURY, III.
Or municipality, see MUNICIPAL CORPORA-TIONS, § 6.

Of school district, see Schools, § 28. See also Associations; Benevolent Soci-ETIES; BUILDING AND LOAN ASSOCIA-TIONS; CORPORATIONS; INSURANCE; LABOR ORGANIZATIONS; PARTNERSHIP; RELIEF ASSOCIATIONS; RELIGIOUS SO-CIETIES.

Right of members of organization to protection in use of a name which their efforts have made valuable. 28 L.R.A. (N.S.) 458.

#### ORGANIZED LABOR.

See Conspiracy, §§ 4-8; Labor Organiza-TION.

#### ORIGINAL JURISDICTION.

Of court of last resort, see Courts, & 30, 31.

### ORIGINAL PACKAGE.

As articles of commerce, see COMMERCE, § 16.

Applicability of pure food laws as to labeling to retail packages taken from original package of manufacturer. 25 L.R.A.(N.S.) 616. ORIGINAL PACKAGE—cont'd Original package rule as affecting questions what amounts to retail as distinguished from wholesale of liquor. 32 L.R.A. (N.S.) 625; L.R.A.1915B, 389.

#### ORIGINALS.

Of telegram. 50 L.R.A. 202. Common law rights of authors in. L.R.A. 379.

Copies of documents made by mechanical means as originals. 12 L.R.A. (N.S.) 343.

### ORNAMENTAL ARTICLES.

As fixtures, 6 B. R. C. 161.

#### ORNAMENTAL TREES.

Rights of life tenant as to. 37 L.R.A.(N. S.) 772.

Measure of damages for injury to, or destruction of. 19 L.R.A. 653; 11 L.R.A. (N.S.) 930; 28 L.R.A. (N.S.) 757; 37 L.R.A. (N.S.) 1115.

### ORPHAN.

Residence of, for school purposes. 36 L.R.A. (N.S.) 344; 51 L.R.A.(N.S.) 234.

### OSTEOPATHIST.

Application of statutes regulating practice of medicine to. 3 L.R.A.(N.S.) 763; 24 L.R.A.(N.S.) 103; 25 L.R.A.(N.S.) 1297; L.R.A.1917C, 822.

### OTHER ACTION PENDING.

Abatement of actions by, see ABATEMENT AND REVIVAL, §§ 5-7.

#### OTHER THINGS.

Construction of words "other things" as used in devise or legacy. L.R.A.1918A, 223.

### OUSTER.

In general, see Adverse Possession. Of jurisdiction, see Courts, § 3. Consult also L.R.A. Digests of Cases. OUSTER-cont'd

Election of public officer after ouster for misconduct. 6 L.R.A. (N.S.) L.R.A.1916D, 959.

Liability of cotenants to account for use and occupation, and rents and profits, in case of. 28 L.R.A. 832; 29 L.R.A. (N.S.) 228; L.R.A.1918B, 606.

Admission of, by defendant in ejectment under a plea of the general issue. L.R.A.1918F, 248.

#### OVENS.

As part of realty. 1 B. R. C. 972.

#### OVERBUYING.

As ground for attachment. 30 L.R.A. 488.

#### OVERCHARGES.

Recovery back of overcharges made by public service corporation. 18 L.R.A.(N. 8.) 124.

#### OVERCROWDING.

Carrier's liability in case of, see CARRIERS,

Carrier's duty to prevent injury to livestock from. 39 L.R.A.(N.S.) 642.

### OVERDRAFT.

Right of bank to recover back amount paid on check under mistaken belief that there were funds sufficient to meet it. 33 L.R.A.(N.S.) 13; 23 L.R.A.(N.S.) 1092; L.R.A.1918F, 811.

### OVERDUE PAPER.

See BILLS AND NOTES, § 36.

### OVEREXERTION.

Injury from, as covered by accident policy. 2 B. R. C. 367.

Injury or disability from strain as within provision as to external, violent or accidental means. 42 L.R.A. (N.S.) 562.

Assumption of risk of, in lifting weights under the immediate direction of master or vice principal. 25 L.R.A.(N.S.)

### OVERFLOW.

In general, see WATERS, §§ 46-50.

Municipal liability for overflow of drains and sewers, see MUNICIPAL CORPORA-TIONS, § 88.

#### OVERHANG.

Liability of street railway company to one hit by swing of car at curve. L.R.A. 1915C, 604.

#### OVERHANGING OBJECTS.

Injury by falling objects, see FALLING OB-

In street, see Highways, §§ 19a, 68, 83.

#### OVERHEAD CHARGES.

Treatment of, in public service property valuations. 48 L.R.A.(N.S.) 1037.

Amortization of, in estimating return of a public service corporation for ratemaking purposes. 52 L.R.A.(N.S.) 50.

#### OVERHEAD CROSSING.

Power of municipality to require railroad company to keep highway in repair at. 18 L.R.A. (N.S.) 915.

## -+++ OVERHEATING.

Recovery under Workmen's Compensation Act for injuries caused by. L.R.A. 1918F, 872.

### OVERLAP.

Of mining claims. 7 L.R.A.(N.S.) 853. Nature of adverse possession under color of title in case of overlapping grants. 15 L.R.A.(N.S.) 1245.

### OVERPAYMENT.

Right to recover back overpayment made in ignorance or forgetfulness of previous payments. 24 L.R.A.(N.S.) 517.

Right of executor or administrator to recover back excessive payments made under mistaken belief that the estate was solvent. 28 L.R.A.(N.S.) 440.

### OVERSTATED DEBT.

Security for as participation by creditor in debtor's fraudulent intent. 31 L.R.A.

Begin with this book on every law question.

#### OVERSTRAINING.

See OVEREXERTION.

#### OVERWORK.

Overwork of servant as affecting master's liability for injury to him or another servant. 13 L.R.A.(N.S.) 1214; 45 L.R.A.(N.S.) 372.

#### OWNERSHIP.

Presumption and burden of proof as to, see

EVIDENCE, §§ 104, 105.

Evidence as to generally, see EVIDENCE, § 281.

Allegations as to, in indictment, see INDICT-MENT, ETC., § 7. ·

Of insured property, see INSURANCE, §§ 66-

Of entire party wall by builder. 66 L.R.A. 673.

Admissibility of books of account to prove. 52 L.R.A. 716.

Denial of, in information and belief. 30 L.R.A.(N.S.) 777.

Of paper payable to director or officers of a corporation. 50 L.R.A. (N.S.) 1115.

#### OWNER'S RISK.

Provision in contract of carriage that goods shall be "at owner's risk" as extending to loss caused by negligence. 6 B. R. C. 125.

#### OWN WITNESS.

Right to impeach, see WITNESSES, § 44.

#### OXEN.

Express warranty as to, as excluding implied warranty. 33 L.R.A.(N.S.) 505.

#### OXYGEN.

Application of statutes regulating practice of medicine to persons giving. 3 L.R.A. (N.S.) 763.

### OXYGENOR.

Application of statute regulating practice of medicine to persons giving special kinds of treatment. 3 L.R.A.(N.S.) 762; 24 L.R.A.(N.S.) 103; 25 L.R.A.(N.S.) 1297. OYER.

See PLEADING, § 5.

#### OYSTERS.

See FISHERIES, § 5.

### P

#### PACKAGES.

Original packages, see Original Packages.

Express company's duty as to delivery and collection of. 33 L.R.A. 66.

Right of passenger to carry baggage or packages in street car. 30 L.R.A.(N. S.) 889.

Right to compel production of sealed packet, or articles not of a documentary character, upon subpæna duces tecum. 3 B. R. C. 219.

### PACKER.

Liability of, to persons not in privity of contract for injuries from defects in articles sold. 19 L.R.A.(N.S.) 923; 48 L.R.A.(N.S.) 213; L.R.A.1916B, 879.

PACKET.

See PACKAGES.

## PACKET COMPANY.

Exclusion of foreign company as affecting commerce. 24 L.R.A. 312.

#### PAID SURETY.

Rules governing contracts of. 33 L.R.A. (N.S.) 513.

#### PAID-UP INSURANCE.

See Insurance, § 55.

#### PAID-UP STOCK.

Assessments on, see Corporations, § 111.

#### PAIN.

Allowance for in fixing damages for death. 17 L.R.A. 72.

Admissibility of expressions or statements of present pain made during sickness or subsequent to injuries. 24 L.R.A.(N. S.) 253.

As affecting testamentary capacity. 27 L.R.A. (N.S.) 28; L.R.A.1915A, 451. Consult also L.R.A. Digests of Cases.

#### PAINT.

Liability for injury to employee by explosion of. L.R.A.1918B, 864.
Keeping of, on insured premises. L.R.A. 1917C, 278.

#### PAINTERS.

As independent contractors. 17 L.R.A.(N. S.) 373.

#### PAINTING.

Instruction in, as a necessary for an infant. 42 L.R.A.(N.S.) 1115.
Tenant's duty as to. 64 L.R.A. 655.

### PALACE CAR COMPANY.

See CARRIERS, §§ 96, 97.

### PALMISTRY.

Prohibition of. 43 L.R.A.(N.S.) 203.

### PAMPHLETS.

Use of, by counsel in arguing to jury. L.R.A.1918D, 82.

Publication by, of matters derogatory to parties to litigation, as contempt of court. 2 B. R. C. 498.

### PANEL.

Of petit jury, see JURY, III.

Excusing and completing panel of grand jurors. 27 L.R.A. 780.

### PAPERING.

Tenant's duty as to. 64 L.R.A. 655:

#### PAPERS.

Discovery and inspection of, see DISCOVERY AND INSPECTION, §§ 3, 4.
As to legal papers, see LEGAL PAPERS. See also, DOCUMENTS.

Condition in fire policy as to keeping, producing and preserving. 51 L.R.A. 699; L.R.A.1915F, 759.

Issuance of corporate bonds at less than par as usury. 35 L.R.A.(N.S.) 1106. Accrued interest as part of par value within prohibition against sale of bonds at less than par. 35 L.R.A. (N.S.) 789.

### PARADES.

Delegation of power to regulate. 20 L.R.A. 721.

In street. 19 L.R.A. 858.

Municipal control over, as nuisance in street. 39 L.R.A. 672.

Validity of ordinances as to street parades. 25 L.R.A.(N.S.) 251.

Validity of statutory or other regulation forbidding display of red flag or other symbol tending to incite disorder. L.R.A.1915B, 706.

### PARALLEL RAILROADS.

Consolidation of, see RAILROADS, §§ 9-11.

### PARALYSIS.

As element of damages for negligent injury. 48 L.R.A. (N.S.) 101.

affecting testamentary capacity. L.R.A.(N.S.) 29; L.R.A.1915A, 451.

#### PARAMOUR.

Insurance on life in favor of. 47 L.R.A. (N.S.) 252.

Slander in charging woman with being. 24 L.R.A. (N.S.) 611.

Competency of one spouse to testify as to conduct of other spouse on indictment of paramour for adultery. 39 L.R.A. (N.S.) 318.

Right of one charged as paramour in di-L.R.A.1917B, 498.

Begin with this book on every law question.

#### PARAPHERNALIA.

Card-game paraphernalia as gaming device within statute as to gaming. L.R.A. (N.S.) 1210.

#### PARCELS.

As baggage, see Carriers, § 87. Sale under mortgage in parcels, see Mort-GAGE, § 79.

#### PARDON.

See CRIMINAL LAW, §§ 85-89.

#### PARENT AND CHILD.

§ 1. Generally. Advancement to child, see ADVANCEMENT. Enlistment of minor, see ARMY AND NAVY.

Assault and battery by parent, see Assault AND BATTERY, § 8.

Father's right to appoint guardian for, see GUARDIAN AND WARD, §§ 3, 4.

Interest of children in community property, see HUSBAND AND WIFE, § 31. Illegitimate children, see ILLEGITIMACY.

Legitimation of bastard child, see ILLEGIT-IMACY, § 3.
As to incest between, see INCEST.

Liability for death of, or injury to, infants,

generally, see INFANTS, VI.
Insurance on life of minor child, see IN-**FANTS, § 4.** 

Minor children, generally, see INFANTS, §§ 6-10.

Parents' duty to support and protect minor child, see INFANTS, §§ 11-13.

Marriage of infant child, see INFANTS, § 15. Parents' liability for necessaries furnished minor child, see INFANTS, § 18a.

Liability for death of, or injury to, infants,

see Infants, VI.
Insurable interest in life of, see Insurance, § 32.

Contributory negligence of parent, see NEG-LIGENCE, § 37.
Seduction of child, see SEDUCTION.
Action by parent for seduction of child, see

SEDUCTION, §§ 4, 5.
Revocation of will by birth of children, see

WILLS, § 37.
Allowance for mental anguish because of negligence in transmission of message relating to illness or death of parent. or child, see Damages, § 102.

Children as "employees" of parents within meaning of Workmen's Compensation Acts, L.R.A.1918F, 205.

Personal contributory negligence of child riding in vehicle driven or controlled by parent. L.R.A.1915E, 230.

vorce suit to attack divorce decree. Homicide or assault to prevent one from

taking a child. L.R.A.1915A, 73.

PARENT AND CHILD-cont'd

Action by parent for mutilation of corpse. L.R.A.1915B, 522.

Validity and enforceability of contract in consideration of naming child. L.R.A(N.S.) 1108.

Use of photograph to show likeness of. 35 L.R.A. 806.

Exhibition of child in bastardy proceedings for purpose of determining paternity. L.R.A.1917B, 1148. Admissibility of declarations of parents or

putative parents as to paternity or maternity of child. 6 B. R. C. 852.

Right of child of divorced parents to attack divorce decree. L.R.A.1917B, 498.

Right of parent of divorced child to attack divorce decree. L.R.A.1917B, 499.

Right of parent to maintain action for damages against one issuing marriage license to, or performing marriage cere-mony for, child under age of consent.

L.R.A.1917E, 873, 874.

Right of mother to recover penalty for improper performance of marriage ceremony. L.R.A.1917E, 874.

Parent's right to remove child from state. 58 L.R.A. 937.

Whether parent or child real party in interest by whom action must be brought. 64 L.R.A. 610.

Right of parent to sue for libel or slander of child. 45 L.R.A.(N.S.) 769.

Insurable interest in life of foster child or foster parent. 46 L.R.A.(N.S.) 779.

Malice as essential to an action for alienation of affections by parent. 46 L.R.A. (N.S.) 467.

Statutes establishing juvenile courts as rights of parent. interfering with ri 45 L.R.A.(N.S.) 913.

Right of parent to appointment as guardian of minor child. 33 L.R.A.(N.S.) 868. Voluntariness of confession to parent. 18

L.R.A.(N.S.) 854. Liability of parent for causing separation of husband and wife. 9 L.R.A. (N.S.)

Liability for performing surgical operation on minor without parent's consent. L.R.A.(N.S.) 612; 41 L.R.A.(N.S.)

Right of parent, guardian, or next friend to compromise infant's cause of action for personal injuries. 21 L.R.A. (N.S.) 338; L.R.A.1918C, 58.

§ 2. Emancipation. Effect of marriage of infant as. 16 L.R.A. 578; 24 L.R.A.(N.S.) 160.

Right of parent to recover for personal injury to emancipated child. L.R.A. 1918B, 408.

3. Inheritance by.

Inheritance by, generally, see DESCENT AND DISTRIBUTION.

Inheritance by, through, or from illegiti-mate, see DESCENT AND DISTRIBUTION,

Father as sole next of kin to unmarried child to exclusion of mother. 1 B. R. Parent's liability for torts of minor child. C. 566.

10 L.R.A. (N.S.) 933; 7 B. R. C. 30.

Consult also L.R.A. Digests of Cases.

PARENT AND CHILD-cont'd

4. Homestead rights. Right of child in homestead of parent, see HOMESTEAD, §§ 19, 20.

As a "family," under homestead and exemption laws. 4 L.R.A.(N.S.) 366; L.R.A.1917C, 361.

Rights of surviving mother under homestead and exemption laws. 4 L.R.A. (N.S.) 396.

5. Gifts between.

Presumption and burden of proof as to undue influence respecting gifts inter vivos from parent to child. 35 L.R.A. (N.S.) 944.

May promissory note from parent to child be subject of a valid gift by former to latter. 7 L.R.A.(N.S.) 156.

Independent advice as a condition of a valid gift inter vivos between parties occupying confidential relations. 16 L.R.A. (N.S.) 1087.

6. Contracts between.

Implied contract to pay for services of, see CONTRACTS, § 4.

Enforcement in equity of grantee's oral promise to grantor to hold in trust in case of conveyance between parent and child. 39 L.R.A. (N.S.) 926.

8 7. Contracts with third persons.

Parent's liability for necessaries furnished child, see INFANTS, § 18a.

Ratification by parent, see RATIFICATION, § 3.

Parent's assent to sale of expectancy by prospective heir. 33 L.R.A. 274.

Contracts procured by threats of prosecution of parent or child. 26 L.R.A. 56; 20 L.R.A. (N.S.) 484; 37 L.R.A. (N.S.) 539; L.R.A.1915D, 1118.

Parent as agent of child in contracting for services of other persons. L.R.A.1918F,

8. - child's power to bind parent by. Parent's liability for necessaries furnished child, see INFANTS, § 18a.

Contracts other than those for necessaries. 39 L.R.A.(N.S.) 881.

Child as agent of parent in contracting for services of other persons. L.R.A.1918F, 31.

9. Support.

Support and protection of minor children, see Infants, §§ 11-13.

Support of an adult child as an advance-ment. 22 L.R.A.(N.S.) 1165.

Right of parent to sue child for support. 4 L.R.A. (N.S.) 1159.

Right of child who supports parent at request of other children to recover therefor from the latter. 27 L.R.A.(N.S.) 683.

§ 10. Tort of child.

PARENT AND CHILD—cont'd
Liability where automobile is being driven
the child. 41 L.R.A. (N.S.) 775; 50
T. P. A. 1915F, 223; by child. 41 L.R.A.(N.S.) 775; L.R.A.(N.S.) 59; L.R.A.1915F, 22; L.R.A.1917F, 366; L.R.A.1918F, 297.

Responsibility for violation of quarantine by children. 45 L.R.A.(N.S.) 580. Responsibility of parent having custody or

control of person mentally incompetent for latter's torts. 50 L.R.A. (N.S.) 1104.

### 11. Enticement and abduction.

Liability for abduction of child, see AB-DUCTION AND KIDNAPPING.

Liability for inducing minor to quit parent, see CASE, § 6.

What amounts to enticing of minor child from parent's custody. 48 L.R.A. (N.S.) 1001.

### § 12. Matters as to schools.

Expulsion of pupil for misconduct of parent, see SCHOOLS, § 11.

Right of parent with respect to text-books adopted for public schools. 36 L.R.A. 278.

What constitutes residence of child living with parents entitling him to privilege of public schools. 36 L.R.A.(N.S.) 343; 51 L.R.A.(N.S.) 234.

#### 13. Matters as to carriers.

Ejection of parent for nonpayment of child's fare. 38 L.R.A. 140; L.R.A.1915E, 313.

Sufficiency of tender of fare by parent to prevent ejection. 31 L.R.A.(N.S.) 995. Recovery by parent from carrier for loss of personal effects of infant who pays no fare. 1 L.R.A.(N.S.) 353.

§§ 14, 15. Recovery by one for death or injury of other.

Measure of damages for, see Damages, §§ 57-67, 100, 101.

Parent's right of action for death of child,

See DEATH, § 9.

Parent's right to recover for injury to minor servant, see MASTER AND SERV-ANT, § 51.

Parent's contributory negligence as bar to recovery for death of, or injury to, child, see NEGLIGENCE, §§ 47, 48.

Imputing parent's negligence to child, see NEGLIGENCE, §§ 46-48.

-Right of parent to recover for injury to minor servant employed without his consent. 30. L.R.A. (N.S.) 311.

Abandonment of child as affecting right to recover damages for the negligent killing of the father. L.R.A.1916C, 806.

Right of parent to recover for personal injury to emancipated child. L.R.A. 1918B, 408.

### 16. Adoption.

Conflict of laws as to, see Confiling or LAWS, § 16. Effect of adoption on right to inherit, see

DESCRIPT AND DISTRIBUTION, § 6. Begin with this book on every law question.

PARENT AND CHILD-cont'd

Effect of second adoption of child. L.R.A. 1918A, 824. Domicil of adopted children.

49 L.R.A. (N.S.) 863.

Right of adopted children to take parents' homestead. 56 L.R.A. 54.

Adopted child as beneficiary under contract of benefit association. L.R.A.1916B,

Sufficiency of relationship by adoption to sustain action for death. 16 L.R.A. (N.S.) 199.

Adoptive parent's statutory right of action for death of child. L.R.A.1916E, 126.

Right of foster brothers and sisters to recover for death of adopted child. L.R.A.1916E, 132.

Adoption of adult under statute providing for adoption of "child." 12 L.R.A.

(N.S.) 884.
Do terms "child," "children," "issue," etc., in a will include adopted children. 27 L.R.A.(N.S.) 1158; L.R.A.1918B, 123. Specific performance of contract to leave

property to adopted child in consideration of his living with promisor. 44 L.R.A. (N.S.) 760.

Enforceability of contract to give child share of estate in consideration of surrender of child to promisor, as affected by noncompliance with statute prescribing mode of adoption. 8 L.R.A. (N.S.) 1130; 46 L.R.A.(N.S.) 1134.

Right of parties to adoption proceeding, or their privies, to attack decree of adop-

tion. 30 L.R.A.(N.S.) 159.

Presumption and burden of proof as to undue influence respecting gifts intervivos to adopted child. 35 L.R.A. (N.S.) 949.

§ 17. Legal status of adopted child.

As to widow of adopting father. 17 L.R.A. 435.

As to other relatives of adopting parents. 17 L.R.A. 436.

As to inheritance from adopted child. 17 L,R.A. 437.

Rights of adopted children under wills. L.R.A. 437; 27 L.R.A.(N.S.) 1158; L.R.A.1918B, 123.

Rights under settlement. 17 L.R.A. 438.

Rights under insurance policy. 17 L:R.A. 438; L.R.A.1916B, 905.

Extraterritorial effect of adoption. L.R.A. 439.

Right of adopting parent to disinherit adopted child. L.R.A.1916D, 424.

Adopted children as "dependenta" within meaning of Workmen's Compensation Statutes. L.R.A.1918F, 484.

§ 18. — consent of parents. Validity of tadoption without consent of natural parents. 30 L.R.A. (N.S.) 146.

Constitutionality of statute permitting adoption of child without consent of parents. 18 L.R.A. (N.S.) 926.

PARENT AND CHILD-cont'd

§ 19. Criminal responsibility as affected by the relation; punishment of child.

As to criminal responsibility of children,

generally, see CRIMINAL LAW, § 7. Criminal liability of parent for lack of support and medical attendance for infant child, see INFANTS, § 13.

Command of parent as excuse for infant's criminal act. 36 L.R.A. 210.

§ 20. - liability for punishment of child.

Homicide by excessive or improper chastisement of child. 60 L.R.A. 801.

Liability of parent or custodian for assault by punishment of child. 21 L.R.A. (N.S.) 216.

#### PARISH.

Rights of, in pews. 22 L.R.A. 212. Reputed father's right to custody or control of illegitimate child as against. 65 L.R.A. 693.

### PARISH HOUSE.

Exemption of, from taxation. 27 L.R.A. (N.S.) 910; 39 L.R.A. (N.S.) 437.

### PARK COMMISSIONERS.

Authority of, see PARKS AND SQUARES, § 5.

#### PARKING AUTOMOBILES.

Validity and effect of regulation as to parking or leaving automobiles standing in street. L.R.A.1917F, 352.

#### PARKING CARS.

Within city limits. 29 L.R.A. (N.S.) 643.

### PARKS AND SQUARES.

§ 1. Generally.

Amusement parks, see Amusement Parks. Constitutionality of statutes as to, see CONSTITUTIONAL LAW, § 131.

Interference with view by obstruction in park. L.R.A.1917C, 1137.

Appropriations for. 14 L.R.A. 474.

Character of occupancy of keeper of. 4 L.R.A.(N.S.) 713, 719.

Ejectment for easement of public in park. | Right of carrier to run trains composed ex-11 L.R.A.(N.S.) 129.

Consult also L.R.A. Digests of Cases.

PARKS AND SQUARES—cont'd

Injunction against obstruction of, by fences or gates. 7 L.R.A.(N.S.) 85.

Taking of property for, as a public purpose. 22 L.R.A.(N.S.) 170.

Power to improve streets for park purposes at expense of abutting owner. 32 L.R.A.(N.S.) 1056.

2. Use of.

Prohibiting use of automobiles in. 1 L.R.A. (N.S.) 221; L.R.A.1915E, 264.

Forbidding or restricting teaming on parkways, 51 L.R.A. (N.S.) 1203.

Power of legislature to control use to which property taken for the purpose of a park or square may be put. 27 L.R.A. (N.S.) 938.

3. - change in.

What use of amounts to diversion from the use for which they were dedicated. 25 L.R.A.(N.S.) 980; 50 L.R.A.(N.S.)

§ 4. Municipal liability for defects in. See MUNICIPAL COMPORATIONS, § 97.

§ 5. Authority of commissioners. Power of park commissioners to employ attorney. L.R.A.1917D, 247.

#### PARK STRIPS.

Liability for injury by defect or obstruction in. 20 L.R.A.(N.S.) 593; 40 L.R.A. (N.S.) 94; L.R.A.1918D, 814.

#### PARLIAMENT.

Power of English Parliament to punish for contempt. L.R.A.1917F, 289.

#### PARLIAMENTARY LAW.

1. Generally.

Effect of personal interest on validity of vote. 18 L.R.A. 367.

§ 2. Casting vote.

Casting vote by presiding officer in deciding tie on election. 47 L.R.A. 561.

3. Quorum.

What constitutes a quorum for a meeting of stockholders. 21 L.R.A. 174.

Withdrawal of stockholders from meeting to break quorum. 36 L.R.A. (N.S.) 45. Conclusiveness of enrolled bill on question of. 23 L.R.A. 342.

### PARLOR CARS.

clusively of. 36 L.R.A.(N.S.) 1139.

25

#### PAROL CONTRACTS.

Generally, see CONTRACTS, §§ 25-59. Of insurance, see INSURANCE, §§ 36, 43.
Specific performance of, see Specific Per-FORMANCE, §§ 11-13.

#### PAROLE.

See CRIMINAL LAW, § 86.

#### PAROL EVIDENCE.

See EVIDENCE, VII.

#### PAROL GIFT.

As a conveyance. 67 L.R.A. 461. Adverse possession by donee under. L.R.A. 835.

#### PAROL LEASE.

See CONTRACTS, § 42.

#### PAROL LICENSE.

See LICENSE, I.

#### PAROL PARTITION.

Of homestead. 4 L.R.A. (N.S.) 792.

#### PAROL TRUSTS.

See TRUSTS, § 11.

### PAROL WARRANTY.

On sale of chattel, see SALE, §§ 27, 55.

### PARSONAGE.

See PARISH HOUSE.

#### PARTIAL ANSWERS.

### Begin with this book on every law question.

#### PARTIAL DELIVERY.

Sufficiency of partial delivery of freight to carrier to render it liable. 32 L.R.A. (N.S.) 316.

#### PARTIAL INTESTACY.

See WILLS, § 76.

#### PARTIAL INVALIDITY.

Of chattel mortgage, see CHATTEL MOST-GAGE, § 5. Of statute, see STATUTES, § 10.

#### PARTIAL PAYMENT.

Accord and satisfaction by, see Accord AND SATISFACTION, § 3.

Interruption of running of limitations by, see LIMITATION OF ACTIONS, §§ 65-67.

By indorser after dishonor, effect. 29 L.R.A. 313.

Effect of, to revive debt after discharge in bankruptcy. 26 L.R.A.(N.S.) 274. Effect on governor's liability of obligee's in-

sistence on part payment before expiration of term of credit. 22 L.R.A. (N.S.) 713.

Unauthorized compromise of action by attorney as. 31 L.R.A.(N.S.) 528.

Partial payment of undisputed debt as a

consideration for discharge of entire debt. 11 L.R.A. (N.S.) 1018; 21 L.R.A. (N.S.) 1005; L.R.A.1917A, 719.

Partial payment or agreement therefor as consideration for agreement extending time of payment of obligation. 52 L.R.A. (N.S.) 366.

Indorsement of, on note as material altera-tion. 46 L.R.A.(N.S.) 1043, L.R.A. 1916F, 215.

Right of town, county, or municipality to surrender valid claim on partial payment thereof. 19 L.R.A. (N.S.) 320.

#### PARTIAL PROBATE.

Contents of will as affecting right to. 34 L.R.A.(N.S.) 971.

#### PARTICIPATION.

Of purchaser in fraudulent conveyance, see Admissibility as dying declarations of partial answers to questions. 2 B. R. C. In profits as test of creation of partnership, see Partnership, \$ 7. PARTICIPATION-cont'd

Effect of participating in purchase and di-vision of quantity of liquor to render one guilty of unlawful sale. 22 L.R.A. (N.S.) 560.

Assumption of debts on dissolution of partnership by participation in benefits. 9 L.R.A.(N.S.) 59.

Participation in nuisance to render one responsible therefor. 32 L.R.A. (N.S.)

By indemnity insurer in defense of suit against insured as estoppel to assert that latter's liability was predicated on ground not covered by policy. 34 L.R.A.(N.S.) 491.

#### PARTICULAR FUND.

Negotiability of note payable out of. 85 L.R.A. 647.

#### PARTIES.

I. In general, § 1.

II. Plaintiff, §§ 2-25.

a. In general, §§ 2-10.

b. On contracts, §§ 11-17. 1. In general, \$ 11.

2. Third persons, \$\$ 12-17. c. Effect of assignment, § 18.

d. On matters of public right,

\$\$ 19, 20. 6. In representative capacity,

\$\$ 21, 22. 1. Action in interest or in name of another; control of, \$\$

23, 24.

g. Joinder, § 25. III. Defendant, §§ 26-36.

a. In general, § 26.

b. Necessary parties, §§ 27-32.

c. Effect of failure to make one a party, §§ 33-35.

d. Joinder, \$ 36.

IV. Bringing in; intervention, §\$ 37-39

V. Substitution, \$ 40.

### I. In general.

§ 1. Generally.

On appeal, see APPEAL AND ERBOR, §§ 7, 7a, 12.

To criminal offense, see CRIMINAL LAW, §§

To deed, see DEEDS, §§ 15-19.

Description of, see DESCRIPTION, § 2.

Dismissal of, see DISMISSAL AND DISCON-TINUANCE, § 3.

As to political partiès, see ELECTIONS. Interpleader of, see INTERPLEADER.

Parties concluded by judgment, see Jung-MENT, §§ 41-50.

In mandamus proceeding, see MANDAMUS, § 18.

To action to enforce mechanics' lien, see MECHANICS' LIENS, § 24.

Consult also L.R.A. Digests of Cases.

PARTIES, I.—cont'd Privilege of, from arrest or service of process, see WRIT AND PROCESS, §§ 33,

Effect of changes in, on running of limitations. 47 L.R.A.(N.S.) 932.

Right to open default judgment on ground of fraud or mistake in respect to parties. L.R.A.1916F, 851.

Injunction against judgment for erroneous decision as to. 30 L.R.A. 706.

Continuance because of illness of. 42 L.R.A.

(N.S.) 660.

Sickness of party as ground for injunction against judgment. 30 L.R.A. 794.

Conclusiveness of prior decisions on appeal as to. 34 L.R.A. 332.

Right to resist judgment in sister state on ground of fraud in respect to parties. 32 L.R.A.(N.S.) 920.

Witness's right to testify to character of, from personal knowledge. 22 L.R.A. (N.S.) 661.

Treating of jurors by, as ground for new trial or reversal. 19 L.R.A.(N.S.) 733; 49 L.R.A. (N.S.) 889.

Effect of changes in, on running of limitations. 3 L.R.A.(N.S.) 304.

May partnership sue or be sued in the firm name. 29 L.R.A.(N.S.) 282.

#### II. Plaintiff.

#### a. In general.

§ 2. Generally.

Who may take appeal, see APPEAL AND ERROR, §§ 7, 7a.

Action by assignee for creditors, see Assignment for Creditors, § 12.

Right of broker to maintain action, see BROKERS, § 3.

Who may maintain action against carrier for loss or injury to freight, see CAR-RIERS, § 102.

Who may bring certiorari proceeding, see CERTIORARI, § 4.

Who may sue to remove cloud on title, see CLOUD ON TITLE, § 5.

Action by stockholders, see Corporations,

Who may enforce liability of stockholders, see Corporation, §§ 116, 116a.

Actions by foreign corporations, see Cor-PORATIONS, § 149.

Right of nonresident to sue foreign corporation, see Corporations, § 151.

Who may maintain action for death, see DEATH, §§ 7-10.

In ejectment, see EJECTMENT, §§ 4, 5.

Action by executor or administrator, EXECUTORS AND ADMINISTRATORS, V.

Who may maintain action for forcible entry and detainer, see FORCIBLE ENTRY and Detainer, § 3.

By husband or wife, see HUSBAND AND Wife, §§ 62-69.

Who may maintain injunction suit, see In-JUNCTION.

PARTIES, II. a-cont'd

Proper party to maintain action affecting Right of one not a party to original rerights of landlord or tenant, see LAND-LORD AND TENANT, §§ 74-76.
Who may bring action for malicious prose-

cution, see Malicious Prosecution, § 2.

Who may maintain suit to abate nuisance, see Nuisances, § 22.

Who may maintain action for nuisance, see Nuisances, §§ 24, 25.

Who may maintain action for partition, see PARTITION, § 5.

Who may maintain private action, see Pri-VATE ACTION.

Who may maintain quo warranto proceedings, see Quo WARBANTO, § 5. Who may sue for seduction, see SEDUCTION,

§§ 3, 4. Who may maintain trespass, see TRESPASS,

§ 5.

Who may maintain trover, see TROVER AND Conversion, § 4.

Alien enemies as litigants. 5 B. R. C. 583; L.R.A.1918B, 189; L.R.A.1918E, 809. Insane person. 2 L.R.A.(N.S.) 961.

Action to set aside judgment against other parties. 54 L.R.A. 758.

Action to recover back usurious interest paid to national bank. 56 L.R.A. 693.

Action under Federal employers' liability act. L.R.A.1915C, 76.

Right of one not specifically named to maintain action for libel or slander based on charges made against a class or group of persons to which he belongs. 23 L.R.A. (N.S.) 726; 25 L.R.A. (N.S.) 382.

Who may sue for improper use of union label. 39 L.R.A.(N.S.) 1197.

Who may complain of noncompliance with statute in adopting or changing textbooks in schools. 19 L.R.A. (N.S.) 1003.

Who may institute proceedings to disbar or suspend attorney for withholding client's money or property. 19 L.R.A. (N.S.) 419.

Who entitled to remedy by action for damages for wrongful discharge of servant. 6 L.R.A.(N.S.) 57.

Who may maintain action for mutilation of corpse. L.R.A.1915B, 519.

Who may maintain action for property destroyed by mob. 44 L.R.A. (N.S.) 359.

Who may enforce liability of corporate directors under statutes purporting to make them liable for contracting debts in excess of a fixed limit. L.R.A.1915D, 1046.

Necessity of making corporation a party to a suit by a stockholder in its behalf. 51 L.R.A.(N.S.) 123.

Right of creditors of a corporation to sue in their own right the directors thereof, for negligence or other breach of duty owed primarily to the corporation. 45 L.R.A.(N.S.) 421.

Right of bailee to recover for damage to. or conversion of, property. 3 B. R. C. 388. In whose name actions by and against depu-

ties should be brought. 42 L.R.A. (N.S.) 887.

PARTIES, II. a-cont'd

plevin action to recover property seized under process in that action. 5 L.R.A. (N.S.) 495.

Right of conditional vendee of personal property to maintain action for damage to or conversion of property. L.R.A. 1917D, 217.

Right of stranger to writ of habeas corpus. 9 L.R.A.(N.S.) 1173.

Who is entitled to invoke certiorari to review a decree or order affecting the sale of intoxicating liquor. 19 L.R.A. (N.S.) 610.

3. Real party in interest.

Who is real party in interest within meaning of statutes defining parties by whom action must be brought. 64 L.R.A. 581.

Holder of unindorsed note. 17 L.R.A. (N.S.) 1113.

Agent as trustee of express trust within exception in statute requiring suits to-be brought in the name of the real party in interest. 41 LR.A.(N.S.) 841.

Right of public officials to maintain actionto abate or enjoin bawdyhouse. L.R.A. 1918D, 821.

Who are persons interested entitled to contest will. L.R.A.1918A, 447.

May one who destroys insured property defeat an action by the owner upon the ground that the right of action is in the insurer. 23 L.R.A. (N.S.) 870; L.R.A. 1918F, 145.

§ 4. Matters affecting real property or highway.

Action to enforce liability for removal of lateral or subjacent support. 68 L.R.A.

Sufficiency of equitable title to sustain action for injury to real property. 30

L.R.A.(N.S.) 231. Lessee's right to maintain suit to enjoin nuisance. 3 L.R.A. (N.S.) 448.

Right of one in possession to maintain action for nuisance without proving title. 34 L.R.A.(N.S.) 560.

Who is real party in interest in action for possession of land within meaning of statute defining parties by whom actions must be brought. 64 L.R.A. **6**20.

Right of widow, prior to assignment of dower, to maintain trespass quare clausum. 13 L.R.A. (N.S.) 209.

Who may sue township for injury by defects in highway. 13 L.R.A. (N.S.) 1241.

Interference with one's use of highway as a special damage which will sustain an action by him against the wrongdoer. 28 L.R.A.(N.S.) 1053; L.R.A.1915D, 142.

State as proper party to maintain bill to abate or enjoin public nuisance in a

city street. 19 L.R.A. (N.S.) 1173.
Right of tenant for years to recover from a municipality for change of grade in street. 48 L.R.A.(N.S.) 899.

Begin with this book on every law question.

PARTIES, II. a-cont'd

Who may maintain action in case of damages to remainder or reversion by stranger. L.R.A.1916A, 792.

### § 5. Matters as to waters or drainage; assessments.

Who may sue for damming back water of stream. 59 L.R.A. 898.

For injury by surface water. 65 L.R.A. 283. Action against municipality for breach of duty with respect to drainage. L.R.A. 711.

Who may contest assessment for drains and sewers. 60 L.R.A. 241.

#### § 6. Matters as to wills.

Right of devisee or legatee to attack conveyance or transfer by testator. L.R.A.(N.S.) 194.

Parties entitled to assert forfeiture of interest in will under provision for forfeiture of contesting beneficiary. 68 L.R.A. 455.

### 7. Matters as to insurance.

Proper party to bring action on policy, see INSURANCE, §§ 205, 217.

May one who destroys insured property defeat an action by the owner on the ground that the right of action is in the insurer. 23 L.R.A. (N.S.) 870; L.R.A.1918F, 145.

Should action against third person who caused the loss be brought by insurer or insured, where insurer has paid loss and been subrogated to rights of insured. 2 L.R.A.(N.S.) 922.

#### § 8. State. See STATE, § 8.

9. Officers. Right of former sheriff to maintain action in respect of a sale made by him while in office. 29 L.R.A.(N.S.) 792.

### 10. Agent.

Right to sue on contract, see infra, § 17.

Right of agent who was in possession of personal property to maintain action for conversion. 26 L.R.A. (N.S.) 840.

Which is real party in interest by whom action must be brought. 64 L.R.A.

Right of agent to whom goods are consigned to maintain action against carrier. 26 L.R.A.(N.S.) 437; 36 L.R.A.(N.S.) 72.

#### b. On contracts.

## 1. In general.

### 11. Generally.

Who may sue on bill or note, see BILLS AND NOTES, §§ 62-64.

Who may maintain action on covenant, see COVENANTS, §§ 19, 23, 33.

Who may sue on insurance policy, see In-SUBANCE, §§ 205, 217. Consult also L.R.A. Digests of Cases.

PARTIES, II. b, 1—cont'd Who may enforce mortgage, see MORTGAGE, §\$ 66-68.

Who may maintain action for delay or nondelivery of telegram, see TELEGRAPHS, §§ 17, 18.

Who may maintain action against carrier for nondelivery of goods delivered for transportation to purchaser or con-signee. 22 L.R.A. 427.

Who entitled to relief where municipal corporation grants or leases space on street or sidewalk for business purpos-

es. 25 L.R.A.(N.S.) 404.

Holder on unindorsed note as real party in interest within meaning of statute by whom the action must be brought. 17 L.R.A.(N.S.) 1113.

In whose name bond of public officer intended as a statutory bond but not binding as such, may be enforced. 21 L.R.A. (N.S.) 771.

Who may enforce restrictive covenant or agreement as to use of property. L.R.A.(N.S.) 12; L.R.A.1917A, 328.

Right of party to antenuptial settlement who is in default to enforce covenants to be performed by other party. 26 L.R.A. (N.S.) 858.

Who may bring suit to enforce subscription, for charity. 48 L.R.A. (N.S.) 802. Right of transferrer of reversion of leased premises to maintain action on lease. LR.A.1915C, 228.

#### 2. Third persons.

#### 🕯 12. Generally.

Assignee, see infra, § 18.

Employee's right to sue on employer's in-

demnity policy, see INSURANCE, § 217.
Mortgagee's right to enforce purchaser's promise to pay mortgage, see MORT-GAGE, § 43.

Right to sue for delay or nondelivery of telegram, see TELEGRAPHS, §§ 17, 18.

Right of a third party to sue upon a contract made for his benefit. 2 L.R.A. 257; 2 L.R.A. (N.S.) 783.

Effect of provision in deed for benefit of stranger thereto. 20 L.R.A. (N.S.) 221. Right of creditor to enforce promise of one

allowed to secure property at judicial sale on faith of his promise to pay owner's debts. 15 L.R.A.(N.S.) 399.

Right of third person to maintain action upon promise of beneficiary to insured to pay all or part of proceeds of policy to such third person. 22 L.R.A. (N.S.) 639.

May one, not a party to an agreement, injured thereby in his business, assail the validity thereof on the ground that it tends to create or promote a monopoly. 26 L.R.A. (N.S.) 148.

Who may bring suit to enforce subscription

for charity. 48 L.R.A. (N.S.) 802. Who can enforce contract made in consideration of naming child. 51 L.R.A. (N.S.) 1108.

PARTIES, II. b, 2-cont'd

Right of purchaser of chattel to avail himself of breach of warranty made to the seller. 51 L.R.A.(N.S.) 1111.

Right of transferee of reversion to sue on

lease. L.R.A.1915C, 210.
Right of true owner of land to maintain action on contract between adverse claimant and third person. 1916E, 720.

Right of holder of check to maintain action thereon against bank. L.R.A.

1916C, 165.

Right of employer of salesman to recover for loss of or injury to sample mer-chandise carried by salesman as baggage. L.R.A.1918C, 114.

§ 13. Right of citizen to enforce contract made for benefit of public.

Actions on contracts. 49 L.R.A.(N.S.) 1167.

Ponds taken by state or city officials. 49 L.R.A. (N.S.) 1175.

Bonds not provided for by statute. L.R.A. (N.S.) 1183.

Subcontractors. 49 L.R.A.(N.S.) 1185.

Bonds under Federal statutes. 49 L.R.A. (N.S.) 1188.

Consumer's right to compel public service corporation to respect rates stipulated in contract with municipality. L.R.A. 1915D, 917.

Right of property owner to maintain action against water company for failure to supply sufficient water for fire purposes, as required by its contract with municipality. 6 L.R.A.(N.S.) 1171; 21 L.R.A.(N.S.) 1021.

Will breach of contract with municipality to keep a street or highway in repair sustain an action by a person injured directly against the contractor. L.R.A. (N.S.) 1112.

§ 14. Subcontractor, materialman, or laborer.

Right to sue on bond taken for benefit of public. 49 L.R.A. (N.S.) 1175.

Right of subcontractor, materialman, or laborer, to maintain action on contractor's bond to owner. 27 L.R.A. (N.S.) 573; L.R.A.1915A, 768.

§ 15. Consignee, etc.

Right of consignee to maintain action against carrier. 36 L.R.A.(N.S.) 68.

Right of consignee who refuses to accept goods to maintain an action for damages against carrier. 30 L.R.A. (N.S.) 1071.

Right of one who is to be notified of arrival of goods consigned to another, to maintain action against carrier. 39 L.R.A. (N.S.) 309.

Right of agent to whom goods are consigned for sale to maintain action against common carrier for damage to, or loss of, goods during transit. 26 L.R.A. (N.S.) 437.

PARTIES, II. b, 2-cont'd § 16. Principal.

Character of contract as affecting right of undisclosed principal to sue thereon. 29 L.R.A. (N.S.) 472; 39 L.R.A. (N.S.) 324.

§ 17. Agent.

Agent's right of action on contract in his own name for principal. 1 L.R.A. (N.S.) 303.

Right of agent to recover money erroneously paid to third person. 4 L.R.A. (N.S.) 363.

Right of agent, factor, broker, or commission merchant, to whom goods are consigned for sale, to maintain action against a common carrier for damage to, or loss of, goods during transit. 26 L.R.A.(N.S.) 437; 36 L.R.A.(N.S.)

### c: Effect of assignment.

18. Generally.

What law governs right of assignee of bill or note to maintain action. 61 L.R.A. **222.** 

Who is real party in interest by whom action on partial assignments must be brought. 64 L.R.A. 603.

Assignee of account for work and labor or goods sold, as real party by whom action must be brought. 64 L.R.A. 597.

Right of assignee of claim from one spouse to maintain action against the other. 31 L.R.A.(N.S.) 1148.

Effect of assignment of claim ex delicto to one against whom it was asserted, to enable him to maintain an action thereon against a third party. 7 L.R.A. (N.S.) 534.

Right of indorser of lost bill, check, or note to maintain action thereon. L.R.A.(N.S.) 645.

Right of assignee to sue on covenant in lease the purpose of which is to assure lessee an exclusive right to conduct a certain business on premises owned by lessor. L.R.A.1915C, 860.

#### d. On matters of public right.

19. Generally.

Right of citizen to enforce contract made for benefit of public, see supra, § 13. Right of attorney general to bring action, see ATTORNEY GENERAL.

Right of citizen to maintain proceedings in aid of enforcement of liquor laws. 14 L.R.A.(N.S.) 1156.

Who may enjoin operation of jitney buses. L.R.A.1916B, 1160.

Right of public service corporation to challenge powers or privileges of rival. L.R.A.1916B, 1087.

Who may maintain action in regard to initiative or referendum questions. L.R.A. (N.S.) 214; L.R.A. 1917B, 30.

Begin with this book on every law question.

PARTIES, II. d-cont'd § 20. Taxpaye**r.** 

As real party in interest by whom action must be brought. 64 L.R.A. 619.

Right to maintain proceedings in aid of the enforcement of the liquor laws. 14 L.R.A.(N.S.) 1156.

Right of taxpayer to enjoin waste or unlawful expenditure of state funds. L.R.A.1915D, 178.

Right of taxpayer in absence of statute to enjoin unlawful expenditures by municipality. 36 L.R.A. (N.S.) 1.

Right of taxpayer to maintain suit to enforce a claim of municipal corporation. 14 L.R.A.(N.S.) 298.

Right of taxpayer to enjoin removal of teacher. 51 L.R.A.(N.S.) 336.

### e. In representative capacity.

21. Generally.

Action by stockholders, see Corporations, § 98.

Suit by personal representative, see Execu-TORS AND ADMINISTRATORS, § 57.

Who is real party in interest in action for use of another. 64 L.R.A. 623.

Right of next of kin to maintain action in interest of estate. 22 L.R.A. (N.S.)

Right of trustee in bankruptcy, or assignee for creditors, to maintain partition. 20 L.R.A. (N.S.) 105.

Right of trustee to redress fraud practised on the beneficiary of the trust. L.R.A. 1915E, 451.

Necessity of consistency in complaint as to representative or individual capacity of party. 1 L.R.A.(N.S.) 161.

### § 22. One in behalf of many.

Effect of creditors' bill for all similarly situated. 17 L.R.A. 348.

Plaintiff's control of suit brought for all similarly situated. 46 L.R.A. 839.

### f. Action in interest or in name of another; control of.

23. Generally.

Name in which suit carried on. 14 L.R.A. 693.

Action for divorce on behalf of insane person. 34 L.R.A. 166.

In whose name action should be brought by

or against deputy. 19 L.R.A. 181. Liability involved in the exercise of the right to control or carry on litigation in the name of another party. 62 L.R.A. 617.

#### § 24. By guardian ad litem or next friend.

Right of insane person to institute proceedings by next friend. 64 L.R.A. 513.

Control of guardian ad litem or next friend | § 27. Generally. over action. 16 L.R.A. 507.

Consult also L.R.A. Digests of Cases.

PARTIES, II.—cont'd

### g. Joinder.

§ 25. Generally.

Joint action for specific performance of agreement to permit maintenance of license on land of another. 49 L.R.A. 513.

Right of creditor, who is also a stockholder of an insolvent corporation, to join in suit by other creditors. 41 L.R.A. (N.S.) 987.

Scope of statute permitting trustee of express trust to sue without joining beneficiaries, when rights as between beneficaries, or between them and the trustee, are involved. 6 L.R.A. (N.S.) 275.

Joinder of wife in action by husband to recover for her services rendered outside the home. L.R.A.1917E, 298.

Joinder of husband and wife in action for boarding or lodging of, or services rendered by wife to, a third person living in the home. 46 L.R.A. (N.S.) 238.

Joinder of stockholder and creditor as complainants in suit in equity to enforce stockholder's liability on unpaid subscriptions. 46 L.R.A. (N.S.) 453.

Joinder of stockholder in suit against of-

ficer or contractor based upon transaction inter se. 46 L.R.A.(N.S.) 137.

Joinder of parties plaintiff in action to recover damages for mental anguish in telegraph case. 49 L.R.A.(N.S.) 275.

Joinder of beneficiaries or of personal representative and beneficiary in statutory action for death. L.R.A.1916E, 166, 170.

### III. Defendant.

### a. In general.

26. Generally.

Attachment or garnishment against foreign corporation, see Corporations, § 150. Suits against decedent's estate, see EXECU-TORS AND ADMINISTRATORS, § 58.

Liability of state to suit, see STATE, § 12.

Right under statute to an order for the examination of an adverse party to enable plaintiff to determine who to make parties defendant. L.R.A.1918C, 597.

Alien enemies as parties defendant. 5 B. R. C. 591; L.R.A.1918B, 195; L.R.A.1918E, 811.

action to enforce subscripticharity. 48 L.R.A. (N.S.) 808. subscription for

Right of plaintiff to summon or charge him-self as garnishee. 34 L.R.A.(N.S.) 510. Who may be sued on Lloyd's policies. 55 L.R.A. 193.

In what capacity executor or administrator to be sued for his personal tort. 51 L.R.A. 261.

#### b. Necessary parties.

On appeal, see APPEAL AND ERROR, § 12.

PARTIES, III. b-cont'd

In foreclosure suit, see MORTGAGE, §§ 69-72.

In action involving initiative and referendum. L.R.A.1917B, 32.

In suit to reinstate mortgage released or discharged by mistake. L.R.A.1917E,

In action to enforce liability for removal of lateral support. 68 L.R.A. 694.

Contractor as a necessary party to a bill to enforce a mechanics' lien. 33 L.R.A. (N.S.) 69.

Suit to enforce liability of heirs for obliga-tions of ancestor. 21 L.R.A. 93.

To mandamus to restore to office one illegally removed. 19 L.R.A.(N.S.) 82.

To action for specific performance of contract for sale of corporate stock. 31 L.R.A.(N.S.) 502.

In action by owner of stock for unauthorized transfer on books of corporation. 45 L.R.A.(N.S.) 1082.

In action under Federal employers' liability act. 47 L.R.A. (N.S.) 74; L.R.A. 1915C,

Judgment creditor as necessary party to suit to enjoin execution sale. L.R.A. 1915F, 1120.

§ 28. Corporations.

Necessity of making corporation a party to suit by stockholders in its behalf. 51 L.R.A. (N.S.) 123.

Necessity of joining corporation in suit for specific performance of contract for sale of corporate stock. 50 L.R.A. 512.

#### 29. Partners.

Necessity of making firm or copartners parties in individual proceedings in bankruptcy. 69 L.R.A. 780.

30. Heirs of partner.

Heirs as necessary parties to suit relating to partnership real estate. 27 L.R.A. 349.

When heirs of deceased partner necessary parties to suit relating to partnership real estate. 27 L.R.A. 340.

31. Trusts.

Beneficiaries of trust; when necessary. 1 L.R.A. 230.\*

§ 32. In action against municipality.

Are holders necessary parties to proceedings to invalidate warrants or other moneyed obligations of county, state, or municipal corporation. 3 L.R.A.(N.S.)

Parties defendant in action against municipality for breach of duty as to drainage. 61 L.R.A. 711.

### c. Effect of failure to make one a party.

#### § 33. Generally.

In action for specific performance of contract to give security. 6 L.R.A.(N.S.)

PARTIES, III. e-cont'd

Necessity that bailor be a party to affect him with the result of a suit by a third person against the bailee. L.R.A.(N.S.) 690.

Effect of partition sale upon dower rights

of one not a party. 16 L.R.A. 776. Effect of judment in ejectment against tenant upon a landlord not a party, or vice versa. 26 L.R.A.(N.S.) 595.

### § 34. In foreclosure suit.

Judgment against trustee in mortgage as affecting beneficiary who was not a party. 35 L.R.A.(N.S.) 196.

Effect of foreclosure of one of several simultaneous mortgages without making other mortgagees parties to the suit. 39 L.R.A. (N.S.) 524.

Extent to which bondholders are represented by trustee in mortgage or deed of trust securing bonds. • 16 L.R.A. (N.S.) 1006.

35. On marketability of title.

Title of purchaser at judicial sale as affected by irregularities as to parties. L.R.A. 43.

Compelling purchaser at judicial sale to complete purchase where there was a defect of parties. 21 L.R.A. 47.

Effect on marketability of title of want of necessary parties in court proceedings. 38 L.R.A.(N.S.) 22.

### d. Joinder.

36. Generally.

Joint liability generally, see JOINT CREDITORS AND DEBTORS.

Joint liability of master and servant for injury by servant, see MASTER AND SERVANT, § 199.

Joinder of parties with alternative allegations as to liability. 51 L.R.A.(N.S.) 640.

Joinder of original converter of property with subsequent purchaser in an action for conversion. L.R.A.1918F, 305.

Joinder of stockholders as defendants in suit in equity to enforce liability on subscriptions to stock. unpaid L.R.A.(N.S.) 453.

Joinder of corporation and subsequent purchaser in action by owner of stock for unauthorized transfer thereof on books of corporation. 45 L.R.A. (N.S.) 1082.

Joining successive owners of property in action for nuisance maintained thereon. 46 L.R.A.(N.S.) 1187.

Joinder of parties in action for wife's libel and slander. 30 L.R.A. 527.

Joinder of parties in action against officer for making arrest. 51 L.R.A. 222.

Joinder and misjoinder in suit on Lloyd's policies of insurance. 55 L.R.A. 198.

Joinder of parties in suit to restrain pollution of water course. 6 L.R.A.(N.S.) 1149.

Right to join agent and undisclosed prin-cipal as defendants in the same action. 26 L.R.A.(N.S.) 742.

Begin with this book on every law question.

PARTIES, III. d-cont'd

Joinder of municipality and person respon-sible for dangerous condition in action for injuries on street or highway. 37 L.R.A.(N.S.) 569.

Of persons whose independent wrongs of the same kind contribute to enhance the degree or extent of injury sustained by plaintiff. 10 L.R.A.(N.S.) 167.

### IV. Bringing in; intervention.

🛊 37. Bringing in.

Use of cross bill or cross complaint to bring in new parties. 26 L.R.A.(N.S.) 127.

38. Intervention.

Right of one creditor to intervene in another creditor's action after the period for beginning such action has expired. L.R.A.1917D, 885.

Right of creditor of individual partner or of his estate to intervene in proceedings for the settlement of the affairs of the partnership. L.R.A.1917B, 1047.

Right of bankrupt or creditors of bankrupt to intervene in an action to which the trustee is a party. L.R.A.1916C, 639.

Right of third persons who claim property to intervene in attachment action. 23 L.R.A.(N.S.) 536.

To question validity of attachment. L.R.A. 772.

By pretermitted heirs in administration. 37 L.R.A.(N.S.) 1147.

\$ 39. — by surety.

Right of surety to intervene in action against principal, or principal in action against surety. 68 L.R.A. 736.

#### V. Substitution.

# 40. Generally.

Revival of suit, see ABATEMENT AND REVIV-

On appeal or error to, or from Federal Supreme Court. 66 L.R.A. 856.

#### PARTITION.

\$ 1. Generally.

Validity of statutory provision for attorney's fee in partition cases. L.R.A. 1915E, 949.

Right of one in possession claiming under void foreclosure as against partition action. 40 L.R.A.(N.S.) 845.

Effect of possession in absence of writing as to partition. 3 L.R.A.(N.S.) 806.

Collateral attack on judgment of nonsuit in, for fraud not affecting jurisdiction. 36 L.R.A.(N.S.) 986.

Injunction against judgment in, for defenses existing prior to rendition. 31 L.R.A. 773.

Consult also L.R.A. Digests of Cases.

PARTITION—cont'd

Right to accept favorable part of decree and appeal from the rest. 29 L.R.A. (N.S.)

Removal of action for, because of separable controversy. 5 L.R.A.(N.S.) 77.

Validity of oral agreement as to partition of fences. 27 L.R.A.(N.S.) 227.

2. Jurisdiction of.

Validity and effect of a judgment in partition against parties designated as un-known. L.R.A.1918F, 609.

§ 3. — what property.

Jurisdiction of suit for partition of real property in another state or country. 69 L.R.A. 692; 23 L.R.A.(N.S.) 924; 27 L.R.A.(N.S.) 420.

Jurisdiction of equity to partition personal property. 27 L.R.A. (N.S.) 618.

§ 4. Right to.

Validity of agreement against right to. 16 L.R.A. 220.

Right of, as against persons not in being. 8 L.R.A.(N.S.) 67.

§ 5. — who may have.

Sufficiency of possessory title to support action for. 46 L.R.A.(N.S.) 505.

Right of one out of possession to partition.

20 L.R.A. 624.

Between tenants by entireties. 30 L.R.A. 335.

Between life tenant and remainderman. L.R.A.1918D, 454.

Right to partition among remaindermen pending life estate. 28 L.R.A. (N.S.) Ī25.

Right of trustee in bankruptcy, or assignce for creditors, to maintain partition. 20 L.R.A.(N.S.) 105,

Remedy of pretermitted heirs by proceeding for. 37 L.R.A. (N.S.) 1147.

§ 6. Of what property.

Jurisdiction over, see supra, § 3.

Of personal property, see PERSONAL PROP-ERTY, § 7.

Right to partition mineral or oil or gas

lands. L.R.A.1916D, 1154.
Of community property. 56 L.R.A. 79.
Of estate by entireties. 30 L.R.A. 335; 42 L.R.A. (N.S.) 98.

Of partnership real estate. 28 L.R.A. 103. Of water rights. 26 L.R.A. 284.

Of railroad right of way. 39 L.R.A.(N.S.) **53**8.

§ 7. — homestead.

In general. 56 L.R.A. 77; 4 L.R.A.(N.S.) 786; 27 L.R.A.(N.S.) 550.

Separation and divorce. 4 L.R.A.(N.S.) 786.

Homestead right in widow and minor children. 4 L.R.A.(N.S.) 787.

Homestead right in widower or widow. 4

L.R.A. (N.S.) 790.

Homestead right of minor children. LR.A.(N.S.) 792.

PARTITION—cont'd Parol partition. 4 L.R.A.(N.S.) 792. Abandonment or failure to assert claim by widow. 4 L.R.A.(N.S.) 793.

§ 8. Effect of.

Effect of deed, see infra, § 10. Effect of partition sale on dower right, see Dower, § 14.

Parol partition to give legal title or color of title. 16 L.R.A. 326.

Effect of partition on descent of ancestral estates. L.R.A.1916C, 912.

Effect of partition of premises leased for mining purposes on the right to the royalty. L.R.A.1918B, 1080.

Effect of partition to create easement as between separate parcels. 26 (N.S.) 342; L.R.A.1915C, 348. 26 L.R.A.

Effect of partition between heirs of property acquired by inheritance, upon course of descent. 39 L.R.A.(N.S.) 957.

Effect of judgment in partition upon rights of defendants, as between themselves, which were not brought to the attention of the court. 14 L.R.A. (N.S.) 333.

Devestiture of estates of persons not in being by. 42 L.R.A.(N.S.) 443.

§ 9. Decds.

Implied grant of easement in partition deed. 3 L.R.A.(N.S.) 1082.

Estate held under partition deed as one by entireties. 25 L.R.A.(N.S.) 167.

10. - effect of.

Effect of deed in partition as distinguished from ordinary deeds. 57 L.R.A. 332.

Deed to person other than cotenant. L.R.A. 332.

Warranty. 57 L.R.A. 333.

Estoppel to set up after-acquired title. 57 L.R.A. 337.

Estates acquired by partition deed between parties holding different estates. L.R.A. 337.

Words of inheritance as necessary to vest fee. 57 L.R.A. 338.

Rights of subsequent purchasers. 57 L.R.A. 338.

Changing title from descent to purchase. 57 L.R.A. 339.

Effect as revoking previous will. 57 L.R.A. 339.

Failure of wife to join in deed. 57 L.R.A. 340.

Deed by person under disability. 57 L.R.A. 340.

Execution of deed. 57 L.R.A. 340. Effect on judgment and mortgage liens. 57

L.R.A. 340. Parol evidence to show nature of deed. 57 L.R.A. 341.

11. Rights of purchaser.

sales for partition. (N.S.) 409. 33 L.R.A.

Applicability of rule of caveat empior to

#### PARTNERSHIP.

I. In general, 🖇 1, 2.

II. Creation; nature; requisites; what constitutes, §§ 3-7.

a. In general, §§ 3-5.

b. Creation; what constitutes, \$\$ 6, 7.

III. Rights and powers of partners as to third persons, §§ 8, 9.

IV. Liability of partners to third persons; rights of creditors, \$\$ 10-17.

a. In general, §§ 10-14.

b. Insolvency or bankruptcy, \$\$ 15-17.

V. Partnership real estate, § 5 18-

VI. Rights and liabilities as between partners, §§ 25-28.

VII. Dissolution or change in person-nel; accounting, §§ 29-51.

a. In general, **§§** 29-39. b. By death, §\$ 40-49.

1. In general, § 40.

2. Surviving partner, \$\$ 41-45.

3. Estate of deceased part-ner, §§ 46-49.

c Accounting, §§ 50, 51

VIII. Actions; judgments, §§ 52-57. a. In general, §§ 52-56.

b. Suits between partners, § 57. IX. Limited partnership, § 58.

### I. In general.

1. Generally.

Estoppel of partner, see ESTOPPEL, § 37. Effect of fraud in partnership matters, see-

FRAUD AND DECEIT, § 25. Good will of, see Good WILL.

Injunction as to partnership matters, see-Injunction, § 38.

Partnership name, see NAME, § 10. Sickness of copartner, see SICKNESS, § 7.

Effect of war on partnership agreements, and the rights of the parties thereto. 7 B. R. C. 618.

Applicability of Bulk Sales Law to transfer to partnership organized to take over the business. L.R.A.1918C, 932.

Specific performance of contract for interest in partnership. L.R.A.1918E, 628.

Parol evidence to vary a partnership contract in favor of or against a stranger to the contract. L.R.A.1916A, 599, 610.

Tax on partnership property. 22 L.R.A. 477.

Situs of partnership property and interests therein for purposes of taxation. 3 B. R. C. 793.

Federal courts following state decisions on questions relating to. 40 L.R.A.(N.S.) 433.

Power of married woman to become member of partnership. L.R.A.1916D, 1233.

Partnership between initial carrier and connecting carrier which will make contract of the former binding on the latter. 52 L.R.A.(N.S.) 861.

Begin with this book on every law question.

PARTNERSHIP, I.—cont'd

Right of one ordered to produce books or papers to refuse on ground that they are in the hands of a partnership of which he is a member only. L.R.A. 1915B, 981.

Notice to one member of firm entitled to notice to redeem from tax sale. 44 L.R.A.(N.S.) 680.

§ 2. Between husband and wife. See Husband and Wife, § 54.

II. Creation; nature; requisites; what constitutes.

#### a. In general.

§ 3. Generally.

Proof against one of declarations of another to show partnership, see EVIDENCE, § 236.

Formation of, and transfer of property to, partnership as ground of attachment. 30 L.R.A. 487.

Partnership undertakings between initial and connecting carrier. 31 L.R.A. (N.S.) 44.

Effect on client's liability of formation of partnership by attorney after employment by client. 23 L.R.A.(N.S.) 707. Declarations of another to show. 20 L.R.A.

595.

Admissibility of partnership books of account to disprove partnership. 52 L.R.A. 834.

4. To deal in real estate.

Contracts by parol, for dealing in land, see CONTRACTS, § 41.

What constitutes a partnership to deal in real estate. 5 L.R.A.(N.S.) 503.

Power over real estate of partners in firm formed to deal in real estate. 28 L.R.A.

When real estate will be considered property of firm formed to deal in land. 27 L.R.A. 481; 37 L.R.A.(N.S.) 903.

Creation of partnership by speculative purchase of real estate for sale. 18 L.R.A. (N.S.) 1089.

Creation of partnership by provision for taking profits as compensation for use of real estate. 18 L.R.A.(N.S.) 1042.

§ 5. Liability of corporate stockholders as partners.

See CORPORATIONS, § 107.

b. Creation; what constitutes.

6. Generally. To deal in real estate, see supra, \$ 4.

Reputation as proof of partnership. L.R.A. 1918D, 505.

Contribution of property or services by two or more persons to a common enterprise under an agreement to divide the product or result in kind. L.R.A. 1918E, 912.

Consult also L.R.A. Digests of Cases.

PARTNERSHIP-cont'd § 7. Sharing in profits.

Effect of agreement to share profits to create. 18 L.R.A.(N.S.) 963.

Sharing profits in addition to salary or other compensation. L.R.A.1918F, 801.

III. Rights and powers of partners as to third persons.

§ 8. Generally.

After dissolution, see infra, §§ 31-34, 42. Power to make lease, see LANDLORD AND TENANT, § 10.

Power to give mortgage, see MORTGAGE, § 11.

Implied authority of partner to borrow money. 6 B. R. C. 819.

Power of one partner to assign partnership real estate for benefit of creditors. 28 L.R.A. 97.

Effect on right of individual partners of sale by firm of good will of business with or without an agreement not to reengage in the same business. 19 L.R.A. (N.S.) 769.

Extent of restriction on right of unlicensed person who is partner of licensed attorney to transact business for another. 24 L.R.A. (N.S.) 750.

Speculation in commodities as within the ostensible or implied authority of a member of a partnership operating a warehouse. 27 L.R.A.(N.S.) 1015.

§ 9. As to commercial paper. Liability on commercial paper, see infra, § 12.

After dissolution, see infra, § 32. Of surviving partner, see infra, § 45.

Power of one partner to bind firm by a promissory note or bill of exchange under seal. 17 L.R.A. (N.S.) 969.

Power of one partner to give note affecting partnership real estate. 28 L.R.A. 97. Circumstances sufficient to put a purchaser of partnership paper on inquiry. 29 L.R.A.(N.S.) 356; 44 L.R.A.(N.S.) 404; L.R.A.1918F, 1153.

IV. Liability of partners to third persons; rights of creditors.

### a. In general.

§ 10. Generally.

Rights of creditors in partnership real estate, see infra, § 24. After dissolution, see infra, § 36.

Actions against firm or partners, see infra,

§§ 52-56. Liability as partners of stockholders in illegal corporation, see Corporations, § 107.

Criminal responsibility for acts of partner, see CRIMINAL LAW, § 29; INTOXICATING Liquors, § 23.

Levy on partnership property for debt of partner, see LEVY AND SEIZURE, § 5. Ratification by partner, see RATIFICATION, 8 5.

Liability for trespass, see TRESPASS, § 9.

PARTNERSHIP, IV. a-cont'd

Right of individual partner who purchases the partnership property and assumes the partnership debts to claim exemp-tion as to the property purchased. L.R.A.1918D, 885.

Individual member of partnership as an "employer" within meaning of Work-Compensation Acts. L.R.A.

1918F, 180.

Partnership liability of stockholders of a foreign corporation in a state in which it is doing business. L.R.A.1917B, 574.

Right of creditor of individual partner or of his estate to appear in proceedings for the settlement of affairs of partnership. L.R.A.1917B, 1047.

Injunction against execution sale of property of. 30 L.R.A. 105.

Injunction against judgments by confession against partners. 30 L.R.A. 240. Liability of physician or surgeon for acts

of partner. 42 L.R.A.(N.S.) 786.

Effect of judgment against some of partners to release liability of others. 43 L.R.A.

Criminal and penal liability for act of partner. 41 L.R.A. 650.

Partnership debt as assets on appointment of member of firm as executor or administrator. 26 L.R.A.(N.S.) 414.

Admissibility of books of account containing entries to charge copartnership. 52 L.R.A. 693.

Liability of one party to an arrangement to share profits from gambling for money lost by a third person to the other party. 23 L.R.A. (N.S.) 522.

#### § 11. Attachment against firm or partner.

Attachment of individual property of one partner for fraud of another. 25 L.R.A. 645.

Formation of, and transfer of property to, partnership as ground of attachment. 30 L.R.A. 487.

Transfers and withdrawals by partners as ground of attachment. 30 L.R.A. 486. Right of partnership creditors to question

validity of attachment. 35 L.R.A. 769. Right to attach property in hands of assignee for creditors of partnership. 26 L.R.A. 600.

12. Liability on commercial paper. Authority of partner to execute commercial paper, see supra, § 9.

After dissolution, see infra, §§ 32, 39, 45.

Demand on firm for payment of note. 36 L.R.A. 704.

Availability to maker of defense that commercial paper was partnership paper as against transferee after maturity. 46 L.R.A. 771.

Right of one indorsing note for accommodation of firm to recover from firm after

payment of note. 37 L.R.A.(N.S.) 784. Right of one accepting negotiable paper for accommodation of firm to recover from firm after payment of paper. 37 Liability of partner for libel published with-L.R.A. (N.S.) 785.

PARTNERSHIP, IV. a-cont'd

Commercial paper as payment of partner-ship indebtedness. 35 L.R.A. (N.S.) 54. Note or other commercial paper of individual partner as payment of firm debt

which he had not previously assumed. 15 L.R.A.(N.S.) 1019; 51 L.R.A.(N.S.) 358.

Does the fact that a name signed to a bill or note below the signature of another obligor is that of a partnership raise a presumption that it is a surety only. 10 L.R.A.(N.S.) 426.

Individual partner who indorses note made by firm as "a person not otherwise a party" to the instrument within uniform negotiable instrument law. L.R.A.(N.S.) 225.

### § 18. Assumption by partnership of individual debts of partners.

Assumption of firm debts on dissolution, see infra, § 37.

The general rule. 29 L.R.A. 681.

The question of insolvency. 29 L.R.A. 685. The question of fraud. 29 L.R.A. 687.

Assumption held sufficient. 29 L.R.A. 688. Insufficient assumption. 29 L.R.A. 691.

By mortgage of firm property. 29 L.R.A.

By new firm of debts of old firm. 29 L.R.A. 694.

Assumption of debt originally incurred for firm benefit. 29 L.R.A. 694.

Right of action by third person on agreement to assume partnership debts. 25-L.R.A. 274.

#### § 14. Liability of partnership for torts.

In general. 51 L.R.A. 463.

Torts of partnership as an entity. 51 L.R.A.

Torts of individual member. 51 L.R.A. 469. Engaging in unlawful business. 51 L.R.A. 495.

Liability, joint and several. 51 L.R.A. 495. False representations by partner as to cost, selling or market price of property. 35-L.R.A. (N.S.) 185

Criminal responsibility for sale of intoxicating liquor by partner. 16 L.R.A. (N.S.) 786; 20 L.R.A. (N.S.) 321; 33 L.R.A. (N.S.) 419.

Liability of partner to action for false imprisonment for act of copartner. L.R.A.(N.S.) 221.

Liability of partner for malicious prosecution, false arrest, or false imprisonment by copartner in collecting a debt. 51 L.R.A.(N.S.) 473.

Liability of partnership for tort committed by partner or agent with the object of procuring business. 5 B. R. C. 88.

Suspension or disbarment of attorney for partner's misconduct in withholding client's money or property. 19 L.R.A. (N.S.) 418.

out his consent. 26 L.R.A. 779.

Begin with this book on every law question.

#### PARTNERSHIP, IV. -cont'd

### b. Insolvency or bankruptcy.

15. Generally.

Assignment for creditors by firm or partner, see Assignment for Creditors, § 2.

Partnership bankruptcy generally, BANKBUPTCY, § 5.

Effect of bankruptcy proceedings, see BANK-RUPTCY, § 11.

Discharge of partnership liability in individual proceedings in bankruptcy, see BANKRUPTCY, § 33.

Right of simple contract creditor of partnership to the appointment of a receiver of the property of his debtor. L.R.A.1918C, 632.

Criminal liability of partnership for receiving deposit in insolvent bank. L.R.A. 125.

Assumption of debts on dissolution of partnership as affecting rights to priority of payment. 9 L.R.A.(N.S.) 101.

Set-off in bankruptcy cases. 55 L.R.A. 41,

Claim in bankruptcy as remedy for breach of agreement to assume debts on dissolution. 9 L.R.A.(N.S.) 114.

Right of bankrupt to discharge as affected by act of partner or agent. 20 L.R.A. (N.S.) 785; 30 L.R.A.(N.S.) 623.

Discharge of partnership in bankruptcy as affecting liability of individual partners for partnership debts. L.R.A.1915F,

#### § 16. Of both partnership and its members

Double proof of claim against bankrupt estate of firm and individual partner. 39 L.R.A. (N.S.) 391.

Discharge of partnership liability in individual bankruptcy proceedings. L.R.A. 771; L.R.A.1918E, 470.

Provability of partnership debts in individual proceedings. 69 L.R.A. 772.

Effect of adjudication of bankruptcy of partnership to subject the separate estates of the partners to administration in bankruptcy. 5 L.R.A. (N.S.)

Adjudication of bankruptcy of member of firm as affecting rights of firm creditors against firm property. 30 L.R.A. (N.S.) 787.

Must individual partners, as well as firm, be insolvent in order to render the firm bankrupt or to avoid payment of a firm debt as a preference. 21 L.R.A. (N.S.)

#### § 17. Relative rights as between individual and firm creditors.

Assumption by insolvent partnership of individual debts of partners. 29 L.R.A. 685.

Application of partner's deposit on firm debt. 23 L.R.A. 111.

Use of firm property to discharge obligations of one partner. 29 L.R.A. 685; L.R.A. (N.S.) 650.

Consult also L.R.A. Digests of Cases.

PARTNERSHIP, IV. b-cont'd

Levy on partnership property for debt of partner. 46 L.R.A. 481.

Priority of executions for firm debts over executions for debt of partner. 46 L.R.A. 501.

Priority of firm creditors as against levy for an individual debt. 46 L.R.A. 494.

Position of individual creditors of partnership real estate. 28 L.R.A. 167.

Preference of firm over individual creditors in partnership real estate. 28 L.R.A. 165

Right of claim based on tort of a partnership to share with creditors of individual partners. 41 L.R.A.(N.S.) 1223.

Right of partnership, as against firm creditors, to sell or mortgage firm property to discharge or secure individual debt of one partner. 2 L.R.A.(N.S.) 256.

Right of creditors of ostensible partnership to a preference over individual creditors, where business is carried on by individual in a firm name. 31 L.R.A. (N.S.) 406.

Application of partnership assets with the consent of all the partners to the payment of an individual debt of a partner as a voidable preference under the bank-ruptcy act. 17 L.R.A.(N.S.) 1040.

Preference of firm creditor by a partner out of his own property as an act of bankruptcy by the firm. 16 L.R.A.(N.S.)

#### V. Partnership real estate.

§ 18. Generally.

Partnership to deal in real estate, see supra, § 4.

Oral contract for dealing in land, see Con-TRACTS, § 41.

Powers of personal representative of deceased partner as to, see EXECUTORS AND ADMINISTRATORS, § 14a.

Improvements on, see IMPROVEMENTS, § 6.

Power of one partner to assign for benefit of creditors. 28 L.R.A. 97.

Admissibility of parol evidence to identify grantees in deed to firm name. L.R.A. (N.S.) 157.

Insurance in name of partnership of property, the legal title of which is in the name of individuals. 40 L.R.A. (N.S.) 152.

Notice of title from use of land for partnership purposes. 13 L.R.A.(N.S.) 126.

May jurisdiction of suit to determine interests of partners in real property within state, rest upon constructive service upon nonresident. 52 L.R.A. (N.S.) 1061.

Notice to one member of firm entitled to notice to redeem from tax sale, 44 L.R.A.(N.S.) 680.

## § 19. When real estate considered as

partnership property. General doctrine. 27 L.R.A. 449; 37 L.R.A. (N.S.) 889.

The question of intention. 27 L.R.A. 455; 37 L.R.A.(N.S.) 891.

PARTNERSHIP, V.-cont'd The question of the legal title. 27 L.R.A.

460; 37 L.R.A.(N.S.) 892. Parol evidence. 27 L.R.A. 464; 37 L.R.A.

(N.S.) 898. 27 L.R.A. 468; 37 L.R.A. (N.S.) Trusts.

899. Equitable conversion. 27 L.R.A. 473; 37

L.R.A.(N.S.) 900. Out and out conversion. 27 L.R.A. 475. Reconversion. 27 L.R.A. 476.

Statute of frauds. 27 L.R.A. 477; 37 L.R.A. (N.S.) 902.

Form of conveyance. 27 L.R.A. 479; 37 L.R.A.(N.S.) 902.

When not considered personally. 27 L.R.A.

The question of notice. 27 L.R.A. 480; 37 L.R.A. (N.S.) 903.

Partnership formed for the purchase and sale of real estate. 27 L.R.A. 481; 37 L.R.A. (N.S.) 903.

Real estate acquired in payment of debts. 27 L.R.A. 482; 37 L.R.A. (N.S.) 903.

Real estate held under lease. 27 L.R.A. 483. The effect of improvements. 27 L.R.A. 484: 37 L.R.A.(N.S.) 904.

Land owned by partner prior to partnership. 27 L.R.A. 485.

Position of incoming partner. 27 L.R.A. 486; 37 L.R.A. (N.S.) 904.

Particular facts held sufficient to constitute real estate partnership property. L.R.A. 486; 37 L.R.A. (N.S.) 904.

Particular facts held insufficient to constitute real estate partnership property. 27 L.R.A. 492; 37 L.R.A. (N.S.) 905.

§ 20. Rights of partners inter se in. General rule as to partners' interest. 28 L.R.A. 86.

Powers of partners over partnership real estate. 28 L.R.A. 89.

How conveyed by partnership. 28 L.R.A.

Purchase by partner of firm property. 28 L.R.A. 99.

Purchase of deceased partner's interest. 28 L.R.A. 99.

Sale by partner of his interest to his copartners. 28 L.R.A. 99.

Right of partner, or majority of partners, to sell partnership real estate. L.R.A. 1918A, 927.

Effect of conveyance by partner. 28 L.R.A. 100.

Liability of the firm for partner's acts. 28 L.R.A. 101.

The question of ratification. 28 L.R.A. 101. Partner's right to reimbursement. 28 L.R.A. 102.

Equitable lien of partners. 28 L.R.A. 102. Partition of partnership real estate. L.R.A. 103.

Position of partner advancing purchase money. 28 L.R.A. 103.

Position of partner purchasing property at sheriff's sale. 28 L.R.A. 104. Position of new partner. 28 L.R.A. 104. Fraud by partner. 28 L.R.A. 104.

Estoppel of partner. 28 L.R.A. 105. Statute of limitations. 28 L.R.A. 105.

Begin with this book on every law question.

PARTNERSHIP, V.-cont'd

Tender of purchase money by partner. 28 L.R.A. 105.

Dormant partner. 28 L.R.A. 105.

Deceased partner's share. 28 L.R.A. 105. Homestead rights. 28 L.R.A. 105.

In partnership formed for the purchase and sale of land. 28 L.R.A. 106.

When partnership in lands continues after the death of a partner. 28 L.R.A. 106. The question of dissolution. 28 L.R.A. 106. Winding-up of firm. 28 L.R.A. 107.

Division by partnership prior to dissolu-tion. 28 L.R.A. 109. In Louisiana. 28 L.R.A. 109.

Right to purchase one partner's interest in real property belonging to partnership, without consent of other partners. 18 L.R.A.(N.S.) 1180.

§ 21. Deceased partner's widow's right of dower in.

General doctrine. 27 L.R.A. 340.

Must yield to partnership claims, liens, and accounts. 27 L.R.A. 343.

When dower attaches. 27 L.R.A. 345.

In lands purchased for the purpose of resale. 27 L.R.A. 346.

Effect of an agreement converting real estate into personalty. 27 L.R.A. 347. Right to dower in improvements. 27 L.R.A. 347.

When widow entitled to an equivalent. 27 L.R.A. 347.

Widow's right to retain possession. L.R.A. 347.

How affected by husband's private debts. 27 L.R.A. 347.

Homestead rights. 27 L.R.A. 347.

Right of widow to join in deed, action, or suit affecting such estate. 27 L.R.A. 347.

§ 22. Rights of heirs of deceased partner in.

The legal estate passes to the heir of a de-

ceased partner. 27 L.R.A. 348.

Nature of the title vested in the heirs.
27 L.R.A. 348.

The heirs bound to convey the legal title. 27 L.R.A. 349.

When a necessary party to suit relating to such lands. 27 L.R.A. 349.

When heirs not entitled. 27 L.R.A. 349.

As between the surviving partner and the heirs. 27 L.R.A. 350.

Power of the heirs as against the surviving partner. 27 L.R.A. 351.

As between the heir and personal represent-

atives of such deceased partner. L.R.A. 352.

Powers vested in executors and administrators of a deceased partner. 27 L.R.A. 352.

Ultimate position of the heirs. 27 L.R.A. 353.

§ 23. Position and powers of surviving partner in.

The position of a surviving partner. 28 L.R.A. 129.

Powers of the surviving partner. 28 L.R.A. 133.

PARTNERSHIP, V.-cont'd

To mortgage. 28 L.R.A. 134; 3 B. R. C. 577.

With respect to leasehold property. L.R.A. 135.

Effect of conveyance by. 28 L.R.A. 135.

As between the survivor and personal representatives of a deceased partner. 28 L.R.A. 136.

Injunction against survivor. 28 L.R.A. 137. Rights in partnership real estate as between surviving partner and heirs of deceased partner. 27 L.R.A. 350.

Power of heirs of deceased partner in real estate as against surviving partner. 27 L.R.A. 351.

§ 24. Rights and position of creditors, purchasers, and other third parties: in.

Rights of creditors of the firm. 28 L.R.A. 161.

Preference of firm over individual creditors. 28 L.R.A. 165.

The position of the individual creditors of a partner. 28 L.R.A. 167.

The position of mortgagees. 28 L.R.A. 170. The position of judgment creditors. L.R.A. 170.

The position of purchasers. 28 L.R.A. 172. From the firm. 28 L.R.A. 172.

The question of notice. 28 L.R.A. 174.

Levy on real estate for debt of partner. 46 L.R.A. 494.

# VI. Rights and liabilities as between partners.

🖁 25. Generally.

With respect to partnership real estate, see supra, § 20.

After dissolution, see infra. §§ 31-35.

Accounting between partners, see infra, §§ 50, 5Î.

Actions between partners, see infra, § 57. Contribution between partners, see Con-TRIBUTION, § 4.

Transfer of interest to copartner as change in ownership of insured property, see Insurance, § 70.

Equitable lien of partner, see Liens, § 7.

Effect of failure to aid in joint enterprise or partnership to exclude from participation in the profits thereof. L.R.A. 1918B, 678.

Implied authority of partner to borrow money. 6 B. R. C. 819.

Right of partner or majority of partners to sell all or substantially all of the firm L.R.A.1918A, 927.

Action at law between partners, based on conversion of firm property. L.R.A.

1918F, 1125. Measure of damages for breach of contract of partnership. 51 L.R.A. (N.S.) 81.

Right of partners to buy from and sell to each other. 3 L.R.A. 770.

Right of partner to locate mining claim. 7 L.R.A.(N.S.) 817.

Right of one partner to acquire individual claim against the other. 28 L.R.A. Statutes as to continuing firm name. 15 (N.S.) 619.

Consult also L.R.A. Digests of Cases.

PARTNERSHIP, VI.—cont'd

Right of partner to take renewal of lease in his own name and exclude copartner. 32 L.R.A.(N.S.) 869.

Warranty as inducement to copartner to enter into a contract, as a promise to indemnify. 15 L.R.A.(N.S.) 1151.

Arbitrary or mala fide termination of partnership as basis of action for tort. 25 L.R.A. (N.S.) 959.

Rights of partners as affected by sale of trademark. 1 L.R.A. (N.S.) 722.

May the right of a partner to inspect the books of the firm be delegated to an agent. 2 B. R. C. 976.

Loss of profits as element of damages for breach of contract relating to partnership. 53 L.R.A. 81.

Member of partnership as "employee" with-in meaning of Workmen's Compensation Acts. L.R.A.1918F, 204.

26. Right of subrogation.

Right to subrogation of partner who pays firm debt. 54 L.R.A. 614.

Of retiring partner to rights of creditor where debts have been assumed on thissolution of partnership. (N.S.) 117. 9 L.R.A.

§ 27. Compensation for services.

As between members of law firm, see ATTOR-NEYS. § 19.

Right of partner to. 17 L.R.A. (N.S.) 385; L.R.A.1917F, 575.

§ 28. Right to interest against copart-

On accounting, see infra, § 51.

Allowance of interest in favor of or against partner during continuance of firm. 35 L.R.A. (N.S.) 220.

# VII. Dissolution or change in personnel; accounting.

# a. In general.

29. Generally.

Effect of dissolution on good will, see Good Will, § 4.

Change in partnership interest as change in ownership of insured property, see INSURANCE, § 70.

Effect of war between countries of respective parties. L.R.A.1917C, 669.

Dissolution of partnership by reason of formation of corporation. 31 L.R.A. (N.S.) 471.

Physical or mental incapacity of partner as dissolution, or a ground for dissolution. 47 L.R.A. (N.S.) 839.

Question of dissolution of firm owning real

estate. 28 L.R.A. 106.
Winding up of firm owning real estate.
28 L.R.A. 107.

Position of new partner as to partnership real estate. 28 L.R.A. 104.

L.R.A. 466.

PARTNERSHIP, VII. a-cont'd

Duty of partnership toward employees as to changes of personnel of partnership. 6 L.R.A. 807.

Admissibility in evidence of entries in books of account by liquidating partner. 52 L.R.A. 846.

§ 30. Notice of.

Necessity for notice of dissolution to prevent continuing partner from reviving barred debt. 15 L.R.A. 659.

Necessity of actual notice of retirement of member of firm to relieve retiring member from liability on obligation renewed after his retirement. 4 L.R.A.(N.S.)

31. Rights and powers of partners. Actions between partners after dissolution see infra, § 57.

Power to interrupt limitations after dis solution, see LIMITATION OF ACTIONS. § 62.

Power to revive firm debt after dissolution. 15 L.R.A. 656.

Right of subrogation of partner who pays firm debt after dissolution. 54 L.R.A. 617.

Division of partnership assets where one partner contributes services only. L.R.A.1917E, 877.

Where partnership is dissolved by breaking out of war between countries of respective parties. L.R.A.1917C, 669.

32. - as to commercial paper.

Power of member of dissolved firm to bind other members by a note given in payment of a firm debt. 32 L.R.A. (N.S.) 255.

Revival of partnership debt after dissolution by one partner giving note. 15 L.R.A. 660.

Assumption of debts on dissolution of partnership, by new firm's note for. L.R.A.(N.S.) 65.

Acceptance of note for old debt on dissolution of firm as indicating creditor's consent to assumption. 9 L.R.A. (N.S.)

Acceptance of note of partner assuming debts on dissolution of firm as release of other partner. 9 L.R.A.(N.S.) 92.

33. — as to good will.

Name of business establishment as part of good will on dissolution. 15 L.R.A.

\$ 34. - of liquidating or continuing partner.

Power of liquidating partner to revive firm debt. 15 L.R.A. 660.

Power of continuing partner over partner-ship real estate. 28 L.R.A. 98.

§ 35. — right to compensation.

Right of partner to compensation for services in winding up firm business. L.R.A.(N.S.) 396; L.R.A.1917F, 576.

PARTNERSHIP, VII. a-cont'd

§ 36. Liabilities of partners generally. Liability under continuing guaranty run-ning to, for goods sold or credits extended after a change in the firm. 14 L.R.A.(N.S.) 1231.

Liability of retiring member of mining partnership for debts subsequently incurred.

22 L.R.A.(N.S.) 851.

Liability of one who sells business, for supplies subsequently furnished therefor on credit, while it is being conducted under the same name. L.R.A.1915F, 711.

Liability of corporation formed by firm for debts of old concern in absence of express assumption or fraud. 29 L.R.A. (N.S.) 589.

Specific performance of contract to give security to one partner against liabilities of firm. 6 L.R.A.(N.S.) 591.

§ 37. Assumption of debts.

Assumption of individual debts by firm, see supra, § 13.

Assumption of debts on dissolution of partnership. 25 L.R.A. 274; 9 L.R.A. (N.S.) 49; 48 L.R.A. (N.S.) 547.

Right of action by third person on agreement to assume partnership debts. 25 L.R.A. 274.

Assumption by new firm of debts of old firm. 29 L.R.A. 694.

§ 38. Effect of dissolution generally. Dissolution of partnership authorized to act as agent as termination of agency. 23 L.R.A.(N.S.) 849; L.R.A.1915C, 576.

On taxation of partnership property. L.R.A. 478.

§ 39. Matters as to commercial paper. Power of partner as to, see supra, § 32. By surviving partner, see infra, § 45.

Effect of naming dissolved firm as payee in negotiable instrument. 22 L.R.A. (N.S.) 501.

Commercial paper after dissolution of partnership as payment of firm debt. 35 L.R.A.(N.S.) 55.

# b. By death.

# In general,

40. Generally.

Continuation of partnership owning real estate after death of partner. 28 L.R.A. 106.

Name of business establishment as part of good will on dissolution by death. 15 L.R.A. 463.

Dissolution by death, of partnership authorized to act as agent, as termination of agency. 23 L.R.A.(N.S.) 850.

Termination of contract of employment by death of member of employing firm. 21 L.R.A. (N.S.) 919.

# PARTNERSHIP, VII. b-cont'd

# 2. Surviving partner.

§ 41. Generally.

Admissibility in evidence of entries in books of account by surviving partner. 52 L.R.A. 846.

§ 42. Rights and powers of surviving

Position and powers of, with respect to partnership real estate, see supra, § 23.

Validity of agreement that surviving partner shall have the partnership business or property. L.R.A.1918B, 907.

Right of subrogation of partner who pays firm debt after death of copartner. 54 L.R.A. 621.

Surviving partner as creditor of firm. 28 L.R.A. 132.

Right of surviving partner to purchase additional goods in closing up business. L.R.A.1917C, 170.

§ 43. — right to compensation. Right to compensation. 17 L.R.A.(N.S.) 399; L.R.A.1917F, 577.

\$ 44. Duties of. Duties of. 7 L.R.A. 790.\*

§ 45. Commercial paper by. Note by, as payment of firm indebtedness. 35 L.R.A.(N.S.) 54.

# 3. Estate of deceased partner.

🕯 46. Generally.

Rights of estate of law partner in compensation for business unfinished at time of his death. 66 L.R.A. 821.

Contingency of partner's claim for contribution as affecting presentation of claim against deceased partner's estate. 58 L.R.A. 89.

🕻 47. Rights as to real estate.

Deceased partner's widow's right of dower in partnership real estate, see supra, § 21.

Rights of heirs of deceased partner in partnership real estate, see supra, § 22. Powers of personal representative, see infra,

Purchase of deceased partner's interest in real estate. 28 L.R.A. 99.

§ 48. Powers of personal representative.

See EXECUTORS AND ADMINISTRATORS, § 14.

§ 49. — as to real estate. See Executors and Administrators, § 14a.

# c. Accounting.

§ 50. Generally.

Statement of accounts. 27 L.R.A. 820.

Division of partnership assets where one partner contributes services only. L.R.A.1917E, 877.

Consult also L.R.A. Digests of Cases.

PARTNERSHIP, VII. e-cont'd

Accounting and contribution between members of partnership which is illegal or which has been engaged in illegal business. 23 L.R.A. (N.S.) 478; L.R.A. 1917A, 446.

Effect of retention of statement of account by partner to render it an account stated. 29 L.R.A.(N.S.) 341.

Jurisdiction of court of equity over suit for a partnership accounting in respect of land in another jurisdiction. 23 L.R.A. (N.S.) 924.

Failure to account to partnership for partnership funds as theft, larceny, or embezzlement. 31 L.R.A. (N.S.) 822.

Liability of one party to an arrangement to share profits from gambling for money lost by a third person to the other party. 23 L.R.A.(N.S.) 522.

Duty to account for profits realized from transactions independently of firm. 52 L.R.A.(N.S.) 389.

Duty to account for premiums paid for insurance on the life of a partner. L.R.A. 1918B, 336.

Right of creditor of individual partner or of his estate to appear in proceedings for the accounting and settlement of the partnership estate. L.R.A.1917B, 1047.

Right of one partner to maintain action for conversion against another in absence of accounting. L.R.A.1918F, 1125.

§ 51. Right to interest.

Allowance of interest in partnership accounting. 9 L.R.A. 425.\*

#### VIII. Actions; judgments.

# a. In general,

§ 52. Generally.

Partnership books of account as evidence, see Evidence, § 140.

Partners as parties defendant, see Parties, § 29.

Heirs of partner as parties defendant, see Parties, § 30.

Partner or partnership as real party in interest by whom action must be brought. 64 L.R.A. 612.

Defenses in action for debts assumed on dissolution of partnership. 9 L.R.A. (N.S.) 111.

Exhaustion of remedy as to partners as condition precedent to creditors' bill. 23 L.R.A.(N.S.) 99, 100, 110, 111.

Removal, because of separable controversy, of actions on partnership liability. 5 L.R.A.(N.S.) 98.

§ 53. Erroneous description in process. Effect of erroneously describing defendant in process as a corporation instead of an individual or partnership. 40 L.R.A. (N.S.) 566.

PARTNERSHIP, VIII. a-cont'd

§ 54. Service of process.

Validity of constructive service upon partnership in firm name. 29 L.R.A.(N.S.) 287.

Injunction against judgment for matters relating to. 31 L.R.A. 206.

§ 55. Suit in firm name.

May a partnership sue or be sued in the firm name. 29 L.R.A.(N.S.) 282.

§ 56. Judgment.

Form of judgment under statute permitting action to proceed upon service of less than all the partners. 43 L.R.A. (N.S.) 540.

Constitutionality of statute authorizing personal judgment against joint debtors upon personal service upon one or more. 50 L.R.A. 595.

Who may have judgment against partners set aside. 54 L.R.A. 763.

Injunction against, for matters relating to service. 31 L.R.A. 206.

Injunction against judgment entered against partners on confession. 30 L.R.A. 240.

# b. Suits between partners.

§ 57. Generally.

Accounting between partners, see supra, §§ 50, 51.

Effect of arbitration agreements between partners. 47 L.R.A.(N.S.) 373.

Power to sue partner with respect to partnership real estate. 28 L.R.A. 98.

Partnership earnings of ship; admiralty jurisdiction. 68 L.R.A. 235.

Garnishment of uncertain amount due from one partner to the other. 59 L.R.A. 377.

Right of one partner of dissolved firm to maintain action at law against another for fraud practised upon dissolution with respect to assets. 6 L.R.A. (N.S.) 263.

Arbitrary or mala fide termination of partnership as basis of action in tort. 25 L.R.A. (N.S.) 959.

Right to invoke aid of court to determine rights to property accumulated in common by parties living in illicit relations. 36 L.R.A.(N.S.) 838.

Right of one partner to maintain action for conversion against another in absence of accounting. L.R.A.1918F, 1125.

Right to arrest partner in civil action or proceeding. 4 L.R.A. (N.S.) 130.

Removal of action because of separable controversy. 5 L.R.A.(N.S.) 87.

# IX. Limited partnership.

§ 58. Generally.

Exhaustion of remedy at law as condition precedent to creditors' bill against special partnership. 23 L.R.A.(N.S.) 111. Admissibility of partnership books of ac-

Admissibility of partnership books of account against special partner. 52 L.R.A. 841.

Begin with this book on every law question.

# PART OWNER.

Right of municipality to be. 35 L.R.A. 737.

# PART PAYMENT.

See PARTIAL PAYMENT.

#### PART PERFORMANCE.

To take contract out of statute of frauds, see Contracts, §§ 55-59.

Effect of part performance of contract generally, see Contracts, §§ 129, 137, 138.

Servant's right to wages in case of, see MASTER AND SERVANT, §§ 25, 26.

Effect of, on right to specific performance of contract, see SPECIFIC PERFORMANCE, § 13.

#### PARTY EMBLEM.

On ballots, see Elections, § 19.

# PARTY TICKET.

When does vacancy in party ticket cour within statute authorizing the filling of vacancies. 41 L.R.A.(N.S.) 1088.

# PARTY WALL.

§ 1. Generally.

Constitutionality of statutes as to, see Constitutional Law, § 132.

Covenant as to, running with the land. 2 L.R.A. (N.S.) 87.

Privity of estate between adjoining ewners in. 66 L.R.A. 683.

Liability of insurer for value of. 20 L.R.A. (N.S.) 226.

Employer's liability for injury to adjoining owner through independent contractor's negligent execution of work connected with 65 L.R.A. 851.

with. 65 L.R.A. 851.
Employer's liability for independent contractor's delay in rebuilding. 66
L.R.A. 154.

Liability of landlord where tenant's property is damaged through interference with party wall of adjoining owner under agreement with landlord. 24 L.R.A.(N.S.) 424.

Liability of part owner to other owner for damages from fall of, or injury to, party wall. L.R.A.1915E, 926.

§ 2. Use of; easement in.

52 Creation of easement of, by severance of tract of land. 26 L.R.A.(N.S.) 366.

PARTY WALL—cont'd

Acquisition, by prescription, of party-wall easement in common division wall. 18 L.R.A.(N.S.) 131.

Effect of destruction of building to terminate adjoining owner's easement of support. 19 L.R.A. (N.S.) 883; 46 L.R.A. (N.S.) 1021.

Effect of extending boundary wall onto adjoining property beneath the surface, upon right of adjoining owner to use it. 11 L.R.A.(N.S.) 924.

Right to open windows, or other apertures, in a party wall. 10 L.R.A. (N.S.) 1191.

Right to close windows or other apertures in party wall. 49 L.R.A.(N.S.) 194.

Closing or opening windows or other apertures in party wall as an eviction of tenant. 49 L.R.A.(N.S.) 369.

Right to use party wall for purposes other than a building or structure. 16 L.R.A. (N.S.) 434.

§ 3. Destruction of, or addition to. Right of one party to raise height of. 20 L.R.A.(N.S.) 386.

Liability of part owner to other owner for damages from fall of. L.R.A.1915E,

4. Contribution to cost of.

What use of party wall will render adjoining owner liable to contribute to cost. 6 B. R. C. 456.

Utilization by lessee of party wall as affecting lessor's duty to contribute to cost

thereof. L.R.A.1917B, 960.

Duty of lessor to reimburse lessee for amount which latter contributes to cost of party wall. 24 L.R.A. (N.S.)

Is mere existence of party wall sufficient to charge grantee with notice of agreement by predecessor to contribute to cost in event of using wall. 24 L.R.A. (N.S.) 1038.

§ 5. — enforcement of obligation to contribute to cost of, by or against grantees, or successors in title.

In general. 66 L.R.A. 674.

Obligation based on contract. 66 L.R.A. Noncontractual obligations. 66 L.R.A. 705.

PASS.

See CARRIERS, §§ 23, 29.

# PASSAGE.

Of statute, see STATUTES, §§ 3-7. Consult also L.R.A. Digests of Cases.

#### PASSAGEWAY.

Mandatory injunction for removal of obstructions to. 20 L.R.A. 162.

Right to, as way of necessity where other possible modes of access exist. L.R.A. (N.S.) 1023.

Landlord's liability as to condition of. 23

L.R.A. 155; 3 L.R.A. (N.S.) 316. Municipal liability for defects or obstructions in passageways in public buildings. 20 L.R.A.(N.S.) 573.

Abutting owner's right to continue enjoyment of, across highway. 12 L.R.A. (N.S.) 918.

Duty to keep clear passageways in theater. 42 L.R.A.(N.S.) 1075; L.R.A.1915F, 698.

#### PASS BOOKS.

Negligence in examination of, see BANKS, §

Admissibility of, in evidence. 52 L.R.A. 602.

Deposit entries in, as contracts within the rule against parol evidence to vary or contradict written contracts. L.R.A. 1918B, 300.

Right to withdraw deposit from savings bank without presenting. 46 L.R.A. (N.S.) 194.

# PASSENGER.

See Automobiles; Carriers, III.; Eleva-TORS, II.

#### PASSENGER ELEVATORS.

See ELEVATORS, §§ 2-8.

# PASSENGER TRANSFER CO.

Right of carrier to grant exclusive train privilege to. 32 L.R.A.(N.S.) 1181; L.R.A.1917F, 1085.

# PASSION.

Responsibility for crime committed in fit of, see CRIMINAL LAW. § 11. Homicide in heat of, see Homicide, § 32.

proof of incapacity of testator. 27 L.R.A.(N.S.) 61.

# PASSIVE NEGLIGENCE.

Liability to trespasser or bare licensee for active as distinguished from passive negligence. 36 L.R.A. (N.S.) 492.

#### PASS WAY.

See PASSAGEWAY.

# PAST DUE DEBT.

Does last payment on past due debt secured by mortgage, which debt subsequently becomes barred, fix the period from which the limitation applicable to the mortgage is to be computed. 11 L.R.A. (N.S.) 744.

#### PASTEURIZATION.

Validity of regulations as to pasteurization of milk. L.R.A.1917C, 249.

#### PAST LEGAL CONSIDERATION.

Moral obligation arising from, as consideration for promise. 53 L.R.A. 371; 26 L.R.A. (N.S.) 526.

# PAST OFFENSE.

Liability of officer making arrest for. 51 L.R.A. 211.

#### PASTOR.

See Religious Societies, §§ 6-9.

# PAST SERVICES.

Moral obligation arising from, as consideration for promise. L.R.A. (N.S.) 526. 53 L.R.A. 373; 26

# PAST SUPPORT.

Moral obligation arising from, as consideration for promise. 53 L.R.A. 305, 358; 26 L.R.A. (N.S.) 520.

#### PATENTABILITY.

Of invention, see PATENT, II. Begin with this book on every law question,

#### PATENT AMBIGUITIES.

As to land in will, correction of. 6 L.R.A. (N.S.) 942; L.R.A.1915E, 1008.

# PATENT MEDICINE.

Misrepresentation as to, as affecting validity of trademark. 19 L.R.A. 55.

Validity and effect of statutes prohibiting or regulating sale of. 30 L.R.A.(N.S.)

#### PATENT RIGHTS.

See PATENTS.

# PATENTS.

I. In general, §§ 1-5.

II. Patentability of inventions; interference, \$\$ 6-10.

III. Sale; license; assignment, §§ 11-14.

IV. Infringement, \$\$ 15-17.

# I. In general.

§ 1. Generally.

Validity of contract as to, see CONTRACTS, § 85.

Rights in, as between master and servant, see Master and Servant, § 13.

Monopolies in patented articles, see Monopolies and Combinations, § 12.
To public lands, see Public Lands, § 19.

Tax on patent rights, see Taxes, § 28.

Amortization of patent rights in estimat-ing return of a public service corporation for rate-making purposes. L.R.A.(N.S.) 50.

Treatment of cost of patent rights in estimating the return of a public service corporation, for rate-making purposes. 52 L.R.A.(N.S.) 70.

Improper use of word "patent" as affecting validity of trademark. 19 L.R.A. 54. Effect of Federal anti-trust law on patents. 64 L.R.A. 713.

Restraint of trade in patented articles. 22 L.R.A. 674.

Inspection of patent records. 27 L.R.A. 85. Payment for corporate stock with unpatented formula or invention. 16 L.R.A.(N. 8.) 520.

As affecting bid on public contracts. 5
L.R.A. (N.S.) 680.

Validity of contract for material patented

or held in monopoly where a letting to the lowest bidder is required. 46 L.R.A.(N.S.) 990; L.R.A.1917A, 442.

Suits against officers relating to patents, as suits against the state. 44 L.R.A.

(N.S.) 217.

PATENTS, I.—cont'd

As an element in taxation of capital stock

of corporation. 58 L.R.A. 564. Conclusiveness of judgment as between plaintiff and one not a party nor privy who voluntarily conducted defense in patent case. 37 L.R.A.(N.S.) 966.

Insurance against loss of royalties. L.R.A. 1917C, 728.

§ 2. Duration of.

First and last days in computing time for expiration of. 49 L.R.A. 246.

§ 3. Rights after expiration of. Right to use of name on expiration of. 16 L.R.A. (N.S.) 550; 1 B. R. C. 649.

§ 4. Notes for patent right. Notes for patent rights. 20 L.R.A. 605. Right of bona fide holder of note given for patent right that does not indicate its consideration as required by statute. 10 L.R.A.(N.S.) 842.

Effect of knowledge of consideration by purchaser of a note given for a patent right which did not indicate the nature of its consideration as required by statute. 24 L.R.A.(N.S.) 1057.

Circumstances sufficient to put purchaser of notes given for patents upon inquiry. 29 L.R.A.(N.S.) 385.

5. Jurisdiction.

Question relating to, as Federal question. 62 L.R.A. 538,

As to administration of Federal laws in state courts, generally. 48 L.R.A. 33.

# II. Patentability of inventions; interference.

§ 6. Generally.

Patentability of method of transacting business apart from the means for carrying it out. 24 L.R.A.(N.S.) 665.

7. Utility. Utility of invention. 5 L.R.A. 784.\*

§ 8. Combinations. For combination. 12 L.R.A. 107.\*

§ 9. Anticipation; prior knowledge or use.

Prior use or sale of invention as affecting right to patent. 1 L.R.A. 48.\*

10. Interference.

Effect in collateral proceeding of decision of patent office on issue of interference. 24 L.R.A. (N.S.) 948.

# III. Sale; license; assignment.

# 11. Generally. Notes for patent right, see supra, § 4 License to use patent or patented article, Forfeiture of license by aiding infringement. ace LICENSE, § 3. Consult also L.R.A. Digests of Cases.

PATENTS, III.—cont'd Specific performance of contract as to./ L.R.A.1918E, 617.

Reliance on fraudulent statements as to patent. 37 L.R.A. 613.

Contract by municipality for use of. 18 L.R.A. 45.

Validity of sale of patent right in violation of law. 12 L.R.A.(N.S.) 599.
Implication from use of patented article,

of promise to pay royalty. 44 L.R.A.(N.S.) 333.

Validity and effect of agreement to pay royalties on device not in fact covered by a patent, but assumed to be so covered. 14 L.R.A.(N.S.) 274.

Right to sell or use article covered by domestic patent, which is imported from

foreign country. 27 L.R.A.(N.S.) 534. Forfeiture of license by aiding infringement or attempt to defeat patent. 37 L.R.A. (N.S.) 821.

Right of purchaser to make alterations in patented article. 3 B. R. C. 337.

# § 12. Restrictions imposed on purchaser.

Right of purchasers to sell or use, free from restrictions affecting it in hands of vendor. 55 L.R.A. 633.

Validity of contract seeking to control price at which a patented article shall be resold. 27 L.R.A.(N.S.) 401; 51 L.R.A.(N.S.) 522; L.R.A.1917A, 1236.

§ 13. Power of state to restrict or regulate sale or enjoyment of patent right.

As to sales. 29 L.R.A. 786.

Police regulations of other business in which patents are used. 29 L.R.A. 791. Restricting right of action for infringement. 29 L.R.A. 792.

Taxation of patent rights. 29 L.R.A. 792; 57 L.R.A. 57.

§ 14. Assignment.

Agreement to assign future inventions on sale of patent. 2 L.R.A.(N.S.) 1094. Assignment of patent rights by employee.
5 L.R.A.(N.S.) 1180.

Validity of note for patent right where assignment is defective. 20 L.R.A. 606.

# IV. Infringement.

15. Generally.

Measure of damages for, see DAMAGES, §§ -10, 95, 112.

Injunction against, see Injunction, II. o.

Effect of omitting patented mark. L.R.A. 449.

Power of state to restrict right of action for infringement. 29 L.R.A. 792.

Manufacture and sale of a part which in itself is unpatented, as infringement of a combination patent of which such part is an essential element. 23 L.R.A. (N.S.) 1027.

37 L.R.A.(N.S.) 821.

PATENTS, IV .- cont'd

Conclusiveness of testimony of experts in patent cases. 42 L.R.A. 770.

Decree against infringement as affecting right of patentee to proceed against purchasers of the infringing articles. L.R.A.1915F, 1101.

Judgment as to validity of patent as res judicata between same parties in actions for infringement. 6 B. R. C. 724.

§ 16. Who liable for. Liability of officers of a corporation for. 28 L.R.A. 423.

Liability of county for. 39 L.R.A. 73. Liability of school district or corporation for infringement. 49 L.R.A. (N.S.) 1031.

17. Of unpatented article.

Right to protection against use by rival of similar design, shell or pattern not pro-tected by patent. 19 L.R.A.(N.S.) 269; 37 L.R.A.(N.S.) 259.

Unfair competition in sale of article not protected by a patent identical with that originated by competitor. 17 L.R.A. (N.S.) 448.

#### PATERNITY.

Exhibition of child in bastardy proceedings for purpose of determining. L.R.A. 1917B, 1148.

# PATTENT.

In general, see Physicians and Surgeons. hiability for detaining patient at hospital against his will. L.R.A.1915D, 611.

#### PATRIOTIC SOCIETY.

Exemption of property of, from taxation. 26 L.R.A.(N.S.) 707.

#### PATROL.

Liability of fire insurance patrol for injuries. 21 L.R.A.(N.S.) 810.

#### PATRON.

Of places of amusements, see AMUSE-

Of inn or restaurant, see INNKEEPERS. Of livery stable, see LIVERY STABLE.

Right of vendor of business and good will to solicit customers from patrons of business sold. 19 L.R.A.(N.S.) 767.

PATRON-cont'd

Liability of employer for malicious act of servant towards. 4 L.R.A. (N.S.) 485. Liability for injury to clothing worn by. 43 L.R.A.(N.S.) 328.

Right of individual patron to question reasonableness of rate of public utility if within limits of legislative authority. L.R.A.1918A, 389.

# PATRONAGE.

Solicitation of, at railway station, see CAR-RIERS, §§ 150-153.

Right of one selling good will of professional practice to solicit patronage of for-mer clients. 10 L.R.A. (N.S.) 1209.

# PATTERN.

Right to protection against use by rival of similar pattern not protected by patent. 19 L.R.A. (N.S.) 269; 37 L.R.A. (N.S.) 259.

#### PAUPER.

See Poor and Poor Laws.

# PAUPER'S OATH.

Right to release pending appeal from conviction upon taking pauper's oath. L.R.A.1916F, 106.

# PAVEMENTS.

See Public Improvements.

# PAVILION.

Power of municipality to construct. 26 L.R.A. (N.S.) 425.

# PAWNBROKERS.

Municipal regulation of. 32 L.R.A. 117. Municipal power over business of, as nui-sance. 38 L.R.A. 657.

Constitutionality of statute limiting hours of pawnbrokers' business. 44 L.R.A. (N.S.) 1039.

# PAYMASTER.

Effect of insertion of unauthorized provisions in bond of. L.R.A.1917B, 990. Penalty as limit of liability on bond of. 55 L.R.A. 393.

#### PAYMENT.

I. In general, §§ 1-5.

II. Medium of, \$\$ 6-11.

III. By and to whom, §\$ 12-16.

IV. Time and place, \$\$ 17, 18.

V. Application of, \$\$ 19-22.

VI. Effect of, § 23.

# I. In general.

§ 1. Generally.

Of checks by bank, see BANKS, §§ 23-25a. Of bill or note, see BILLS AND NOTES, §§ 58-

Of checks generally, see CHECKS, § 8.

Of wages, constitutionality of legislation as to, see Constitutional Law, § 86.

Of stock subscriptions, see Corporations, §§ 81, 81a, 106.

Of compensation in eminent domain proceedings, see EMINENT DOMAIN, § 39.

Of execution, see EXECUTION, § 11.

Of debts of decedent's estate, see Execu-TORS AND ADMINISTRATORS, § 45.

Of insurance premiums or assessments, see INSURANCE, §§ 112-115.

Of judgment, see JUDGMENT, §§ 74-77.

Of wages, generally, see MASTER AND SERV-ANT, II. g.

Of mortgage, see MORTGAGE, VI.

Of part of cost of party wall, see PARTY WALL, §§ 4, 5.

Of purchase money, see PURCHASE MONEY, §§ 2, 3.

Of tax, see Taxes, §§ 64, 65.

Of usury, see Usury.

Of legacy, see WILLS, § 108.

For service of police, see Police, § 3.

For use of telephone, see TELEPHONES, § 7. For water, enforcement of, see WATERS, §§ 116, 117.

Recovery back of generally, see ASSUMP-SIT, II.

Recovery back of money paid out by bank, see Banks, §§ 28, 29.
Recovery back of taxes paid, see Taxes,

§§ 86, 87.

As condition precedent to bringing of suit, see ACTION OR SUIT, § 11.

Requiring payment in advance, see ADVAN-CES, § 6.

Stopping payment of check, see BANKS, § 25a.

Paying out deposits, generally, see BANKS, § 27.

Presentment of bill or note for payment, see BILLS AND NOTES, §§ 43-53.

Compelling payment of costs, see Costs AND Fres, § 10.

Consult also L.R.A. Digests of Cases.

PAYMENT, I.—cont'd

Default in, see DEFAULT.

Demand for, see DEMAND, § 2. Presumption and burden of proof as to, see EVIDENCE, § 108.

Guaranty of, see GUARANTY.

Ignorance of party making, see Ignorance,

Intent as to, see INTENT, § 10.

Partial payment, see Partial Payment.

Preference in, see Preference.

Priority in, see PRIORITY. Tender of, see TENDER.

Banking customs as to. 21 L.R.A. 440.

Of withdrawals from loan association. L.R.A. 294.

Of fines in loan association. 35 L.R.A. 221. Of fees to witnesses. 39 L.R.A. 121.

Liability of attorney to client for mistake as to. 52 L.R.A. 890.

Effect of executor's promise as to payment of legacy on trust relations of legatee. 9 L.R.A.(N.S.) 214.

Equitable relief against forfeiture of grant or devise on condition of payment of money. 69 L.R.A. 842.

Actual payment of attorney's fees for dissolving injunction as essential to recovery on injunction bond. 16 L.R.A. (N.S.) 76.

Admissibility of parol evidence that written instrument for payment of money was executed in reliance upon parol promise that payment was subject to a condition not incorporated therein. 18 L.R.A. (N.S.) 434.

Of consideration as a condition precedent to suit for specific performance of, a contract consummated by exercise of an option. 24 L.R.A.(N.S.) 91.

Effect of creating testamentary trust for payment of debts. 5 L.R.A. (N.S.) 355.

Assumption of debts on dissolution of partnership by taking assets subject to, or for purposes of payment of debts. 9 L.R.A.(N.S.) 66; 48 L.R.A.(N.S.) 550.

Right to open default judgment to let in defense of payment. L.R.A.1916F, 854.

# 2. What constitutes generally.

Effect of judgment against garnishee to merge or satisfy liability of principal debtor. 47 L.R.A. 131.

Effect of appointment of debtor as executor or administrator to discharge debt or charge personal representative and his sureties. 26 L.R.A. (N.S.) 411.

Effect of intermarriage between debtor and creditor upon indebtedness. 21 L.R.A. (N.S.) 683; L.R.A.1915D, 1126.

Payment to administrator as discharge of debt when will is subsequently discovered and probated. 17 L.R.A. (N.S.) 878.

Work in fitting up for delivery as payment of price to take contract out of statute of frauds. 15 L.R.A.(N.S.) 654.

Deposit of money by debtor in mail or with carrier as a payment. L.R.A.1918A, 534.

PAYMENT, I.—cont'd

§ 3. Compelling payment; penalty for delay.

Mandamus to compel payment of municipal debt by custodian of municipal funds. 14 L.R.A. 773.

Right to refuse telephone service to coerce payment of bill. 30 L.R.A.(N.S.) 1027.

Right of public service corporation to impose penalty or added amount for failure to pay service bills promptly. 31 L.R.A.(N.S.) 329; 43 L.R.A.(N.S.) 63.

Discontinuing service to compel payment of water bills. 31 L.R.A.(N.S.) 301. Forcibly compelling payment of debt as robbery. 10 L.R.A.(N.S.) 744.

Constitutionality of statute imposing penalty for failure to pay claim. 42 L.R.A.(N.S.) 102, 106; L.R.A.1917B, 926.

# § 4. Reissue of instrument after pay-

Effect of reissue of bill or note that has been paid by the party primarily liable thereon. L.R.A.1918E, 170.

Effect of fraudulent reissue of bill or note

which has been paid. 28 L.R.A.(N.S.)

Effect of assignment of mortgage by or with consent of mortgagor to third person after payment of debt originally secured. 27 L.R.A. (N.S.) 111.

# 5. Evidence of.

Presumption of, see EVIDENCE, § 106.

Receipt as evidence of payment as against third parties. 29 L.R.A. 737.

Right of insurance company in making payment of proceeds of life policy to rely on clause giving company option as to payee and making receipt conclusive evidence of payment to proper person. 20 L.R.A. (N.S.) 928.

# II. Medium of.

6. Generally.

What may be accepted in payment by bank making collections, see BANKS, § 34.

Parol agreement as to. 43 L.R.A. 458. Parol evidence that payment for land sold was to be otherwise than in money. 20 L.R.A. 106.

Admissibility of parol evidence as to manner or means of paying written contract not within statute of frauds purporting to be payable in money. L.R.A. (N.S.) 235.

Accepting something besides money from bank as a discharge of drawer of check. 25 L.R.A. 200.

Of legacy, conflict of laws as to medium. 2 L.R.A.(N.S.) 468.

7. Coin.

Validity of contract to pay in gold or Failure to return check as affecting quessilver, see Contracts, § 89.

PAYMENT, II.—cont'd

Special contracts and obligations to make payment in gold or silver. 29 L.R.A.

Form of judgment and procedure in caseof liability to make payment in coin. 29 L.R.A. 593.

§ 8. — worn or base coin.

Tender of old, worn, or mutilated coin. 33-L.R.A. 824.

# § 9. Confederate money.

Award on contract for Confederate money. 58 L.R.A. 183.

Injunction against enforcing contracts for Confederate money. 48 L.R.A. 843.

§ 10. Foreign money.

Note payable in foreign money. 20 L.R.A. 481.

11. Commercial paper.

Payment by commercial paper. 35 L.R.A. (N.S.) 1.

Obligation as equivalent of payment, for purpose of subrogation. 2 L.R.A. (N.S.) 263.

Check as payment of debt where drawee pays to unauthorized person. 37 L.R.A.(N.S.) 201.

Acceptance of depositor's check by bank for obligation due it as affecting bank's right to set off obligation against de-positor. L.R.A.1916A, 685.

Liability for accepting check from agent or fiduciary in payment of his own debt.

52 L.R.A. 790.

Liability of creditor who accepts as payment from debtor, check of third person which has been wrongfully pro-cured by debtor. 13 L.R.A.(N.S.) 273. Liability of bank for taking check in pay-

ment of paper held for collection. L.R.A. (N.S.) 1179.

Right of one who takes commercial paper of corporation in payment of, or secu-rity for, an individual debt of officer. 31 L.R.A. (N.S.) 169; L.R.A.1918F, 1163.

Garnishment of debt after delivery of check in payment. 19 L.R.A. 475.

Note or other commercial paper of individual partner as payment of firm debt not previously assumed by him. 15 L.R.A. (N.S.) 1019; 51 L.R.A.(N.S.) 358.

Promissory note as equivalent of payment for purposes of subrogation. 2 L.R.A. (N.S.) 263.

Giving note as loss or damage within condition of contract of indemnity. 9 L.R.A.(N.S.) 478; 20 L.R.A.(N.S.) 956; 48 L.R.A.(N.S.) 195.

Promissory note as payment of insurance premium. 5 B. R. C. 365.

Check or draft as payment of insurance premium. L.R.A.1916A, 674.

Check as a payment for purpose of taking contract out of Statute of Frauds. L.R.A.1918B, 902.

tion of payment. L.R.A.1918C, 161.

PAYMENT, H.-cont'd

Garnishment of debt after delivery of check in payment. L.R.A.1917F, 396.

At what time does a partial payment made by check or note arrest the running of the statute of limitations. 1 B. R. C. **4**94.

# III. By and to whom.

§ 12. By third person.

Authority to make payment of bill or note,
see Bills and Notes, § 60.

By volunteer, see Volunteer, § 4.

Promise to repay third person. 53 L.R.A. 372.

18. — effect.

The effect of payment of a debt by a volunteer or stranger to the original undertaking. 23 L.R.A. 120.

Effect of part payment. 20 L.R.A. 794; L.R.A.1917A, 724.

§ 14. — by agent.

Agent's power to use principal's property for payment of his own debt. 14 L.R.A. 234.

Liability of drawee for accepting check from agent or fiduciary in payment of his debt. 52 L.R.A. 790.

Right of one who knowingly receives from agent principal's money in payment of the agent's own debt, but which he believes to be the debt of the principal. 15 L.R.A.(N.S.) 310.

Assumption of debt by agent as payment. 17 L.R.A.(N.S.) 607.

What constitutes payment to principal of money paid agent by third person for principal. 23 L.R.A. (N.S.) 557.

# 15. To whom.

Who may receive payment of judgment, see JUDGMENT, § 75.

Validity of provision in contract for payment of money that it shall be payable to obligee only, and not to his estate. 17 L.R.A.(N.S.) 1239.

§ 16. — to agent.

Agent's authority as to accepting payment.
19 L.R.A. (N.S.) 324.

Authority of traveling salesmen to receive payment. 18 L.R.A. 663.

Authority of traveling salesman to accept payment in anything else than money. 18 L.R.A. 666.

Payment to agent as defense to an action by undisclosed principal. 28 L.R.A.(N.S.) 230; L.R.A.1916A, 1215.

Effect of fact that agent does not have possession of securities upon question of his authority to receive payment. 2 L.R.A. (N.S.) 414; L.R.A.1916B, 860.

Payment to one found at place of payment designated, who was not in possession of securities. 21 L.R.A.(N.S.) 52.

Consult also L.R.A. Digests of Cases.

PAYMENT, III.-cont'd

Authority of sales agent who is authorized to collect the whole or a part of the purchase price on making the sale to receive payments afterward. 38 L.R.A. (N.S.) 700.

Right to recover from agent money paid him for his principal. 23 L.R.A.(N.S.) 553;

L.R.A.1916D, 1041.

# IV. Time and place.

8 17. Time of.

Statutory regulations as to time of payment of wages, see MASTER AND SERVANT, § 31.

Contemporaneous agreement as to. L.R.A. 456.

Time for, on part performance of contract for services. 24 L.R.A. 233.

Right to regulate time of payment as incident to authority to make rules and regulations as to testing food. L.R.A. (N.S.) 686.

Effect on, of delivery of goods f. o. b. 62

L.R.A. 805.

Effect of day for payment falling on Sunday. 3 B. R. C. 678.

Time of payment of obligation purporting to be payable on specified event the happening of which is wholly or partially within the control of the promisor. L.R.A.1917B, 1050.

§ 18. Place of.

Authority of agent to give paper for loan as to place of payment. L.R.A.1916C, 136. Alteration of note by inserting. 31 L.R.A.

(N.S.) 643.

Contemporaneous agreement as to. L.R.A. 458.

Place where debt payable as affecting jurisdiction to garnish same. 3 L.R.A. (N.S.) 608; 20 L.R.A.(N.S.) 264; L.R.A.1915F, 880.

# V. Application of.

§ 19. Generally.

As between principal and interest when made before due. 15 L.R.A. 169.

To national bank as affecting question of usury. 56 L.R.A. 701.

Of taxes as affecting validity of tax sale. 20 L.R.A. 488.

Application by bank of individual part-ner's deposit on firm debt. 23 L.R.A. 111.

Forger's application of proceeds of check to an indebtedness to depositor as affecting bank's right to charge same against depositor's account. 25 L.R.A. (N.S.) 996.

Application of doctrine of appropriation of payments to effect on surety or endorser of bank's failure to apply principal's deposit to account on note. L.R.A.(N.S.) 944.

Effect of specific application of payment to last item of open account on statute of limitations. 19 L.R.A. (N.S.) 126. PAYMENT, V.-cont'd

Effect on application of payments, of assumption of debts on dissolution of partnership. 9 L.R.A.(N.S.) 94.

Right to apply indebtedness owed by creditor to debtor for purpose of tolling statute of limitations. 42 L.R.A. (N.S.) 1155; L.R.A.1915E, 794.

Basis of settlement between building and loan association and borrowing member before maturity of stock. 43 L.R.A. (N.S.) 874.

Right of surety upon contractor's bond to have payments made by contractor applied to the contract. L.R.A.1917C, 637.

§ 20. To mortgage.

Application of withdrawal account to mortgage given to loan association. L.R.A. 204.

Right to apply payments made on stock in building and loan association upon mortgage given for a loan by the same member. 29 L.R.A. 120.

# § 21. Of proceeds of sale of mortgaged property.

Of proceeds of involuntary sale so as to interrupt running of limitations, see LIMITATION OF ACTIONS, § 67.

Application of proceeds of sale or mortgage of future crops. 23 L.R.A. 467.

Application of proceeds of sales of mortgaged merchandise by mortgagor left in possession. 18 L.R.A. 610.

§ 22. Duty as to. Duty to see to application of purchase money, see PURCHASE MONEY, § 3.

Duty of mortgagee to hold proceeds of insurance and apply them on indebtedness as it falls due. 10 L.R.A.(N.S.) 1166.

Duty of purchaser from conditional vendee with right to resell to see that the latter's vendor is paid. 26 L.R.A. (N.S.) 585.

# VI. Effect of.

§ 23. Generally.

Effect of payment by third person, see supra, § 13.

Accord and satisfaction by part payment, see Accord and Satisfaction, § 3.

Of bill or note, see BILLS AND NOTES, § 59. Effect of payment by garnishee, see GAR-NISHMENT, § 15.

By one joint debtor as release of other, see JOINT CREDITORS AND DEBTORS, II.

Payment of judgment, see JUDGMENT, § 76. Effect of, to stop running of limitations, see Limitation of Actions, §§ 65-67.

Effect of payment by owner to contractor on right of laborer, subcontractor, or materialman to lien, see MECHANICS' LIENS, § 21.

Effect on officer's right to compensation of payment to de facto officer, see Offi-CERS, § 37.

Begin with this book on every law question.

PAYMENT, VI.-cont'd

Release of surety by payment by principal, see Principal and Surety, § 11.

Of existing debt as consideration for new promise. 34 L.R.A. 33.

Indorsement of, on note, as affecting negotiability. 38 L.R.A. 823.

Effect of nominal payment of bonus stock. 38 L.R.A. 492.

For corporate stock by transfer of property protection against liability 8.8 42 Ľ.R.A. creditors of corporation.

Effect of, on agreement not to plead statute of limitations. 63 L.R.A. 203. Effect of payments to executor or adminis-

trator under letters testamentary or of administration subsequently revoked or set aside. 21 L.R.A. 153; 43 L.R.A. (N.S.) 634.

Payment before judgment as ground of injunction against judgment. 31 L.R.A.

affecting right to injunction against judgment in garnishment proceedings. 30 L.R.A. 363.

By principal of previous drafts drawn upon him by his agent without authority as implied authority to draw others. 34 L.R.A.(N.S.) 440.
Release of surety on building contractor's

bond by making payments not authorized by the contract. 5 L.R.A. (N.S.) 418.

Payment voidable under bankruptcy act as discharge of surety, guarantor, or indorser. 9 L.R.A.(N.S.) 581.

Payment of original assessment for con-struction of local improvement as estoppel from contesting subsequent assessment for repair. 36 L.R.A.(N.S.) **4**0.

Effect of payment of debt on Sunday. 15 L.R.A. (N.S.) 243.

Effect of assignment of a claim ex delicto to one against whom it was asserted to enable him to maintain an action thereon against a third party. 7 L.R.A. (N.S.) 534.

Payment of debt due from estate as affecting creditor's right to letters of administration. 45 L.R.A.(N.S.) 237.

#### PAYMENT INTO COURT.

See TENDER.

#### PEACE.

Breach of, see Breach of Peace. Municipal control over nuisance affecting, see MUNICIPAL CORPORATIONS, § 40.

Injunction against nuisances affecting. 41 L.R.A. 321.

Evidence of specific instances to prove character for peace of victim of crime. 14 L.R.A.(N.S.) 708. PEACE—cont'd

Competency of witness to testify as to reputation of accused for. 2 L.R.A.(N.S.) 553; 22 L.R.A.(N.S.) 661.

Character and reputation for, as affecting homicide. 3 L.R.A.(N.S.) 368.

#### PEACE BONDS.

What conduct will work a forfeiture of. 40 L.R.A. (N.S.) 186.

# PEACE OFFICER.

Liability of sureties on bond of, see Bonds, §§ 12-15.

Right of, to carry weapons outside his district. 38 L.R.A.(N.S.) 998.

Liability of peace officer or his bond for shooting a person while attempting to arrest him. 51 L.R.A.(N.S.) 1179.

Homicide by, in attempting to enforce his commands against innocent persons. L.R.A.1918D, 379.

Liability of, for making arrest. 1915B, 505.

# PECUNIARY CONDITION.

Admissibility of books of account to prove. 52 L.R.A. 719.

Right of witness to express opinion as to. L.R.A.1918A, 739.

Evidence of, to show pecuniary loss to parents by death of child. L.R.A.1918E, 284.

# PECUNIARY INTEREST.

Necessity of, to insurable interest in life of relative. 54 L.R.A. 225.

Insurable interest of brother or sister in other's life. 45 L.R.A.(N.S.) 982.

# PECUNIARY LOSS.

Evidence to show pecuniary loss by death of person. L.R.A.1918C, 1080, 1096, 1111, 1122; L.R.A.1918E, 278.

# PEDDLERS.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 135.

License tax on, as interference with interstate commerce, see COMMERCE, § 18. License of, generally, see LICENSE, § 35. Municipal control over, generally, see Mu-

Who is a peddler or hawker within statu-tory or municipal regulations. tory or municip L.R.A.1916B, 1293.

NICIPAL CORPORATIONS, § 46.

Consult also L.R.A. Digests of Cases.

#### PEDIGREE.

Admissibility of hearsay evidence as to, see EVIDENCE, § 219.

Entries in family Bible or other religious book as evidence. 41 L.R.A. 449.

#### PENAL BONDS.

Form of judgment on. 62 L.R.A. 427.

#### PENAL LAWS AND STATUTES.

Enforcement of penal laws of another state, see CONFLICT OF LAWS, § 23. Construction of, see STATUTES, §§ 25, 26.

Jurisdiction of state courts to enforce Fedcral penal laws. 48 L.R.A. 39.

When rates fixed by penal statute are sufficiently definite and certain. 33 L.R.A.

Private action for violation of. L.R.A. 1915E, 561.

#### PENALTY.

I. In general, §§ 1, 2. II. For particular acts or offenses, \$\$ ā-7.

# I. In general.

§ 1. Generally.

For advertising, see Advertising, § 3. Conflict of laws as to, see CONFLICT OF Laws, § 23.

For crime, see (RIMINAL LAW, VI.

Construction of penal statutes, see STAT-UTES, §§ 25, 26.

Validity of statutory provision for attorney's fee to successful defendant in civil action for a penalty. L.R.A.1915E, 949.

Exemptions as against penalties. L.R.A. 1915A, 1214.

Excessive penalty as denial of due process

of law. 46 L.R.A.(N.S.) 1039. Exaction of penalty for acts done under supposed sanction of law as violation of due process of law. L.R.A.1916A, 1211.

Right of agent to be reimbursed for penal-ties paid for violation of law in principal's interest. 45 L.R.A.(N.S.) 788.

As element of compensation to be paid public utility company upon taking its plant. 47 L.R.A. (N.S.) 791, 795.

Discretion of court as to penalty to be im-posed upon a corporation for violation of law. L.R.A.1915A, 892.

PENALTY, I.-cont'd

Constitutionality of civil service provision for. 34 L.R.A. (N.S.) 483.

Restraint on freedom of child as imposing unequal penalty. 18 L.R.A.(N.S.) 894.

Must penalty in aggregate for infringing copyright be multiple of what would be given for each separate offense. 1 B. Ř. C. 768.

Suit for statutory penalty as a civil or criminal prosecution. 27 L.R.A. (N.S.)

Applicability of criminal statutes to corporations as affected by nature of penalty. 2 B. R. C. 245.

Applicability of statute of limitations relating to actions for penalty to action against directors of corporation for malfeasance or nonfeasance.

malicasance of homescales.

1917A, 986.

Compulsory evidence against one's self in case of. 29 L.R.A. 813.

Imprisonment for, as imprisonment for debt. 34 L.R.A. 651; L.R.A. 1915B, 647.

Power of municipality to impose additional penalty on what is also an offense under state law. 17 L.R.A.(N.S.) 56.

Judgment in criminal action as bar to civil action to enforce. 11 L.R.A.(N.S.) 667.

Effect of repeal without saving clause of statute permitting recovery of pecuniary penalty on prior conviction there-

under. 23 L.R.A.(N.S.) 245.
Implication of invalidity of contract from penalty. 12 L.R.A.(N.S.) 586.

§ 2. Provision for, in contract.

As limit of liability on bond, see DAMAGES, § 29.

Penalty or liquidated damages, see DAM-AGES, § 38.
For delay in payment, see PAYMENT, § 3.

For taking usury, see Usury, § 15.

Effect of providing on right to rescind or abandon contract for other party's default. 30 L.R.A. 44.

Validity and effect of provision in contract for increased rate of interest upon default. L.R.A.1916E, 726.

# II. For particular acts or offenses.

§ 3. Generally.

Penalties imposed by public service corporation to enforce prompt payment, see Public Service Corporations, § 3.

Who is entitled to penalties for delay in paying improvement assessments. 47 L.R.A. (N.S.) 702.

Agreement for lump sum on payment after maturity as a penalty. 49 L.R.A. 551.
Agreement for additional amount if debt is

not paid at maturity as a penalty. 49 L.R.A. 554.

For nonacceptance of office. 24 L.R.A. 493. For refusal of inspection of books of corporation. 45 L.R.A. 457.

For improper issuance of marriage license or performing marriage ceremony. L.R.A.1917E, 869, 873. PENALTY, II.—cont'd

Special penalty for violation of Sunday closing act. 15 L.R.A.(N.S.) 646.

May stockholder maintain action in the right of the corporation to recover penalty imposed by the Sherman Act. L.R.A.1917E, 1006.

To enforce orders of Public Service Commissions. L.R.A.1918E, 311.

§ 4. As to fishing. For illegal fishing. 39 L.R.A. 590. For interference with fishing rights. L.R.A. 524.

§ 5. Against foreign corporation.

Effect of statute prescribing penalty against unauthorized foreign corporation upon contracts made by it. L.R.A. 316.

Statutory provision for penalty as affecting validity of contract made by foreign corporation without complying with the statutory conditions of doing business. 4 L.R.A. (N.S.) 688.

§ 5a. Against railroad companies. As carriers, see infra, § 6.

Constitutionality of penalties imposed on railroad company for failure to fence tracks or build cattle guards. 31 L.R.A.(N.S.) 863.

Constitutionality of statute imposing penalty or added liability for failure of railroad company to pay claim. 42 L.R.A.(N.S.) 102; L.R.A.1917B, 929.

Penal responsibility for blocking street or highway crossing. L.R.A.1915B, 329.

§ 6. Against carriers.

Against passenger carrier, see CARRIERS, § 99.

Against carrier of freight, see CARRIERS, § 146a.

7. Against telegraph company.

For delay in delivery of telegram. 53 L.R.A. 738.

State statutes imposing penalties on tele-graph companies for not transmitting and delivering messages properly. 31 L.R.A. 807.

# PENDENCY.

Of action to abate suit, see ABATEMENT AND REVIVAL, §§ 5-7.
Of action generally, see Lis Pendens.

#### PENDENTE LITE.

See LIS PENDENS.

# PENDING ACTION.

Effect of repeal of statute on, see STATUTES, § 34. See also PENDENCY.

#### PENITENTIARY.

See JAILS AND PRISONS.

# PENSION.

Exemption of, see Exemption, § 7. To police, see Police, § 2. For school-teachers, see Schools, § 19.

Consideration of, in estimating amount of permanent alimony. 44 L.R.A. (N.S.) 1004.

Right of woman to be pension agent. 38 L.R.A. 213.

Congressional regulation of charges on pension claim. 33 L.R.A. 182.

Effect of receipt of, to mitigate damages for wrongful death. 67 L.R.A. 94.

Nature and circumstances of injury as affecting right to share in pension or in-surance fund for policemen and firemen.

20 L.R.A.(N.S.) 1176.

Power of legislature to require municipality to pension employees. 34 L.R.A. (N.S.) 608.

Mandamus to restore to office one who has retired on pension. 19 L.R.A. (N.S.)

Validity of pension or bounty to Confederate soldiers. 45 L.R.A. (N.S.) 692. Vested right in. 50 L.R.A. (N.S.) 1018.

# PENSION AGENT.

Right of woman to be. 28 L.R.A. 213.

# PEONAGE.

Constitutionality of imprisonment for breach of contract of labor or rental. 21 L.R.A.(N.S.) 242.

# PEOPLE.

Delegation of legislative power to, see CONSTITUTIONAL LAW, § 12.

#### PER CAPITA.

Distribution per capita under will, see Carrier's duty to carry, in refrigerator cars. Wills, § 98. 10 L.R.A. (N.S.) 317. Consult also L.R.A. Digests of Cases.

# PERCOLATING WATER.

See WATERS, \$\$ 72-77.

#### PER DIEM.

Claim against state for. 42 L.R.A. 40.

#### PEREMPTORY INSTRUCTIONS.

See TRIAL, §§ 56-59.

#### PERENNIAL CROPS.

Measure of damages for injury to or destruction of. 23 L.R.A.(N.S.) 310; 37 L.R.A.(N.S.) 977; 49 L.R.A.(N.S.) 415.

# PERFORATED ROLLS.

Perforated rolls and wax cylinders as infringements of copyright of sheet music. 2 B. R. C. 91.

# PERFORMANCE.

Of contract, generally, see CONTRACTS, V. Part performance of oral contract, see Con-TRACTS, §§ 55-59.

Specific performance, see SPECIFIC PER-FORMANCE.

Of agreement for conveyance of land, see VENDOR AND PURCHASER. § 9.

# PERIODICAL APPROPRIATION.

Of water. 46 L.R.A. 175.

# PERIODICALS.

Rights of employer and employee with respect to work done for. 1 B. R. C. 330.

Master's rights in respect to employee's work upon. 5 L.R.A.(N.S.) 1190.

# PERISHABLE PROPERTY.

§ 1. Carrier's duty and liability as to. Loss or damage due to initial carrier's own negligence or breach of contract. 31 L.R.A.(N.S.) 84.

Liability of carrier for damages to, because of defects in, or improper condition of, car. L.R.A.1917C, 512.

PERISHABLE PROPERTY—cont'd Liability of carrier for sale of, during 35 L.R.A. 630.

Measure of damages for carrier's delay in delivery of receptacles for. 24 L.R.A. (N.S.) 134.

#### PERITONITIS.

Effect of, on recovery for negligent injury to person. 48 L.R.A.(N.S.) 97.

#### PERJURY.

§ 1. Generally.

False swearing in proofs of loss, see INSUR-ANCE, § 148.

Habeas corpus to secure release of one convicted on perjured evidence. L.R.A. 1918F, 1078.

Publication accusing witness of perjury as contempt of court. L.R.A.1915D, 573. Suborning witness as contempt of court. L.R.A.1915D, 573.

Establishment of falsity of testimony by circumstantial evidence. 44 L.R.A. (N.S.) 513.

Contradictory statements made by one accused of perjury as sufficient corroboration of single witness. L.R.A.1918E, 928.

Applicability of rule that conviction of perjury cannot rest upon uncorrobo-rated evidence of a single witness, to prosecution for subornation of perjury. 44 L.R.A.(N.S.) 307.

Commitment or holding of witness for, during trial as ground for reversal. 43 L.R.A.(N.S.) 845.

False testimony given under statute promis-ing immunity against its use in criminal proceedings. 9 L.R.A. (N.S.) 237. Judgment in civil action as evidence in a criminal prosecution for perjury. 26 L.R.A.(N.S.) 465.

Cruel and unusual punishment for. L.R.A. 576.

2. What amounts to.

In statements involving matters of opinion or belief. 25 L.R.A.(N.S.) 654. Unqualified statements without knowledge

of the facts. L.R.A.1916B, 850. May perjury be predicated of testimony as to the effect of an understanding or

agreement. 22 L.R.A.(N.S.) 1216. False swearing where no oath, or the particular one administered, was not required, as perjury. 39 L.R.A.(N.S.) 96.

Conviction of perjury upon proof that accused made contradictory statements. L.R.A.1917C, 58.

§ 3. — testimony on immaterial matters.

May charge of subornation of perjury be based on false testimony which is immaterial. 25 L.R.A.(N.S.) 120.

PERJURY-cont'd

May perjury be predicated of false testi-mony before the grand jury on matters immaterial to the issue. 22 L.R.A. (N.S.) 1192.

§ 4. — as affected by invalidity of proceedings in which testimony taken. Generally. 54 L.R.A. 513; 40 L.R.A. (N.S.) 249.

Jurisdictional defects, generally. 54 L.R.A. 513; 40 L.R.A. (N.S.) 249.
Pendency of proceedings. 54 L.R.A. 513.

Defects in organization or constitution of tribunal. 54 L.R.A. 514; 40 L.R.A. (N.S.) 250.

When the court had lost or exceeded its jurisdiction, 54 L.R.A. 514; 40 L.R.A. (N.S.) 250.

Defects in preliminary matters affecting the jurisdiction in the particular case. 54 L.R.A. 515; 40 L.R.A.(N.S.) 251.

When want of jurisdiction arises from facts dehors the records. 54 L.R.A. 517; 40 L.R.A. (N.S.) 251.

Defects not affecting jurisdiction, generally. 54 L.R.A. 519; 40 L.R.A. (N.S.) 252.

Matters especially affecting sanction under which testimony is given. 54 L.R.A. 520; 40 L.R.A. (N.S.) 252.

Matters relating to jury. 54 L.R.A. 521; 40 L.R.A. (N.S.) 252.

§ 5. Who liable for.

Criminal responsibility of corporation for. 2 B. R. C. 253.

Criminal liability of children for. L.R.A. 203.

§ 6. Indictment for. See Indictment, etc., § 26.

§ 7. Defenses.

Impairment of memory as defense. L.R.A.(N.S.) 993.

Instigation to offense of subornation of, as a defense to prosecution. 30 L.R.A. (N.S.) 953.

Judgment in original action as bar to action by defeated action against adverse party for perjury in procuring it. 23 L.R.A.(N.S.) 134.
Acquittal of crime as bar to subsequent

prosecution of defendant for perjury committed on the former trial. 39 L.R.A.(N.S.) 385; L.R.A.1917B, 743.

§ 8. Effect of.

As ground for injunction against judgment, see Injunction, § 53.
As ground for relief from judgment gen-

erally, see JUDGMENT, § 96.

Right to resist judgment of sister state on ground of false testimony. 32 L.R.A. (N.S.) 924.

Effect on presumption of probable cause for prosecution of fact that conviction was procured by. 15 L.R.A. (N.S.) 1143.

Perjury and subornation of perjury as grounds for civil actions. 24 L.R.A. (N.S.) 265. Begin with this book on every law question.

PERJURY-cont'd

As ground for new trial. 51 L.R.A.(N.S.) 286.

Truth of charge of, as defense to action for libel or slander. 31 L.R.A.(N.S.) 145; 50 L.R.A.(N.S.) 1043.

#### PERMANENT EMPLOYMENT.

Contracts for permanent employment and similar agreements. 50 L.R.A.(N.S.) 453.

Time for which contracts of, may be made on behalf of corporation. 49 L.R.A. 475.

# PERMISSIVE WASTE.

Liability of life tenant for. 33 L.R.A. (N.S.) 672.

# PERMIT.

For erection of building, see Buildings, § 2. For burial, see CORPSE, § 4.

To cut timber on public land. 70 L.R.A. 900.

Liability for work of independent contractor performed under. 14 L.R.A. 834.

Effect of permit to keep explosives on insurer's liability for loss caused by explosion. 38 L.R.A.(N.S.) 476.

Power of municipality to require permit to construct or repair buildings within its limits. 13 L.R.A.(N.S.) 737.

Municipal liability for refusal to grant. 1 B. R. C. 349.

Municipal knowledge of defective work in highway under permit. 20 L.R.A. (N.S.) 705.

Burden of proof as to permit in prosecution for sale of intoxicating liquor without a license. 36 L.R.A.(N.S.) 98.

#### PERPETUAL LEASE.

Taxation of land under. 46 L.R.A.(N.S.) 284.

# PERPETUATION OF TESTIMONY.

Equity jurisdiction for purpose of, see DEPOSITION, § 2.

# PERPETUITIES.

§ 1. Generally.

Conflict of laws as to. 2 L.R.A.(N.S.) 432. Bequest in trust to maintain residence as violating rule against perpetuities. 7 B. R. C. 441.

Validity of trust for sale to arise at expiration of period defined by rule against perpetuities. 7 B. R. C. 453.

Devises of life estates to unborn children of living persons, as contravening the rule against. 6 L.R.A. (N.S.) 330.

Consult also L.R.A. Digests of Cases.

PERPETUITIES-cont'd

Limitation of estate upon probate of wilf as a violation of the rule against perpetuities. 10 L.R.A.(N.S.) 564.

Options to purchase, and the rule against perpetuities or against undue suspension of the power of alienation. L.R.A. 1917D. 904.

Contract for indefinite option, or indefinite renewal of option, as perpetuity. 9 L.R.A.(N.S.) 913.

Allowing period for conversion of property as violation of rule against perpetuities or suspension of power of alienation. 26 L.R.A.(N.S.) 724.

Allowing specified period for election to take under devise or bequest as a violation of the rule against perpetuities, or the suspension of the power of alienation. 26 L.R.A.(N.S.) 825.

Validity of devise over upon indefinite ces-

Validity of devise over upon indefinite cessation of lineal descendants of first taker. 3 L.R.A.(N.S.) 1143.

Effect of doctrine as to possibility of issue extinct in determining whether rule against perpetuities has been violated.

48 L.R.A.(N.S.) 867.

May a child an year against perpetuities has been violated.

May a child en ventre sa mere be considered as in being for purpose of rule against perpetuities. 4 B. R. C. 492.
Right to damages for breach of option con-

Right to damages for breach of option contract which is not specifically enforceable because it contravenes the rule against perpetuities. 4 B. R. C. 292.

§ 2. Gifts to charities.

Effect of rule against, on enforcement of general bequest for charity or religion. 14 L.R.A.(N.S.) 66.

Restrictions on alienation in devise of real estate to religious society for specified uses. 11 L.R.A.(N.S.) 523.

Effect of direction for accumulation upon validity of charitable gift. 2 B. R. C. 880.

§ 8. Effect of invalidity of gift because of.

Effect on prior takers of the failure of a gift because it violates the rule against perpetuities. 20 L.R.A. 509.

perpetuities. 20 L.R.A. 509.

Remainder void for remoteness; effect on particular estate. 3 L.R.A.(N.S.) 639.

Effect of decree of distribution following a testamentary disposition of property void under the rule against perpetuities or as unlawfully suspending the power of alienation. 15 L.R.A. (N.S.) 900.

§ 4. In respect to personal property. Trust in respect to personal property. 3 L.R.A. 145;\* 11 L.R.A. 89.\*

# PERQUISITES.

Meaning of term perquisites in statutes or ordinances in relation to officers. L.R.A. 1918E, 675.

# PERSONAL ACTION.

o recover tax on property. 41 L.R.A. (N.S.) 730.

#### PERSONAL APPEARANCE.

Prosecuting attorney's comments on defendant's personal appearance as ground for reversal. 46 L.R.A. 665.

#### PERSONAL BELIEF.

Assertions of personal belief by counsel in argument to jury. L.R.A.1918D, 72.

# PERSONAL COMFORT.

Municipal control over nuisance affecting, see MUNICIPAL CORPORATIONS, § 41.

# PERSONAL CONDUCT.

Devise or legacy conditioned on conduct of erson other than the beneficiary. L.R.A.1918E, 372.

#### PERSONAL CONTACT.

Liability of master for negligent injury to third person through personal contact with servant. 47 L.R.A.(N.S.) 142.

# PERSONAL ENCOUNTER.

Necessity that death of insured by, be reasonable and legitimate consequence of violation of law in order to relieve insurer. 13 L.R.A.(N.S.) 262.

#### PERSONAL EXPERIENCES.

Accounts of, by counsel in argument to jury. L.R.A.1918D, 73.

# PERSONAL INJURIES.

§ 1. Generally. By animals, see Animals, §§ 9-16. By automobile, see AUTOMOBILES. By blasting, see BLASTING. To passenger, see CARRIERS. By electricity, see Electricity, III. By explosion, see Explosions and Explosives, §§ 3-10. By fright, see FRIGHT, §§ 2, 3. By frightening horse, see Horses, §§ 7-14. By gas, see GAS, §§ 11-15. By fall of building, see WALLS, § 3.

At place of amusement, see Amusements, §§ 5-7.

In areaway, see Areaways, § 2. On elevator, see ELEVATORS, §§ 3-7. In excavation, see Excavation, §§ 2, 3.

On highway, see Highways, VI.

Begin with this book on every law question.

PERSONAL INJURIES-cont'd

On railroad track, see RAILROADS, §§ 52-57 On street car track, see STREET RAILWAYS, §§ 10-19.

On wharf or dock, see WHARVES, § 7.

Defenses to actions for, see ACTION OF SUIT, § 15.

Conflict of laws as to, see Conflict or Laws, § 22.

Constitutionality of requirement of notice of, see Constitutional Law, § 188.

Measure of damages for, see DAMAGES, \$\$ 7, 18, 57-67. 100. 101, 110.

Power to compel plaintiff in action for, tosubmit to physical examination, see DISCOVERY AND INSPECTION, § 5.

Presumption of negligence from, see EVI-

DENCE, III. g.
Opinion evidence as to cause of, see Evi-DENCE, § 187b.

Evidence of damages from, see EVIDENCE, §

264.

Notice of, see Highways, §§ 106, 107; Mas-TER AND SERVANT, §§ 57, 64; MUNICIPAL CORPORATIONS, §§ 104-107.

Through negligence generally, see NEGLI-GENCE.

New trial in personal injury case, see NEW TRIAL.

Resulting from nuisance, see NUISANCES. Proximate cause of, see PROXIMATE CAUSE.

Release of claim for, see RELEASE. Violation of Sunday law as defense to action for, see SUNDAY, § 7.
Liability for injuries due to attempted

exercise of rights of navigation, see-WATERS, § 18.

What constitutes, within meaning of Workmen's Compensation Act, see WORK-MEN'S COMPENSATION, § 8.

Concealment or ignorance of cause of action as suspending statute of limitation against action for. L.R.A.1917B, 1259. Accidental or reckless injury as an assault.

14 L.R.A. 227.

Assignability of cause of action for. 44 L.R.A. 177.

Acceptance of partial allowance by city of claim for, as an accord and satisfaction. 42 L.R.A.(N.S.) 120.

Injury to person and to property at the same time constituting more than one cause of action. 50 L.R.A. 161; 36 L.R.A. (N.S.) 240; 51 L.R.A. (N.S.) 319.

Right to split elements of damages for personal injuries and maintain separate actions thereon. L.R.A.1916B, 743.

Damages sustained on account of injuries to one's self and another at the same time, as constituting one or more than one cause of action. L.R.A.1917C, 544.

Abatement and revival of actions for, upon death of plaintiff. L.R.A.1915E, 1104. Pendency of action for personal injury as

abatement of action for death or vice versa. L.R.A.1915E, 1132.

Judgment in action for personal injury as abatement of action for death or vice versa. L.R.A.1915E, 1152.

Does right of action pass to trustee in bankruptcy or assignee in insolvency. 12 L.R.A.(N.S.) 1173.

PERSONAL INJURIES—cont'd

Effect of statute declaring cause of action for, survivable, to render it assignable. 27 L.R.A.(N.S.) 404.

Law governing as to survival of cause of action or revival of action for. 5 L.R.A. (N.S.) 756.

Jurisdiction of admiralty over suit for injury to stevedore. 51 L.R.A. (N.S.) 1157.

Liability of infant for legal services in action for personal injuries. 44 L.R.A. (N.S.) 412.

Declarations explaining why person injured or killed was at place of accident as res gestæ. L.R.A.1915D, 503.

Physical condition of plaintiff after verdict in action for personal injuries tending to show falsity of testimony as to extent or character of his injury as ground for new trial. L.R.A.1915B, 243.

Prenatal injury to infant as ground of action. 45 L.R.A. (N.S.) 625.

Validity of contract to pay attending physician percentage of damages recovered for. 33 L.R.A.(N.S.) 87.

Probative effect of admission by party of responsibility for. 15 L.R.A.(N.S.) 1096. Power of equity to take jurisdiction because of multiplicity of actions at law for personal injuries growing out of

for personal injuries growing out of a single tort. 20 L.R.A.(N.S.) 848; 35 L.R.A.(N.S.) 491.

Specification of particular bodily injuries comprehended within general allegation as excluding others otherwise comprehended within such general allegations. 27 L.R.A.(N.S.) 837.

Relation of new pleadings to statute of limitations in actions for. 3 L.R.A. (N.S.) 282; 47 L.R.A. (N.S.) 932.

Removal for separable controversy action for. 6 L.R.A.(N.S.) 93.

Requisites of special verdict in action for. 24 L.R.A.(N.S.) 21.

Setting aside for inadequacy verdict in actions for. 47 L.R.A. 39.

Contributory wilfulness as a defense against an action for personal injury based on wilfulness of defendant. L.R.A.1918D,

Power of court to require owner of premises or property to permit inspection in negligence case. L.R.A.1917E, 838.

§ 2. Who liable and to whom.

To passenger, see CARRIERS, §§ 49-74.

To husband or wife, see HUSBAND AND WIFE, §§ 63-65.

To infant, see INFANTS, §§ 37-40.

To guest at inn, see INNKEEPERS, §§ 10, 11. To servant, see MASTER AND SERVANT, III.

To pupil, see Schools, § 22.

To seamen, see SEAMEN, § 3.

To volunteer, see Volunteer, § 3.

Liability of charitable institution for, see

CHARITIES, § 12. Liability on policy for, see INSURANCE, §§ 159-171, 177-181.

ility of person selling liquors to person Return of goods, see RETURN, § 2. injured, see Intoxicating Liquors, §§ Specific performance of contract relating Liability of person selling liquors to person

Consult also L.R.A. Digests of Cases.

PERSONAL INJURIES-cont'd

Landlord's liability, see Landlord and Ten-

ANT, IV. d. Master's liability for injury due to servant's negligence, see MASTER AND SERV-ANT, IV.

Liability of manufacturer or seller, see NEG-

LIGENCE, § 15.
Parent's liability for injury by child, see PARENT AND CHILD, § 10.

Claim against state for. 42 L.R.A. 69. Personal liability of corporate officers or directors for personal injuries from torts in connection with business. 39 L.R.A. (N.S.) 901; L.R.A.1915C, 874.

Liability of community property for. 36 L.R.A. (N.S.) 88.

Does bond of highway contractor cover personal injuries to members of public. 34 L.R.A. (N.S.) 152.

Liability for personal injury to one using telephone. 36 L.R.A.(N.S.) 279.

# PERSONAL JUDGMENT.

In general, see JUDGMENT, §§ 9, 10, 23; MECHANICS' LIENS, § 31. On constructive service of process, see WRIT AND PROCESS, § 19.

#### PERSONAL KNOWLEDGE.

Witness's right to testify to character from. 22 L.R.A.(N.S.) 650.

### PERSONAL LIABILITY.

For local assessment, see Public Improve-MENTS, § 28.

# PERSONAL LIBERTY.

Construction of penal statute as rule of. 12 L.R.A.(N.S.) 1081.

# PERSONAL PROPERTY.

1. Generally.

Bailment of, see BAILMENT.

Mortgage of, see CHATTEL MORTGAGE. Oral contracts relating to, see CONTRACTS,

§§ 34-36.

Equitable conversion into real property, and vice versa, see EQUITABLE CONVER-SION; WILLS, §§ 116-118. Insurance of, see Insurance.

Perpetuities as to, see PERPETUITIES, § 4. Pledge of, see PLEDGE AND COLLATERAL SE-CURITY.

Possession of, see Possession, §§ 5-8.

Records of title to, see RECORDS AND RE-CORDING LAWS, §§ 9-11.

to, see Specific Performance, § 14.

PERSONAL PROPERTY-cont'd Taxation of, see Taxes.

Equitable conversion into real property and vice versa, see WILLS, § 117.

Injury to, or expense of removing, personalty as an element of damage for taking real estate. L.R.A.1916D, 719.

When personal representative is not entitled to possession of. 3 L.R.A.(N.S.)

Abandonment of. 4 L.R.A.(N.S.) 573.

Statutory lien on property of third person for rental of personal property let to contractor for use in work of a lien-able nature. 16 L.R.A.(N.S.) 585; 42 L.R.A. (N.S.) 872.

Applicability of rule in Shelley's Case to remainder in. 29 L.R.A. (N.S.) 1036. Partnership for dealing in. 18 L.R.A. (N.S.) 1090.

Creation of partnership by provision for taking profits from use of, as compensation. 18 L.R.A.(N.S.) 1046.

Injury to, or expense of removing as element of damage for taking real estate. 4 L.R.A.(N.S.) 890.

Liability to servants of other persons for injuries caused by condition of. L.R.A. 104.

Authority of agent to accept chattel in payment of indebtedness due his principal. 19 L.R.A.(N.S.) 324.

Right to plead inconsistent defense in ac-

tions relating to. 48 L.R.A. 197. Removal for separable controversy actions relating to. 5 L.R.A. (N.S.) 80.

What property other than realty may be assessed for the construction and main-

tenance of levees. L.R.A.1917F, 1003. Right of action for statements affecting value of personal property, other than goods sold or manufactured. 6 B. R. C. 509.

# 2. What constitutes.

What is "personal property" within registration laws. L.R.A.1917C, 629.

Nature of interest of vendor or vendee in land contract as real or personal property. 57 L.R.A. 643.

Rights under optional land contract as real or personal property. 358. L.R.A.1916F,

Railroad as. 66 L.R.A. 83.

Oil and gas lease as. 42 L.R.A. (N.S.)

Injury from abandonment of highway as. 26 L.R.A. 665.

Classification of growing fruit as. 16 L.R.A. 103.

§ 8. Passing as appurtenant. As an appurtenance. 15 L.R.A. 653.

What articles will pass as appurtenances on sale of. 8 L.R.A. (N.S.) 793.

§ 4. Rights of husband and wife in. Conflict of laws as to capacity of married woman to contract with reference to. 57 L.R.A. 523.

Begin with this book on every law question.

PERSONAL PROPERTY—cont'd

Power of legislature to change or destroy husband's rights in wife's personal property. 19 L.R.A. 259.

Husband's insurable interest in wife's personalty. 66 L.R.A. 660.

Tenancy by entireties in. 22 L.R.A. 594; 30 L.R.A. 317.

# § 5. Transfer of.

Mortgage of, see CHATTEL MORTGAGE. Sale of, see SALE.

Law governing validity of assignment of, for creditors. 65 L.R.A. 358. Injunction against execution sale of.

L.R.A. 99. Levy under execution or attachment on rights under lease of. 17 L.R.A.(N.S.)

843.

Right to sell while in custody of law. 1 L.R.A.(N.S.) 1057.

Out of state, transfer of, by bankruptcy or insolvency proceedings or assignment for creditors. 23 L.R.A. 33.

Conveyance of chattels held adversely. L.R.A.1916E, 72.

# 6. - by will.

Conflict of laws as to testator's capacity to dispose of. 2 L.R.A.(N.S.) 414.

Conflict of laws as to formal validity of will disposing of. 2 L.R.A.(N.S.) 415. Effect of probate in another state of will

disposing of. 48 L.R.A. 131.

Effect of bequest for life of chattels consumable in the use. 16 L.R.A. (N.S.) 483.

# § 7. Partition of.

Jurisdiction of equity to partition personal property. 27 L.R.A.(N.S.) 618.

§ 8. Recovery of possession of.

Assault in recapture of, see ASSAULT AND BATTERY, § 5.

Replevin for, see REPLEVIN. Trover for, see TROVER.

# PERSONAL REPRESENTATIVES.

See Executors and Administrators.

# PERSONAL RIGHTS.

Protection of, in equity, see Equity, § 5. Right to injunction to protect. 1 L.R.A. (N.S.) 1147.

### PERSONAL SECURITY.

Liability of trustee who makes loan on personal security only. 44 L.R.A. (N.S.) 921.

# PERSONAL SERVICE.

Right of creditors in personal services of debtor, see FRAUDULENT CONVEYANCES,

Of process out of state, see WRIT AND PROC-ESS, § 12.

Is combination to control the price of labor or other personal service per se a vio-lation of statute against trusts and mo-nopolies. 23 L.R.A.(N.S.) 1260.

Contracts for, earnings thereunder and causes of action for their breach as assets in bankruptcy. 5 B. R. C. 268.

#### PERSONAL TAX.

Injunction against collection of illegal personal tax. 22 L.R.A. 708.

# PERSONAL TRAITS.

Fraudulent concealment of, as ground for avoiding promise of marriage. 26 L.R.A. 432.

# PERSON OF COLOR.

Who is a person of color within statute not specifically defining the same. L.R.A. 1915A, 828.

# PERSONS.

Corporations as, see Corporations, § 9. Persons: who or what is included in the term "persons." 10 L.R.A. 222.

# PERSONS INTERESTED.

Who are persons interested entitled to contest will. L.R.A.1918A, 4:7.

PERSONS NOT IN BEING.

See AFTERBORN CHILDREN.

# PER STIRPES.

See WILLS, § 98. Consult also L.R.A. Digests of Cases.

# PERUVIAN STRENGTHENING ELIXIR.

Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 316.

# PERVERSION OF JUSTICE.

Publication of matters derogatory to parties to litigation as an attempt to pervert or obstruct course of justice. 2 B. R. C.

#### PEST HOUSE.

Sending diseased persons to, see HEALTH, In general, see Hospitals.

# PETITIONS.

For election, generally, see Elections, § 10. Initiative or referendum petition, see In-ITIATIVE, REFERENDUM AND RECALL, § 1.

Petition for recall, see Initiative, Refer-

ENDUM, AND RECALL, § 2.

For liquor license, see Intoxicating Li-

QUORS, § 11.
For public improvement, see PUBLIC IM-PROVEMENTS, § 3.

For removal of cause from state court, see REMOVAL OF CAUSES, § 12.

Institution of drainage proceedings by pe-

tition of land owner. 60 L.R.A. 166.
Sufficiency of petition for condemning railroad right of way for telegraph or telephone line. 42 L.R.A. (N.S.) 238.

Right to withdraw names from. 11 L.R.A. (N.S.) 372; 35 L.R.A. (N.S.) 1113.

For leave to file bill of review for newly discovered evidence. 30 L.R.A. (N.S.)

Who may petition in relation to school matters. 43 L.R.A.(N.S.) 293.

Civil liability of persons who join in peti-tion addressed to public authorities. L.R.A.1916D, 394.

### PETROLEUM.

In general, see MINES, §§ 33-38.

Keeping of, on insured premises. L.R.A. 1917C, 278.

# PEWS.

Rights of pew holders, see RELIGIOUS SOCIE-TIES, § 14.

Injunction against sale or other disposal of, 3 L.R.A.(N.S.) 871.

#### PHARMACISTS.

See Drugs and Druggists.

# PHILANTHROPY.

Charitable devise or bequest for, see CHARI-TIRE.

#### PHONOGRAPH.

Use of, in evidence, see EVIDENCE, § 157. Perforated rolls and wax cylinders as infringements of copyright of sheet music. 2 B. R. C. 91.

#### PHOSPHORUS.

Keeping of, on insured premises. L.R.A. 1917C, 278.

#### PHOTOGRAPHERS.

Discrimination against nonresidents by ordinance imposing license tax on. 40 L.R.A. (N.S.) 291.

# PHOTOGRAPHS.

As evidence, see Evidence, § 156. Weight of, as evidence, see EVIDENCE, §§ 309-311.

Libel by publication of, see LIBEL AND SLAN-DER, § 7.

See also PICTURES; PORTRAITS.

Right to use negative without the consent of the party who has paid for it. 50 L.R.A. 397.

Right to duplicate without consent of person under contract with whom the original was produced. 7 L.R.A. (N.S.) 362.

Right of photographer or artist to use pic-ture for his own purposes. 42 L.R.A. (N.S.) 386.

Right to take or retain, in rogue's gallery, photograph of one accused of crime. 7 L.R.A. (N.S.) 274; 23 L.R.A. (N.S.) 739; L.R.A.1916A, 743.

Mental anguish as basis of action for loss of. 47 L.R.A.(N.S.) 1120.

Right of action for use of photograph for

advertising purposes. 839; L.R.A.1918D, 1152. L.R.A.1915C,

# PHYSICAL CONDITION.

As affecting testamentary capacity. 27 II. Public control and regulation of, L.R.A. (N.S.) 27; L.R.A.1915A, 450.
As affecting admissibility of dying declaraIII. Duty and liability to patient; maintenance.

tions. 56 L.R.A. 381. Begin with this book on every law question.

PHYSICAL CONDITION—cont'd

Admissibility of evidence as to physical condition of members of deceased's family in action for death. 49 L.R.A.(N.S.) 737.

# PHYSICAL DISABILITY.

See DISABILITY, § 2.

# PHYSICAL EXAMINATION.

See DISCOVERY AND INSPECTION, \$ 5.

# - PHYSICAL INCAPACITY.

Physical disability, see DISABILITY, § 2.

Fraudulent concealment of, as ground for avoiding promise of marriage. 28 L.R.A. 431.

# PHYSICAL INFIRMITIES.

As proof of testamentary incapacity. L.R.A. (N.S.) 27; L.R.A.1915A, 450.

# PHYSICAL INJURY.

See PERSONAL INJURIES.

## PHYSICAL LIFE.

Protection of personal rights relating to. 37 L.R.A. 784.

# PHYSICAL SUFFERING.

Allowance for in fixing damages for death. 17 L.R.A. 72.

Right to recover for mental suffering on account of another's physical suffering. 19 L.R.A.(N.S.) 500.

As proximate result of discharging passenger at improper place or one not his destination. 7 L.R.A.(N.S.) 1180.

# PHYSICIANS AND SURGEONS.

I. In general, §§ 1-5.

practice, §§ 12-16.

PHYSICIANS AND SURGEONS—cont'd IV. Negligence of, or failure to employ, or obey commands of, as affecting third person's liability, \$\$ 17, 18.

V. Contracts and recovery for services, **§§** 19, 20.

#### I. In general.

§ 1. Generally.

Allowance for mental anguish caused by negligence in transmission of message summoning physician, see Damages, § 102.

Physical examination by, see DISCOVERY AND INSPECTION, § 5.

Admissibility of opinions of, see EVIDENCE,

Privileged communications to, see Evi-

DENCE, §§ 221, 225.
Representations of insured as to consultation with, or attendance of, see Insur-ANCE, § 96.

Sale of liquor on certificate of, see INTOXI-CATING LIQUORS, § 21a.

Libel or slander of, see LIBEL AND SLANDER, § 18.

Authority of servant to employ, see Mas-TER AND SERVANT, §§ 18, 18a.

Master's duty as to medical assistance, see

MASTER AND SERVANT, § 58.

Master's liability for negligence of physician employed for injured servant, see MASTER AND SERVANT, § 59.

Master's liability for services of physician employed for servant, see MASTER AND SERVANT, § 60.

Agent's authority to employ, see PRINCIPAL AND AGENT, § 14.

Furnishing or prescribing by physician of habit-forming drugs. L.R.A.1918E, 669.

Authority of physician as agent of other person to contract for services of third persons. L.R.A.1918F, 66.

Specific performance of contract for sale of practice. L.R.A.1918E, 628.

Private records or memoranda of, as evidence of birth, death, etc. 1915F, 803. L.R.A.

Right of physician to complain of regulations of beneficial association or employer as to employment of physician. L.R.A.1916B, 839.

Conclusiveness of certificate of, as to cause of death of insured. 44 L.R.A. 854.

As witness before grand jury. 28 L.R.A. 323.

How far use of mails by healers is fraudulent. 70 L.R.A. 989.

Loss of opportunity to respond to a call for professional services as ground for action against telegraph company. L.R.A.(N.S.) 533.

Exemption of medical college from suit as agency of state. 35 L.R.A.(N.S.) 243.

Practice of medicine by corporation. 32 L.R.A. (N.S.) 56.

Effect of misrepresentations or undue influence by, to avoid release. 5 L.R.A. (N.S.) 663; 50 L.R.A. (N.S.) 1091.

Voluntariness of confession to. 18 L.R.A. (N.S.) 855.

Consult also L.R.A. Digests of Cases.

PHYSICIANS AND SURGEONS, I.—cont'd Municipal power to provide, in epidemics. 26 L.R.A. 728.

§ 2. Effect of sending for, and opinion of, on admissibility of dying declarations.

Sending for, as evidencing sense of impending death at time of dying declarations. 56 L.R.A. 414; 30 L.R.A. (N.S.) 398.

Expressions of physician's opinion as evidencing sense of impending death at time dying declarations were made. 56 L.R.A. 413; 30 L.R.A. (N.S.) 397.

§ 3. Criminal responsibility for failure to provide.

Criminal responsibility for failure to pro-vide child with medical attendance and remedies. 1 B. R. C. 747; 6 B. R. C.

Religious belief as excuse for failure to furnish medical aid to child. 36 L.R.A. (N.S.) 633; 1 B. R. C. 747.

Effect of failure to provide medical attend-

ance to render one guilty of manslaughter. 6 L.R.A. (N.S.) 685; 45 L.R.A. (N.S.) 559.

§ 4. Sale of practice; contracts not to engage therein.

Validity of contract restraining practice of profession after expiration of term of service with another. 26 L.R.A. (N.S.) 961.

Validity of agreement by employee of physician not to engage in same profession, as affected by scope in time and territorial extent. 24 L.R.A.(N.S.) 936.

Validity of restrictive agreement ancillary to sale of practice as affected by its territorial scope. 24 L.R.A.(N.S.) 927; L.R.A.1916C, 629.

Right of physician selling good will of practice to solicit patronage of former pa-tients. 10 L.R.A.(N.S.) 1200. Remedy by injunction to restrain violation

of agreement not to practise medicine or surgery within a certain territory. L.R.A.1915B, 206.

§ 5. Charges of, as element of dam-

Allowance for physician's services in action for personal injuries, without evidence of their value. 19 L.R.A.(N.S.) 920.

Cost of, as element of damages for injury by

dog. 37 L.R.A.(N.S.) 866. Right to recover medical expenses of person negligently killed. 2 B. R. C. 711.

II. Public control and regulation of.

6. Generally.

Right of physician to sell drugs without a prescription. 46 L.R.A. (N.S.) 1.

Validity of statute or regulations affecting right to practise medicine or surgery of one who has practised in another state or is a nonresident. 49 L.R.A. (N.S.) 150.

Constitutionality of statute as to reporting and registering births, deaths, etc. 39

L.R.A. (N.S.) 1015.

PHYSICIANS AND SURGEONS, II .- | PHYSICIANS AND SURGEONS-cont'd cont'd

Review of action of medical board. 20 L.R.A. 355.

# § 7. What constitutes practice of medicine.

What constitutes practising medicine within the state. 4 L.R.A.(N.S.) 1023.

Midwifery as practice of medicine contra-vening statute. 17 L.R.A. (N.S.) 94.

Administering domestic remedy for pay as practising medicine. 12 L.R.A.(N.S.) 1094.

Application of statutes regulating practice of medicine to persons giving special kinds of treatment. 3 L.R.A.(N.S.) 762; 24 L.R.A.(N.S.) 103; 25 L.R.A. (N.S.) 1297; 33 L.R.A.(N.S.) 179; L.R.A.1917C, 822.

# § 8. License of. Of dentist, see DENTISTS.

Constitutionality of regulations as to practice; license. 14 L.R.A. 581.

Validity of statute creating prima facie rule of evidence as to existence or nonexistence of license. L.R.A.1915C, 736.

Discrimination against nonresidents by statute or ordinance as to license. 40 L.R.A.(N.S.) 284.

Determining character or standing of professional school for purposes of license statute. 22 L.R.A.(N.S.) 735.

License to engage in medicine as a vested right to continue in same. 8 L.R.A. (N.S.) 1272.

Burden of proof as to, in suit to recover for services. 8 L.R.A.(N.S.) 1238.

# § 9. — failure to procure.

Libel or slander by imputing incompetency to unlicensed physician. 26 L.R.A. 327. Effect of failure to procure license. 16 L.R.A. 425.

Right of unlicensed physician to act as employee of licensed one. 44 L.R.A. (N.S.) 1089.

Validity of contract by unlicensed physician. 12 L.R.A.(N.S.) 613.

Practising medicine, surgery, or dentistry without a license as a continuing offense. 42 L.R.A. (N.S.) 768.

#### 10. - revocation of.

Power to revoke license of. 1 L.R.A. (N.S.)

Grounds for revoking physician's license. 8 L.R.A.(N.S.) 585; 17 L.R.A.(N.S.) 439; 30 L.R.A.(N.S.) 783; L.R.A. 1915D, 1218.

Statute of limitations as a defense to revocation of physician's license. 11 L.R.A. (N.S.) 557; L.R.A.1915D, 1218.

# 11. Diploma to.

Mandamus to compel issuance of diploma medical school. 3 L.R.A.(N.S.) 1115; L.R.A.1916B, 616.

Begin with this book on every law question.

III, Duty and liability to patient; malpractice.

# § 12. Generally.

Confidential disclosures to, see EVIDENCE, §§ 221, 225.

Liability of physician conducting private hospital, see Hospitals, § 4.

Mental suffering as element of damages in action against physician or surgeon. 51 L.R.A. (N.S.) 36.

Liability of physician to person treated under employment by a third person. L.R.A.1916D, 650.

Liability for malpractice when serving gratuitously. 14 L.R.A. 429.

Negligent homicide by. 62 L.R.A. 287; L.R.A.1915D, 201.

Duty of physician called to reduce fracture to guard against infection. 12 L.R.A. (N.S.) 752.

Liability of physician or surgeon for failure to diagnose fracture or dislocation. 28 L.R.A.(N.S.) 136.

Liability of physician as affected by other calls on his services. L.R.A.1916B, 625.

Liability of physician or surgeon where foreign material is left in incision. 46 L.R.A.(N.S.) 611.

Liability of physician for injuries resulting from electrical or X-ray treatment. 28 L.R.A.(N.S.) 262; 43 L.R.A.(N.S.) 734.

Liability of operating surgeon for negligent acts of interne or hospital nurse in caring for patient. 27 L.R.A. (N.S.) 1174; L.R.A.1918C, 134.

Liability of physician or surgeon for acts of associate. 42 L.R.A.(N.S.) 785.

Physician's right to determine frequency of visits to patient. 51 L.R.A. 298.

Time when limitation begins to run on liability for negligence or malpractice of. 15 L.R.A.(N.S.) 161.

Sufficiency as to general allegations of negligence. 59 L.R.A. 267.

Burden of proof as to contributory negligence in action for malpractice. 33 L.R.A.(N.S.) 1213.

Proof necessary to discharge burden of showing that the negligence or unskilfulness of the physician caused or contributed to the death or injury of the patient. 15 L.R.A.(N.S.) 416.

Right of plaintiff in action for malpractice to avail himself of privilege as against testimony of defendant or other physicians. 20 L.R.A. (N.S.) 1003.

Recovery by physician as bar to action for malpractice. 45 L.R.A. 541; 46 L.R.A. (N.S.) 222.

Undertakings to defend malpractice suits as insurance. 47 L.R.A.(N.S.) 292.

Recovery under Workmen's Compensation Act for aggravation of injury by malpractice of physician and effect of the act on independent cause of action therefor. L.R.A.1917D, 172.

PHYSICIANS AND SURGEONS, III.- | PHYSICIANS AND SURGEONS, IV.cont'd

Release by person injured as affecting his ployed by other party. L.R.A.1918A, 227. claim against physician or surgeon em-

# § 13. Degree of care and skill required

General duty of physician. 37 L.R.A. 830. What he undertakes to do. 37 L.R.A. 830. Liable for what. 37 L.R.A. 832.

What are proper care and skill. 37 L.R.A

Degree of skill and care required of specialist. 20 L.R.A.(N.S.) 1030.

Liability of physician or surgeon for failure to follow established practice as to method of treatment. 37 L.R.A. (N.S.) 836; L.R.A.1915C, 595.

Practice of his own school. L.R.A.1915C,

No presumption against him. 37 L.R.A. 837.

Free service. 37 L.R.A. 837. General reputation. 37 L.R.A. 838. Who judges of skill. 37 L.R.A. 838. Survival of action. 37 L.R.A. 838.

# § 14. Performance of operation autopsy without consent.

Liability for performing surgical operation without consent of patient. 1 L.R.A. (N.S.) 439; 7 L.R.A. (N.S.) 609; 50 L.R.A. (N.S.) 880.

Liability for performing surgical operation on minor without parent's consent. 7 L.R.A.(N.S.) 612; 41 L.R.A.(N.S.) 290.

Liability for damages for performing unauthorized autopsy. L.R.A.1918D, 404.

# § 15. Effect of patient's negligence.

Patient's own negligence or failure to follow instructions as affecting liability of physician or surgeon for malpractice. 17 L.R.A.(N.S.) 1242.

§ 16. Of person other than physician. Duty and liability of one other than a physician or surgeon, who contracts to provide medical or surgical attention to another. 36 L.R.A. (N.S.) 50; L.R.A. 1915D, 884.

IV. Negligence of, or failure to employ, or obey commands of, as affecting third person's liability.

# 17. Generally.

Liability of one causing personal injury as affected by negligence or unskilfulness of attending physician or surgeon. 17 L.R.A. 34; 48 L.R.A.(N.S.) 116.

Liability under accident policy for death or injury resulting from surgical operation or medical treatment. 26 L.R.A. (N.S.) 1004; L.R.A.1915E, 955.

Consult also L.R.A. Digests of Uases.

cont'd

Criminal responsibility of one who inflicts a wound on another resulting in the latter's death, as affected by neglience or lack of skill in treatment or care of a wound. 22 L.R.A. (N.S.) 841; 28 L.R.A. (N.S.) 665; L.R.A.1915F, 608.

# § 18. Obeying or disobeying as affecting remedy of injured person.

In action against physician, see supra, § 15.

Generally. 49 L.R.A. 826; 48 L.R.A. (N.S.) 110.

Effect of obeying improper directions. 49 L.R.A. 826.

Effect of disobeying directions. 49 L.R.A. 827.

Duty to submit to operation. 48 L.R.A. (N.S.) 111.

# V. Contracts and recovery for services.

#### 19. Contracts.

Validity of contract to furnish a patient medical services for life. 28 L.R.A. (N.S.) 1112.

Effect of statute of frauds on parol contract for employment of physician which may but is not intended to be performed within a year. 15 L.R.A.(N.S.) 326.
Validity of contract by unlicensed physician.

12 L.R.A. (N.S.) 613.

#### § 20. Recovery.

Medical services as a family expense or necessary within statute rendering wife or her property liable therefor. L.R.A. 1917F, 863.

Amount of compensation for professional services. L.R.A.1917A, 1267.

Measure of compensation to physician employed to examine and report on physical condition of one who contemplates bringing action for personal injuries. 25 L.R.A. (N.S.) 70.

Right of physician to recover for emergency services rendered unconscious person. 12 L.R.A. (N.S.) 1090.

Liability of relative for medical services to pauper. L.R.A.1915E, 844.
Liability of public for medical services to

indigent person in absence of notice or request. 9 L.R.A.(N.S.) 1234.

Liability of public for services of physicians or surgeons rendered prisoners. L.R.A. (N.S.) 1223.

Validity of contract to pay attending physician percentage of damages recovered for personal injury. 33 L.R.A.(N.S.) 87.

Burden of proof as to physician's license in suit to recover for services. 8 L.R.A. (N.S.) 1238.

Allowance for physician's services in action for personal injuries without evidence of the value thereof. 19 L.R.A. (N.S.) 920.

Admissibility of books of account to prove professional services. 52 L.R.A. 698.

PHYSICIANS AND SURGEONS, V.cont'd

value of services. 42 L.R.A. 769.
Recovery by physician as bar to action for malpractice. 45 L.R.A. 541; 46 L.R.A. (N.S.) 222.

#### PIANO.

Exemption from seizure under execution. 44 L.R.A.(N.S.) 77.

# PIAZZA.

Burglary by going upon. 46 L.R.A. (N.S.) ອນ**ອ**້.

#### FICK.

Master's liability for injury by defects in. 51 L.R.A. (N.S.) 338.

#### PICKETING.

Law as to picketing. 4 L.R.A. (N.S.) 302; 50 L.R.A. (N.S.) 412. Validity of statute or ordinance against. L.Ř.A.1918C, 282.

# PICTURE FRAME.

Sale of picture frame by hawkers and peddlers, and persons soliciting orders by sample or otherwise, as incidental to transaction protected by commerce clause. 19 L.R.A. (N.S.) 315; 28 L.R.A. (N.S.) 266.

#### PICTURES.

Photograph, see Photograph. Portrait, see PORTRAIT.

Unlawfulness of indecent pictures. L.R.A. 110.

Common-law right in unpublished pictures. 1 B. R. C. 196.

Rights of employer and employee with respect to pictorial work of employee. 1 B. R. C. 324.

Right of photographer or artist to use pic-ture for his own purposes. 42 L.R.A. (N.S.) 386.

Right to take or retain in rogues' gallery

# PIECEMEAL.

Conclusiveness of expert testimony as to value of services. 42 L.R.A. 769.

Recovery by physician as bar to action for limit. 12 L.R.A. (N.S.) 433.

#### PIERS.

See WHARVES.

#### PIGS.

Keeping of, as a nuisance. L.R.A.1917C,

#### PILOTS.

\$ 1. Generally. License of, see LICENSE, § 37.

Jurisdiction of admiralty of contracts of. 66 L.R.A. 229.

Effect of omission to employ, on liability on marine insurance policy. 1 L.R.A. (N.S.) 1095.

§ 2. Liability of vessel for compulsory fees of.

What constitutes compulsory pilotage. 39 L.R.A. 177.

Consideration and construction of provisions for. 39 L.R.A. 177.

Effect of constitutional restrictions. L.R.A. 179.

Effect of national prohibition against discrimination. 39 L.R.A. 181.

Effect of national provision for waters between states. 39 L.R.A. 182.

Effect of Federal licenses and license laws.

39 L.R.A. 183.
Conditions of liability. 39 L.R.A. 183.
Outward-bound pilotage. 39 L.R.A. 189.
To whom and what the liability attaches.
39 L.R.A. 189.

The amount or rate. 39 L.R.A. 191.

8 8. Lien of. Maritime lien for services of, 70 L.R.A. 384.

§ 4. Negligence of.

Liability of pilot to owner of vessel hiring him, for damage caused by his fault. 14 L.R.A.(N.S.) 1114.

Provision exempting carrier from liability for loss from neglect or default of pilot as extending to loss caused by negli-gence. 6 B. R. C. 133.

# PINCH BARS.

picture of one accused of crime. 7 Master's liability for injury by defect in. 13 L.R.A.(N.S.) 274; 23 L.R.A.(N.S.) 739. L.R.A.(N.S.) 681. L.R.A. (N.S.) 681.

#### PIPES AND PIPE LINES.

In street, see Highway, §§ 22, 23.

Water pipes generally, see WATERS, § 112.

Pipe line companies as public utilities. L.R.A.1918Ĉ, 855.

Persons laying as independent contractors. 65 L.R.A. 488.

Employer's liability for negligence of independent contractor in construction of. 65 L.R.A. 847

Employer's nonliability for acts of independent contractor in laying of. 65 L.R.A. 648.

Pipe line as real estate for purpose of taxation. 15 L.R.A. 299.

Taking of land for, as a public purpose. 22 L.R.A. (N.S.) 136.

Laying pipe through land as a taking for which compensation must be made. 24 L.R.A.(N.S.) 230.

Validity of contract for exclusive right of way for, across private property. 36 L.R.A. (N.S.) 456.

Prescriptive right by use of underground water pipes. 2 L.R.A.(N.S.) 976.

Easement of way as including right to lay pipes. L.R.A.1917F, 449.

Injury to trainman by pipes over track.
47 L.R.A.(N.S.) 499.

Obstruction of navigation by, liability for. 59 L.R.A. 75.

Lien on pumping or power plant for pipes laid in street. 42 L.R.A.(N.S.) 355. Liability for damage to service mains by excavating in street. L.R.A.1917Ĕ,

1094.

#### PIRACY.

Of copyright publication. 66 L.R.A. 448. Forfeiture of rights of innocent persons in vessel used for piracy. L.R.A.1916E, 346.

# PIRATES.

Admiralty jurisdiction of suit as to vessel captured by. 66 L.R.A. 207.

# PISTOL.

As weapon within statute against carrying concealed weapons. 34 L.R.A. (N.S.) 1175. As deadly weapon. 21 L.R.A.(N.S.) 500.

# PITFALLS.

from. 54 L.R.A. 78. Consult also L.R.A. Digests of Cases.

#### PLACE.

Of demand for payment of note, see BILLS AND NOTES, § 51.

Of ejection of passenger, see Carriers, § 34. Of delivery by carrier, see Carriers, § 114.

Of filing or recording chattel mortgage, see CHATTEL MORTGAGE, § 20.

Of imprisonment, see CRIMINAL LAW, § 82.

Of voting, see Elections, § 12.

Of sale of liquor, see Intoxicating Liquos, §§ 26, 27.

Of judicial sale, see Judicial Sale, § 5.

Of payment, see Payment, § 18.

Of business, see PLACE OF BUSINESS. Of application for removal of cause from

state court, see REMOVAL OF CAUSES, § 13.

Of trial, see VENUE.

Of signature to will, see Wills, § 23.

Of service of process, see WRIT AND PROCESS, §§ 11, 12, 17.

Limitation as to in contract in restraint of trade, see Contracts, § 108.

Judicial notice as to, see EVIDENCE, § 14.
Allegations as to, in indictment, see In-DICTMENT, INFORMATION AND COM-PLAINT, § 5.

Master's duty as to safety of, see MASTER AND SERVANT, III, a, 6.

Power of officer to act as determined by the place of performance, see Officers, § 29.

Validity and effect of provision in carrier's contract sas to place of valuation of property for purpose of determining amount of damages. L.R.A.1918B, 720.

Right of street railway company to limit place of transfer. 8 L.R.A.(N.S.) 287; 52 L.R.A.(N.S.) 908.

Of signature to satisfy statute of frauda-

Of signature, to satisfy statute of frauds. L.R.A.1917A, 153.

Of location of mine. 7 L.R.A.(N.S.) 826. Of examination of insured. 52 L.R.A. 426.

Under provision as to producing books and papers. 41 L.R.A. 706.

Of making arrest as affecting officer's liability. 51 L.R.A. 214.

Of detention or delivery as affecting liability of officer making arrest. 51 L.R.A. 2Í8.

Of resale of goods on purchaser's refusal to accept them. 42 L.R.A.(N.S.) 681, 685.

Of statements made sometime after accident as affecting admissibility as res gestæ. 42 L.R.A.(N.S.) 921.

#### PLACE OF BUSINESS.

Validity of classification in Sunday law as to keeping open. 14 L.R.A.(N.S.) 1259; 32 L.R.A.(N.S.) 1190.

# PLACE OF PUBLIC ACCOMMODA-TION.

Nondelegability of duty to protect servant | What is, within meaning of Civil Rights Statute. L.R.A.1918F, 829.

#### PLACE OF TRIAL.

See VENUE.

### PLACER MINE.

§ 1. Generally.

Application of doctrine of lateral support to. 68 L.R.A. 674.

. Discovery in placer mining. 7 L.R.A.(N.S.) 831.

Size of placer claim. 7 L.R.A. (N.S.) 851.

2. Location of.

What may be located as placer claim. 7 LR.A.(N.S.) 809.

Form of location. 7 L.R.A. (N.S.) 847.

Application to placer mining claims of rules as to recording. 7 L.R.A. (N.S.) 867.

Notice of. 7 L.R.A. (N.S.) 838.

Marking of placer claims on the ground. 7
L.R.A.(N.S.) 862.

Necessity of marking on ground boundaries of placer claims on surveyed land of the United States. 3 L.R.A. (N.S.) 993.

# 3. Relocation.

Relocation of placer claims as abandoned or forfeited. 68 L.R.A. 848.

#### PLAINTIFFS.

Parties plaintiff, see PARTIES, M.

#### PLAN.

Effect of filing plan on amount of damages in condemnation of proceedings. L.R.A. 758.

Right of architect in plans prepared by him. 3 B. R. C. 464. Right of architect to lien for furnishing.

16 L.R.A. 601.

Liability of architect to owner in regard to plans. L.R.A.1918D, 893.

For establishment of drains and sewers. 60 L.R.A. 176.

Of municipality for disposing of surface water. 65 L.R.A. 274.

Right of public to benefit of plans made or prepared by officer or employee. L.R.A. 1917B, 1183.

# PLANING MILLS.

Contributory negligence in continuing work in, notwithstanding master's promise to repair. 29 L.R.A.(N.S.) 602.

# PLANT DISEASES.

Validity and construction of statutory regulations as to infected orchards, trees 43 L.R.A.(N.S.) 1080; or crops. L.R.A.1915F, 894.

Begin with this book on every law question.

#### PLATES.

Right to use engraved plates without consent of party who has paid for same. 50 L.R.A. 397.

# PLATFORM.

Carrier's liability for injury to passenger on, see CARRIERS, § 60.

Negligence of carrier as to, see CARRIERS, §§ 70–72.

Contributory negligence in riding on, see CARRIERS, § 80.

Nondelegability of duty to protect servants from defects in. 54 L.R.A. 77. Duty of storekeeper towards customer as to

condition of. 21 L.R.A.(N.S.) 462; L.R.A.1915F, 572.

Negligence of carrier in permitting space between platforms of cars. L.R.A. 1916D, 1113.

# PLATS AND MAPS.

Dedication by, see DEDICATION, § 6.

Use of, by counsel in argument to jury.

LR.A.1918D, 80.
Right of public to benefit of maps, plats, etc. made by officer or employee. L.R.A. 1917B, 1183.

Boundaries on conveyance by plat. 42 L.R.A. 509.

Constitutionality of law denying compensation for improvements made after filing of map. 36 L.R.A.(N.S.) 278.

Effect of lines or other indications on recorded plat to create an implied covenant. L.R.A.1917A, 458.

Validity and effect of deed or mortgage executed in blank as to the land to be conveyed as affected by reference to map or plan. L.R.A.1918A, 1157.

#### PLAY.

Playing ball, see PLAYING BALL.

Author's rights at common law in. 9 L.R.A.(N.S.) 174; 43 L.R.A.(N.S.) 639.

Duty as to obstructions or defects in street in case of children at play therein. 22 L.R.A. 561; 6 L.R.A.(N.S.) 905; 20-L.R.A.(N.S.) 753; 34 L.R.A.(N.S.)

118; L.R.A.1916B, 947.
Reciprocal duty of driver of automobile and child playing in street. L.R.A.1918A, 257.

Contributory negligence of child injured by vehicle while playing in street. L.R.A. 1917F, 98.

#### PLAY GROUNDS.

Power to exercise eminent domain for purpose of. 48 L.R.A.(N.S.) 487.

### PLAYING BALL.

Playing, on Sunday as an offense. L.R.A.(N.S.) 63; 32 L.R.A.(N.S.) 1186.

#### PLEA.

In criminal cases, see CRIMINAL LAW, §§ **56**, 57. In civil action, see PLEADING, §§ 36-38.

# PLEADING.

I. In general, §§ 1-15.

a. Generally, \$\$ 1-3.

b. Inconsistency; profert; oyer, \$\$ 4, 5.

bb. Defects waived or oured; time for objections.

c. Judgment on; relief under, *§§* 6, 7.

d. Service of, \$\$ 8, 9.
6. Amendment; supplemental pleading, \$\$ 10-12.

f. Withdrawal; striking out; misjoinder, §§ 13-15.

II. Plaintiff's pleadings, \$\$ \$16-35.
a. In general, \$\$ 16, 17.
b. On contract liability, \$\$ 18-

22.

o. Negligence, §§ 23-30.

d. Torts; frauds; undue influ-ence, § 31.

e. In divorce suit; estates of decedents, §§ 32, 33. f. Injunction; judgment,

34, 35. III. Defendant's pleadings, 💲 36-38a.

IV. Cross bill, \$ 39. V. Reply, \$ 40.

VI. Demurrer, § 41.

# I. In general.

# a. Generally.

**1**. Generally.

In criminal case, see CRIMINAL LAW, \$\$ 56, 57; INDICTMENT, ETC.

Admissibility of evidence under, see Evi-DENCE, § 329.

Variance between pleading and proof, see EVIDENCE, §§ 330-332.

Identity of, see IDENTITY AND IDENTIFI-

CATION, § 11.
Conformity of judgment to pleadings, see JUDGMENT, § 12.

Privileged nature of, see LIBEL AND SLAN-

In mandamus proceeding, see MANDAMUS, §

Consult also L.R.A. Digests of Cases.

PLEADING, I. a—cont'd

Petition for removal of cause from state ' court, see REMOVAL OF CAUSES, § 12.

Propriety of arguments by counsel to jury referring to or stating contents of pleadings. L.R.A.1918D, 54.

Collateral attack upon judgment because of insufficiency of pleadings, L.R.A.1916E,

316.

Right to open default to let in defense relying on defects in adversary's pleadings. L.R.A.1916F, 842.

In actions on contracts stipulating for preliminary arbitration. 47 L.R.A.(N.S.) 431.

Necessity of incorporating admission in pleading. 61 L.R.A. 529.

Controlling effect on Federal courts of decisions of state as to matters relating to. 40 L.R.A. (N.S.) 451.

Effect of qualifying words "as executor," "as administrator," in pleading. L.R.A. 851.

Liability of attorney to client for mistake in pleading. 52 L.R.A. 885. Estoppel to deny facts pleaded to defeat jurisdiction of court. 15 L.R.A.(N.S.) 423.

As affected by question whether suit for statutory penalty is a civil or criminal prosecution. 27 L.R.A.(N.S.) 745.

Perjury in statements involving matters of opinion or belief. 25 L.R.A.(N.S.) 654.

Responsiveness of special verdict to pleadings. 24 L.R.A. (N.S.) 41.

Admissions and waivers in pleadings by fiduciaries. 32 L.R.A. 671.

Publication of pleadings derogatory to parties to litigation as contempt of court. 2 B. R. C. 500.

Charges of adultery in pleadings as ground for divorce to wife. 18 L.R.A.(N.S.) 311.

Necessity of pleading illegal enactment of bill. 40 L.R.A.(N.S.) 37.

§ 2. Verification.

Omitted verification to initial pleadings in divorce suit as basis of attack on decrees. L.R.A.1917B, 469.

§ 3. Denials upon information and belief.

Denials upon information and belief, or of knowledge or information sufficient to form belief, as to matters presumptively within pleader's knowledge. 30 L.R.A.(N.S.) 771.

Sufficiency of denial upon, in action on negotiable instrument. 66 L.R.A. 545, 554.

# b. Inconsistency; profert; over.

§ 4. Right to plead inconsistent defenses.

Availability of plea of limitation and plea to the merits against the same cause of action. L.R.A.1917C, 71.

Inconsistency in single plea. 48 L.R.A. 177.

PLEADING, I. b-cont'd

Original common-law rule as to inconsist-ency between pleas. 48 L.R.A. 178. The rule under the statute of Anne. 48 L.R.A. 178.

The rule in equity. 48 L.R.A. 183.

The rule under reform procedure. 48 L.R.A. 185.

Effect of inconsistency as a waiver or admission. 48 L.R.A. 203.

Inconsistency, how taken advantage of. 48 L.R.A. 208.

# § 5. Profert; oyer.

Profert and oyer of unsealed instrument. 1 L.R.A.(N.S.) 777.

# c. Judgment on; relief under.

§ 6. Judgment on.

Judgment on; practice. 4 L.R.A. 239.

7. Relief under pleadings.

Right to recover for ordinary negligence under allegation of gross, wilful, or wanton negligence, or vice versa. 69 L.R.A. 601.

Right to obtain in suit in equity relief that might be obtained at law where equitable jurisdiction is not established because of defectiveness of pleadings. 19

L.R.A. (N.S.) 1065. Necessity that pleadings disclose legal cause of action to entitle one to relief in equity that might be obtained at law on failure to establish ground of equitable jurisdiction. 19 L.R.A. (N.S.) 1077.

Effect of default judgment beyond scope of relief asked. 11 L.R.A.(N.S.) 803.

#### d. Service of.

§ 8. Time.

First and last days in computing time on. 49 L.R.A. 220.

Extension of time for, when last day falls on Sunday. 14 L.R.A. 121.

Pendency of motion as extending time to plead. 47 L.R.A.(N.S.) 853.

§ 9. On holiday. Service of, on holidays. 19 L.R.A. 319.

# e. Amendment; supplemental pleading.

# § 10. Amendment.

Amendment of indictment, see INDICTMENT. ETC., § 30.

Relation of new pleadings to statutes of limitation, see LIMITATION OF ACTIONS,

Amendment of, to cure defect for which motion in arrest of judgment has been made. 67 L.R.A. 179.

Amendment in suit by or against partnership in firm name. 29 L.R.A.(N.S.) 284.

Amendment of complaint in action against carrier for torts of servant to passenger. 40 L.R.A.(N.S.) 1088.

PLEADING, I. e-cont'd

Right to amend a common-law action for personal injuries resulting in death into a statutory action for death. 15 L.R.A. (N.S.) 1003.

Amendment of pleadings in proceeding to perpetuate testimony. 25 L.R.A. (N.S.) 680.

Amendment of pleading as discharge of sureties on bonds given to dissolve at-tachments or on bail, bonds in civil

actions. 42 L.R.A.(N.S.) 484.

Effect of failure of plaintiff in action on contract to avail himself of his right to introduce by amendment breaches of contract occurring during the pendency of his action. 8 L.R.A.(N.S.) 1197.

Right to accept favorable part of order allowing amendments and appeal from the rest. 29 L.R.A. (N.S.) 25.

Amendment of complaint in suit for divorce or separation so as to show residence or domicil. 48 L.R.A.(N.S.) 779.

Amendment as to plaintiff in statutory action for death. L.R.A.1916E, 172.

Amendment of pleadings in action under Federal employers' liability act. L.R.A. 1915C, 80.

# 11. - time of.

Right to amend pleadings after final decision on appeal. 18 L.R.A.(N.S.) 263.

Amendment of pleading in appellate court to conform to proof. L.R.A.1916D, 841.

12. Supplemental pleading.

Right to set up judgment in other court by amendment or supplemental complaint. 49 L.R.A. 285.

Supplemental bill in nature of bill to review interlocutory decree. 1 L.R.A. (N.S.) 1029.

Supplementary pleadings in proceeding to perpetuate testimony. 25 L.R.A.(N.S.) 680.

May original petition or complaint which states no cause of action be aided by supplemental pleading. L.R.A. 1916D, 676.

# f. Withdrawal; striking out; misjoinder.

§ 13. Withdrawal.

Power of defendant's attorney to withdraw answer and permit default judgment. 33 L.R.A. 515.

Jurisdiction of court to award custody of child after prayer for divorce has been withdrawn or dismissed. 35 L.R.A. (N.S.) 1159; L.R.A.1917D, 976.

§ 14. Striking out.

Power to punish disobedience to orders in case by striking pleadings. 4 L.R.A. (N.S.) 1185; 27 L.R.A. (N.S.) 1062.

Striking out pleading to cure defect for which motion in arrest of judgment has been made. 67 L.R.A. 182.

PLEADING, I. f-cont'd

§ 15. Misjoinder.

Joinder of cause of action, see Action on Suit, VI. Joinder of parties, see Parties, §§ 25, 36.

Right to join in one complaint claims of ordinary and gross negligence arising out of one state of facts. 31 L.R.A. (N.S.) 158.

Right to join prayer for return of plaintiff's property with prayer for divorce. 29 L.R.A.(N.S.) 819.

Right to join in one complaint claims of ordinary and gross negligence arising out of same state of facts. 31 L.R.A. (N.S.) 158.

Alleging in single count two or more acts of negligence capable of contributing to injury. 27 L.R.A. (N.S.) 792.

Joinder of parties with alternative allegations as to liability. 51 L.R.A. (N.S.) 640.

# II. Plaintiff's pleadings.

# a. In general.

§ 16. Generally. Amendment of, see supra, §§ 10, 11. Reply, see infra, § 40. Demurrer, see infra, § 41.

Right under statute to an order for the examination of an adverse party to enable one to frame his pleadings. L.R.A.1918C, 590.

Necessity and sufficiency of allegations as to unknown parties in action against parties designated as unknown. L.R.A.

1918F, 629.

Sufficiency of pleading to permit introduction of parol evidence that written instrument importing an absolute transfer was intended to operate as a mort-gage. L.R.A.1916B, 552.

. Necessity of consistency in complaint with respect to representative or individual capacity of party. 1 L.R.A.(N.S.) 161.

May original petition or complaint which states no cause of action be aided by supplemental pleading. L.R.A.1916D,

Necessity of pleading the statute of frauds. 49 L.R.A. (N.S.) 1.

Complaint as aiding defective summons. 44 L.R.A.(N.S.) 138.

Necessity that pleading in action by stockholder on behalf of the corporation show demand upon, and refusal of, board of directors to act. 51 L.R.A. (N.S.) 107.

Joinder of parties with alternative allegations as to liability. 51 L.R.A. (N.S.)

Necessity for alleging that action for death is within the statutory period. L.R.A. 1915E, 1192.

In action against infant. 5 L.R.A. 178.\* In proceeding to perpetuate testimony. 25 Complaint against indorser of note. L.R.A. (N.S.) 679. L.R.A. (N.S.) 563.

Consult also L.R.A. Digests of Cases.

PLEADING, II. a-cont'd

Failure to allege filing of claims by creditors and insufficiency of assets in action by trustee in bankruptcy to recover assets of estate or to set aside preference. 17 L.R.A. (N.S.) 350.

In suit for relief from mistake of law as to

effect of instrument. 28 L.R.A.(N.S.) 913.

In suit to set aside divorce decree. L.R.A. 1917B, 510.

§ 16a. Necessity of theory of the case in pleading.

In general. 50 L.R.A. (N.S.) 4.

Pleader's theory of facts. 50 L.R.A. (N.S.)

Materiality of character of action. L.R.A.(N.S.) 17.

Ascertainment of character of action. L.R.A. (N.S.) 19.

§ 17. Against telegraph company.

Pleading in action to recover damages for mental anguish in telegraph cases. 49 L.R.A.(N.S.) 279.

# b. On contract liability.

§ 18. Generally.

Sufficiency of common counts under the Code. 34 L.R.A. (N.S.) 364.

Pleading as to secondary contract abrogating or altering prior contract. L.R.A. 1915B, 68.

Recovery on common counts by one who abandons a contract for work or labor or services without cause or justification. L.R.A.1916E, 790.

In action on contract in violation of law. 12 L.R.A.(N.S.) 622.

Necessary allegations in action of account between cotenants. 28 L.R.A. 850.

In action by wrongfully discharged servant for damages from breach of contract. 6 L.R.A.(N.S.) 64.

In action by lessor against lessee for breach of covenant as to payment of taxes and assessments. L.R.A.1915A, 362.

In actions on contracts stipulating for preliminary arbitration. 47 L.R.A. (N.S.) 431.

Pleading in action on subscription for charity. 48 L.R.A.(N.S.) 807.

In action to recover purchase price where purchaser has wrongfully repudiated his contract. 51 L.R.A.(N.S.) 760.

In litigation between promoters as to promotion contracts. L.R.A.1918E, 851.

Duty of insured to negative death or accident from excepted cause in action on insurance policy. 50 L.R.A.(N.S.) 1006.

19. Bills and notes.

In action to enforce obligation payable in coin. 29 L.R.A. 597.

§ 20. — against indorser.

PLEADING, II. b-cont'd § 21. Bonds.

In action on bond delivered without the signature of the principal obligor. 12 L.R.A.(N.S.) 1122.

§ 22. Specific performance.

Necessity in complaint for specific performance of alleging adequacy of consideration for contract sought to be enforced. 19 L.R.A.(N.S.) 178.

In action for specific performance of con-tract to give security. 6 L.R.A.(N.S.)

# c. Negligence.

§ 23. Generally.

Pleading particular cause of injury as waiver of right to rely on res ipsa loquitur. 24 L.R.A.(N.S.) 788; L.R.A.1915F, 992.

Effect of specification of particular bodily injuries comprehended within general allegation to exclude others otherwise comprehended within general allegation. 27 L.R.A.(N.S.) 837.

Alleging in single count two or more acts of negligence capable of contributing to injury. 27 L.R.A. (N.S.) 792.

Right to join in one complaint claims of ordinary and gross negligence arising out of same state of facts. 31 L.R.A. (N.S.) 158.

In private action for violation of statute not expressly conferring right of action. 9 L.R.A.(N.S.) 390.

In action for injuries received through fright of horse by automobile on high-way. 48 L.R.A.(N.S.) 966.

# § 24. Sufficiency of general allegations of negligence.

Generally. 59 L.R.A. 210.

The rule as generally stated. 59 L.R.A. 210. More particular statement of the rule. 59 L.R.A. 211.

Reasons for rule. 59 L.R.A. 214.

Averment of duty as an element of negligence. 59 L.R.A. 214.

The rule as affected by necessity of notice

of nature of claim. 59 L.R.A. 216. Effect of the nature of the negligence or wrong. 59 L.R.A. 217.

The rule as affected by method of asserting defect. 59 L.R.A. 218.

The rule as affected by accompanying allegation of facts. 59 L.R.A. 221.

Application of rules to negligence of ordinary railroads. 59 L.R.A. 222.

Application of rules to negligence of street railroads. 59 L.R.A. 238.

Application of rules to negligence of carriers. 59 L.R.A. 239. Application of rules to municipal negligence.

59 L.R.A. 248. Application of rules to negligence of employer injuring employee.

L.R.A. 252. Application of rules to breach of official duty. 59 L.R.A. 267.

Application of rules to improper performance of professional duty. 59 L.R.A. PLEADING, II. c—cont'd

Application of rules to breach of contract-ual duty. 59 L.R.A. 267.

Application of rules to maintenance of public nuisance. 59 L.R.A. 269.

Application of rules to maintenance of defective or unsafe premises to structures. 59 L.R.A. 270.

The rule as to pleading contributory negligence. 59 L.R.A. 275.

#### § 25. As to animals.

Sufficiency of general allegations of negligence in keeping dangerous animals. 59 L.R.A. 272.

Necessity of alleging negligence in mode of keeping animal known to be dangerous. 2 B. R. C. 21.

#### § 26. Of master.

Sufficiency of general allegations of master's

negligence. 59 L.R.A. 252. As to master's knowledge as element of liability. 41 L.R.A. 145.

Complaint alleging breach of one or more absolute duties of master. 54 L.R.A.

Sufficiency of complaint in action under Federal employers' liability act. 47 L.R.A.(N.S.) 74; L.R.A.1915C, 78.

# 27. In respect to highway.

Sufficiency of general allegations of negli-gence as to highway. 59 L.R.A. 248. Sufficiency of allegation of facts in regard

to defect in street or highway, in action against municipal corporation for in-21 L.R.A. juries received therefrom. (N.S.) 42.

In actions against township for defects in highway. 13 L.R.A.(N.S.) 1243.

§ 28. Of carrier or railroad company. Sufficiency of general allegations of negligence of carriers. 59 L.R.A. 239.

Sufficiency of averments of negligence of carrier causing injury to passenger. 13 L.R.A.(N.S.) 602; 29 L.R.A.(N.S.) 809; L.R.A.1916C, 366.

Sufficiency of general allegations of negligence of ordinary railroads. 59 L.R.A. 222.

In private action for violation of police ordinance affecting operation of railroads. 5 L.R.A.(N.S.) 215.

Requisites of averments in complaint as to causal connection between violation of law or ordinance by a railroad company and injury. 8 L.R.A.(N.S.) 987.

Necessity and sufficiency of allegation as to time of injury to persons or property on railroad track. L.R.A.1915A, 781.

# § 29. Negativing contributory negligence.

Necessity as to alleging freedom from contributory negligence. 33 L.R.A. (N.S.) 1152, 1201.

§ 30. Recovery for ordinary negligence under allegation of gross, wilful, or wanton negligence or vice versa. Generally. 69 L.R.A. 601.

PLEADING, II. c-cont'd

Allegation of wilful or gross negligence. 69 L.R.A. 602.

Allegation of reckless or wanton negligence, or both. 69 L.R.A. 608.

Recovery on allegation of ordinary negligence, on proof of wilful or gross negligence. 69 L.R.A. 608.

Under statute or ordinance. 69 L.R.A. 612.

# d. Torts; fraud; undue influence.

#### § 31. Generally.

Recovery of money or property obtained by fraud, under the common-law count for money had and received. L.R.A.1918F, 439.

Necessity of averring seduction in order to recover therefor in an action for breach of promise. 33 L.R.A.(N.S.) 702.

In action against carrier for wilful tort of servant to passenger. 40 L.R.A.(N.S.) 1085.

Pleading in prosecution for violation of hours of service laws. L.R.A.1915D, 422; L.R.A.1917A, 1207.

Pleading in action for defamation of unnamed person. 48 L.R.A. (N.S.) 361.

Pleading in suit to set aside on ground of undue influence in conveyance of property in consideration of support of the grantor or a third person. 52 L.R.A. (N.S.) 482.

# e. In divorce suit; estates of decedents.

# § 32. In divorce suit.

Attack on divorce decree resting upon infirmities of pleading in divorce suit. L.R.A.1917B, 468.

In action for divorce for habitual drunkenness. 34 L.R.A. 452.

Necessity of alleging jurisdictional residence in divorce proceedings. 12 L.R.A. (N.S.) 1197.

Right to join prayer for return of plaintiff's property with prayer for divorce. 29 L.R.A.(N.S.) 819.

Amendment of complaint in suit for divorce or separation so as to show residence or domicil. 48 L.R.A.(N.S.) 779.

# § 33. Estates of decedents.

In suit against heirs on obligations of ancestor. 21 L.R.A. 92.

# f. Injunction; judgment.

# 84. Injunction.

In suit to enjoin collection of purchase money where title to land is defective. 7 L.R.A.(N.S.) 461.

Necessity of alleging fraud in use of geographical name as a trademark or trade name or on the ground of unfair competition. 26 L.R.A.(N.S.) 75.

# § 35. Judgment. How judgment pleaded. 4 L.R.A. 685. Consult also L.R.A. Digests of Cases.

| PLEADING-cont'd

# III. Defendant's pleadings.

# § 36. Generally.

Denial on information and belief, see supra, § 3.

Inconsistency in defenses, see supra, § 4.

Cross bill, see infra, § 39. Demurrer, see infra, § 41.

Plea in criminal case, see CRIMINAL LAW, § 56.

Right under statute to an order for the examination of adverse party to enable defendant to frame his pleadings. L.R.A. 1918C, 598.

As to omission of stamp from instrument. 48 L.R.A. 317.

Of failure of consideration as defense to action on purchase price note. 39 L.R.A.(N.S.) 949.

Estoppel to plead defense of limitations. 63 L.R.A. 193.

Pleading truth as a defense to a civil action for libel or slander. 21 L.R.A. 511; 31 L.R.A.(N.S.) 138; 50 L.R.A. (N.S.) 1042.

How defense pleaded in action for damages for wrongful discharge of servant. 6 L.R.A.(N.S.) 79.

Pleading other employment in mitigation or reduction of damages for wrongful discharge of servant. 6 L.R.A.(N.S.)

107.
Sufficiency of general averment of want of consideration. L.R.A.1917F, 581.

Sufficiency of general allegations of contributory negligence. 59 L.R.A. 275.

Sufficiency of, in action under Federal employers' liability act. 47 L.R.A.(N.S.) 76; L.R.A.1915C, 79.

As to excuse for violation of hours of service laws. L.R.A.1915D, 422; L.R.A. 1917A, 1207.

Sufficiency of allegations as to misstatements by insured respecting family history. L.R.A.1917C, 876.

f condonation of matrimonial offense. 6 B. R. C. 671.

Nature and form of plea of alien enemy. 5 B. R. C. 590.

In actions on contracts stipulating for preliminary arbitration. 47 L.R.A. (N.S.) 431.

# § 37. What must be pleaded.

Defenses available under general denial or a plea of the general issue in action of ejectment. L.R.A.1918F, 247.

Availability of breach of warranty as defense in replevin or claim and delivery where not specially pleaded. 34 L.R.A. (N.S.) 473.

Necessity of pleading limitation as bar to statutory action for death. 26 L.R.A. (N.S.) 1221.

Necessity that plea of justification or privilege correspond to the words imputed to the defendant by the complaint in an action for libel. 28 L.R.A.(N.S.) 551. PLEADING, III.—cont'd

Effect of failure of personal representative to plead statute of limitations as to an indebtedness of the estate as a waiver thereof. L.R.A.1915B, 1048.

Condonation of matrimonial offense. 6 B.

R. C. 671.

37a. — statute of frauds. Necessity of pleading the statute of frauds. 49 L.R.A.(N.S.) 1.

§ 38. General denial.

Defenses available under general denial or a plea of the general issue in action of ejectment. L.R.A.1918F, 247.

Availability of plea of limitation and plea of general issue against same cause of action. L.R.A.1917C, 72. Effect of general denial on necessity for

proving freedom from contributory negligence. 33 L.R.A.(N.S.) 1157.

Sufficiency of general denial to raise defense of statute of frauds. 49 L.R.A.(N.S.)

§ 38a. Denying ownership of plaintiff in action on negotiable instruments. Actions by third parties. 66 L.R.A. 513. Actions by immediate parties. 66 L.R.A. 550.

#### IV. Cross bill.

§ 39. Generally.

Use of cross bill or cross complaint to bring in new parties. 26 L.R.A. (N.S.) 127. Right to set up by cross bill inequitable conduct of plaintiff in respect to subject-matter not involved in the original

bill. 13 L.R.A.(N.S.) 408. In action to remove cloud on title by defendant not in possession. 12 L.R.A.

(N.S.) 64.

When local venue be disregarded upon the ground that the action or proceeding is ancillary or incidental, in case of cross bill seeking affirmative relief. L.R.A.1916D, 1135.

# V. Reply.

§ 40. Generally.

Effect of reply to restore right of plaintiff to open and close after making of ad-

mission. 61 L.R.A. 559.

Departure in reply, in actions for conversion. 8 L.R.A.(N.S.) 291.

# VI. Demurrer.

41. Generally.

Conclusiveness of judgment on, see JUDG-MENT, § 31.

Sufficiency of general allegations of negligence as against demurrer. 59 L.R.A. 218.

Raising objection of duplicity by demurrer. 49 L.R.A. (N.S.) 454.

May a demurrer to a separate defense be carried back to the complaint, where the defendant has also pleaded a general denial. 26 L.R.A.(N.S.) 117.

Pledge of corporate stock, see Corporations, 92.

Pledge of corporate stock, see Corporations, 92.

Pledge of corporate stock, see Corporations, 92.

PLEADING, VI.—cont'd

Sufficiency on demurrer of allegation of facts in regard to defect in street or highway in action against municipality for injuries received therefrom. 21 L.R.A. (N.S.) 42.

Right of one defendant to benefit of other's demurrer. 33 L.R.A. (N.S.) 310.

Collateral attack for fraud not affecting jurisdiction on judgment on demurrer. 36 L.R.A.(N.S.) 984.

# PLEDGE AND COLLATERAL SE-CURITY.

I. In general, \$\$ 1-3.

II. Validity; delivery; effect, \$\$ 4-6. III. Rights, duties, and liabilities of parties and third persons, \$\$ 7-14.

a. In general, §§ 7-10. b. Sale, §§ 11-14.

# I. In general.

§ 1. Generally.

Of corporate stock, see Corporations, \$\$ 92-94, 113.

Taking and pledging property with intent to return it, as larceny. 52 L.R.A. (N.S.) 1017.

Parol evidence that a written instrument importing a complete transfer of title was intended to operate as a pledge. L.R.A.1916B, 18.

Manner of pledging or assigning book account. 27 L.R.A.(N.S.) 666.

Interpleader between pledgeor and pledgee. 10 L.R.A.(N.S.) 757.

Effect of payment on security held as collateral to stay running of statute against principal obligation. 12 L.R.A.

(N.S.) 1032. Merger of mortgage by conveyance from mortgagor to mortgagee where mortgage had previously been assigned as collateral. 39 L.R.A.(N.S.) 841.

Effect on negotiability of bill or note of provision accelerating maturity on attempt to dispose of collateral security. 35 L.R.A. (N.S.) 393; L.R.A.1915B, 472.

§ 2. As distinguished from chattel mortgage.

Distinguished from chattel mortgage; consideration. 4 L.R.A. 305.

3. Authority for.

By agent, of principal's property. 14 L.R.A. 234.

Authority of traveling salesmen to pledge principal's credit for traveling expenses. 18 L.R.A. 667.

# II. Validity; delivery; effect.

§ 4. Validity.

Pledge of corporate stock, see Corporations,

PLEDGE AND COLLATERAL SECURITY, PLEDGE AND COLLATERAL SECURITY, II.—cont'd

Power of national bank to take stock of other corporation as collateral security. L.R.A.1916A, 586.

Power of bank to pledge assets to secure depositor. 45 L.R.A. (N.S.) 950.

Validity of promissory note given as collateral to invalid oral agreement within statute of frauds. 18 L.R.A. 142.

Validity of assignment of life policy as collateral security to one paying premiums. 3 L.R.A.(N.S.) 951.

Assignment as collateral security for a debt as within provision against assignment of insurance policy. L.R.A.1918D, 1160.

Voidability of pledge within four months of bankruptcy given pursuant to executory agreement antedating such period. 17 L.R.A.(N.S.) 937.

5. Delivery or change of possession. Setting aside pledged or mortgaged property retained by pledgeor or mortgagor on his own premises or under his own control as a delivery of change of possession. 25 L.R.A.(N.S.) 525.

Issuance and delivery by warehouseman of receipt for his own property as a constructive transfer of possession essential to valid pledge. 16 L.R.A. (N.S.) 227; 30 L.R.A. (N.S.) 552; 52 L.R.A. (N.S.) 754.

6. Effect.

On rights of parties and third persons, see infra, III.

Sufficiency of pledge to secure loan by trustee, see TRUSTS, § 26a.

How far may pledge be effectual of which the pledgeor's agent is made depositary. 25 L.R.A. 577.

As ground for attachment. 30 L.R.A. 479. Effect of taking collateral security upon maritime lien. 70 L.R.A. 406.

Effect of taking collateral security upon conditional sale. 20 L.R.A. (N.S.) 1065; 33 L.R.A. (N.S.) 491.

Of forged instrument as uttering or publish-

ing. 8 L.R.A.(N.S.) 1177.

Pledge of receipts or property as creation of indebtedness within debt limit provision. 37 L.R.A.(N.S.) 1085; L.R.A. 1917E, 447.

Taking security from maker as a waiver of presentment and notice by indorser. 33 L.R.A.(N.S.) 641.

Recital in note as to security as affecting its negotiability. 32 L.R.A.(N.S.) 858.

Pledge or assignment by mortgagee of his interest in the mortgage debt or property as affecting his right against insurer. L.R.A.1917E, 330.

III. Rights, duties, and liabilities of parties and third persons.

a. In general.

§ 7. Generally.

Persons taking commercial paper as collateral security as bona fide holders, see BILLS AND NOTES, § 40.

Consult also L.R.A. Digests of Cases.

III. a-cont'd

Rights of pledgee of corporate stock, see CORPORATIONS, § 93.

Duty of pledgee of corporate stock, see Con-PORATIONS, § 94.

Liability of pledgee of corporate stock, see CORPORATIONS, § 113.

Surety's right as to collateral pledged by principal, see PRINCIPAL AND SURETY,

Succession or inheritance tax on interest of pledgor or pledgee. L.R.A.1197F, 278. Pledgeor or pledgee as real party in interest by whom action must be brought. 64 L.R.A. 617.

Duty of pledgee as to care of thing pledged. 17 L.R.A. 193.

Responsibility of holder of paper as collateral security for default of those to whom the paper is entrusted for collection. L.R.A.1917E, 509.

Effect of failure of holder to make demand or give notice of dishonor of paper held as collateral or conditional payment. 68 L.R.A. 482.

Treatment of collateral held by creditor of insolvent or bankrupt. L.R.A.1918B, 1024.

Extent of recovery by pledgee on note. 44 L.R.A. 243.

Right of pledgee of conditional vendee to assert title as against conditional vend-or. 25 L.R.A. (N.S.) 790.

Authority of pledgee to compromise obligations held as collateral security. L.R.A.(N.S.) 980.

Right of one who takes commercial paper of corporation as security for an individual debt of officer. 31 L.R.A.(N.S.) 169; L.R.A.1918F, 1163.

Holder of bill or note as collateral security as a bona fide holder. 31 L.R.A. (N.S.)

287.

Right of holder of note as collateral to protection as bona fide holder when principal obligation is collectible. L.R.A.(N.S.) 1042.

Garnishment of negotiable paper pledged as collateral security. L.R.A.1918C, 754. Garnishment of claim to surplus on pledge.

59 L.R.A. 368.

Maker's right to defend against transferee after maturity on ground that paper was intended for collateral security. 46 L.R.A. 774.

Duty of creditor to surety with respect to management and collection of collateral. 37 L.R.A.(N.S.) 699.

Rights of lien holder as to captured property. 5 B. R. C. 1002.

Right of one whose securities have been pledged to bank, to secure a loan to another, to be subrogated to the bank's lien on latter's deposit and collateral. 43 L.R.A.(N.S.) 197.

Right of purchaser of a draft from a bank to lien or preference to collateral in hands of drawee upon insolvency of the drawer. L.R.A.1915B, 438.

PLEDGE AND COLLATERAL SECURITY, | PLEDGE AND COLLATERAL SECURITY, III. a—cont'd

Right of purchaser or pledgee of stock from one with whom it was pledged or deposited by the owner without signing a transfer or power of attorney. L.R.A.1916F, 491.

Right of indorsee or transferee of a bill or note to hold collateral for indebtedness other than that directly secured. L.R.A. 1915F, 968.

§ 8. Loss or waiver of right.

Effect of unaccepted tender upon. 33 L.R.A. 237.

Waiver of, by attachment or execution. 50 L.R.A. 719.

Effect of renewal of principal's obligation to release party to a note executed to the creditor as collateral. 23 L.R.A. (N.S.) 141.

Loss of collateral by treating note secured as itself collateral for a new note for the same debt. 30 L.R.A.(N.S.) 1215.

9. — by surrender of property.

The ancient rule. 39 L.R.A.(N.S.) 887. General modern rule. 39 L.R.A.(N.S.) 887. Exceptions; delivery for sale. 39 L.R.A. (N.S.) 889.

Delivery for collection. 39 L.R.A.(N.S.) 89Ŏ,

Delivery for exchange. 39 L.R.A.(N.S.) 89Ĭ.

Delivery for special, temporary use. L.R.A.(N.S.) 891.

Delivery to third person agreed upon. L.R.A.(N.S.) 892. 39

Delivery to pledgeor as agent of pledgee. 39 L.R.A. (N.S.) 892. Miscellaneous. 39 L.R.A. (N.S.) 892.

§ 10. Redemption.

Right to have trust property wrongfully pledged by a trustee for his individual benefit redeemed by money belonging to his insolvent estate. 6 L.R.A.(N.S.) 487.

Demand and notice for pledged property where term of redemption is indefinite. 43 L.R.A. 752.

# b. Sale.

11. Generally.

Effect of application to indebtedness of proceeds of sale of collateral security upon running of statute of limitations. 27 L.R.A. (N.S.) 843; L.R.A.1916A, 734.

Effect of unauthorized sale or disposal of pledge by pledgee to dispense with tender as a condition of trover against him. 6 L.R.A.(N.S.) 298; 24 L.R.A. (N.S.) 511.

Wrongful sale of pledged property or collateral as larceny. 31 L.R.A.(N.S.)

Effect of application to indebtedness of proceeds of sale of collateral security up-on running of statute of limitations. L.R.A.1916A, 734.

III. b-cont'd

12. Of collateral bonds and commercial paper.

Authority to sell. 43 L.R.A. 742; 53 L.R.A. 857.

Bonds. 43 L.R.A. 743; 53 L.R.A. 857. Commercial paper. 53 L.R.A. 857; L.R.A.1918C, 628.

Notice of time, place, and manner of sale. 53 L.R.A. 862.

Judicial and execution sales. 53 L.R.A. 863.

Who may purchase. 53 L.R.A. 864. Remedy of pledgeor. 53 L.R.A. 865.

§ 13. Pledgee's conversion of ple**dged** property by invalid sale.

What sales amount to a conversion. 43

L.R.A. 737. Power to sell. 43 L.R.A. 742.

Demand and notice. 43 L.R.A. 750.

Conduct of sale. 43 L.R.A. 756.

Purchase by pledgee. 43 L.R.A. 758.

Tender of payment to render conversion actionable. 43 L.R.A. 759.

Ratification of sale and waiver of conversion. 43 L.R.A. 760.

Remedies. 43 L.R.A. 763.

Measure of damages. 43 L.R.A. 768.

§ 14. Rights of purchaser.

Right of purchaser of collateral security to enforce it for more than the amount of the debt secured. 32 L.R.A.(N.S.) 42.

Does assignee of mortgage as collateral security, who forcloses the same and purchases the property, hold the title subject to a trust in favor of the assignor. 7 L.R.A. (N.S.) 1094.

#### PLOWING.

Plowing and cultivating land as an "improvement." 20 L.R.A. (N.S.) 378.

# PLUMBING.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 137.

License of plumbers, see License, § 38.

Legality under modern anti-trust acts of combinations of plumbers. 5 L.R.A. (N.S.) 138.

Right of municipal corporation to engage in business of. 31 L.R.A.(N.S.) 119. Liability of landlord to third persons as to. 26 L.R.A. 202.

Liability of landlord to tenant for damage hy water due to defective plumbing. L.R.A.1917B, 225, 236, 244.

Liability to tenants of part of premises. 23 L.R.A. 159.

Duty of landlord to keep plumbing in proper repair for tenant's use. 36 L.R.A. (N.S.) 907.

## PNEUMONIA.

As element of damages for negligent injury. 48 L.R.A.(N.S.) 101.

## POCKET KNIVES.

As deadly weapons. 21 L.R.A.(N.S.) 503.

#### POINTING WEAPON.

As assault. 15 L.R.A. (N.S.) 1272.

## POISON.

## § 1. Generally.

Blood poisoning, see Blood Poisoning. Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 138.

Death from taking poisonous substance as accident or accidental means within meaning of accident insurance policy. L.R.A.1916A, 481.

Master's liability for injury done by servant to third person in use of poison placed in his custody. 10 L.R.A.(N.S.) 374.

Liability of master for injuries to servant from fumes arising from materials. 35 L.R.A. (N.S.) 679.

Administering poison with intent to murder or kill person other than the one taking it. 37 L.R.A.(N.S.) 174.

Proof of corpus delicti in prosecution for poisoning. 68 L.R.A. 71.

#### 8 2. Sale of.

Private action for violation of statute regulating sales of. 9 L.R.A.(N.S.) 382. Constitutionality, construction, and effect of statute prohibiting or regulating. 30 L.R.A.(N.S.) 519.

What are poisons within statute regulating pharmacists. 26 L.R.A.(N.S.) 1013. Liability of druggists for injury to stranger by poison sold by him. 13 L.R.A. (N.S.) 646.

#### POLES.

For carrying electric wires, see ELECTRICITY.

In street, see HIGHWAYS, § 24.

Master's liability for injury to servant by poles near street car tracks, see Master and Servant, § 97.

Municipal liability for injury by pole in street. 20 L.R.A.(N.S.) 607, 649.

Master's liability for injury by defect in. 51 L.R.A.(N.S.) 338.

Doctrine of attractive nuisance as applied I to telegraph poles. L.R.A.1915D, 168.

Consult also L.R.A. Digests of Cases. 68

#### POLICE.

§ 1. Generally.

Character of occupancy of premises by. 4 L.R.A.(N.S.) 719, 726, 729.

Policemen as public officers. 36 L.R.A. (N.S.) 881.

Right to compel policeman to submit to physical examination to determine fitness. 33 L.R.A.(N.S.) 259.

Voluntariness of confession to police officers. 18 L.R.A.(N.S.) 801, 849; 50 L.R.A.(N.S.) 1088.

Power to grant immunity to witness. L.R.A.1918A, 376.

Authority of superior officer of railway police to contract for services of other persons. L.R.A.1918F, 65.

Reports of police officers as privileged communications. 30 L.R.A.(N.S.) 315. Power to enjoin illegal acts of police of-

Power to enjoin illegal acts of police officers other than arrest. 2 L.R.A. (N.S.) 678, 683.

Requiring dealings in junk to be reported to. 24 L.R.A.(N.S.) 1173.

Mandamus to compel enforcement of liquor law by. 28 L.R.A.(N.S.) 246.

Parol evidence to vary or supplement minutes of police board. 50 L.R.A. (N.S.)

Binding effect on municipality of knowledge or notice of police officer of defect or obstruction in street. L.R.A.1918B, 651

Validity of statute or ordinance for direction of street traffic by police officers. L.R.A.1918F, 1113.

## § 2. Pensions to.

Power to require municipality to pension policemen. 34 L.R.A.(N.S.) 608.

Nature and circumstances of injury as affecting right to share in pension or insurance fund for policemen and firemen. 20 L.R.A.(N.S.) 1176.

Vested right in pension. 50 L.R.A.(N.S.) 1019.

## § 3. Payment for services of.

Right of police to reward, see REWARD, § 4.

Right of municipality to require theater to pay for services of policemen performed at the theater or place of exhibition. 11 L.R.A.(N.S.) 700.

## § 4. Injury to.

Applicability to policemen of Workmen's Compensation Acts. L.R.A.1918F, 191.

Liability of owner of property for injury to firemen or policemen in discharge of duty. 30 L.R.A. (N.S.) 60; L.R.A. 1916B, 794.

Contributory negligence of policeman injured by defects in street. 21 L.R.A. (N.S.) 630.

#### § 5. Liability of.

Liability to civil action for acts of judicial nature. 44 L.R.A.(N.S.) 164.
Liability for making arrest. L.R.A.1915B, 505.

POLICE—cont'd

Liability of policeman for injury after making arrest. 1 L.R.A.(N.S.) 1024; 3 L.R.A.(N.S.) 508.

Liability of chief of police for detaining person improperly arrested. 42 L.R.A. (N.S.) 74.

Homicide by peace officer in attempting to enforce his commands gainst innocent persons. L.R.A.1918D, 379.

Liability of police officer for wrongful act as affected by the fact that he was acting under orders of superior. 50 L.R.A.(N.S.) 987.

§ 6. Liability for acts of.

Liability for acts of servant employed as policeman, see MASTER AND SERVANT,

§ 22. Liability of municipality, see MUNICIPAL CORPORATIONS, § 82.

Liability of private person or corporation for acts of special police officer appointed by public authority. 23 L.R.A. (N.S.) 289; 30 L.R.A.(N.S.) 481; 39 L.R.A. (N.S.) 122; 43 L.R.A. (N.S.) 1164; L.R.A.1915C, 1183.

#### POLICE BUILDING.

Liability of municipal corporation for tort in connection with. 25 L.R.A.(N.S.)

## POLICE COURTS.

May judges of, be vested or burdened with powers or duties of a judicial character. 19 L.R.A.(N.S.) 615.

## POLICE POWER.

In general, see Constitutional Law, § 23a. Priority over mortgage of statutory lien for work not beneficial to the property, done in the exercise of the police power. L.R.A.1918C, 1024.

## POLICE REGULATIONS.

Against fire, see Buildings, § 4. As to food, see Food.

When police regulation is construed to apply to public officials. 1 L.R.A.(N.S.) 878.

Liability for rent as affected by fact that property cannot be devoted to use intended without alterations to conform to police regulations. 39 L.R.A.(N.S.)

POLITICAL AFFILIATIONS.

As disqualification of judge. 19 L.R.A. (N.S.) 602.

## POLITICAL DIVISION.

Effect of detachment from a political division of territory in which an officer resides upon his tenure of office. 20 L.R.A.(N.S.) 358.

## POLITICAL MATTERS.

Judicial notice of, see EVIDENCE, § 9.

Obligation of members of labor union as to. 5 L.R.A.(N.S.) 891.

Interference by equity with matters preceding election. 3 L.R.A. (N.S.) 382.

Injunction against nonlibelous publication affecting political rights. L.R.A.1917A, 163.

## POLITICAL MEETING.

Character of, essential to offense of disturbing meeting. 30 L.R.A.(N.S.) 832; 45 L.R.A.(N.S.) 109.

## POLITICAL OBLIGATIONS.

Right of labor union to impose political obligations on its members. 1 B. R. C. 90.

#### POLITICAL PARTIES.

In general, see Elections.

Destruction of, by primary election laws. 22 L.R.A.(N.S.) 1137; L.R.A.1917A, 260.

Discrimination as to, in primary election laws. 22 L.R.A.(N.S.) 1144; L.R.A. 1917A, 263.

Constitutionality of legislation affecting party representation on official ballot. 35 L.R.A.(N.S.) 353.

Constitutionality of statute regulating ap-

Constitutionality of statute regulating appointment to public office with reference to party affiliation. 27 L.R.A.(N.S.) 720.

## POLITICAL RIGHTS.

Protection of, in equity. 3 L.R.A. (N.S.) 382.

At what time suspension of, against one under sentence commences. 17 L.R.A. (N.S.) 502.

Begin with this book on every law question.

#### POLLING BOOTH.

In highway, see Highways, § 35.

#### POLL TAX.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 157. Who liable for, see Taxes, § 63.

What are poll taxes. 29 L.R.A. 404. Power to impose. 29 L.R.A. 406. Restrictions and limitations. 29 L.R.A. **4**07.

The restriction and equation of the North Carolina Constitution. 29 L.R.A. 407.
Upon whom imposed. 29 L.R.A. 409.
Place of taxation. 29 L.R.A. 410.
The levy and collection. 29 L.R.A. 412.
Dispection. 20 L.R.A. 412.

Disposition. 29 L.R.A. 413.

Payment of poll taxes as a qualification of electors. 29 L.R.A. 414.

Legislative power to compel employer to pay employee's poll tax. 9 L.R.A.(N.S.)

Constitutionality of poll tax as affected by exemptions therefrom. 13 L.R.A. (N.S.)

#### POLLUTION.

Of waters, generally, see WATERS, §§ 55-58, 66, 77, 80, 103, 113.

Municipal liability for pollution of waters by drains and sewers, see MUNICIPAL CORPORATIONS, § 89.

#### POLYGAMY.

Conflict of laws as to. 57 L.R.A. 159. Criminal liability of children for. 36 L.R.A.

Legislative power to forbid. 2 L.R.A. (N.S.)

Husband or wife as witness against the other in prosecution for. 2 L.R.A. (N.S.) 862.

## PONDS.

Negligence as to toward children, see NEGLI-GENCE, § 23a. In general, see WATERS, II. m.

Right of owner or lessee of mineral in place to make ponds upon surface of land. 48 L.R.A. (N.S.) 892.

Liability for injury by pond on private grounds lying open beside a highway or frequented path. L.R.A.1918A, 855.

Contributory negligence of child falling into. L.R.A.1917F, 109.

Consult also L.R.A. Digests of Cases.

#### POOL.

Of corporate stock, see Corporations, § 124.

As proper subject for exercise of police power. L.R.A.1917E, 318.

Effect of understanding that loser is to pay for game to bring it within statute against gambling. 19 L.R.A.(N.S.)

## POOLING ARRANGEMENT.

As to corporate stock, see Corporations, § 124.

Association of persons under, as partnership. 18 L.R.A.(N.S.) 1095.
Between brokers as to commissions. 45 L.R.A. 48.

## POOL ROOM.

As a nuisance. 21 L.R.A. (N.S.) 836. Power of municipality to prohibit as a muisance. 31 L.R.A.(N.S.) 548.

#### POOL SELLING.

nuisance. 10 L.R.A.(N.S.) 992; 21 L.R.A.(N.S.) 836; 44 L.R.A.(N.S.) 161. As nuisance. Cruel and unusual punishment for. L.R.A. 1915C, 570.

## POOR AND POOR LAWS.

1. Generally.

Liability of public or officers having charge of public charitable institution, for negligence toward inmates. 6 B. R. C. 552.

Woman as overseer of poor. 38 L.R.A. 211.

Right of counsel assigned to defend indigent person, to compensation from public, in absence of statute. 36 L.R.A.(N.S.) 377.

2. Residence of.

Residence of inmates of almshouses for purpose of voting. 23 L.R.A. 215; 40 L.R.A.(N.S.) 169.

Residence of inmate of charitable or public home for school purposes. 36 L.R.A. (N.S.) 344; 51 L.R.A.(N.S.) 234.

§ 3. Settlement.

715, 720, 721, 723.

4. Support. Bequest for relief of poor, see CHARTTES. POOR AND POOR LAWS-cont'd Moral obligation as consideration for promise to pay for past support of pauper. 53 L.R.A. 358; 26 L.R.A. of building restrictions. 52 L.R.A. (N.S.) 520.

Settlement as affecting liability for support in time of epidemic. 26 L.R.A. 729.

Effect on liability for support of pauper of division of territory of municipality, town, or county. 39 L.R.A. (N.S.) 290. Right to compensation from public for parson in parso

relief furnished poor person, in cases not provided for by law, or where there has been no compliance with statutory prerequisites. 39 L.R.A. (N.S.) 161.

Liability of public for medical services to indigent person in absence of notice or request. 9 L.R.A.(N.S.) 1234.

Right to use public funds to relieve persons not entirely without means of their own. 27 L.R.A. (N.S.) 1079.

Validity of statute providing for govern-mental assistance of individual members of certain classes of unfortunate or afflicted persons. 7 L.R.A.(N.S.) 1196.

Liability to poor person for failure to furnish, or negligence in furnishing, relief. 39 L.R.A.(N.S.) 168.

## § 5. - liability of alleged pauper or his family.

Liability of alleged pauper, or his estate, to pay for support or gifts obtained on the ground of poverty. 55 L.R.A. 570.

Liability of relative for medical services to pauper. L.R.A.1915E, 844.

## POOR DEBTOR.

First and last days in computing time in case of. 49 L.R.A. 242.

Effect of delivery of poor debtor's bond unsigned by principal obligor. 12 L.R.A. (N.S.) 1118.

## POP.

Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 316.

## POPULARITY CONTEST.

Legality of. L.R.A.1917D, 489.

## POPULATION.

## PORCHES.

of building restrictions. 52 L.R.A. (N.S.) 1947, 1054.

#### PORT.

Home port, see Home Port.

#### PORTABLE MACHINES.

Duty to guard, see MASTER AND SERVANT.

#### PORTABLE FURNACE.

As part of realty. 1 B. R. C. 972.

#### PORTABLE RANGES.

As part of realty. 1 B. R. C. 972.

#### PORT CHARGES.

Necessity of franchise for. 37 L.R.A. 718.

#### PORTER.

Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 306.

## PORTICOS.

Porticos extending beyond line as violation of building restrictions. 52 L.R.A. (N.S.) 1047, 1054.

## PORTRAIT.

See also Photographs; Pictures.

Right to duplicate without consent of person under contract with whom the original was produced. 7 L.R.A. (N.S.) 362. Sentimental value as measure of damages in case of loss of, or conversion of, or injury to, family portraits. L.R.A.1917D,

## POSITION.

Right of witness to express opinion as to. L.R.A.1918A, 699.

Judicial notice of. 4 L.R.A. 39.\* Begin with this book on every law question.

#### POSSESSION.

## I. Real property, §§ 1-4. II. Personal property, \$\$ 5-8.

Presumption from, see EVIDENCE, § 105. Receiver's right of, see RECEIVERS, § 12.

#### I. Real property.

§ 1. Generally.

Adverse possession, see Adverse Posses-SION,

Title by adverse possession, see Adverse Possession.

Recovery of, by forcible entry and detainer proceeding, see FORCIBLE ENTRY AND DETAINER.

Recovery of possession of leased premises, see Landlord and Tenant, §§ 94, 95. As to mortgagee in possession, see MORT-GAGES, § 31.

Writ of, see WRIT OF POSSESSION.

Mandatory injunction as to. 20 L.R.A. 169.

Descent of possessory title to mining claim. 4 L.R.A.(N.S.) 919.

Question of, in injunction against tres-

pass to cut timber. 22 L.R.A. 236. Character of, necessary to sustain action of trespass q. c. f. 30 L.R.A.(N.S.) 243.

Right to preliminary injunction which would have effect of transferring possession from defendant to plaintiff. 39 L.R.A. (N.S.) 31.

Right of witness to state who was in possession. 14 L.R.A.(N.S.) 289.

Right of defendant in ejectment under a plea of the general issue to dispute the fact of his possession. L.R.A.1918F,

\$ 2. Right to.

Tenant's right to, see Landlord and Ten-ANT, §§ 45, 46.

Life tenant's right to, see LIFE TENANTS, §§ 2-7.

Widow's right to retain possession of partnership real estate. 27 L.R.A. 347.

Right of holder of tax deed to take. 28 L.R.A. (N.S.) 398.

Right of lessee of life tenant to possession on death of his lessor. 11 L.R.A. (N.S.) 688.

Master's right to resume possession of premises occupied by servant. 4 L.R.A. (N.S.) 704.

§ 3. Effect of possession; right of party in possession.

Adverse possession, see Adverse Possession.

Taking possession as part performance to satisfy statute of frauds, see Con-TRACTS, § 59.

Of real property as notice, see Notice, § 17.

As affecting right to specific performance, see Specific Performance, § 13.

Possession as element in location of mining claim. 7 L.R.A.(N.S.) 772. Consult also L.R.A. Digests of Cases,

POSSESSION, I.—cont'd Possession of licensee to defeat trespass after revocation of license. 28 L.R.A. 519.

Effect of possession on sale or mortgage of future crops. 23 L.R.A.(N.S.) 453.

Right to crops growing on, or rental of, real estate sold on contract as affected by possession. 35 L.R.A.(N.S.) 1069. Right of tenant maintaining possession by

means of wrongful injunction to crops grown on the leasehold. 12 L.R.A. (N.S.) 194.

Effect of vendee retaining possession on right to predicate fraud for misstate-ment as to title to land. 28 L.R.A. (N.S.) 212.

Right of vendee in actual possession to sustain action for injury to real property. 30 L.R.A.(N.S.) 231.

Right of party in possession to sue for injury by damming back water of stream. 59 L.R.A. 899.

Right of one in possession to maintain action for nuisance without proving title. 34 L.R.A.(N.S.) 560.

Effect of void proceedings under which real estate is sold to start limitations running in favor of purchaser in possession. 8 L.R.A. (N.S.) 354.

§ 4. Necessity of possession; effect of failure to take or have.

Necessity of possession, on sale or mortgage of future crops. 23 L.R.A. 453.

Possession as essential to liability of as-

signee of leasehold for rent. 14 L.R.A. 151.

Necessity for taking possession of land un-der tax deed to set the statute of limitations in motion. 27 L.R.A.(N.S.)

Compelling purchaser at judicial sale to complete purchase where possession cannot be given. 21 L.R.A. 48. Right of one out of possession to partition.

20 L.R.A. 624.

Specific performance of oral contract to convey real estate in consideration of making improvements where possession is not taken. 33 L.R.A.(N.S.) 534.

Use of force to protect possession of real property by one not in actual possession. L.R.A.1918C, 532.

On sale or mortgage of future or growing crops. L.R.A.1917C, 16.

## II. Personal property.

§ 5. Generally.

Change of, see CHANGE OF POSSESSION. Delivery of, to donee, see BANKS, § 12a; GIFTS, §§ 13, 14.

Of forged instruments, see FORGERY.

Recovery of possession of chattels, see PER-SONAL PROPERTY, § 8.

Denial of, upon information and belief. 30 L.R.A. (N.S.) 777.

Mandatory injunction as to. 20 L.R.A. 169.

Of property assigned for creditors before attachment. 26 L.R.A. 594.

POSSESSION, II.—cont'd

Right to preliminary injunction which would have effect of transferring possession from defendant to plaintiff. 39 L.R.A. (N.S.) 31.

Laying ownership in possession of property as agent, bailee, etc., in indictment for obtaining property by false pretenses. 22 L.R.A. (N.S.) 645.

Right of witness to state who was in possession. 14 L.R.A.(N.S.) 289.

§ 6. Right to. Finder's right to possession of property found. 37 L.R.A. 117.

Right of officer in executing criminal process to take possession of evidentiary articles. 18 L.R.A. (N.S.) 253; L.R.A. 1916C, 1017.

Right of consignee to maintain action against carrier for possession of property. 36 L.R.A.(N.S.) 70.

Right of one leaving his chattels in another's possession, to claim title against latter's vendees or creditors. 25 L.R.A. (N.S.) 760.

Effect of putting paper or securities trans-ferable by delivery or indorsed or assigned in blank into another's possession, to estop owner as against purchaser in good faith. 29 L.R.A. (N.S.) 252.

# § 7. Effect of; right of party in posses-

Permitting mortgagor to retain possession; see Chattel Mortgage, § 14. Effect of mortgagee's taking possession, see

CHATTEL MORTGAGE, § 15.

Effect of delivery of, on statute of frauds, see Contracts, §§ 56, 57.

Leaving property in possession of vendor as a fraud on creditors, see FRAUDULENT CONVEYANCES, §§ 19, 20.

Acceptance of goods purchased by retention of, see SALE, § 23.

Of check, effect of. 26 L.R.A. 571.

Effect of possession of assignee for creditors on transfer of property out of state. 23 L.R.A. 39, 42.

Of property as a crime. 20 L.R.A. 52. Right of agent who was in possession of personal property to maintain action for conversion. 26 L.R.A.(N.S.) 840.

Right of one having possession but no title to property to maintain an action for malicious prosecution for seizure of the property in an action against him. 28 L.R.A. (N.S.) 330.

#### § 8. — as evidence.

Necessity of instruction as to law on circumstantial evidence from possession of stolen property. 69 L.R.A. 198.

Of recently stolen property as evidence of burglary. 12 L.R.A.(N.S.) 199.

As proof of knowledge by receiver of stolen goods. 22 L.R.A. (N.S.) 840.

Begin with this book on every law question.

#### POSSESSORY ACTION.

For tax receipts. 45 L.R.A.(N.S.) 785.

#### POSSESSORY LIEN.

For supplies and repairs furnished vessel. 70 L.R.A. 366, 411.

## POSSESSORY TITLE.

Use of possessory title as a weapon of offense. 46 L.R.A.(N.S.) 487.

## POSSIBILITY.

Right of witness to express opinion as to. L.R.A.1918A, 681.

## POSTAL CLERKS.

See MAIL CLERK.

#### POSTAL SERVICE.

See POSTOFFICE.

## POSTCARD.

Transmission of libelous matter by post-card or telegraph as publication. 1 B. R. C. 464.

## POSTDATED CHECKS.

L.R.A.1917F, Effect of certification of. 1099.

Effect of negotiation of check prior to day of date to put purchaser on inquiry. 44 L.R.A.(N.S.) 405; L.R.A.1918F, 1155.

## POSTHUMOUS CHILDREN.

See AFTERBORN CHILDREN.

## POSTING.

Of notice of mining location. 7 L.R.A. (N.S.) 833.

Effect on lien of corporation on stock certificate of failure to post by-law giving lien. 39 L.R.A.(N.S.) 300.

## POSTMASTER.

## See Postoweice, § 3.

#### POSTMASTER GENERAL.

Power of court to interfere with rulings of. 12 L.R.A.(N.S.) 166. Power of courts to enforce ministerial duties of. 52 L.R.A. (N.S.) 436.

#### POST MORTEM.

#### See also AUTOPSY.

Power of coroner to order. 31 L.R.A. 540. When coroner's inquest necessary or proper. 21 L.R.A. 394.

Admissibility of finding of coroner, to show cause of death. 68 L.R.A. 285; 45 L.R.A.(N.S.) 404; L.R.A.1918E, 924.

## POSTNUPTIAL CONTRACT.

See Husband and Wife, §§ 47, 48.

#### POST OBIT BONDS.

Form of judgment on. 62 L.R.A. 453.

## POSTOFFICE.

I. In general, §§ 1, 2.

II. Postmasters, § 3.

III. Transmission and delivery mails, §§ 4-8.

IV. Crimes; mailable matter, \$\$ 9-12.

#### I. In general,

§ 1. Generally.

Contract as to location of. 4 L.R.A. (N.S.) 589; L.R.A.1916D, 727.

Power of courts to interfere with rulings of Postoffice Department. 12 L.R.A. (N.S.) 166.

§ 2. Mail trains. Mail clerk, see MAIL CLERK.

Right to require the stopping of mail trains. 14 L.R.A.(N.S.) 293.

Right to limit speed of mail trains.

L.R.A.(N.S.) 293; L.R.A.1917F, 1187. Duty of railroad company to one who goes on station grounds for purpose of mailing letters on mail train. 24 L.R.A. (N.S.) 535.

## II. Postmasters.

§ 3. Generally.

Postmaster general, see Postmaster Gen-Consult also L.R.A. Digests of Cases,

POSTOFFICE, II.—cont'd

Right of woman to be. 38 L.R.A. 213.

Liability of a postmaster or his sureties for illegal acts done in accordance with the directions of a superior officer.

24 L.R.A. (N.S.) 309. Liability for lost or stolen mail. L.R.A. 1915A, 374.

## III. Transmission and delivery of maile.

4. Generally.

State or municipal regulations affecting those engaged in handling United States

mail. L.R.A.1918C, 940.

Applicability of Federal Employers' Liabiliity or compensation acts to injuries to railroad employees while engaged in handling interstate mails. L.R.A. 1918D, 426.

Title to money deposited in mail. L.R.A. 1918A, 534.

Presumption as to receipt of communica-tion sent through mail. 49 L.R.A. (N.S.) 458.

When may one who does not personally mail nonmailable matter be regarded as causing it to be deposited in the mails. 6 L.R.A.(N.S.) 424.

Who must bear loss when check or bill issued to impostor is sent by mail. 50

L.R.A. 81.

Effect of death of party after the mailing, but before the receipt, of his letter accepting an offer. 12 L.R.A.(N.S.) 439.

Where insurance contract deemed to have been made when policy is mailed to local agent of insurer. 63 L.R.A. 840; 23 L.R.A. (N.S.) 969; 52 L.R.A. (N.S.) 275, 276.

Mailing of forged instrument as uttering or publishing. 8 L.R.A.(N.S.) 1179. Power of state to prohibit solicitation of

orders for intoxicating liquors by mail sent from another state. 36 L.R.A. (N.S.) 443.

Delay of mail as accident or surprise for which judgment by default may be set aside. 30 L.R.A.(N.S.) 740.

§ 5. Service of notice by mail.

Mailing notice as satisfying requirement of notice by contract. L.R.A.1915B,

Time allowed for mailing check or notice of dishonor as affected by the hour at which the mail closes or departs.

4 L.R.A.(N.S.) 132. Service by mail of notice required by employer's liability acts. 28 L.R.A.(N.S.) 238.

Mode of proving mailing of notice of maturity of premiums or assessments. 7 L.R.A.(N.S.) 238.

Necessity that notice of maturity of premiums or assessment sent through the mail be received. 7 L.R.A.(N.S.) 253.

§ 6a. Liability for lost or stolen mail. Liability of postmaster. L.R.A.1915A, 374. POSTOFFICE, III.—cont'd

376.

Liability of sureties on bonds. 1915A, 379.

§ 6. Contract for carriage of mail. Contract for carriage of mail matter in violation of statute. 12 L.R.A.(N.S.) 610.

7. Money orders.

Purchase of money order from agent of indorsee. 3 L.R.A.(N.S.) 136.

Effect of putting postoffice order into another's possession to estop owner as against purchaser in good faith. 29 L.R.A.(N.S.) 257.

Negotiability of postoffice money orders. 36 L.R.A.(N.S.) 143.

§ 8. Registered mail.

Liability of railroad for loss of registered letter. 5 L.R.A.(N.S.) 459.

## IV. Crimes; mailable matter.

§ 9. Generally.

Exclusion of seditious matter from the mails under the Espionage Act. L.R.A.1918C,

Cruel and unusual punishment for. L.R.A. 1915C, 569. Locality of crime committed through agency

of the mails. 19 L.R.A. 775.

Locality of offense of libel where libelous communication is forwarded by mails. 49 L.R.A. (N.S.) 942.

What constitutes a lottery within the post-office laws. 52 L.R.A.(N.S.) 108. How far is use of mails by "healers" fraud-

ulent. 70 L.R.A. 989.

Communications offering the means or paraphernalia by which frauds may be perpetrated as an offense against the postal laws. 46 L.R.A.(N.S.) 936.

Instigating offense against mail as defense to prosecution. 25 L.R.A. 346; 30 L.R.A. (N.S.) 948; 51 L.R.A. (N.S.) 827.

10. Obscene matter.

As to obscene literature in mails. 24 L.R.A.

Evidence of other crimes in prosecution for sending obscene letters. 62 L.R.A. 239. Proof of corpus delicti in prosecution for sending obscene matter through mail. 68 L.R.A. 55.

§ 11. Scurrilous or defamatory matter. Placing scurrilous or defamatory matter upon outside covering of mail as offense against postal laws. 33 L.R.A. (N.S.) 800.

12. Decoys.

Larceny of decoy letter. 30 L.R.A.(N.S.)

Begin with this book on every law question.

POSTOFFICE, IV.—cont'd

Liability of postoffice employees. L.R.A. Instigation to offenses against postal laws 1915A, 376.

Liability of mail contractors. L.R.A.1915A, detecting criminal as defense to prosecution. 51 L.R.A.(N.S.) 827.

#### POSTPONEMENT.

In general, see ADJOURNMENT; CONTINU-

Sufficiency of notice of postponement of judicial sale. L.R.A.1915B, 640.

#### POST ROADS.

Condemnation of right of way for telegraph or telephone line along railroad right of way under acts for. 42 L.R.A. (N.S.) 225.

#### POSTS.

Municipal liability for injury by posts in street. 20 L.R.A.(N.S.) 607.

## \*\*\* POTASSIUM.

Liability for injury to employee by explosion of. L.R.A.1918B, 864.

## POTENTIAL EXISTENCE.

De facto officer in case of office having po-tential existence. 15 L.R.A.(N.S.) 104.

## POTENTIAL INTERESTS.

In future crops, sale or mortgage of. 23 L.R.A. 455; L.R.A.1917C, 8.

## POUND.

See ANIMALS, § 20.

#### POVERTY.

In general, see Poor AND Poor LAWS.

Public policy as related to vow of poverty by member of communistic society. 52 L.R.A. (N.S.) 459.

#### POWDER.

See Explosions and Explosives.

#### POWER.

Delegation of, see Delegation of Power. Water power, see WATER POWER.

Taking of property for production and distribution of electric power as a pub-lic purpose. 22 L.R.A.(N.S.) 137.

Liability of landlord furnishing premises
with power for injury resulting therefrom. 6 B. R. C. 961.

#### POWER COMPANY.

As a manufacturing company. 64 L.R.A. 58.

## POWER OF ATTORNEY.

See PRINCIPAL AND AGENT, §§ 8-10.

#### POWER PLANT.

Mechanics' lien on. 42 L.R.A. (N.S.) 355.

## POWERS.

1. Generally.

Permitting mortgagor to retain possession with power of sale, see CHATTEL MORT-GAGE, § 14a.

Power to sell mortgaged chattels, see CHAT-TEL MORTGAGE, § 26.

Conflict of laws as to power of appointment, see Conflict of Laws, § 32.

Power of sale by executor, see Executors and Administrators, § 17.

Power of sale in mortgage, see Mortgage, §§ 75-77.

Of attorney, see Principal and Agent, §§ 8-10.

Succession tax on property covered by power of appointment, see Taxes, § 98.

Will special power, other than power of sale, conferred on executor by will, pass to an administrator with the will annexed. 29 L.R.A. (N.S.) 264.

Bequest of stocks, bonds, or notes under power of appointment as general or specific. 11 L.R.A.(N.S.) 73.

May power of sale be implied where chattel mortgage gives no express power. 3 B. R. C. 921.

Property covered by power of appointment | As as assets of donee's estate. L.R.A. 1918D, 346.

Consult also L.R.A. Digests of Cases.

POWERS—cont'd

§ 2. Effect of; rights under.

Is power to give option included in power to sell real estate. 10 L.R.A.(N.S.)

Limitation to heirs under rule in Shelley's Case by power of appointment. L.R.A. (N.S.) 1007.

Power of disposition bestowed on devisee as indicative of quantum of estate intended to be devised. 18 L.R.A.(N.S.) 463.

Effect of power of appointment on time for as testator's "heirs," "next of kin," "relations," etc., to whom estate in real or personal property is limited by way of remainder or executory gift.

33 L.R.A.(N.S.) 20.

Marketability of title based on exercise of power of sale. 38 L.R.A. (N.S.) 18.

§ 3. Execution.

Property covered by power of appointment as assets of donee's estate where the power has been exercised. L.R.A.1918D, 346.

Validity of exercise of a power of appointment by the creation of a charge. 6 L.R.A.(N.S.) 746.

Who, aside from donee or grantee expressly named, may exercise power of sale of real estate. 50 L.R.A.(N.S.) 604.

May less than all the donees or grantees named exercise the power of sale of real estate. 50 L.R.A. (N.S.) 622.

When power of sale deemed to be coupled with an interest. 50 L.R.A. (N.S.)

When power of sale deemed annexed to the office, or given ratione officii. 50 L.R.A. (N.S.) 643.

Nonexclusive powers and illusory appointments. L.R.A.1916D, 498.

Executor executing power of sale under will after discharge. 2 L.R.A.(N.S.) 623. Right of mortgagee to exercise power of

sale during pendency of foreclosure, or of action for debt secured. 2 B. R. C. 841.

4. - sufficiency of execution by will. How intent to exercise power evidenced.

64 L.R.A. 849.

Validity of attempt to exercise power. 64 L.R.A. 892.

May power of disposition be exercised by will in absence of express provision to that effect. L.R.A.1916C, 1046.

Relief in equity against defective exercise of power. 64 L.R.A. 911.

When power in effect absolute gift. 64

L.R.A. 918.

## PRACTICE AND PROCEDURE.

to civil cases, see ACTION OR SUIT: DAMAGES; DISCOVERY AND INSPECTION; PLEADING.

PRACTICE AND PROCEDURE-cont'd Of Federal court, see Courts, §§ 36, 36a. In criminal cases, see CRIMINAL LAW, IV.;
GRAND JURY; INDICTMENT, ETC.

As to evidence and trial, see Depositions; EVIDENCE; TRIAL; WITNESSES.

Controlling effect on Federal courts of decisions of state as to matters relating to. 40 L.R.A.(N.S.) 451.

Procedure under workmen's compensation act. L.R.A.1916A, 271; L.R.A.1917D, 181.

In action under Federal employers' liability act. L.R.A.1915C, 79.

Practice under the Torrens Law. L.R.A. 1916D, 45.

Errors and irregularities of procedure in divorce suit as basis of attack upon decree. L.R.A.1917B, 470.

Defects in postjudgment procedure in divorce suit as basis of attack upon de-

crees. L.R.A.1917B, 472.

## PRAIRIE FIRES.

Liability for injury by. 21 L.R.A. 261.

## PRAIRIE LAND.

Mechanic's lien for breaking of. L.R.A. 1917D, 352.

## PREACHERS.

See RELIGIOUS SOCIETIES, §§ 6-9.

## PRECATORY TRUST.

See TRUSTS, § 9.

## PRECAUTIONS.

After accident as evidence of negligence, see EVIDENCE, § 270.

Against injury on highway. 20 L.R.A. (N.S.) 671.

#### PRECEDENCE.

Between conveyances of real property, see RECORDS AND RECORDING LAW, § 20. See also PRIORITY.

## PRECEPT.

For summoning grand jury. 27 L.R.A. 778. Begin with this book on every law question.

#### PRECIPITATION.

Of water from building, see WATERS, § 54.

## PRE-EMPTION.

On public lands, see Public Lands, \$ 15.

## PRE-EXISTING DEBT.

As consideration, see CHATTEL MOBIGAGE, § 6; CONTRACTS, § 10; SALE, § 72.

Protection under recording acts of mort-gage given as security for. 33 L.R.A. (N.S.) 57.

Transferee of chattels in satisfaction of preexisting debt, as a bona fide purchaser as against original vendor, from whom they were fraudulently obtained by transferrer. 35 L.R.A.(N.S.) 1174. May a corporation issue stocks or bonds in

payment of or as security for, under statute prohibiting the issue except for money, labor done, or property actually received. L.R.A.1916E, 570.

## PRE-EXISTING DISEASE.

Effect of, on recovery under Workmen's Compensation Act see WORKMEN'S COMPENSATION, § 15a.

## PREFERENCES.

In assignment for creditors, see Assignment for CREDITORS, §§ 15, 16.

By bankrupt, see BANKRUPTCY, §§ 13-17. Of claims against bankrupt, see BANK-RUPTOY, § 24. In funds of insolvent bank, see BANKS, §

Of preferred stock, see CORPORATIONS, § 74. By insolvent corporations, see CORPORA-TIONS, § 137.

As between claims against decedent's estate, see EXECUTORS AND ADMINISTRATORS, §

Preferences in fraud of creditors, generally, see Fraudulent Conveyances, §§ 8, 9. Invalidity of, as against creditors, see FRAUDULENT CONVEYANCES, §§ 8-11.

Preferences by insolvents, generally, see Insolvency, § 3.

Of laborers, see LABORERS, § 2.

Of firm over individual creditors, see PART-

NERSHIP, § 17.
To surety, see Principal and Surety, § 20. Prior appropriation of water, see WATERS, §§ 89-91.

Between legacies, see WILLS, § 105. Right to, see PRIORITY.

Making preferences as ground of attachment. 30 L.R.A. 484.

PREFERENCES—cont'd

Questioning validity of attachment for. 35 L.R.A. 780.

Right of creditor to set off new credits viven after receiving a preference. 55 L.R.A. 344.

Succession to, by surety paying judgment. 68 L.R.A. 556.

Preference in seat on stock exchange in favor of other members of exchange. 27 L.R.A. (N.S.) 616.

## PREFERENTIAL VOTING.

Constitutionality of. L.R.A.1916B, 939.

## PREFERRED STOCK.

See Corporations, §§ 74, 100-102.

## PREGNANCY.

Measure of damages for injury to pregnant woman, see Damages, § 60.

As element of damages for breach of prom-

ise. 43 L.R.A.(N.S.) 972. Effect of, on amount of permanent alimony on absolute divorce. 44 L.R.A.(N.S.) 1005.

Carrier's liability for injury to pregnant woman by seeing lunatic on train. 39 L.R.A. (N.S.) 647.

Antenuptial pregnancy as a ground of divorce or annulment of marriage. 18 L.R.A. 375; 13 L.R.A.(N.S.) 996; L.R.A.1916E, 650.

Sufficiency of evidence to establish condonstion of ante-nuptial unchastity or pregnancy. 6 B. R. C. 621.

Admissibility of declarations as to preg-nancy made by one upon whom an abortion is committed against others charged with complicity therein. 35 L.R.A.(N.S.) 1084; L.R.A.1916C, 570.

## PREJUDICE.

As ground for removal of cause to Federal court, see REMOVAL OF CAUSES, § 10.

Disqualifying grand juror. 28 L.R.A. 200. Effect of, to disqualify one to serve as commissioner or juror in eminent domain proceedings. 47 L.R.A.(N.S.) 151.

As insane delusion. 37 L.R.A. 267.

Of member of tribunal of association or corporation, effect. 49 L.R.A. 370.

As proof of incapacity of testator. 27 L.R.A. (N.S.) 66; L.R.A. 1915A, 458. Consult also L.R.A. Digests of Cases.

PREJUDICE—cont'd

Appeals by counsel in argument to passions and prejudices of jurors. L.R.A.1918D,

Imputation by attorney, in course of legal proceedings of prejudice to court or judge as ground for disbarment or suspension. L.R.A.1918D, 450.

#### PREJUDICIAL ERROR.

See APPEAL AND ERROR, §§ 35-40.

PRELIMINARY EXAMINATION.

See CRIMINAL LAW, § 32.

PRELIMINARY INJUNCTION.

See Injunction, § 80.

#### PRELIMINARY SUBSCRIPTIONS.

For corporate stock, withdrawal of. 33 L.R.A. 595.

## PREMATURITY.

Effect of premature delivery by seller to pass title to purchaser. 31 L.R.A. (N.S.) 942.

## PREMEDITATION.

As element of homicide, see HOMICEDE, § 6. As element of offense of mayhem or maiming. L.R.A.1916E, 494.

## PREMISES.

Meaning of word "premises" in insurance policy prohibiting keeping of certain articles on the premises. L.R.A.1917C, 293.

#### PREMIUM NOTES.

See INSURANCE, § 111.

## PREMIUMS.

27 In loan association, see Building and Loan Associations, § 4.

PREMIUMS-cont'd Insurance premiums, see INSURANCE, §§ 107, 108, 110-118.

Regulations and prohibition of use of coupons, etc. redeemable in premiums. L.R.A.1917A, 483.

#### PRENATAL INJURY.

As ground of action. 45 L.R.A. (N.S.) 625.

## PREPARATION.

Preparation to commit assault with intent to rape or ravish as distinguished from overt act in commission of offense itself. 42 L.R.A.(N.S.) 524.

#### PREPAYMENT.

Of telephone rentals, see TELEPHONES, § 7. Of compensation for property taken for water supply. 58 L.R.A. 257.

#### PREPONDERANCE OF EVIDENCE.

Proof of alibi by. 41 L.R.A. 530. Establishment of fraud in civil action by. 33 L.R.A. (N.S.) 837.

## PREREQUISITES.

See CONDITION PRECEDENT.

## PREROGATIVE POWER.

Exercise of, by chancery courts in enforcing general bequest for charity or religion. 14 L.R.A. (N.S.) 61.

## PREROGATIVE PUBLICATIONS.

Common-law rights in. 51 L.R.A. 355.

## PREROGATIVE WRITS.

In general, see CERTIORARI; HABEAS COR-PUS; INJUNCTION; MANDAMUS; PROHI-BITION; QUO WARBANTO.

Jurisdiction of superior court to grant, see COURTS, §§ 30, 31.

## PRESBYTERIAN CHURCH.

See RELIGIOUS SOCIETIES.

Begin with this book on every law question.

#### PRESCRIPTION.

§ 1. Rights in real property by. Adverse possession, generally, see Adverse Possession.

Easement by, see EASEMENTS, § 9.

Acquiring highway by, see HIGHWAYS, § 5. Prescriptive right to maintain obstruction in highway, see Highways, § 39.

Prescriptive rights to maintain a nuisance, see Nuisances, § 26.

Prescriptive rights as to waters, see Waters, §§ 101-105.

Prescriptive right in grave or burial lot. 40 L.R.A.(N.S.) 752.

Prescriptive right to erect wharves. L.R.A. 641.

Right by, to maintain a public nuisance. 53 L.R.A. 891.

Right by, to lateral support for buildings. 20 L.R.A. 730.

Title to abandon highway by. 26 L.R.A. 451.

Acquisition by prescription of right to visit object of interest on private property or to resort thereto for purpose of pleasure. 4 B. R. C. 889.

🖇 2. Of physician.

Procuring liquor for another on physician's prescription for self as an illegal sale. 21 L.R.A.(N.S.) 1008; 24 L.R.A.(N.S.) 273.

Must indictment or information for sale of liquor by druggists on prescription state name of purchaser. 23 L.R.A. (N.S.) 583.

#### PRESENCE.

Of accused, see CRIMINAL LAW, § 46.

When will deemed attested by the witness in the presence of the testator. L.R.A. 1916C, 950.

## PRESENTATION.

Of claim, generally, time for, see CLAIMS,

Of claims against decedent's estate, see EXECUTORS AND ADMINISTRATORS, §§ 39-41.

Of claim against municipality, see MU-

NICIPAL CORPOBATIONS, § 103.
Of claim for delay or nondelivery of telegram, see Telegraphs, § 21.

Of claim for damages, see CARRIERS, §§ 133, 134; HIGHWAYS, §§ 106, 107; MUNICI-PAL CORPORATIONS, § 103.

#### PRESENTMENT.

Of bill or note, see BILLS AND NOTES, §§ 43-53.

Of check, see CHECKS, §§ 9-11.

In criminal cases, see CRIMINAL LAW, § 35.

#### PRESENT VALUE.

Reduction to present value of pecuniary loss to the statutory beneficiaries from death. L.R.A.1917F, 373.

## PRESERVATION.

Scope and effect of provisions in election law for preservation of ballots, 30 L.R.A. (N.S.) 602.

#### PRESIDENT.

Of corporations, see Corporations, §§ 47,

Mandamus against, to compel restoration to office of one who has been illegally removed. 19 L.R.A. (N.S.) 52.

Right of president to make an ad interim appointment to an office whose fixed term expires before the senate's adjournment, where the incumbent is authorized to hold over until his successor is appointed. 46 L.R.A.(N.S.) 1202.

## PRESIDENTIAL ELECTORS.

Presidential electors. 43 L.R.A.(N.S.) 282.

### PRESIDING JUDGES.

Statute reducing number of presiding judges at criminal trial as ex post facto law. 37 L.R.A.(N.S.) 567.

## PRESIDING OFFICER.

Casting vote by, in case of tie vote. L.R.A. 561. 47

## PRESS.

Freedom of, see Constitutional Law, § 29h.

## PRESTON'S TOLU.

Judicial notice of intoxicating character of. 48 L.R.A. (N.S.) 316.

## PRESUMPTION.

In general, see EVIDENCE, III.

ences. L.R.A.1918A, 743.

Consult also L.R.A. Digests of Cases.

PRESUMPTION—cont'd

In aid of pleading to show character of action. 50 L.R.A.(N.S.) 21.

By pedestrian of exercise of due care by driver. 19 L.R.A.(N.S.) 166; 39 L.R.A. (N.S.) 486.

Right of driver of vehicle to assume that motorman will give him time to cross the track. 5 L.R.A.(N.S.) 1081.

Right of motorman to assume that no one will attempt to drive across track so close in front of car as to render a collision probable. 5 L.R.A.(N.S.) 1059.

Right of persons in charge of train to presume that child will get out of danger.
6 L.R.A.(N.S.) 283.

Right to presume as to ability of sick or otherwise helpless person to obtain place of safety. 69 L.R.A. 550.

## PRETERMITTED HEIRS.

Choice of remedies by, see Election or REMEDIES, § 6.

## PRETIUM AFFECTIONIS.

Specific performance of contracts in rela-tion to personal property that come within the phrase pretium affectionis. L.R.A.1918E, 616.

### PREVIOUS APPLICATION.

For insurance, false representations, see In-SUBANCE, § 101.

## PREVIOUS CONVICTION.

Prosecuting attorney's reference to, as ground for reversal. 46 L.R.A. 663; L.R.A.1918D, 109.

## PREVIOUS REJECTION.

Of application for insurance, see INSUR-ANCE, § 99.

## PRICE.

Combination to control, see Monopoly AND COMBINATIONS, II.

Rates of public service corporations, see RATES, § 2.

Reasonableness of matters relating to, see REASONABLENESS, § 4.

Legislative power to fix prices. 33 L.R.A. 177.

Admissibility in evidence of negative infer- Effect on contract of leaving price indefinite. 53 L.R.A. 288.

PRICE-cont'd

Effect of retention of goods after notice of mistake in quoted price. 15 L.R.A. (N.S.) 368.

Purchaser's right to rely on seller's computation of. 17 L.R.A.(N.S.) 419.

Measure of damages for breach of contract on sale of article having no market price. 57 L.R.A. 193.

Measure of damages where one purchases goods in reliance upon a misquotation of price in telegram. 46 L.R.A. (N.S.) 412.

Price at which goods are resold as affecting measure of damages for breach of warranty as to quality. 5 L.R.A.(N.S.) 1151

False statement as to selling or market price of property. 35 L.R.A.(N.S.) 175; L.R.A.1916F, 782.

Libel in charging one with exacting excessive prices. 40 L.R.A.(N.S.) 79.

Agreement to arbitrate question of. L.R.A. (N.S.) 384.

Condition imposed by manufacturer as to retail price, as binding upon retailer purchasing from middleman. 3 B. R. C. 299.

Naming price as an offer to sell. L.R.A. 1915F, 824.

Implied or apparent authority of agent to fix. L.R.A.1917E, 791.

## PRICE LISTS.

As evidence. 17 L.R.A. 851. Sufficiency of identification for purposes of executory contract where goods are ordered by. 31 L.R.A. (N.S.) 927.

## PRIESTS.

See RELIGIOUS SOCIETIES, §§ 6-9.

## PRIMA FACIE EVIDENCE.

See Evidence, III.

#### PRIMARY ELECTIONS.

See ELECTIONS, §§ 25, 26.

## PRIMARY LIABILITY.

Liability over to person secondarily liable, see INDEMNITY, §§ 2-4.

# ----

INTEREST, § 2a. Begin with this book on every law question. PRINCIPAL AND AGENT.

I. In general, §§ 1-8.

II. The relation; revocation, \$\$ 4-7.

III. Powers of attorney, \$\$ 8-10.

IV. Agent's authority; rights and liability of principal, §§ 11-81.

a. In general, §§ 11-21.

b. Agent's fraud or wrong, \$5 22, 23.

c. Undisclosed principal, \$\$ 24-27.

d. Ratification. §§ 28-31. V. Rights, duties, and liabilities of agent, §§ 31a-43. a. In general, §§ 31 a, 31 b.

b. As to principal, \$\$ 32-39.

1. In general, \$ 32.

2. Fiduciary capacity; conflict of interests, §§ 33-

8. Compensation; lien, §\$ 36, 37.

4. Liabil'ty to principal, \$\$ 38, 39.

c. As to third persons, \$\$ 40-48.

## I. In general.

Generally.

Automobile distribution contract, see Auto-MOBILES, § 11.

Agents of bank, see BANKS, §§ 6-8a.

Right of bank to apply on debt due it, deposit made by agent, see BANKS, § 18. Bond for fidelity of agent, see BONDS, § 11. Real estate agents, see Brokers.

Corporate agents, see CORPORATIONS, VI. Choice of remedy against principal or

agent, see Election of Remedies, § 4. Conclusiveness of election of remedy against principal or agent, see Elec-TION OF REMEDIES, § 15.

Embezzlement by agent, see EMBEZZLE-MENT, § 2.

Estoppel of principal or agent, see Estop-PEL, § 35.

Principal as proper party to bring suit, see Parties, § 16.

Agent as proper party to bring suit, see

PARTIES, § 17.
Commissions charged by lender's agent as usury, see Usury, § 3.

Service on agent of corporation, see WEIT AND PROCESS, §§ 23, 25-27.

Factors, see FACTORS. Insurance agent, see Insurance, §§ 17-23,

141-143.

Right of receiver to take property from possession of one holding as agent. 47 L.R.A.(N.S.) 754.

Effect of misconduct of agents on personal liability of a trustee for losses to trust estate from investments. 44 L.R.A. (N.S.) 976.

PRINCIPAL. Commissions charged by lender's agent as usury. 46 L.R.A.(N.S.) 1157.

Effect of accepting on right to interest, see Set-off in case of bankruptcy. 55 L.R.A. 40,

44, 51, 60.

PRINCIPAL AND AGENT, I.—cont'd Bidding as agent at judicial sale as suppression of competition. 42 L.R.A. (N.S.) 1206.

Situs of securities for taxation when held by agent residing in different state from principal. 16 L.R.A. 731.

How far pledge effectual when pledgeor's agent is made depositary. 25 L.R.A. **577.** 

Delivery to carrier on shipment to principal. 22 L.R.A. 420.

Addressing letter to plaintiff's agent as publication for purposes of libel. 21 L.R.A.(N.S.) 33.

Privilege of communications between principal and agent. 36 L.R.A.(N.S.) 449.

Forgery by false assumption of authority to sign another's name as agent. 31 L.R.A. 831.

Delivery of forged instrument to agent as uttering or publishing. 8 L.R.A. (N.S.) 1178.

Effect of invalid provision for an exclusive agency upon right to recover for goods purchased under the contract. 6 L.R.A. (N.S.) 547.

Guaranty of performance of contract of agency, 16 L.R.A.(N.S.) 369.

Creation of trust by recommending employment of agent. 37 L.R.A. (N.S.) 685.

Agency test of existence of partnership. 18 L.R.A.(N.S.) 1072

Form of execution of deed by attorney in fact or agent. 41 L.R.A.(N.S.) 805.

Solicitation of orders by sample or otherwise as affected by delivery through agent or by shipments in bulk to agent. 19 L.R.A.(N.S.) 309; 28 L.R.A.(N.S.) 635.

May the right of partner, or of a stockholder in a corporation, to inspect the books of the firm or corporation, be delegated to an agent. 2 B. R. C. 976.

Laying ownership in agent in possession in indictment for obtaining property under false pretenses. 22 L.R.A.(N.S.) 645.

Statements by agent made some time after accident as res gestæ. 42 L.R.A.(N.S.)

Federal courts following state decision on questions relating to. 40 L.R.A. (N.S.) 433.

§ 2. Effect of failure to procure license.

By corporate agent, see Corporations, §

Effect of failure to procure license on validity of contract. 16 L.R.A. 424.

## § 3. Matters as to evidence,

Admissibility in evidence of entries by agent in account books. 53 L.R.A.

Consult also L.R.A. Digests of Cases.

PRINCIPAL AND AGENT, I .- cont'd Admissibility of reports by agent to principal to prove facts in issue. 18 L.R.A. (N.S.) 231; 25 L.R.A. (N.S.) 930; 47 L.R.A. (N.S.) 830.

Admissibility of books of account to prove disbursement by agent. 52 L.R.A. 707.

Admissions as evidence of agency against person making them. 88 against person making them.
L.R.A. (N.S.) 165.

Proof of one's intent by his agent.
L.R.A. (N.S.) 401. 35

23

## II. The relation; revocation.

§ 4. Generally.

Agency of bank in collection of commercial paper, see Banks, §§ 31-35.

Agency of husband for wife, see HUSBAND

AND WIFE, § 18.
Insurance agent as agent of assured, see INSURANCE, § 17a.

Insurance broker as agent of assured, see INSURANCE, § 18.

Construction of contract having some provision peculiar to consignment and agency contracts and others to sale contracts. L.R.A.1917B, 626.

Question whether automobile distribution contract is one of agency or sale. L.R.A.1915B, 110.

Question whether telegraph company is agent of sender or addressee as affecting right to recover damages resulting from addressee acting upon message changed during transmission. 51 L.R.A. (N.S.) 439.

Initial carrier as agent of connecting carrier so as to make contract of former binding on the latter. 52 L.R.A. (N.S.) 861.

Firemen as agents of owner of burning property. 39 L.R.A.(N.S.) 237.

Agency of clearing-house members. 25
L.R.A. 830.

Is medical examiner agent of insurer or of insured. 41 L.R.A.(N.S.) 505.

Powers of president and vice president of corporation as to agents. 14 L.R.A. 358. employment of

Effect of statute of frauds upon parol contracts for employment of agent which may, but are not intended to, be performed within a year. 15 L.R.A. (N.S.) 324.

§ 5. Evidence of relation.

Admissibility of books of account to prove agency. 52 L.R.A. 714.

Proof of agency by evidence of similar acts by alleged agent. 17 L.R.A.(N.S.) 219.

6. Revocation; termination.

Revocation of power of attorney, see infra, §§ 9, 10.

Termination of broker's authority, see Brokers, § 4.

Termination of agency of insurance agent,

see Insurance, § 23.
Revocation of appointment of agent on whom process may be served, see WRIT AND PROCESS, § 29.

1

PRINCIPAL AND AGENT, II.—cont'd Presumption of continuance of agency.

L.R.A.(N.S.) 891. Effect of war to terminate contract of agency wi 1917C, 667. with alien enemy.

Effect of agent's right to fee to prevent revocation of agency when the fee is contingent on the performance of certain acts. L.R.A.1915A, 639. Intoxication as justification for discharge

of agent. 38 L.R.A.(N.S.) 339.

Right to discharge attorney employed for contingent fee. 38 L.R.A. (N.S.) 389. Termination of agency as affecting insurance agent's right to commissions on renewals. 35 L.R.A.(N.S.) 153.

Effect of revocation of authority on agent's

right to receive payment where security is not in his possession. 23 L.R.A.(N.S.) 423; L.R.A.1916B, 860. Dissolution of partnership authorized to

act as agent, as termination of agency. 23 L.R.A. (N.S.) 849; L.R.A.1915C, 576.

Revocation by foreign corporation of appointment of attorney or agent to receive service of process. 30 L.R.A. (N.S.) 678.

Avoidance by infant of brokerage agency. 41 L.R.A.(N.S.) 1219.

Necessity and sufficiency, 88 between principal and third person of notice of termination of agency by act of the parties. 41 L.R.A. (N.S.) 663.

3 7. — by death.

Of power of attorney, see infra, § 10.

Effect of death on contract of. 23 L.R.A. 709; 45 L.R.A.(N.S.) 349.

## III. Powers of attorney.

\$ 8. Generally.

Conflict of laws as to power of attorney to contract in relation to real property. L.R.A.1916A, 1043.

Implied powers under power of attorney to transact business. 4 L.R.A.(N.S.) 843. Release of inchoate right of dower under

power of attorney. 16 L.R.A. 209. Right of consul to take acknowledgment of

power of attorney. 45 L.R.A. 499. Presumption as to time of alteration in.

39 L.R.A. (N.S.) 106, 109, 112.

When may instrument in the form of power of attorney be admitted to probate or otherwise be given effect as a will. 41 L.R.A. (N.S.) 44.

§ 9. Revocation.

Necessity of notice to revoke power of attorney. 1 L.R.A. (N.S.) 577.

Effect of breaking out of war between countries of respective parties. L.R.A.1917C, 667.

10. - by death.

Effect of death of party to revoke warrant of attorney to confess judgment. 13 L.R.A. 797.

Begin with this book on every law question.

PRINCIPAL AND AGENT, III.-cont'd Effect of provision in power of attorney that it shall not be revoked by death. 6 L.R.A.(N.S.) 855.

## IV. Agent's authority; rights and liability of principal.

## a. In general.

§ 11. Generally.

Authority under power of attorney, see supra, § 8.

Affidavit for attachment by agent, see AT-TACHMENT, § 14a.

Powers of agents of bank, see BANKS, § 8. Liability of corporation for acts of agents, see CORPORATIONS, § 38.

Authority of corporate agents, see Corpo-BATIONS, §§ 43-48.

Criminal responsibility for acts of agent, see CRIMINAL LAW, § 29; INTOXICATING

LIQUORS, § 23.
Authority of insurance agent, see Insur-ANCE, §§ 19, 141-143.

Authority of employee, see MASTER AND SERVANT, §§ 17-18a.

Municipal liability for acts of agents, see MUNICIPAL CORPORATIONS, § 81-84.

Powers of officers, see Officers, §§ 28-30. Authority of partner, see PARTNERSHIP, §§ 8, 9.

Liability for acts of partner, see PARTNERянір, §§ 10-14.

Payment by agent, see PAYMENT, § 14. Admissibility of declarations of agent, see EVIDENCE, § 234.

Liability of detective agency for acts of its employees. L.R.A.1918D, 575.

Effect of appointing agent on Sunday. 43 L.R.A.(N.S.) 140.

Liability of principal on contract negotiated by agent having apparent authority, as affected by fact that agent acted for his own interest. 5 B. R. C. 496.

Insurance effected by agent on property of principal as violation of provision against additional insurance. 1918D, 781.

Consent of agent of infant or incompetent to a license for the sale of intoxicating liquors. L.R.A.1916D, 819.

Relief from default judgment because of failure of agent upon whom writ was served to notify defendant. L.R.A. 1916E, 103.

Authority of agent to borrow money for principal. L.R.A.1916C, 112.

Agent's implied power to assent to rescission of contract. 37 L.R.A. (N.S.) 91. Authority of superintendent to contract for payment of employee while laid off. 41 L.Ř.A. (N.S.) 1141.

Right of agent to locate mining claim. 7 L.R.A.(N.S.) 817.

Power of lessee or vendee to subject owner's interest to mechanics' liens under statutes giving liens for improvements made by agent. 23 L.R.A.(N.S.) 608; L.R.A.1917D, 580.

PRINCIPAL AND AGENT, IV. a-cont'd Effect of participation by creditor's agent in debtor's fraudulent intent, as against other creditors. 31 L.R.A. .642.

Implied authority of department superintendent to contract as to matters relating to his department. 38 L.R.A. (N.S.) 1135.

Agent's authority to employ subagent so as to make the principal liable for remuneration due for services of subagent. L.R.A.1918F, 720.

Liability of a principal for services performed under contract with his agent by persons other than subagents or servants. L.R.A.1918F, 8.

Liability of one railroad corporation possessing stock control of another for the acts and contracts of the latter. 35 L.R.A.(N.S.) 770.

Right to reward offered for arrest when arrest is made by agent of claimant. 7 L.R.A. (N.S.) 218.

Right of bankrupt to discharge as affected by act of agent. 20 L.R.A.(N.S.) 785, 30 L.R.A.(N.S.) 623.

Effect of agent's consent to taking of property on crime of larceny. 7 L.R.A. erty on crime of larceny. (N.S.) 1149.

Implied or apparent authority of agent of employee to bind principal for board or traveling expenses. L.R.A. 1916B, 754.

Waiver by agent of stipulation in building contract that alterations or extras must be ordered in writing. 48 L.R.A. (N.S.) 581, 589, 594.

May a contract by an agent who exceeded his authority be enforced against the principal to the extent to which 52 L.R.A. it was authorized. (N.S.) 510.

Liability of one party to a contract or transaction to the other because of bonus or commission allowed by the former to the latter's agent. 49 L.R.A. (N.S.) 101.

Garnishment of bank deposit in a form importing that depositor is acting as agent of fiduciary. 34 L.R.A. (N.S.) 1207.

Conclusiveness of judgment as between plaintiff and principal of one who voluntarily conducted the defense. 37 L.R.A.(N.S.) 963.

Admissibility of books of account to prove authority of agent. 52 L.R.A. 714.

§ 12. Limitations on agent's authority.

General and special agents. 2 L.R.A. 808. Notice of limitation. 1 L.R.A. 192.\* Private restrictions on agent's authority, special instructions. 2 L.R.A. 823.\*

§ 13. Extent of authority conferred on traveling salesmen.

Secret instructions. 10 L.R.A. 355.\*

Generally, 18 L.R.A. 663.

Authority to collect payment. 18 L.R.A. Implied or apparent authority of agent to 663.

Implied or apparent authority of agent to fix price. L.R.A.1917E, 791. Consult also L.R.A. Digests of Cases. 69

PRINCIPAL AND AGENT, IV. a-cont'd Effect of agent's possession of goods. 18 L.R.A. 666.

Authority to accept payment in anything else than money. 18 L.R.A. 666.

Authority to pledge principal's credit for traveling expenses. 18 L.R.A. 667; L.R.A.1916B, 754.

Authority to sell samples. 18 L.R.A. 667. Authority of traveling salesman to make advertising contracts. 41 L.R.A.(N.S.) 1019.

Extent of a commercial traveler's implied or ostensible authority to warrant goods. 39 L.R.A. (N.S.) 1151.

Authority of sales agent who is authorized to collect the whole or a part of the purchase price upon making the sale, to receive payments afterwards. 38 L.R.A. (N.S.) 700.

Right to withdraw order given agent before acceptance by principal. (N.S.) 1138. 10 L.R.A.

§ 14. To employ medical services for employee or other third person.

Authority of servant, see MASTER AND SERVANT, §§ 17-18a.

Generally. 20 L.R.A. 695.

Liability of railroad company on contract made by conductor. 20 L.R.A. 695.

Contracts made by superintendent or president. 20 L.R.A. 696.

Contracts made by division superintendent. 20 L.R.A. 696.

Contracts made with general agents or managers. 20 L.R.A. 696.

Contracts made by agents, generally. 20 L.R.A. 696.

Physician or nurse employed by the physician in charge. 20 L.R.A. 697.

§ 15. As to purchase or sale of property.

Chattel mortgagor as agent of mortgagee to sell, see CHATTEL MORTGAGE, § 14a.

Power to sell real estate as including power to give option. 10 L.R.A. (N.S.) 867. Power to sell personal property in agent's

possession as implying power to exchange. 10 L.R.A. (N.S.) 1118. Is power to give option included in power to sell real estate. 10 L.R.A.(N.S.)

867. Power of agent employed to sell real property to bind his principal as to fixtures. L.R.A.1915F, 634.

Implied or ostensible authority of an agent for the sale of personal property to warrant the same. L.R.A.1916C, 412.

Implied or ostensible authority of an agent to bind his principal by covenants in the sale of real property. L.R.A.1917F, 954.

Implied or ostensible authority of agent for the sale of land as to representations. L.R.A.1917F, 962.

PRINCIPAL AND AGENT, IV. a-cont'd Authority of agent to waive conditions in contract of sale limiting warranty. 50 L.R.A.(N.S.) 799.

16. As to commercial paper. Authority of corporate agents as to, see CORPORATIONS, § 45.

Of partner, see Partnership, § 9.

Responsibility of holder of paper as collateral security for default of those to whom the paper is entrusted for collection. L.R.A.1917E, 509.

Admissibility of extrinsic evidence to show whether principal or agent liable on note. 20 L.R.A. 705.

Who must bear loss when check or bill issued to impostor assuming to act as agent of payee. 50 L.R.A. 80.

Intrusting to agent duty of examining returned checks. 27 L.R.A. 429.

Taking commercial paper by agent as payment. 35 L.R.A.(N.S.) 49.

Implied or apparent authority of agent to take note payable to himself. 28 L.R.A. (N.S.) 341.

Principal as bona fide holder of bill or note passing through agent's hands. L.R.A. (N.S.) 628.

Alteration of instrument by agent of holder as affecting right to recover thereon L.R.A.1916F, 293.

## 17. — execution of.

Liability of principal on negotiable paper executed by an agent. 21 L.R.A. (N.S.) 1046.

Terms within the special authority of agent to give paper for loan. 1916C, 135. L.R.A.

Giving of commercial paper by agent as payment. 35 L.R.A.(N.S.) 49, 51.

Payment by principal of previous drafts drawn upon him by his agent without authority, as implied authority to draw another. 34 L.R.A.(N.S.) 440.

Right of an innocent payee to recover on a note signed in blank and intrusted to a third person, who exceeds his authority in filling up the blanks before delivery to the payee. 13 L.R.A. (N.S.) 490; L.R.A.1915B, 144.

18. - indorsement or transfer of. Power of agents to indorse negotiable paper. 27 L.R.A. 401.

Indorsement of check by agent in a manner not contemplated by his restricted authority. L.R.A.1918B, 576.

Effect of principal's death on agent's right to indorse. 23 L.R.A. 711.

Remedy of payee of check against one who has taken it on indorsement of unauthorized agent. 13 L.R.A.(N.S.) 211.

Implied warranty of genuineness upon sale of negotiable paper by agent. L.R.A. 95.

Dealing with agent as a circumstance putting purchaser of negotiable paper on inquiry. 29 L.R.A. (N.S.) 351; 44 L.R.A. (N.S.) 395; L.R.A.1918F, 1155. PRINCIPAL AND AGENT, IV. a-cont'd Effect of transfer by agent, without indorsement, of worthless check or note of third person. 10 L.R.A.(N.S.) 550.

Right and duty of one who received a check or note payable to his own order from the hands of one not a party thereto. 31 L.R.A.(N.S.) 613.

Purchase of money order from agent of indorsee. 3 L.R.A.(N.S.) 136.

Estoppel to contest commercial paper by representations of agent to prospective purchaser. 50 L.R.A. (N.S.) 1028.

§ 19. As to collection of debt. Agent's authority to receive payment, see PAYMENTS, § 16.

Assumption of debt by agent as payment. 17 L.R.A.(N.S.) 607.

Authority of collection agent to contract for services of other persons. L.R.A.1918F,

Implied authority of claim agent to promise employment to induce settlement of claim. 38 L.R.A.(N.S.) 826.
Liability of principal to exemplary damages

where attachment was sued out by agent for collection of debt only. L.R.A.(N.S.) 279.

Authority of sales agent who is authorized to collect the whole or part of purchase price on making the sale to receive payments afterwards. 38 L.R.A. (N.S.) 700.

Liability for malicious prosecution, false arrest, or false imprisonment by agent authorized to collect debt. 51 L.R.A. (N.S.) 471.

Liability for assault by agent in collecting debt. 51 L.R.A. (N.S.) 920.

Responsibility of holder of paper as collateral security for default of those to whom the paper is entrusted for collection. L.R.A.1917E, 509.

## 20. Liability for torts.

Liability of agent, see infra, § 42. Liability of charitable society for negligence of agents or employees, see CHARITIES, § 12.

Criminal responsibility for sales of intoxicating liquor by agent, see Intoxicat-ING LIQUOR, § 23.

As to master's liability for tort of servant. see Master and Servant, IV.

Criminal and penal liability for act of agent. 41 L.R.A. 650.

Liability of partnership or corporation for tort committed by partner or agent with the object of procuring business. 5 B. R. C. 88.

Liability of principal for fraud perpetrated by agent acting within apparent scope of his authority, but for his own bene-

sale fit. 5 B. R. C. 526.

36 Liability of telegraph company to undisclosed principal of sendee. 4 L.R.A. (N.S.) 678; 24 L.R.A.(N.S.) 1045.

Liability of telegraph company for trans-mission or delivery of forged message by its agent. L.R.A.1915A, 123.

Begin with this book on every law question.

PRINCIPAL AND AGENT, IV. a-cont'd Liability of principal for assault by agent in collecting debts. 51 L.R.A. (N.S.)

Liability of principal for malicious prosecution, false arrest, or false imprisonment by agent authorized to collect a debt. 51 L.R.A. (N.S.) 471.

§ 21. Authority of agent of carrier. Extent of authority of ticket agents, see CARRIERS, § 27a

Authority of agents of initial carrier to extend its undertaking beyond its own line. 31 L.R.A.(N.S.) 32.

## b. Agent's fraud or wrong.

22. Generally.

Principal's civil responsibility for agent's wrongful or negligent act toward one having no contract relation with master. 27 L.R.A. 161.

Expression of opinion by agent as a fraud.

35 L.R.A. 429.

False representations by agent of purchaser as to selling or market price of prop-

erty. 35 L.R.A.(N.S.) 184.

Effect of fraud by agent ex necessitats in making proofs of loss under fire insurance policy. 9 L.R.A. (N.S.) 485.

Liability of corporation transferring stock on books at request of agent of owner. 45 L.R.A.(N.S.) 1079.

Fraud or false swearing by agent of insured in making proofs of loss. 52 L.R.A. (N.S.) 1074.

Principal's collecting or attempting to collect proceeds of contract from agent as precluding assertion as against the other party to the contract of the agent's fraud. L.R.A.1917D, 701.

\$ 23. Payment of own debt by agent. Agent's power to use property of his principal for payment of his own debt. 14 L.R.A. 234.

Liability for taking deposit of agent, flduciary, or other representative to pay his own debt. 52 L.R.A. 790.

Right of one who knowingly received principal's money in payment of agent's debt which he believed to be the debt of the principal. 15 L.R.A. (N.S.) 310.

## c. Undisclosed principal.

24. Generally.

May a contract made without authority by one apparently acting on own behalf, but with an undisclosed intention to act for another, be ratified by such other. 1 B. R. C. 397.

25. Rights of.

Right of principal to proceeds of insurance policy taken by agent in his own name. 13 L.R.A.(N.S.) 152.

Right of defendant in action by undisclosed principal to avail himself of defenses that would have been available in an action by the agent in his own right on the contract. 28 L.R.A. (N.S.) 227; L.R.A.1916A, 1213.

Consult also L.R.A. Digests of Cases,

PRINCIPAL AND AGENT, IV. c-cont'd Character of contract as affecting right of undisclosed principal to sue thereon. 29 L.R.A.(N.S.) 472; 39 L.R.A.(N.S.) 324.

Liability of telegraph company to undisclosed principal of sendee. 4 L.R.A. (N.S.) 678; 24 L.R.A. (N.S.) 1045.

26. Liability of.

Liability of agent, see infra, § 43.

Liability of undisclosed principal of bidder judicial sale for purchase price, or for deficiency upon resale of property. 46 L.R.A.(N.S.) 887.

May statute of frauds relating to sales of real property be satisfied by a memorandum which discloses that one of the parties acted for an undisclosed principal. 8 L.R.A. (N.S.) 733.

Parol evidence that one of the persons who signed an instrument relating to real property was agent for an undisclosed principal. 24 L.R.A.(N.S.) 315.

§ 27. - liability of both principal and agent.

Right to join agent and undisclosed principal as defendants in same action. 26 L.R.A.(N.S.) 742.

Action against agent as bar to one against principal undisclosed when first action

begun. 6 L.R.A.(N.S.) 729.

Commencing action or taking judgment against either an undisclosed princi-pal or his agent as a bar to a subsequent action against the other. L.R.A.(N.S.) 786.

## d. Ratification.

§ 28. Generally.

Ratification of acts of corporate agent, see CORPORATIONS, § 34.

Imputing agent's notice to principal, see NOTICE, §§ 14, 15.

Ratification of agent's unauthorized contract for the purchase or sale of real property as affected by the statute of frauds. 38 L.R.A.(N.S.) 783.

Ratification of agent's employment of subagent. L.R.A.1918F, 741.

Ratification of bank cashier's sale or lease of property. 31 L.R.A.(N.S.) 738.

Ratification after loss of unauthorized act of another in securing fire insurance. 42 L.R.A.(N.S.) 1025.

Liability of husband for necessaries furnished wife while living with him by reason of ratification. 47 L.R.A.(N.S.)

Ratification by master of act of servant so as to render former liable to exemplary damages. 48 L.R.A. (N.S.) 54, 57.

§ 29. Power to ratify.

Power of principal to ratify unauthorized contract of agent so as to raise cause of action in his own favor against the adverse party. 4 L.R.A. (N.S.) 431.

PRINCIPAL AND AGENT, IV. d-cont'd May unauthorized contract by one apparently acting on his own behalf but with undisclosed intention to act for another be ratified by such other. 1 B. R. C. 397.

§ 30. What constitutes.

What will constitute an implied ratification of an unauthorized loan effected by an agent. 6 L.R.A.(N.S.) 311; 52 L.R.A. (N.S.) 571.

Ratification of agent's employment of subagent. L.R.A.1918F, 741.

Ratification of unauthorized loan by agent, by retention of benefit. 2 B. R. C. 743. Mere passive acceptance of the benefit by the principal as a ratification of an agent's unauthorized use of a third person's money for purposes beneficial to principal. 15 L.R.A. (N.S.) 693.

Ratification of the unauthorized act of an

agent by silence. L.R.A.1918C, 222. Effect of principal's performance of part of contract in ignorance of unauthorized provisions inserted by his agent as ratification of latter. 29 L.R.A. (N.S.) 210.

Payment by principal of what he deems property or services worth as ratification of agent's unauthorized contract for same. 29 L.R.A.(N.S.) 400.

Principal's collecting or attempting to collect proceeds of contract from agent as precluding assertion as against other party to the contract of the agent's fraud or lack of authority. L.R.A. 1917D, 701.

31. Effect of.

Effect of attempted ratification to confer right or impose liability upon one not contemplated by agent as his principal. 2 B. R. C. 260.

Effect of ratification of alteration of instrument by agent of holder. L.R.A.1916F.

## V. Rights, duties, and liabilities of agent.

## a. In general.

\$ 31a. Generally.

Discrimination against nonresidents by statute or ordinance imposing license tax on. 40 L.R.A.(N.S.) 289, 290. Right of agent to notice to redeem from tax sale. 44 L.R.A.(N.S.) 676, 680.

§ 31b. Criminal responsibility.

Sale of intoxicating liquors by agent, see In-TOXICATING LIQUOB, § 22.

Agent's criminal responsibility for sale of goods that do not comply with statutory requirements. L.R.A.1918D, 726. Effect of fact that agent is entitled to commissions out of fund on his prosecution for embezzlement on retaining the whole fund. 13 L.R.A. (N.S.) 511.

PRINCIPAL AND AGENT, V.-cont'd

## b. As to principal.

## 1. In general.

32. Generally.

Duties and liabilities of broker, see Brokers, § 5.

Right of agent to transfer his authority or contract to a corporation organized by him. L.R.A.1916F, 89.

Right of agent to be reimbursed for fines or penalties paid for violation of law in principal's interest. 45 L.R.A. (N.S.) 788.

Rights of agent who purchases for an executor or administrator at the latter's own sale. L.R.A.1918B, 42.

Interpleader between principal and agent. 10 L.R.A.(N.S.) 757.

Effect on rights of pledgee of delivery of pledged property to pledgeor as former's agent. 39 L.R.A.(N.S.) 892.

Enforcement in equity of agent's parol promise to hold in trust property conveyed to him. 39 L.R.A.(N.S.) 924.

Loss of, or injury to, goods during ship-ment as affecting fulfilment of commission to purchase goods. 19 L.R.A. (N.S.) 261.

Measure of damages to advertising agent for breach of advertising contract. 22

L.R.A. (N.S.) 273.

### 2. Fiduciary capacity; conflict of interests.

§ 33. Generally.

Fiduciary relation between attorney and client, see ATTORNEYS, § 10.

Fiduciary relation between corporation and its agents, see Corporations, §§ 50, 51.

Right of either principal to affirmative relief from transaction in which agent acted for both parties. 17 L.R.A.(N.S.) 622.

Right of agent to relocate mining claim for his own benefit. 50 L.R.A. 186.

Independent advice as a condition of a valid gift inter vivos between parties occupying confidential relations. L.R.A.(N.S.) 1087.

§ 34. Purchase or lease by agent in his own name.

Right of agent to purchase or lease in his own behalf property which he was under no duty to purchase or lease for his principal. 47 L.R.A.(N.S.) 567.
Right of principal to retain property purchase

chased through agent who was secretly interested therein, and seek relief against the agent. 34 L.R.A.(N.S.) **1210.** 

Purchase by agent for principal of property which the agent personally has an option or contract to purchase. 11 L.R.A. (N.S.) 122,

Begin with this book on every law question.

§ 35. — effect of statute of frauds.

Statute of frauds as affecting right to equitable relief against one who has purchased land in his own name in violation of his agreement to purchase it for and in the name of complainant. 5 L.R.A.(N.S.) 112.

Statute of frauds as affecting legal remedy for breach of contract to purchase land for and in the name of another. 5

L.R.A.(N.S.) 123.

## 3. Compensation; lien.

36. Compensation.

Of brokers, see BROKERS, §§ 8-13.
Of corporate agents, see Corporations, § 49.

Of insurance agent, see INSURANCE, § 21. Compensation of officers, see Officers, §§ 31-37, 44.

Effect of appointment of receiver or assignee for creditors of corporation on compensation of agent for unexpired term. 51 L.R.A. 146.

Partnership of agents by sharing in profits.

18 L.R.A.(N.S.) 1032; L.R.A.1918F,

Right of one having exclusive sales agency within given district, to commissions on sales made by another outside of the district to a resident thereof. L.R.A. (N.S.) 971.

Salesmen's right to recover compensation as affected by employment of improper methods to make sales. 39 L.R.A.

(N.S.) 1149.

Validity of agreement by which compensation is dependent on success in pro-curing contract with public officer or board. 39 L.R.A.(N.S.) 747; L.R.A. 1915C, 828.

Termination of agency as affecting insur-ance agent's right to commissions on renewals. 35 L.R.A. (N.S.) 153.

Effect of agent's right to see to prevent revocation of agency when the fee is contingent on the performance of certain acts. L.R.A.1915A, 639.

Right of one employed on commission to recover for loss of profits where employment is unlawfully terminated. L.R.A.

1916B, 872. Loss of profits as element of damages for breach of contract for services as agent.

53 L.R.A. 57.

Effect of agent's wilful failure to keep and render true accounts of his agency, upon his right to compensation. 5 L.R.A.(N.S.) 469. Effect of fact that agent is entitled to com-

missions out of fund on his prosecution for embezzlement on retaining the whole fund. 13 L.R.A.(N.S.) 511.

Liability of a principal in respect of the remuneration due from the services of a subagent. L.R.A.1918F, 720.

37. Lien of agent.

Lien of agent for advances to vessel. 70 L.R.A. 416,

Consult also L.R.A. Digests of Cases.

PRINCIPAL AND AGENT, V. b, 2-cont'd | PRINCIPAL AND AGENT, V. b, 3-cont'd Maritime lien for services of agent. L.R.A. 387, 435.

Lien of subagent. L.R.A.1918F, 748.

## 4. Liability to principal.

\$ 38. Generally.

Liability of bank making collections, see BANKS, §§ 33-35. Liability of directors to corporation, see

CORPORATIONS, § 59.

Liability of insurance agent to company for failure to follow instructions. L.R.A.1915A, 860.

Right of principal to recover from agent commissions which latter received from other party to contract. 28 L.R.A. (N.S.) 952.

Allowance of interest against agent. L.R.A. 456.

Necessity of notice of default to bind guarantor of agent. 20 L.R.A. 258.

Consideration for note or obligation given by agent to cover loss or transactions conducted by him for principal. L.R.A. 1917B, 696.

§ 39. For money or property of prin-

cipal.

Right of principal who has placed money in hands of agent for illegal purpose to compel its return. 13 L.R.A.(N.S.)

Liability of agent toward his principal and a third person respectively for money or property received in course of agency. 2 L.R.A.(N.S.) 657.

Right of principal to maintain trover or case for money collected by agent or attorney. 20 L.R.A.(N.S.) 35.

Demand as a condition of action to recover money collected by an agent. 28 L.R.A. (N.S.) 626.

When statute of limitations begins to run in favor of agent receiving money of principal. 1 L.R.A. 319.

When statute of limitations commences to run against action to recover money collected by agent not an attorney. 17 L.R.A. (N.S.) 660.

## c. As to third persons.

40. Generally.

Liability of both agent and undisclosed principal, see supra, § 27.

Liability of bank directors, see Banks, § 7. Liability of corporate agents, see Corporations, §§ 52-58.

Of insurance agent, see Insurance, § 22. Liability of agent without license, see LICENSE, § 16.

Liability of servant, see MASTER AND SERV-ANT, §§ 196-198.

Liability of officers, see Officers, §§ 38-

Liability for trespass, see Trespass, § 9. Recovery back of money paid to agent, see

Assumpsit, § 6. Conclusiveness against agent of judgment against principal, and vice versa, see JUDGMENT, § 48. PRINCIPAL AND AGENT, V. e-cont'd Right of agent to bring action, see PARTIES, §§ 10, 17.

Liability of agent in case license tax is not paid by principal. 1946; L.R.A.1915A, 106. 12 L.R.A.(N.S.)

Agent's liability toward his principal and a third person respectively for money or property received in course of agency. 2 L.R.A.(N.S.) 657.

Judgment between principal and third person as res judicata in action between latter and agent. 37 L.R.A.(N.S.) 37.

#### 41. On contract.

Personal liability to other contracting party of one who, without authority, assumes to contract as agent for another. 34 L.R.A.(N.S.) 518.

Personal liability of committee appointed at public meeting for services or supplies. 51 L.R.A.(N.S.) 406.

Right of agent to show that a contract signed by him apparently as obligor was not to be delivered until words indicating representative capacity had been added to his signature. L.R.A. 1915A, 590.

§ 41a. - personal liability of one signing contract by adding to his signature, words indicating representative capacity.

Sealed instruments. 42 L.R.A.(N.S.) 11. Simple contracts. 42 L.R.A.(N.S.) 16. Contracts of representatives of decedents' estates, guardians, trustees, and assignees. 42 L.R.A.(N.S.) 56.

§ 42. For torts or negligence. Liability of principal, see supra, § 20.

Agent's liability to third person for torts. 2 L.R.A.(N.S.) 378.

Liability of an agent to third persons for his own negligence or nonfeasance. 28 L.R.A. 433; 25 L.R.A.(N.S.) 343; L.R.A.1916F, 570.

Liability of agent of leased premises for injuries due to defects therein. L.R.A. 1917C, 83.

Liability of agent for conversion, trespass, or other positive act of wrongdoing against third persons under orders of employer. 50 L.R.A. 644.

Liability of landlord's agent for conversion of tenant's goods by one put in possession of premises before the expiration of the tenancy. 24 L.R.A.(N.S.)

Liability of agent to true owner for selling or disposing of property intrusted to him by his principal. 50 L.R.A. (N.S.) 52.

§ 43. Agent of undisclosed principal. Liability of principal, see supra, § 26.

Right to recover from agent money paid him for his principal where the agency is undisclosed. 23 L.R.A.(N.S.) 560.

PRINCIPAL AND AGENT, V. e-cont'd Right of agent to show that a contract signed by him apparently as obligor was not to be delivered until words indicating representative capacity had been added to his signature. L.R.A. 1915A, 590.

Personal liability of one known to be an agent for an undisclosed principal. 47 L.R.A. (N.S.) 232.

#### PRINCIPAL AND SURETY.

I. In general, §§ 1, 2.
II. Existence of relation; power to act as surety, §§ 3, 4.

III. Liabilities and defenses, \$\$ 5-18. a. In general, §§ 5-9.

b. Release or discharge, §§ 10-18.

IV. Rights and remedies of surety, §\$ 19-29.

a. In general, §§ 19-21.

b. As to creditors, \$\$ 22-26.

c. As to principal, \$\$ 27, 28. d. Between cosureties, \$ 29.

# I. In general.

Senerally.

On bail bonds, see BAIL AND RECOGNIZANCE. As to bonds, generally, see Bonds. Execution of bond by, see Bonds, §§ 2, 3.

Failure to secure all sureties agreed on, see

Bonds, § 3 a. Effect of principal's failure to sign bond, see Bonds, § 3.

As to guaranty, see GUABANTY.

Married woman as surety, see HUSBAND AND WIFE, §§ 16, 17.

Intervention by surety, see PARTIES, § 39. Subrogation to rights of surety, see Subro-GATION, § 6.

Hiring of convict by surety. 27 L.R.A. 607. Law governing usury in contract of principal and surety, 62 L.R.A. 73.

§ 2. Law as to becoming surety for a surety maker.

In general. 21 L.R.A. 247.

Methods of becoming surety for surety. 21 L.R.A. 247.

Words added to the signature. 21 L.R.A. 247.

Words coupled with circumstances. L.R.A.(N.S.) 248.

Signature by payee to make the paper available. 21 L.R.A. 248.

Time of signing. 21 L.R.A. 249.

After liability of first surety fixed. L.R.A. 249. Guaranty. 21 L.R.A. 250.

Expressly limiting liability. 21 L.R.A. 250. Necessity of contract with first surety. 21 L.R.A. 250.

Signing at request of surety. 21 L.R.A. 251. Request and promise to save harmless. 21 L.R.A. 252.

Liability towards payee. 21 L.R.A. 252.

Begin with this book on every law question.

PRINCIPAL AND SURETY, I .- cont'd Remedy against other parties on the paper. 21 L.R.A. 252.

Effect of release. 21 L.R.A. 252.

## II. Existence of relation; power to act as surety.

§ 3. Existence of relation.

Accommodation parties as cosureties. L.R.A.(N.S.) 1042.

Distinction between guaranty and surety-ship. 16 L.R.A. (N.S.) 365.

Application of principal and surety rule as to creditors on assumption of debts at dissolution of partnership. (N.S.) 88; 48 L.R.A.(N.S.) 552.

Will contract induced by promise to furnish a surety sustain a subsequent contract of suretyship. 27 L.R.A.(N.S.) 189.

Does the fact that a name signed to a bill or note below the signature of another obligor is that of a partnership raise a presumption that it is a surety only. 10 L.R.A.(N.S.) 426.

Burden of proving suretyship in action to recover for failure to execute process. 3 L.R.A. (N.S.) 432.

Admissibility of extrinsic evidence to show relation of principal and surety between parties to note. 20 L.R.A. 711.

4. Power to act as surety. Of married woman, see HUSBAND AND WIFE, §§ 16, 17.

Power of surety company to act as surety. 48 L.R.A. 589.

Power of foreign surety company to act as surety. 48 L.R.A. 592.

Power of corporation organized for the manufacture and sale of liquor to enter into contracts of suretyship on behalf of its customers or prospective custom-27 L.R.A. (N.S.) 186; L.R.A. 1918C, 1008.

## III. Liabilities and defenses.

## a. In general.

5. Generally.

Liability on appeal bond, see APPEAL AND ERROR, § 46.

On bail bond, see BAIL AND RECOGNIZANCE, § 8.

On contractor's bond, see Bonds, §§ 9, 10.

On fidelity bonds, see Bonds, § 11. On official bonds, see Bonds, §§ 12-14.

On bond of executor or administrator, see EXECUTORS AND ADMINISTRATORS, §§ 26, 27.

On bond of guardian, see GUARDIAN AND WARD, § 13.

Liability of guarantor, see GUABANTY. Conclusiveness against surety of judgment against principal, see JUDGMENT, 47.

Payment by principal as extending limitation period as to surety, see LIMITATION In case of fraud of principal. 21 L.R.A. of Actions. § 66.

Consult also L.R.A. Digests of Cases.

PRINCIPAL AND SURETY, III. a-cont'd Promise by principal as extending limitation period as to surety, see LIMITA-TION OF ACTIONS, § 71.

Duty of surety to see that spaces on commercial paper are filled so as to prevent raising. 21 L.R.A.(N.S.) 402.

Effect upon liability of surety of principal's incapacity to contract. 20 L.R.A. (N.S.) 1000.

Liability of sureties under civil damage act for sales causing injury where not confined to the period covered by their bonds. 25 L.R.A.(N.S.) 585.

Duty of one taking note to communicate the fact of principal's insolvency to one assuming the obligation of surety. 14 L.R.A.(N.S.) 377.

Necessity of exhausting remedy as to surety as condition precedent to creditors' bill. 23 L.R.A.(N.S.) 78.

Effect upon surety of judgment against principal. 52 L.R.A. 165; 40 L.R.A.(N. Ŝ.) 698.

Renewal of contract under option as extending the undertaking of a surety for the performance of the contract. 41 L.R.A.(N.S.) 422.

Necessity of new consideration to bind third person who signs as surety after execution and delivery of original contract by principal. 44 L.R.A.(N.S.) 481; L.R.A.1918E, 579.

Is conveyance by surety within statute as to fraudulent conveyances. 47 L.R.A. (N.S.) 322.

6. Extent of surety's liability. Extent of recovery on bond, see DAMAGES, §§ 27-29.

Does bond of highway contractor cover personal injuries of members of public. 34 L.R.A. (N.S.) 152.

Liability of surety to principal for costs in . action on replevin bond. 30 L.R.A. (N.S.) 375.

§ 7. Guaranty by surety of genuineness of other signatures. Generally. 49 L.R.A. 315.

Promissory notes. 49 L.R.A. 315. Bonds. 49 L.R.A. 316.

8. Defenses.

Release or discharge of surety, see infra, §§ 10-18.

Effect of contingency of claim against estate of deceased surety. 58 L.R.A.

Contingency of claim against sureties on bonds for title. 58 L.R.A. 86. Breach of warranty in the principal con-tract as defense to surety. 21 L.R.A. 406.

9. Liability on guaranty or surety 409.

PRINCIPAL AND SURETY, III. a—cont'd PRINCIPAL AND SURETY, III. b—cont'd In case of fraud of obligee. 21 L.R.A. 410. Release of surety by receipt of commercial Secret stipulation between principal and obligee. 21 L.R.A. 410.

### b. Release or discharge.

§ 10. Generally.

On bail bond, see BAIL AND RECOGNIZANCE, § 8.

Of indorser of note, see BILLS AND NOTES, §§ 34, 43-53, 57.

Of guarantor, see GUARANTY, §§ 9, 10.

Effect of voluntary discharge of one of two or more sureties on liability of cosure-

ties. L.R.A.1918E, 95. Effect of discharge of surety on right of obligee to be subrogated to security held by surety. L.R.A.1916C, 1082. Compromise or consent to affirmance as

affecting liability of surety upon appeal bond. 43 L.R.A.(N.S.) 1040. Release by creditor of partner assuming

debts on dissolution of partnership. 48

L.R.A.(N.S.) 553.

Discharge of surety on fidelity obligation by failure of employer to discover delinquency or to notify surety thereof within the time specified in the obligation. L.R.A.1916F, 715.

Release of mortgagor as surety by mortgagee's dealing with vendee who has assumed mortgage. 16 L.R.A. 85.

Effect of judgment against part of joint or joint and several obligors to release liability of others where obligors are principal and surety. 43 L.R.A. 165.

Amendment of claim or pleading as discharge of sureties on bonds given to dissolve attachments or on bail bonds in civil actions. 42 L.R.A. (N.S.) 484.

Effect upon bond conditioned for fidelity of employee or agent, of a change in the latter's field of operation or the nature of his duties. 28 L.R.A.(N.S.)

463; 36 L.R.A.(N.S.) 1152.

Decree directing transfer of fund by executor, administrator, or guardian to himself in another fiduciary capacity, as affecting liability of his sureties.
40 L.R.A. (N.S.) 1136.
Estoppel to enforce contract of suretyship

or guaranty released through mistake. 13 L.R.A. (N.S.) 576. Constitutionality of statute releasing public officer or his surety from liability for loss of public fund. 41 L.R.A. (N.S.) 97.

11. Payment by principal.

Payment voidable under bankruptcy act as discharge of surety, guarantor, or indorser. 9 L.R.A. (N.S.) 581.

Payment of promissory note by maker, which proves ineffectual as a satisfactive proves ineffectual as a satisfactive proves.

tion, as affecting the liability of a surety thereon. 13 L.R.A.(N.S.) 204. Release of surety on building contractor's

bond by making payments not authorized by the contract. 5 L.R.A.(N.S.) 418; L.R.A.1915B, 407.

paper for obligation. 35 L.R.A.(N.S.)

§ 12. Surrender of, or failure to apply, property of principal.

Effect on liability of tenant's surety of surrender of lease containing an option to purchase. 9 L.R.A.(N.S.) 557.

Effect upon surety of bank's failure to apply principal's deposit account upon note. 8 L.R.A. (N.S.) 944; L.R.A. note. 8 1 1917**F**, 266.

Is surety discharged by obligee's surrender of original obligation and acceptance of another which is defective. 16 L.R.A. (N.S.) 343.

Release of indorser of note by failure to exhaust security against maker. 18 L.R.A.(N.S.) 539, 551.

13. Change of contract.

Effect upon mortgagor's obligation of modification between mortgagee and subsequent grantee. 4 L.R.A. (N.S.) 666.

Change of principals to obligation as discharge of surety. 10 L.R.A.(N.S.) 1160.

§ 14. Failure to proceed against prin-

Release of indorser of note, see BILLS AND NOTES, § 57.

Effect of failure to present claim against the estate of a deceased or bankrupt principal, to release surety. 25 L.R.A. (N.S.) 139.

Failure to comply with surety's demand or request to proceed in the enforcement of the obligation. L.R.A.1918C, 10.

§ 15. By extension of time of payment. Release of indorser of note, see BILLS AND NOTES, § 57.

Release of indorser by giving time by un-enforceable contract. 18 L.R.A.(N.S.)

Effect of renewal of principal's obligation to release party to a note executed to the creditor as collateral. 23 L.R.A. (N.S.) 141.

Effect under negotiable instrument law of extension of time to principal to release surety. 31 L.R.A. (N.S.) 149.

Effect, under negotiable instruments law, of extension of time to principal to release one who, on the face of the instrument, is primarily liable, but is in fact a surety. 10 L.R.A.(N.S.) 129; 26 L.R.A.(N.S.) 99.

Effect of extension of time by creditor on assumption of debts on dissolution of partnership. 9 I L.R.A. (N.S.) 554. 9 L.R.A.(N.S.) 90; 48

Extension of time by attorney as discharging surety. 39 L.R.A.(N.S.) 62.

Extension of time for levying execution as discharge of surety. 5 L.R.A.(N.S.) 764.

Begin with this book on every law question.

PRINCIPAL AND SURETY, III. b-cont'd | PRINCIPAL AND SURETY, IV. a-cont'd Liability of original mortgagor or intermediate grantee who has assumed the mortgage, as affected by extension of time given his grantee by the mortgagee. 5 B. R. C. 633.

Reservation of rights against party secondarily liable on a bill or note upon granting extension of time to party primarily liable, as preventing dis-charge of former. 46 L.R.A.(N.S.)

Agreement to extend time for payment, conditional upon surety's consent, as a re-lease of the surety. L.R.A.1915C, 831. Consideration for a subsequent agreement

extending time of payment. 52 L.R.A. (N.S.) 331.

**§** 16. — effect of usury in consideration for extension.

Effect of payment of usury. 53 L.R.A. 316. Effect of contract to pay usury. 53 L.R.A. 320.

17. Death of surety or cosurety. Is liability of surety determined by his death. 2 B. R. C. 937.

§ 18. Discharge of principal.

When will discharge of principal in bankruptcy release surety on bond given by principal in an action at law. 14 L.R.A. (N.S.) 507; 28 L.R.A. (N.S.) 234.

## IV. Rights and remedies of surety.

## a. In general.

§ 19. Generally.

Subrogation of sureties, see Subrogation,

Liability of corporate officers who fail to file report required by statute, to surety or guarantor of corporate paper. 35 L.R.A.(N.S.) 855.

Necessity of exhausting remedy at law in actions by sureties as condition precedent to creditors' bill. 23 L.R.A. (N.S.)

Rights of surety as affected by receipt of commercial paper for obligation. L.R.A. (N.S.) 64.

Validity of agreement with surety as to custody or control of trust funds. 16 L.R.A. (N.S.) 994.

Right of surety upon contractor's bond to have payments made by contractor applied to the contract. L.R.A.1917C,

§ 20. Preference to, and priority of,

surety.

Preference by transfer of property in satisfaction of debt. 36 L.R.A. 345. Payment of debt by bankrupt as a preference to a surety therefor. 18 L.R.A. (N.S.) 660; 45 L.R.A. (N.S.) 1068.

Priority of claims of sureties against property in hands of receiver over recorded liens. 2 L.R.A.(N.S.) 1026; 41 L.R.A. (N.S.) 699.

Consult also L.R.A. Digests of Cases.

§ 21. Indemnity to surety.

Conveyance or transfer to indemnify sureties or indorsers as a voluntary assignment for creditors. 31 L.R.A. (N.S.)

Specific performance of contract to give in-demnity to surety. 6 L.R.A.(N.S.) 590. Validity of contract by married woman incapable of binding herself as surety to indemnify one against liability as sure-

ty for a third person. L.R.A.1915B,

Right of surety who gives his personal obligation for debt to enforce indemnity

from principal. L.R.A.1915A, 899. Right of surety to indemnity from principal as affected by the fact that an action by the creditor against the principal would be barred. L.R.A.1917F, 1074.

## b. As to creditors.

22. Generally.

Subrogation of sureties, to rights of, see SUBROGATION, § 5.

Subrogation to rights of sureties, see Sur-BOGATION, § 6.

Right of sureties who perform contract on abandonment by contractor, to moneys unpaid on contract, as against the assignees or creditors of contractor. 1 L.R.A.(N.S.) 457; L.R.A.1918A, 937.

§ 23. As to collaterals.

Duty of creditor to surety with respect to management and collection of collateral. 37 L.R.A.(N.S.) 699.

24. Right to intervene. See PARTIES, § 38.

25. Right to relief against judgment. Injunction against judgment in favor of or against sureties, see Injunction, \$ 58.

Injunction against judgment entered on confession against sureties. 30 L.R.A.

Injunction in behalf of surety against judgment. 30 L.R.A. 567.

Enjoining judgment against or in favor of

sureties. 31 L.R.A. 59. Right of surety to sue to set aside judgment against principal. 54 L.R.A. 765.

26. Set-off,

Rights as to set-off in case of insolvency. 17 L.R.A. 460.

Set-off in bankruptcy cases. 55 L.R.A. 68. Right of surety or principal to avail him-self of claim of latter against plaintiff as a defense or counter-claim. 43 L.R.A. (N.S.) 977.

Right of surety or principal to interpose an independent cause of action in favor of the latter against the plaintiff as a defense or counterclaim. 18 L.R.A. (N.S.) 600.

PRINCIPAL AND SURETY, IV. b-cont'd | PRINCIPAL AND SURETY, IV. d-cont'd Right of surety to offset obligation as against assignee of a debt due from him to the principal. 46 L.R.A. (N.S.)

Right of surety to set off his individual claim against insolvent creditor where the principal is solvent. 50 L.R.A. (N.S.) 167.

## c. As to principal.

\$ 27. Generally. Indemnity to surety, see supra, § 21. Subrogation of surety, see Subbogation, §

Subrogation of creditor to rights of surety, see Subrogation, § 6.

Right of surety on bail bond to pursue principal into another state for the purpose of arresting him. 14 L.R.A. 605.

Right of surety, prior to obtaining a judg-ment or lien, to enjoin principal's transfer of property to defraud him. 15 L.R.A. (N.S.) 484.

Rights as against principal debtor of one who becomes surety without his knowledge or consent. L.R.A.1918F, 709.

§ 28. Extinction of judgment against principal by sureties' payment. Right of surety who has paid judgment to

enforce it, see JUDGMENT, § 83.

Rights of surety on payment of judgment. 16 L.R.A. 115.

In general. 68 L.R.A. 513.

Payment by joint debtors. 68 L.R.A. 514. The right of action at common law. L.R.A. 517.

The nature of subrogation. 68 L.R.A. 520. The civil law. 68 L.R.A. 522.

The equitable doctrine of subrogation. 68 L.R.A. 523.

Subrogation to collateral securities. L.R.A. 528.

Subrogation to rights and remedies. L.R.A. 534.

Subrogation to primary securities. 68 L.R.A. 534.

Commercial paper. 68 L.R.A. 559. Suretyship by separate contract. 68 L.R.A. 564.

Separate judgments against principals. 68 L.R.A. 565.

Judgment as a merger of the relation of principal and surety. 68 L.R.A. 566. Executions on original judgments. L.R.A. 567.

Keeping paid judgments alive. 68 L.R.A. 569.

The question of intention. 68 L.R.A. 570. The need of a formal assignment. L.R.A. 572.

Existence and proof of suretyship. 68 L.R.A. 574.

Statutes. 68 L.R.A. 577.

Overruled, limited, and doubtful cases. L.R.A. 585.

## d. Between cosureties.

39. Generally. Contribution between, see CONTRIBUTION,

as res judicata between sureties. 51 L.R.A. (N.S.) 797. Statute of frauds as to contract between sureties. 39 L.R.A. 378.
Right of sureties on appeal or supersedeas

Judgment in favor of one or more sureties and against others in action by obligee

bond to look to sureties on a prior bond of the same principal. 6 L.R.A. (N.S.) 1021; L.R.A.1918D, 1192.

Effect of voluntary discharge of one of two or more sureties on liability of co-sureties. L.R.A.1918E, 95.

## ---PRINTED SIGNATURE.

To instrument. 22 L.R.A. 301. legal process or other legal papers. L.R.A.1917B, 285. Sufficiency of, within statute of frauds. 37 L.R.A. (N.S.) 352.

## PRINTERS' MARKS.

On official ballot. 47 L.R.A. 808.

#### PRINTING.

§ 1. Generally.

68

68

As a manufacturing business. 64 L.R.A. 62. Attorney's implied power to bind client for printer's bill. 23 L.R.A.(N.S.) 703. Typewritten matter as written or as print-

ed matter. L.R.A.1915D, 1084.

§ 2. Public printing.

Claim against state for. 42 L.R.A. 59.

Power of board to make contract for public printing extending beyond its own term. 29 L.R.A.(N.S.) 655.

Liability of municipality or county on implied contract for publishing notices in newspaper. 27 L.R.A.(N.S.) 1130. Right of taxpayer, in absence of statute.

to enjoin unlawful printing expenditures by municipality. 36 L.R.A. (N.S.)

#### PRIOR AGREEMENT.

Parol evidence as to, see Evidence, §§ 162, 163.

## PRIOR APPROPRIATION.

See WATERS, §§ 89-91.

## PRIORITY.

§ 1. Generally.

Of claim for advances, see ADVANCES, § 3. Of assignment, see Assignment, § 13. Begin with this book on every law question.

PRIORITY—cont'd

Of lien of attachment, see ATTACHMENT,

Of rights in funds of bankrupt, see BANK-BUPTCY, § 12.

Of chattel mortgage, see CHATTEL MORT-GAGE, § 27.

In items allowed as costs, see Costs and FEES, § 8.

As between claims against decedents' estate, see EXECUTORS AND ADMINISTRATORS, §

Of claims against insolvent, see Insolvency, §§ 6–8.

Of judgment lien, see JUDGMENT, §§ 61-

Of lien generally, see Liens, §§ 15-17.

Of mechanics' lien, see MECHANICS' LIENS, §§ 8, 9.

Of mortgage on real estate, see MORTGAGE, §§ 35-39.

Of claims against partnership, see Part-NERSHIP, §§ 15-17.

Of lien of local assessment, see PUBLIC IM-PROVEMENTS, § 31.

Of purchase money mortgage, see Pur-CHASE MONEY, § 7.

Of claims against assets in hands of receiver, see RECEIVERS, § 17.

Of unrecorded instrument, see RECORDS AND RECORDING LAWS, § 20.

Of tax over other lien, see Taxes, § 89. Of vendor's lien, see Vendor and Pur-

CHASER, § 32.

Between assignees, see Assignment, §§ 13, 14.

Claims against assignee for creditors entitled to, see Assignment for Crep-ITORS, § 17.

Between dower and other claims, see Dower,

Loss of priority of execution, see Execu-TION, § 13.

Loss of priority under levy, see LEVY AND SEIZURE, § 15.

In case of garnishment, see GARNISHMENT. § 18.

Prior rights in water, see WATERS, §§ 89-91.

Giving of preference, see PREFERENCE.

For rent of premises occupied by receiver or assignee for creditors. 59 L.R.A. 691.

Priority of notes falling due at different times secured by same mortgage. 24 L.R.A. 800.

Of claim for funeral expenses. 33 L.R.A.

Is a legacy given to a creditor in satisfaction of his debt entitled to priority over other legacies of same class. 2 B. R. C. 509.

Deposit by broker or factor to his own account of proceeds of sale of customer's stock or property as creating a trust entitled to a preference. 27 L.R.A. (N.S.) 808.

Effect upon priorities, of consolidation of corporations. 23 L.R.A. 233. Consult also L.R.A. Digests of Cases,

PRIORITY—cont'd

Effect of priority of purchase on right to enforce restrictive covenant or agreement as to use of property. 37 L.R.A. (N.S.) 34; L.R.A.1917A, 332.

Precedence as between tunnel locator and

surface locator of mine. 53 L.R.A. 794.

Validity of statute giving veterans preference in appointment to office. 10 L.R.A. (N.S.) 825.

In withdrawal from loan association. L.R.A. 294; 49 L.R.A. (N.S.) 1136.

In right to establish and operate ferry. 59 L.R.A. 531.

In rights growing out of priority of use of electricity. 2 B. R. C. 129.

Of right to establish and operate ferry. L.R.A.1916D, 833.

Claim for funeral expenses. 52 L.R.A. (N.S.) 1157.

§ 2. Of claims of laborers.

Constitutionality of statutes giving priority to claims of certain laborers. 21 L.R.A. 797.

Who are laborers within statute preferring wages. 18 L.R.A. 305.

§ 3. Of claims by or against govern-

Priority of claims against state. 42 L.R.A. 38, 54.

Priority of state or United States in payment from assets of debtor. 29 L.R.A. 226; 1 L.R.A. (N.S.) 255; 46 L.R.A. (N.S.) 260; L.R.A.1918A, 398.

Priority of judgment in favor of United States. 47 L.R.A. 479.

## PRIOR KNOWLEDGE.

In respect to patent, see PATENTS, § 9.

## PRIOR OFFENSE.

Enhancing punishment in case of, see CRIM-INAL LAW, § 83.

## PRIOR SERVICE.

Disqualifying grand juror. 28 L.R.A. 202.

#### PRIOR USE.

In respect to patents, see PATENTS, § 9.

#### PRISON.

See Jails and Prisons.

## PRISON ASSOCIATION.

Exemption of prison association from suit as agency of state. 35 L.R.A.(N.S.) 243.

#### PRISON BREACH.

See Jails and Prisons, § 6.

## PRISONER.

Liability to, for injury while confined in, see

JAILS AND PRISONS, §§ 2, 3.

Property of, see PROPERTY, § 6.

Service of process on, see Weit and Process, § 13a.

See also Convicts.

Liability of public for services of physicians or surgeons rendered prisoners. L.R.A. (N.S.) 1223.

Release of, or interference with custody of, as contempt of court. L.R.A.1917D,

Civil liability of sheriff or other officer for injury inflicted by prisoner in his custody upon another prisoner. L.R.A. 1918C, 1163.

## PRISON LABOR.

Claim against state based on contract for. 42 L.R.A. 59.

## PRIVACY.

The law of. 31 L.R.A. 283.

Right of action for use of photograph or name for advertising purposes. 24 L.R.A.(N.S.) 991; 34 L.R.A.(N.S.) 1137; L.R.A.1915C, 839; L.R.A.1918D, 1152.

Publication of one's photograph in connec-tion with scandalous matter concerning another. 35 L.R.A.(N.S.) 595.

Right to take or retain in rogues' gallery picture of one accused of crime before conviction. 7 L.R.A.(N.S.) 274: 23 L.R.A. (N.S.) 739; L.R.A.1916A, 743.

#### PRIVATE ACTION.

1. In general.

Injunction by private person, see Injunc-TION.

By one injured by nuisance, see NUISANCES, §§ 22, 25.

For obstruction of navigable stream. L.R.A. (N.S.) 1126; 38 L.R.A. (N.S.)

PRIVATE ACTION—cont'd

Right of private persons to contest power of corporation to take or hold property. 32 L.R.A. 293; 44 L.R.A. (N.S.) 544; 46 L.R.A. (N.S.) 72.

Right of shipper where carrier negligently misquotes rate which has been filed or published as required by statute. 33 L.R.A.(N.S.) 391.

Special damage from awning or structure overhanging street which will sustain action by private person to abate or enjoin it as a nuisance. 48 L.R.A.(N.S.) 173.

## § 2. Violation of ordinance.

Violation of police ordinance as ground for private action. 5 L.R.A.(N.S.) 186.

For violation of ordinance as to obstruction of crossing by train. 5 L.R.A.(N.S.) 244; 47 L.R.A.(N.S.) 821.

Violation of ordinance relating to explosives as a ground of private action. 48 L.R.A. (N.S.) 876.

Liability of one who sells dangerous instrumentalities to child in violation of ordinance for injury inflicted thereby upon child or third person. L.R.A.1915C,

## § 3. Violation of statute.

Private action for violation of statute not expressly conferring it. 9 L.R.A.(N.S.) 338; L.R.A.1915E, 500. Statutes imposing duties upon railroads. 39 L.R.A.(N.S.) 347.

For violation of statute as to obstruction of crossing by train. 47 L.R.A.(N.S.) crossing by train.

Violation of statute relating to explosives as ground of private action. 48 L.R.A. (N.S.) 876.

Liability of one who sells dangerous instrumentalities to child in violation of statute for injury inflicted thereby upon child or third person. L.R.A.1915C, 460.

## PRIVATE BANKING.

Constitutionality of statutes prohibiting. 15 L.R.A. 477.

Power to prohibit or regulate banking business by individuals. 5 L.R.A.(N.S.) 874; 25 L.R.A.(N.S.) 1217.

## PRIVATE CARRIERS.

Railroad companies as, in drawing special trains or special cars. 30 L.R.A. 161; 48 L.R.A. (N.S.) 990.

Liability of, under special terms of contract for care or return of property intrusted to them. L.R.A.1915B, 305.

Begin with this book on every law question.

#### PRIVATE CEMETERIES.

Public character of charitable bequest for. 87 L.R.A.(N.S.) 997.

## PRIVATE COUNSEL.

Appearance before grand jury. 33 L.R.A. (N.S.) 568.

Right of prosecutrix in bastardy proceed-

ings to. 33 L.R.A.(N.S.) 463.
Right of accused to complain because prosecution is conducted or assisted by un-official member of the bar. 24 L.R.A. (N.S.) 564; 47 L.R.A.(N.S.) 1106.

#### PRIVATE CROSSING.

Construction or maintenance of, by railroad, see RAILBOADS, § 30.

#### PRIVATE DETECTIVES.

See DETECTIVES.

#### PRIVATE DOCUMENTS.

Admissibility of copies of records of, from other states. 5 L.R.A. (N.S.) 954.

## PRIVATE DRAINS.

Power of municipality to authorize use of highway for. 16 L.R.A. 715. Right and duty to connect property. L.R.A. 242.

## -+++ PRIVATE EMPLOYMENT.

Of prosecuting attorney to represent individuals having an interest adverse to or dissociated from the public interest. L.R.A.1918F, 832.

## PRIVATE ENTERPRISE.

Power of municipality to engage in, see Mu-NICIPAL CORPORATIONS, § 16.

Power of state to engage in. 42 L.R.A. (N.S.) 221.

Power of legislature to authorize counties or other political divisions to build, purchase, or operate railroad or street railway, as affected by limitations or restrictions on power to aid private enterprises. 28 L.R.A. (N.S.) 412.

## PRIVATE ESTABLISHMENT.

Power of railroad company to condemn right of way for spur or siding to. 22 L.R.A. (N.S.) 181; 35 L.R.A.(N.S.) 636. Consult also L.R.A. Digests of Cases.

#### PRIVATE FERRY.

Obligation of owner of, as a common carrier. 68 L.R.A. 154.

## PRIVATE HOSPITAL.

In general, see Hospital.

Who may or must be admitted to. L.R.A. 1918D, 561.

PRIVATE INTERNATIONAL LAW.

See Conflict of Laws.

#### PRIVATE LAND CLAIM.

Location of mining claim on. 7 L.R.A. (N.S.) 786.
Rights in as affected by parties living in illicit relations. 36 L.R.A.(N.S.) 840.

## PRIVATE LANDS.

Drainage of, as public purpose for which power of eminent domain may be exercised. 49 L.R.A. 781.

## PRIVATE PURPOSES.

Public purpose, see EMINENT DOMAIN, §§ 9-

Right of municipality to permit use of, or to lease, its public buildings for private purposes. 31 L.R.A.(N.S.) 580.

Power of municipality as against abutting owner to vacate street or portion thereof and devote the land to private purposes. 22 L.R.A.(N.S.) 530.

## PRIVATE RAILROADS.

Private character of road as affecting eminent domain, see EMINENT DOMAIN, § 22.

As real or personal property. 66 L.R.A.

As common carriers. L.R.A.1918B, 685. Securing right of way for logging road under power of eminent domain. 1 L.R.A. (N.S.) 969.

Liability of proprietor of, for injuries sus-tained by other than employee while being carried thereon. 12 L.R.A. (N.S.) 131; 22 L.R.A. (N.S.) 190.

Applicability to, of enactment abrogating fellow-servant rule as to "railroads." 15 L.R.A. (N.S.) 479; 45 L.R.A. (N.S.) 841.

810.

PRIVATE RAILROADS—cont'd Operatives employed in industrial plant as fellow servant of employees engaged in operation of private railroad conducted in connection therewith. 20 L.R.A. (N.S.) 354.

## PRIVATE RIGHTS.

Protection of from interference with, by public. 18 L.R.A. 543. Right to maintain quo warranto proceedings for vindication of. 22 L.R.A.(N.S.)

#### PRIVATE ROADS.

Condemnation of land for, see EMINENT Do-MAIN, § 14. Liability for injury to travelers on, see Highways, § 56b.

## PRIVATE SALE.

Resale at private sale to fix damages for purchaser's refusal to accept goods. 42 L.R.A.(N.S.) 683.

## PRIVATE SCHOOLS.

Power to exercise eminent domain for purpose of. 48 L.R.A.(N.S.) 491. Power to regulate or prohibit. 29 L.R.A.

(N.S.) 53.

Power to use public school money in support of. 15 L.R.A. 825.
of public school building for.

L.R.A.(N.S.) 592.

Exemption from taxation of property used for. 21 L.R.A. (N.S.) 164; L.R.A. 1917E, 1097.

Liability of property of private educational institutions to assessment for local improvements. 35 L.R.A. 37.

iLability of one conducting school for in-struction in automobile driving for negligent operation during instruction. L.R.A.1917A, 397.

## PRIVATE SHIPPING POINTS.

As depot grounds within meaning of fence laws. 7 L.R.A.(N.S.) 209.

## PRIVATE SIDINGS.

See Spur Tracks and Sidings. Begin with this book on every law question.

#### PRIVATE STREAM.

Acquirement of right on. 70 L.R.A. 274.

#### PRIVATE USE.

Lease or license of public buildings for. 33 L.R.A. 118.

#### PRIVATE WAY.

Private way over land of another, see Ease-MENTS.

Creation of easement by conveyance with reference to, see EASEMENTS, § 11. Private roads, see PRIVATE ROADS.

Obstruction of. 14 L.R.A. 559.

Obstruction of, as justification for entry on adjoining land. 20 L.R.A.(N.S.) 153.

Parol agreement to construct private way across railroad. 17 L.R.A.(N.S.) 702; 24 L.R.A.(N.S.) 375.

Liability for dangerous condition of grounds adjacent to private ways. 26 L.R.A. 693.

Right to use public funds to maintain or improve. 35 L.R.A.(N.S.) 524.

Injunction against interference with fences, under claim of. 7 L.R.A.(N.S.) 69, 80.

## PRIVIES.

Municipal regulations of, as nuisances, 38 L.R.A. 316. Liability of landlord to third persons as to condition of. 26 L.R.A. 201.

## PRIVILEGE.

From arrest, see Arrest, § 11. Privileges and immunities of citizens, see CONSTITUTIONAL LAW, IX.

Of consul, see Consul.

Against self-incrimination, see CRIMINAL LAW, §§ 49-53.

As to confidential communications generally, see EVIDENCE, §§ 220-226; LIBEL AND SLANDER, §§ 22-30.

As to proceedings of grand jury, see GRAND JUBY, § 10.

Of members of legislature, see LEGISLATURE, § 2.

to libel and slander, see LIBEL AND SLANDER, §§ 22-30.

As to transit privileges, see Transit Privi-LEGES.

Of witnesses generally, see WITNESSES, § 40. As to service of process, see WRIT AND Process, §§ 30-37.

Municipal declaration of forfeiture of, for breach of conditions, as a judicial determination. 4 L.R.A. (N.S.) 221.

PRIVILEGE-cont'd

Possibility of future privileges as element of compensation for property taken by eminent domain. L.R.A.1917A, 413.

#### PRIVILEGED COMMUNICATIONS.

EVIDENCE, §§ 220-226; LIBEL AND Slander, §§ 22–30.

#### PRIVITY.

🖁 1. Of contract.

Between administrator or executor and legatee, distributee, or creditor, see Execu-TORS AND ADMINISTRATORS, § 4.

As to actions on contract. 25 L.R.A. 259. As to parties on foreclosure of mortgage as affecting right of set-off. 21 L.R.A.

Between owners of party wall. 66 L.R.A.

Of contract to contribute to cost of party wall. 66 L.R.A. 702.

Of contract between abstractor and person injured by his negligence. 12 L.R.A. (N.S.) 452.

Right to maintain replevin against one who has replevied the property from one with whom plaintiff is in privity. 8 L.R.A.(N.S.) 218.

Right of purchaser to recover amount paid to relieve land from tax liens, from one who should have paid the same but with whom he had no contractual relationship. 22 L.R.A. (N.S.) 562.

Is an administrator or executor in such privity with a legatee, distributee, or creditor that he may assert a personal defense of the latter to claim against the estate. 8 L.R.A.(N.S.) 212.

Rights and remedies of owner of land in respect of crops grown thereon by one not in privity with him. L.R.A.1918A, 550.

## PRIZE AND CAPTURE.

Prize contest, see PRIZE CONTEST.

Jurisdiction of consuls in case of. 45 L.R.A. 495.

Allowance of interest on value of vessel captured as prize. 18 L.R.A. 453.

When property on land may be subject of maritime prize. 5 B. R. C. 957.

Rights of lien holders as to captured property. 5 B. R. C. 1002.

Running into danger of capture; effect of, upon liability on marine insurance policy. 1 L.R.A. (N.S.) 1097.

Liability of insurer of vessel or cargo "war-ranted free from capture." 5 B. R. C.

Liability of insurer under policy of marine insurance for losses arising out of state of war. 5 B. R. C. 4.

Consult also L.R.A. Digests of Cases.

PRIZE AND CAPTURE-cont'd

Liability of carrier for capture by public enemy resulting from deviation. L.R.A. 1918A, 1066.

Conclusiveness of decision of prize court as to contraband character in determining effect of carriage of contraband upon marine insurance. 5 B. R. C. 58.

## PRIZE CONTEST.

Legality of voting or popularity contest. L.R.A.1917D, 489.

Giving prize for composition, or solution of puzzle, as lottery. 6 B. R. C. 780.

Guessing contest as lottery. 11 L.R.A.

(N.S.) 609.

Right to maintain action for prize offered in. 33 L.R.A. (N.S.) 305.

Changing terms of offer of prize after efforts to secure it have begun. 37 L.R.A.(N.S.) 183.

Constitutionality of statute requiring prizes or other inducement to attract trade, to be paid in cash. 41 L.R.A.(N.S.) 1041.

## PRIZE FIGHTING.

Prize fighting as a crime. 15 L.R.A. 516. Consent as justification for assault. 15 L.R.A. 853.

Prohibition of importation of prize fight moving picture films. L.R.A.1916C,

Refusal of innkeeper to accept or serve prize fighter as a guest. 52 L.R.A. (N.S.) 744.

## PRIZE POLES.

Master's liability for injury by defect in. 13 L.R.A.(N.S.) 680.

## PROBABLE CAUSE.

For prosecution, see MALICIOUS PROSECU-TION, §§ 6, 7. As question for court or jury, see TRIAL, § 3.

## PROBATE.

See WILLS, §§ 47-56.

## PROBATE COURTS.

See COURTS, § 34.

## PROCEDURE.

### See PRACTICE AND PROCEDURE.

## PROCEEDINGS IN REM.

Jurisdiction of court as dependent upon character of proceeding in relation to real property, see Courts, §§ 21, 22. Divorce suit as, see DIVORCE AND SEPARA-

TION, § 10.

As to foreign judgment in rem, see DIVORCE AND SEPARATION, § 15; JUDGMENT, § 67.
As affecting mode of service of process, see Weit and Process.

Effect of omission of statement that owner is unknown in proceeding in rem to enforce tax. 36 L.R.A.(N.S.) 1060.

For assault by employee on passenger. 14 L.R.A. 740.

Against carrier for torts of servants to passengers. 40 L.R.A. (N.S.) 1088.

Will action in rem lie againt proceeds of

Will action in rem lie againt proceeds of private sale of property against which such an action would lie. 2 B. R. C. 68.

Effect of judgment in against a dead person, 49 L.R.A. 168.

## PROCEEDS.

Of foreclosure sale, see MORTGAGE, § 83. Right to proceeds of land under devise of land, see WILLS, § 75.

Ratification of forged instrument by receiving proceeds of forgery. 36 L.R.A. (N.S.) 1017.

## PROCESS.

Service of, see WRIT AND PROCESS.

Right to protection in use of terms descriptive of a process. L.R.A.1916E, 633.

## PROCURING CAUSE OF SALE.

Broker as. 44 L.R.A. 321.

## PRODUCE BUYERS.

Combination among, as monopoly. 12 L.R.A.(N.S.) 150.

## PRODUCE EXCHANGE.

Seat in, as asset in bankruptcy. 27 L.R.A. (N.S.) 613.

## PRODUCER.

Implied warranty by, see SALE, § 30.

## PRODUCTION OF DOCUMENTS.

See DISCOVERY AND INSPECTION, § 3.

## PROFANITY.

As ground for divorce. 12 L.R.A.(N.S.)-820.

As disturbance of public peace. 32 L.R.A. (N.S.) 505.

As a crime. 22 L.R.A. 353.

Profane statements made by person causing accident sometime thereafter as reseast. 42 L.R.A.(N.S.) 926.

Use of profane or offensive language while upon one's own premises as an offense.
49 L.R.A.(N.S.) 919.

Good motive as affecting criminal charge involving profane language or literature. L.R.A.1916B, 1121.

Cruel and unusual punishment for. 35-L.R.A. 576.

## PROFERT AND OYER.

See PLEADING, § 5.

### PROFESSION.

Libel and slander affecting, see Libel and Slander, §§ 14-20, 24-27.

What is a "profession" within exemption laws. L.R.A.1915F, 916.

Right to practise a profession as a privilege or immunity of a citizen of the United States. 14 L.R.A. 581.

## PROFESSIONAL MEN.

Libel or slander of, see LIBEL AND SLANDER, §§ 14-20, 24-27.

Validity of contract restraining practice of one's profession after expiration of term of service with another. 26 L.R.A. (N.S.) 961.

Validity of agreement in restraint of trade ancillary to sale of profession as affected by territorial scope. 24 L.R.A. (N.S.) 913: L.R.A.1916C. 626.

(N.S.) 913; L.R.A.1916C, 626.

Loss of time as element of damages for destruction or loss of use of implements of. 25 L.R.A.(N.S.) 625.

## PROFESSIONAL SCHOOLS.

(N.S.) 613. License of, see LICENSE, § 39. Begin with this book on every law question.

## PROFESSIONAL SERVICES.

Conclusiveness of the testimony of experts as to the value of. 45 L.R.A.(N.S.) 181.

Contracts for, to procure legislation. 30 L.R.A. 738.

Husband's liability for professional services furnished wife. 65 L.R.A. 529; 47 L.R.A. (N.S.) 279.

## PROFESSOR.

Character of occupation of premises by. 4 L.R.A.(N.S.) 714, 719, 725.

## PROFIT A PRENDRE.

In easement in gross, nature of. 14 L.R.A. 333.

#### PROFITS.

Duty of cotenant to account for, see Co-TENANCY, § 8.

Loss of, as element of damages, see Damages, §§ 107-118.

Insurance against loss of, see Insurance, XIV.

Rights and liabilities of parties to mortgage as to, see MORTGAGE, § 33.

Creation of partnership by agreement to share, see Partnership, § 7.

Treatment of profits of contractors and promoters as part of overhead charges in public service property valuations. 48 L.R.A.(N.S.) 1041, 1048.

Who is real party in interest by whom action for must be brought. 64 L.R.A. 620.

How far profits of exempt property are exempt. 19 L.R.A. 38.

Duty of municipal officer to account for profits made in transaction with municipality. 48 L.R.A.(N.S.) 842.

Duty of partner to account for profits realized from transactions independently of firm. 52 L.R.A.(N.S.) 389.

Liability of personal representative for profits of business carried on by him. 40 L.R.A.(N.S.) 220.

Profits accruing during marriage in connection with property belonging to separate estates of either spouse as community property. 31 L.R.A. (N.S.) 1092.

Effect of secret profits on broker's right to commissions. 45 L.R.A. 39.

Right to credit of, on mortgage given to loan association. 29 L.R.A. 129.

Power of equity in jurisdiction where mort-

Power of equity in jurisdiction where mortgage does not convey title to impound profits of mortgaged property pending foreclosure. 7 L.R.A. (N.S.) 1001.

Consult also L.R.A. Digests of Cases. 70

## PROFITS-cont'd

Allowance of interest on withdrawn profits, in favor of or against partner during continuance of partnership. 35 L.R.A. (N.S.) 223.

Burden of proof as to profits in suit for profits from infringement of patent or copyright. 41 L.R.A.(N.S.) 653.

Effect of statute of frauds upon parol contracts for sharing profits which may, but are not intended to, be performed within a year. 15 L.R.A.(N.S.) 317. Taxation of, as part of capital stock of cor-

Taxation of, as part of capital stock of corporation. 58 L.R.A. 569.

Admissibility in action for wrongful death of evidence of profits or contributions from business conducted by decedent. L.R.A.1918C, 1087.

## PROFIT SHARING CERTIFICATES.

Regulation and prohibition of use of. L.R.A.1917A, 433.

#### PROHIBITED ARTICLES.

Keeping of, on insured premises, see Insurance, § 78 a.

## PROHIBITED INSTRUMENTS.

Forgery of. 24 L.R.A. 44.

## PROHIBITION,

§ 1. Generally.

Of sale of liquor, see Intoxicating Liquons, §§ 2-4.

## § 2. When lies.

In exercise of superintending control over inferior courts. 51 L.R.A. 33.

Against proceeding under unconstitutional statute. 1 L.R.A. (N.S.) 843.

To restrain court from proceeding in case in which it has erroneously denied a change of venue. 2 L.R.A.(N.S.) 395.

To restrain suit prosecuted collusively or for an ulterior purpose, 24 L.R.A. (N.S.) 874.

To prevent receiver from taking property from possession of stranger. 47 L.R.A. (N.S.) 757.

Prohibition to prevent numerous unfounded prosecutions for alleged violation of statute or ordinance. 37 L.R.A. (N.S.) 448.

Prohibition against court proceeding with a case in which it erroneously denied a change of venue. L.R.A.1917F, 911.

## PROJECTED STORY.

building restriction. 52 L.R.A. (N.S.) 1051.

## PROJECTING SCREW.

Master's liability for injury to servant by, see MASTER AND SERVANT, § 89.

Doctrine of "attractive nuisance" as applied to injury from. 19 L.R.A.(N.S.) 1130.

## PROMISE.

In general, see CONTRACT. As fraud, see Fraud and Deceit, § 8. Of marriage, see PROMISE OF MARRIAGE. To repair, see LANDLORD AND TENANT, §§ 17, 17a; MASTER AND SERVANT, §§ 119, 120, 130.

As affecting statute of limitations, see LIMI-TATIONS OF ACTION, §§ 68-71.

Voluntariness of confession induced by. 18 L.R.A.(N.S.) 820; 50 L.R.A.(N.S.)

## PROMISE OF MARRIAGE.

Breach of, see Breach of Promise. As a false pretense. L.R.A.1917E, 808.

## PROMISE TO REPAIR.

See Landlord and Tenant, §§ 17, 17a; MASTER AND SERVANT, §§ 119, 120, 130.

## PROMISSORY NOTES.

See BILLS AND NOTES.

## PROMOTERS,

Of corporations generally, see CORPORA-TIONS, VII.

Allowance for promoters' profits in estimating value of public service property, 48 L.R.A. (N.S.) 1048.

## PROMOTION.

Admissibility of evidence of earnings in higher position on question of damages for injury to person who was in line of promotion. 1 L.R.A. (N.S.) 1150.

#### PROMPTNESS.

Extension of, beyond line as violation of As essential to rescission of contract, see CONTRACTS, § 155.

## PROMPT PAYMENT.

For use of telephone, see TELEPHONES, \$ 7. Agreement for reduction of usurious interest for, or in case of. 49 L.R.A. 551.

## PROMULGATION.

Of rules by employer, see MASTER AND SERV-ANT, § 71.

passed by legislature. 22 L.R.A. (N.S.) 1089. Mandamus to compel promulgation of act

#### PROOF.

See EVIDENCE.

#### PROOFS OF LOSS.

See Insurance, §§ 145-150.

## PROPERTY.

§ 1. Generally. Of infant, see INFANTS, IV.
Property rights of corporation, see CorpoBATIONS, §§ 26, 26a. Property rights of municipality, see MUNICIPAL CORPORATIONS, §§ 68-71.
Of railroad company, see RAILROADS, IV. Of religious society, see RELIGIOUS SOCIE-TIES, § 3.
Of school district, see Schools, §§ 29, 30.
Of United States, see United States, § 3. Personal property, see Personal Property. Real property, see REAL PROPERTY. Public property, see Public Property. Valuation of property of public service cor-porations, see Public Service Corpora-TIONS, § 5.

Protection of rights in, see Constitutional Law, IX. f.

Payment for corporate stock by, sec CORPO-**BATIONS, §§ 81a, 106.** 

Condemnation of, see EMINENT DOMAIN. Obtaining of, by false pretenses, see FALSE PRETENSES.

Insurance on, see Insurance.

Loss of, see Loss.

In transit, taxation of, see Taxes, § 43.

Doctrine as to possibility of issue extinct as affecting property rights. 48 L.R.A. (N.S.) 865.

Begin with this book on every law question.

PROPERTY-cont'd

Trial of right to property in proceedings instituted by search warrant. 46 L.R.A. (N.S.) 970.

Insane delusions as to. 37 L.R.A. 282. Injunction against prosecutions under city ordinances affecting. 21 L.R.A. 88.

How far property right necessary to sustain action for private nuisance. 15 L.R.A.

Effect on property rights of divorce involving international elements. 59 L.R.A.

Conclusiveness of decisions of tribunals of associations or corporations directly on property rights. 49 L.R.A. 372.

Acceptance of property in payment of debt as an accord and satisfaction. L.R.A. 1917A, 723.

## § 2. Property right in various kinds of property.

In highway, see Highways, § 10.

Of husband and wife, see HUSBAND AND Wife, IV.

Of incompetent persons, see INCOMPETENT PERSONS, §§ 13-16.

Property rights in trees on or overhanging boundary line. 46 L.R.A.(N.S.) 3.

Title and right to escaped inanimate property. 43 L.R.A.(N.S.) 460.

Property right in wild animals which are being pursued or have been wounded. 50 L.R.A.(N.S.) 704.

In bees. 40 L.R.A. 687.

In dogs. 40 L.R.A. 503.

In secrets. 13 L.R.A. 652. In market quotations. 7 L.R.A. (N.S.) 889.

In ferry franchise. 59 L.R.A. 515.

Gambling device as property within constitutional protection. 12 L.R.A.(N.S.)

3. Use and possession of.

Possession of real property, see Possession, §§ 1-4.

Possession of personal property, see Pos-SESSION, §\$ 5-8.

Mandatory injunction as to use of. L.R.A. 161. 20

Mantatory injunction as to possession of. 20 L.R.A. 169.

Right of private persons to contest power of corporation to take or hold. 32 L.R.A. 293; 44 L.R.A.(N.S.) 544; 46 L.R.A.(N.S.) 72.

Creation of partnership by provision for taking profits for use of property. 18 L.R.A.(N.S.) 1041.

Possession of, as a crime. 20 L.R.A. 52.

## 4. Transfer of.

Of personal property, see PERSONAL PROP-ERTY, §§ 5, 6; SALE.

Authority of agent as to purchase or sale of, see PRINCIPAL AND AGENT, § 15.

preliminary injunction which session of property, title to which is in dispute, from defendant to plaintiff. Provisions as to, in irrigation contracts.

LR.A.1916F, 270. would have effect of transferring pos-

Consult also L.R.A. Digests of Cases.

## PROPERTY-contd

§ 5. Injury to.
Destruction of, see DESTRUCTION, §§ 2, 3.
Loss of, see Loss.

Municipal liability for injury to, through

defects in street, see Highways, § 100. Landlord's liability for injury to, or conversion of, see Landlord and Tenant, §§ 70, 71.

Negligent injury to property generally, see NEGLIGENCE, §§ 53-55.

Effect of bad motive on liability for injury to. 62 L.R.A. 678.

Municipal liability for injury to property rights through defective plan of street construction. 67 L.R.A. 257.

Municipal liability for injury to property of one driving over defective highway where at time of accident his horse is frightened without fault of either party. 8 L.R.A.(N.S.) 77; 29 L.R.A. (N.S.) 199; L.R.A.1915D, 243.

Master's liability for injury to property of one to whom he owes no contractual duty by acts of volunteer assisting servant in performance of master's service. 13 L.R.A. (N.S.) 572; 45 L.R.A. (N.S.) 382; L.R.A.1916B, 630.
Effect of assisting physically in creation of

condition, on right for damages to property caused thereby. (N.S.) 709. 42 L.R.A.

Liability for loss of, at ford. 46 L.R.A. (N.S.) 229.

Injury to property by discharge of explosives during shipment. L.R.A.1916B, 725.

## 6. Of prisoner.

Liability of bondsmen of peace officer for acts of latter as to property taken from prisoner. 37 L.R.A.(N.S.) 873.

Liability of officer who turns over articles taken from prisoner to a third person in recognition of the latter's adverse claim. 19 L.R.A.(N.S.) 833.

## PROPERTY QUALIFICATION.

Of voters. 25 L.R.A. 482. Of juror, waiver of. 39 L.R.A.(N.S.) 967. Want of, by jurors as ground for new trial. 18 L.R.A. 476.

## PROPERTY RIGHT.

See PROPERTY.

## PRORATING.

Between insurance companies, see Insur-

#### PROSECUTING ATTORNEY.

## PROSECUTING WITNESS.

Voluntariness of confession to. 18 L.R.A. (N.S.) 849.

Uncontradicted statement in presence of, as a confession or admission. 25 L.R.A.

(N.S.) 551.

Competency of, on trial for obtaining property by false pretenses, to testify that he was induced to part with his property by defendant's statements. 34 L.R.A. (N.S.) 642.

Constitutionality of statute authorizing seems of prosecution to be imposed upon.

costs of prosecution to be imposed upon. 61 L.R.A. 489.

#### PROSECUTOR.

Illegal intent of, or transaction by, as a defense, see CRIMINAL LAW, § 21. See also DISTRICT AND PROSECUTING ATTOR-NEYS.

Voluntariness of confession to. 18 L.R.A. (N.S.) 849; 50 L.R.A. (N.S.) 1088.

Power to dismiss prosecution. 35 L.R.A. Power to dismiss prosecution. 701.

As grand juror. 28 L.R.A. 201.

witness before grand jury. 28 L.R.A. 322

Sufficiency of evidence of, before grand jury to sustain indictment. 28 L.R.A. 326. Improper influence or interference with grand jury by. 28 L.R.A. 370.

Necessity of consent of court to entry of nolle prosequi in a criminal case. 45

L.R.A.(N.S.) 1123.
Right of accused to complain because prosecution is assisted by unofficial member of the bar. 24 L.R.A.(N.S.) 564; 47 L.R.A.(N.S.) 1106.

#### PROSPECT.

Easement of, see Easements, §§ 13, 19-21.

## PROSPECTING.

For minerals. 7 L.R.A. (N.S.) 820.

## PROSPECTIVE ACTION.

May assessment for benefits rest upon prospective action in completing improvement. 28 L.R.A.(N.S.) and ment. 28 L.R.A.(N.S.) 669.

Begin with this book on every law question.

#### PROSPECTIVE DAMAGES.

See DISTRICT AND PROSECUTING ATTORNEY. | Recovery for, see DAMAGES, §§ 62, 63, 119.

## PROSPECTIVE GUARANTY.

See GUABANTY.

#### PROSPECTIVE HEIR.

Transfer of expectancy by, see Expectancy.

#### PROSPECTIVE STATUTES.

Construing statute as prospective, see STAT-UTES, § 28.

## PROSPECTIVE VALUE.

Of property as element of compensation in eminent domain. L.R.A.1917A, 405.

## PROSPECTS.

Husband's prospects as basis for alimony. 4 L.R.A.(N.S.) 909.

## PROSPECTUS.

Right to rescind subscription contract in case of variance between prospectus and articles of incorporation. 33 L.R.A. 733.

Liability of officers or promoters to one who purchases stock from an indi-vidual in reliance on a prospectus issued to induce purchase of treasury stock. 28 L.R.A. (N.S.) 359.

## PROSTITUTE.

Slander in charging woman with being, see LIBEL AND SLANDER, § 12. In general, see PROSTITUTION.

Bringing wife in contact with, as ground for divorce. 43 L.R.A.(N.S.) 964. Statute or ordinance making it an offenseto associate with. L.R.A.1917F, 904.

## PROSTITUTION.

see AGE OF CONSENT.

PROSTITUTION—cont'd

See also Adultery; Fornication; Incest; LASCIVIOUS COMABITATION; LEWDNESS; PROSTITUTES; SEDUCTION.

State legislation for prevention of immorality as interference with interstate dommerce. 51 L.R.A.(N.S.) 157.

Recovery for goods sold for use in aid of. 15 L.R.A. 835.

Effect of landlord's knowledge that tenant intends to use the premises for purposes of. 19 L.R.A.(N.S.) 662.

§ 2. White slave act.

Construction, applicability, and effect of congressional White Slave Traffic Act. L.R.A.1917E, 1137.

Indictment of woman transported in violation of white slave traffic act for conspiracy to violate the laws of the United States. L.R.A.1915D, 281.

Wife as witness against husband in prosecution under White Slave Act. L.R.A. 1917E, 1133.

## PROTECTION.

Of recording laws, who entitled to, RECORDS AND RECORDING LAWS, § 16. Of witness, see WITNESSES, § 40.

#### PROTEST.

1. Generally.

Of negotiable paper, see BILLS AND NOTES, §§ 43-53.

Effect of protest by servant in performance of duties outside of original employment. 48 L.R.A. 808.

Effect of acceptance under protest by vendee where stipulations as to title in executory contract for sale of land are dissimilar from those in subsequently executed conveyance. 31 L.R.A. (N.S.) 461.

2. As to rights in real property. Effect of protest by owner to prevent acquisition of right of way by prescription. 25 L.R.A.(Ñ.S.) 174.

Validity of contract not to protest against application for patent to public land.

9 L.R.A.(N.S.) 529.

Duty and right of excluded co-owner to file adverse or protest against application for patent to a mining claim. 4 L.R.A. (N.S.) 1126.

§ 3. As condition of recovery back of money paid.

Against payment of license fee as affecting voluntariness of payment. 22 L.R.A. (N.S.) 876; 49 L.R.A. (N.S.) 388.

Necessity and sufficiency of statement of grounds in notice of protest required as condition of recovering back payment of an unlawful tax. 36 L.R.A. (N.S.) 476.

Consult also L.R.A. Digests of Cases.

## PROVABLE DEBTS.

Against estate of bankrupt, see BANK-BUPTCY, §§ 25, 25a.

#### PROVISIONS.

Sufficiency of delivery of provisions sold out of larger lot. 26 L.R.A.(N.S.)

Express warranty as to, as excluding implied warranty. 33 L.R.A.(N.S.) 505. Liability of vendor in cases of tort for

sale of unwholesome provisions. L.R.A. 139.

What is included within exemption of provisions. L.R.A.1916B, 788.

## PROVISO.

Effect of proviso in lease against assignment without consent upon right of assignee to assign. 2 B. R. C. 803.

#### PROVOCATION.

For homicide, see Homicide, IV.

Evidence of provocation to mitigate damages in civil action for assault. 1 L.R.A.(N.S.) 137; 11 L.R.A.(N.S.) 670.

Provocation less than an assault as defense to civil action for assault and battery. 38 L.R.A.(N.S.) 516.

Right of self-defense against assault provoked by abusive language. 51 L.R.A. (N.S.) 838.

Provocation by opposing counsel as excuse for misstatement of facts, or statement of facts not in avidence by counsel in argument to jury. L.R.A.1918D, 18, 107.

## PROVOKING DIFFICULTY.

See Homicide, §§ 28-30.

## PROXIMATE CAUSE.

I. In general, 🗚 1-8.

II. Of death; loss or injury by the elements, \$\$ 4-7.

III. Of injury to passenger, \$\$ 8-10. IV. Of injury by railroad train or

engine, \$\$ 11, 12. V. Of injury on defective highway or bridge, §§ 13, 14.

VI. Of injury to servant or tenant, §§ 15-17.

VII. Of injury by fright, \$\$ 18-20. VIII. Under civil damage act, \$ 21.

IX. Miscellaneous, \$ 22.

## PROXIMATE CAUSE—cont'd

#### I. In general,

§ 1. Generally.

As to liability for negligent injury, generally, see NEGLIGENCE, and other specific titles, e. g. Carriers, Electricity, Master and Servant, Railroads, STREET RAILWAYS.

As affecting damages, see Damages. Of loss of insured property, see INSURANCE,

VIII. c, 1.

Of injury to, or death of, insured, see Insurance, VIII. c, 2.

As to "last clear chance," see Negligence,

§§ 50-52.

Effect of negligence of, or failure to employ, physician, see Physicians and Subgrons, § 17.

Effect of obeying or disobeying physician, see Physicians and Surgeons, § 18.

Granting new trial on issue of proximate cause only. L.R.A.1915E, 249. Weather conditions as an independent, in-

tervening, efficient cause. 20 L.R.A. (N.S.) 92.

Anticipation as an element of proximate cause. 11 L.R.A.(N.S.) 684.

Of injury from violation of statute not expressly conferring right of action. L.R.A.(N.S.) 345.

Of injury from violation of statute not expressly conferring right of action. L.R.A.1915E, 516.

Damages recoverable for delaying person by

blocking railroad crossing. 44 L.R.A. (N.S.) 1069.

Negligence responsible for accident as proximate cause of personal injury received in performance of act or work rendered necessary by the accident. 7 L.R.A. (N.S.) 907.

Subsequent conduct of injured person in its relation to proximate cause, as distinguished fron contributory negligence. 18 L.R.A.(N.S.) 640.

The question of proximate cause as affecting applicability of rule denying contribution between joint tort feasors. 36 L.R.A. (N.S.) 583.

§ 2. Of injury to children. By explosion, see infra, § 7. By railroad train, see infra, § 12. Injury to minor servant, see infra, § 16.

May the intervening act of a child break the causal connection between the defendant's negligence and the injury. 23 L.R.A. (N.S.) 249.

Of injury by attractive nuisance. 19 L.R.A. (N.S.) 1165.

3. Rule of, in case of malicious torts. The general rule. 45 L.R.A. 87.

In case of wrongful violations of legal duty or positive law. 45 L.R.A. 87. In case of acts directly malicious or wilful.

45 L.R.A. 89. Wilful misrepresentations and false warranties. 45 L.R.A. 90.

Limit to the rule. 45 L.R.A. 91.

Begin with this book on every law question.

## PROXIMATE CAUSE—cont ?

#### II. Of death; loss or injury by the elements.

🖇 4. Generally.

Delaying run of logs as proximate cause of loss from high water, wind, or other similar cause. 31 L.R.A.(N.S.) 1131. Accident as proximate cause of death under anesthetic. 3 B. R. C. 65.

§ 5. Of loss by fire or wind. Of damage by fire. 21 L.R.A. 259.

Spreading by wind of fires negligently set. 20 L.R.A.(N.S.) 92.

Wind as proximate cause of accident. 20 L.R.A. (N.S.) 95.

Proximate cause of damage resulting from fire as affected by time, distance, or intervening property. 42 L.R.A. (N.S.) 759.

Accumulation of inflammable material which aids spread of fire originating on another's property as proximate cause of destruction of property of third persons. 12 L.R.A.(N.S.) 446.

Negligently setting out fire as proximate cause of injury to one burned while seeking to protect his property. 15 L.R.A.(N.S.) 819; L.R.A.1915E, 991.

Liability for setting, upon one's own premises, a fire which spread to the property of others. 36 L.R.A.(N.S.) 194.

Discharging oil into stream or bay as proximate cause of fire resulting therefrom.

30 L.R.A.(N.S.) 1210.

Proximate cause of injury by dangerous walls left unprotected after fire. 20

L.R.A. (N.S.) 96.

Delaying run of logs as proximate cause of injury by wind. 31 L.R.A. (N.S.) 1131.

§ 6. Of loss or injury by explosion. As affecting liability of gas company for negligence in escape or explosion of gas. 29 L.R.A. 356; 32 L.R.A. (N.S.) 819; L.R.A.1915E, 1027.

Intervening act of third person as affecting proximate cause in case of injury by explosives. L.R.A.1915E, 479.

Violation of statute or ordinance relating to explosives as proximate cause of injury. 48 L.R.A. (N.S.) 877.

Unlawful or negligent storage of explosives as proximate cause of injuries from explosion caused by fire. L.R.A.1917F, 624.

§ 7. — to children.

Leaving explosives accessible to children as proximate cause of injury to child by explosion thereof. 14 L.R.A.(N.S.) 586; 24 L.R.A.(N.S.) 1257; L.R.A. 1917A, 1295.

## III. Of injury to passenger.

§ 8. Generally. As condition of liability of carrier deviating from course. 2 B. R. C. 608.

PROXIMATE CAUSE, III.—cont'd

Negligence in directing passenger to wrong train as proximate cause of injuries sustained in alighting from train while in motion. 32 L.R.A.(N.S.) 280.

What injuries may be deemed the proximate result of discharging passenger at improper place, or one not his destination. 7 L.R.A.(N.S.) 1177.

Of injury to passenger resulting from fright. 45 L.R.A.(N.S.) 437.

Negligence of carrier as proximate cause of injury to passenger from act of drunken fellow-passenger. 4 B. R. C. 330.

Ejection of sick or intoxicated passenger as proximate cause of subsequent injury or death. L.R.A.1915C, 142.

Failure to properly light car or waiting room or permitting car to be overcrowded as proximate cause of assault upon or robbery of passenger. L.R.A. 1918A, 1072

Liability of carrier for personal injuries to passenger who attempts to reach his destination by other means because of delay or stalling of car or train. L.R.A.1917F, 357.

9. Failure to stop train.

Of injury to passenger whose train has run past station. 37 L.R.A.(N.S.) 266. What injuries may be deemed the proximate result of failure to stop street car for waiting passenger. 33 L.R.A. (N.S.) 1007.

Damages incident to attempt to reach destination by other means as an element of recovery for failure to stop train for intending passenger. 8 L.R.A. (N.S.) 880.

10. On elevator.

Leaving elevator in position to be operated by stranger as proximate cause of injury to passenger occasioned by act of third party in connection therewith 22 L.R.A.(N.S.) 297.

## IV. Of injury by railroad train or enoine.

§ 11. Generally.

Proximate cause of injury caused by car or engine set in motion by third person. 26 L.R.A.(N.S.) 719.

Proximate cause of injury where person or vehicle runs into side of train at

crossing. L.R.A.1915A, 363.
Failure to give crossing signals.
L.R.A.(N.S.) 1153.

Of injury by railroad trains or cars operated longitudinally along public street. 49 L.R.A.(N.S.) 690.

Liability of railroad company for injury resulting from act of shipper of consignee in setting car in motion. 51 L.R.A.(N.S.) 888.

Necessity that violation of statute or ordinance as to blocking railroad crossing be proximate cause of injury. L.R.A. (N.S.) 822.

Consult also L.R.A. Digests of Cases.

PROXIMATE CAUSE, IV.—cont'd

When violation of statute or ordinance as to blocking of railroad crossing is deemed proximate cause of resulting injury. 47 L.R.A.(N.S.) 824.

§ 12. To child.

Negligent operation of train at crossing as proximate cause of injury to child, incapable of contributory negligence, who was aware of train's approach. 34 L.R.A.(N.S.) 645.

Proximate cause of injury to child by railroad trains or cars operated longitudinally along public street. 49 L.R.A.

(N.S.) 690.

## V. Of injury on defective highway or bridge.

13. Highway.

Effect of fright of horse, see infra, § 20.

Defect in highway as proximate cause of injury. 13 L.R.A. (N.S.) 1252; 20 L.R.A. (N.S.) 732.

Obstruction in highway as proximate cause . of injury notwithstanding intervening cause. 9 L.R.A. (N.S.) 548.

Act of stranger in attempting to remedy defect in highway as intervening cause of injury to traveler. 14 L.R.A.(N.S.) 956.

What injuries may be deemed to be proximately caused by the absence of a guard rail in a highway. 18 L.R.A.(N.S.) 1135.

Liability for negligence in permitting wires to hang down notwithstanding intervening act of third person in connection therewith. 24 L.R.A.(N.S.) 978.

Failure of road authority to make repairs as intervening cause relieving from liability for negligence one responsible for the condition of the highway. 3 B. R. C. 1000.

§ 14. Bridge.

Negligent breaking of bridge as proximate cause of obstruction of navigation necessary to effect repair. 10 L.R.A. (N.S.) 710.

## VI. Of injury to servant or tenant.

§ 15. Servant.

Relation of doctrine of, to master's liability for injury to servant from concurring negligence of master and fellow servant, see MASTER AND SERVANT, § 134.

Relation of rule of proximate cause to rule res ipsa loquitur. L.R.A.1917E, 35, 197, 209, 232, 240.

Rule of, applied to combined negligence of master and fellow servant. 16 L.R.A. 819.

As affecting liability for injury to servant of other person. 46 L.R.A. 119.

Omission to promulgate rules as proximate cause of injury to servant. 43 L.R.A. 320.

PROXIMATE CAUSE, VI.-cont'd

Servant's recovery for injury notwithstanding violation of rule unless proximate cause of injury. 43 L.R.A. 352.

Nonliability for failure to warn servants

unless such failure was proximate cause

of injury. 44 L.R.A. 86.

To create liability, omission of duty to inspect instrumentality furnished servant must be proximate cause of injury. 41 L.R.A. 83.

Master's liability for injury to servant where his own negligence intervenes as proximate cause between delinquent coservant's negligence and the injury. 54 L.R.A. 165.

Employer's liability for injuries in per-formance of work by independent contractor where employer's own act is proximate cause of injury. 66 L.R.A. 941.

Negligent condition of place or appliances as the proximate cause of injuries not primarily caused by that condition. 40 L.R.A.(N.S.) 940.

Negligence responsible for accident as proximate cause of personal injury sustained in performance of act or work rendered necessary by the accident. 7 L.R.A.(N.S.) 907.

Negligence in sending rolling stock out in defective condition as proximate cause of injury to one attempting to repair it en route. 43 L.R.A.(N.S.) 701.

Proximate cause of injury to employee caused by car or engine set in motion by third person. 26 L.R.A.(N.S.) 719.
Leaving switch unlocked as proximate cause

of derailment of train resulting from the throwing of the switch by a stran-ger. 11 L.R.A.(N.S.) 738.

16. — minor servant.

Necessity that injury to child proximately result from his employment in violation of statute. 1 B. R. C. 634; 48 L.R.A. (N.S.) 661.

\$ 17. Of injury to tenant. Of injury to tenant from defect in premises. 34 L.R.A. 831.

## VII. Of injury by fright.

§ 18. Generally.

Right to recover for physical injury resulting from fright caused by wrongful act. 3 L.R.A.(N.S.) 49; 22 L.R.A. (N.S.) 1073; 24 L.R.A.(N.S.) 1159; L.R.A.1915D, 830.

Proximate cause of injury to passenger resulting from fright. 45 L.R.A.(N.S.)

§ 19. Of injuries through fright of horse.

Of injuries through fright of horse. 15 L.R.A. 367.

What deemed to be the proximate cause of Death from, as accident or accidental means injuries following a runaway. L.R.A.(N.S.) 373.

PROXIMATE CAUSE, VII.—cont'd § 20. — on defective highway.

Liability of municipality for injury to person or property of one driving over defective highway, where his horse is frightened without fault of either party. 8 L.R.A.(N.S.) 77; 29 L.R.A.(N.S.) 199; L.R.A.1915D, 243.

## VIII. Under civil damage act.

§ 21. Generally.

Right of action, in absence of civil damage act, for injuries or death following unlawful sale of liquor. 34 L.R.A. (N.S.) 1036.

Necessity, to sustain a recovery under civil damage act, that the intoxication be the proximate cause of the injury. 13 L.R.A.(N.S.) 1158; 50 L.R.A.(N.S.) 858.

#### IX. Miscellaneous.

🖁 22. Generally.

Proximate cause of injury where one person is pushed against another. L.R.A. 1917E, 275.

Liability for injuries by automobile set in motion by stranger. L.R.A.1917D, 867. Liability of telephone company for failure

to make connections for subscriber. 21 L.R.A.(N.S.) 115; 28 L.R.A.(N.S.) 554.

Keeping of animal known to be dangerous, as proximate cause of injury. 2 B. R. C. 29.

Hostilities as proximate cause of loss under policy of marine insurance. 5 B. R. C. 34.

Of injury to one other than passenger struck by object hurled by street car. L.R.A. 1915B, 1111.

Necessity that fault or mistake of notary or other officer certifying to acknowledgment or affidavit should be proximate cause of loss to render him liable therefor. 49 L.R.A.(N.S.) 51.

Independent, intervening or concurring cause of death as affecting criminal responsibility. 51 L.R.A.(N.S.) 877.

#### PROXY.

At stockholders' meetings, see CORPORA-. TIONS, § 125.

1. Signature by. Signing of writ and process by, see WETT

AND PROCESS, § 2. Signature written by another. 22 L.R.A. 297.

## PTOMAINE POISONING.

within meaning of accident insurance policy. L.R.A.1916A, 481. Begin with this book on every law question.

## PSYCHIC HEALERS.

See MENTAL SUGGESTION.

#### PUBLIC.

§ 1. Generally.

Adverse possession by or against, see Anverse Possession, § 10.

Recovery back by public of money paid, see

Assumpsit, § 10. Use of highway by, see Highways, §§ 12-17.

License from, see LICENSE, II.
Property of, see PUBLIC PROPERTY.

Relative rights of public and individuals in water, see Waters, §§ 9-23.

Use of private alley by public as permissive or prescriptive. L.R.A.1917E, 723. Right of contractor with public to immuni-

ty which latter enjoys from liability for damages. L.R.A.1916D, 511. Corporate by-laws as notice to. 25 L.R.A.

Protection of private rights from interference by. 18 L.R.A. 543.
Right of public to attend municipal coun-

cil meetings. 1 B. R. C. 296.

Right of public to fees unlawfully collected by officer for his own benefit. 20 L.R.A. (N.S.) 1015.

Right of public to benefit of discoveries, inventions, devices, data, etc., made or prepared by officer or employee. L.R.A. 1917B, 1183.

§ 2. Liability.

Liability of county, see Counties, §§ 7-11. Liability of municipality, see MUNICIPAL CORPORATIONS, §§ 72-101.

Liability of state, see STATE, §§ 10-12.

Liability of public for medical services to indigent person in absence of notice or request. 9 L.R.A.(N.S.) 1234.

Right of counsel assigned to defend indigent person to compensation from public in absence of statute. 36 L.R.A. (N.S.) 377.

## PUBLIC ACCOMMODATION.

What are places of, within meaning of civil rights act. 9 L.R.A. (N.S.) 601; L.R.A. 1918F, 829.

## PUBLIC ADDRESS.

Public addresses derogatory to parties to litigation as contempt of court. 2 B. R. C. 500.

#### PUBLIC ADMINISTRATOR.

Validity of acts by, where letters of administration are afterwards revoked or Right of foreign company to enter state. 24 held invalid. 21 L.R.A. 156. L.R.A. 314. Consult also L.R.A. Digests of Cases.

## PUBLIC AGENCIES.

Injunction against interfering with. L.R.A. 64.

#### PUBLIC AMUSEMENTS.

See AMUSEMENTS.

#### PUBLIC CELEBRATION.

See CELEBRATIONS.

#### PUBLICATION.

§ 1. Generally. As a contempt, see Contempt, § 6.

What constitutes publishing of forged in-strument, see FORGERY. Libel by, see LIBEL AND SLANDER.

Privilege of communication as affected by

extent of, see LIBEL AND SLANDER, § 23. Of libel, see LIBEL AND SLANDER, §§ 32, 33. Of notice, see Notice, § 10.

Of will, see WILLS, § 25.

Of process, see WRIT AND PROCESS, §§ 20,

Of proposed initiative or referendum measure. 50 L.R.A. (N.S.) 225; L.R.A. 1917B, 42.

What constitutes publication of intellectual production. 43 L.R.A.(N.S.) 641.

Common-law rights with respect to publication of intellectual productions. 51 L.R.A. 363.

Cruel and unusual punishment for unlawful publications. 35 L.R.A. 578; L.R.A. 1915C, 569.

Validity of contract in restraint of trade in. 22 L.R.A. 674.

Prevention of, as interference with freedom of the press. 32 L.R.A. 831.

Indecency or obscenity of. 24 L.R.A. 110.

Advertising lost or stolen paper as putting purchaser on inquiry. 29 L.R.A.(N.S.) 383.

As evidence of depositions in proceeding to perpetuate testimony. 25 L.R.A. (N.S.) 681.

Sufficiency of notice by publication to insured of cancelation of fire policy. 50 L.R.A. (N.S.) 40.

§ 2. Injunction against. Injunction against, see Injunction, § 73.

3. In what language. Of official notices in foreign language. 14 L.R.A. 64.

## PUBLICATION COMPANIES.

#### PUBLIC AUTHORITIES.

Master's right to rely on inspection by, of places, materials or appliances. 15 L.R.A.(N.S.) 812.

#### PUBLIC BODIES.

See also BOARDS.

Parol evidence to vary or supplement minutes of. 50 L.R.A.(N.S.) 99.

Applicability to public bodies of statute requiring building contractor's bond for protection of subcontractors, laborers, etc. 50 L.R.A.(N.S.) 469.

Federal courts following state decisions as to powers and liabilities of. 40 L.R.A. (N.S.) 442.

#### PUBLIC BUILDINGS.

§ 1. Generally.
Courthouse, see Courthouse.
Hospital, see Hospital.
Schoolhouse, see Schools, §§ 29, 30.
Liability of municipal corporation for tort in connection with, see Municipal Corporations, §§ 98, 99.

Giving of free service to, by public service corporation as an unlawful discrimination. L.R.A.1918D, 904.

Lease or license of, for private purposes. 33 L.R.A. 118.

Right of municipality to prevent use of, or to lease, its public buildings for private purposes. 31 L.R.A.(N.S.) 580.

Injunction against city building constituting nuisance. 23 L.R.A. 303.

Claims against state arising out of work on, or material in. 42 L.R.A. 56.

Appropriations for. 14 L.R.A. 474.

Liability of state for injury in state building. 42 L.R.A.(N.S.) 251.

§ 2. Contracts as to location of. Contract as to location of. 4 L.R.A.(N.S.) 589; L.R.A.1916D, 727. Bribery by gift to public as consideration

Bribery by gift to public as consideration for location of. 14 L.R.A. 62.

§ 3. Erection of. Lien for, see Mechanics' Liens, § 18.

Validity of contract as to. 4 L.R.A. (N.S.) 589; L.R.A.1916D, 727.

Implied power of municipality to contract for erection or repair of, on credit. 4 L.R.A.(N.S.) 746.

Power of municipality to construct assembly, convention, exposition, or amusement hall. 26 L.R.A.(N.S.) 425.

Right of taxpayer in absence of statute to enjoin erection of, by municipality. 36 L.R.A.(N.S.) 18.

Begin with this book on every law question.

## PUBLIC CHARITIES.

See CHARITIES.

#### PUBLIC CONTRACT.

See Contracts, §§ 158-161; Municipal Corporations, §§ 53-60; Public Improvements, §§ 7-9; Waters, § 111.

## PUBLIC CONVENIENCE.

Granting of final injunction against nuisance where public convenience is involved. 31 L.R.A. (N.S.) 895; L.R.A. 1916C, 1270.

Scope and construction of provision for indemnity in case of injury while riding in or on a public conveyance. 37 L.R.A.(N.S.) 618.

## PUBLIC CONVEYANCE.

Scope and construction of provision for indemnity in case of injury while riding in or on a public conveyance. L.R.A. 1915C, 456.

## PUBLIC CORPORATIONS.

Bonds of, see Bonds, III.
Estoppel of, see Estoppel, I.
See also Counties; Municipal Corporations; Public Service Corporations;
Schools; Towns; VILLAGES.

Applicability to public corporations of doctrine that corporation may be estopped to plead defense of ultra vires in action brought against it. L.R.A.1917A, 850.

Right of subcontractor, materialman, or laborer to maintain action on contractor's bond running to. 27 L.R.A.(N.S.) 581.

Personal liability to other contracting party of one who, without authority, assumes to contract as agent for. 34 L.R.A. (N.S.) 523.

Liability of, on implied contract. 39 L.R.A.(N.S.) 43, 72.

Notice imported to holders by commercial paper payable to a public body or officer thereof. L.R.A.1915B, 725.

Liability on implied contract. 46 L.R.A. (N.S.) 921.

Ratification by public corporation of invalid contract. L.R.A.1915A, 1023.

Rights and remedies where contracts, bonds, or other instruments of a public corporation are invalid. L.R.A.1915A, 904.

## PUBLIC EASEMENT.

See HIGHWAYS; PARKS.

## PUBLIC ENEMIÈS.

Validity of contract made for purpose of aiding and abetting. 12 L.R.A. (N.S.) 606.

## PUBLIC EXHIBITION.

Liability of proprietor for injury to patron. 1 L.R.A.(N.S.) 427; L.R.A.1915F, 690.

Municipal liability for failure to prevent.
42 L.R.A.(N.S.) 864.

#### PUBLIC GROUNDS.

Municipal liability for injuries through unsafe condition of. 33 L.R.A. (N.S.) 533; L.R.A.1915C, 435.

Liability of municipality for acts of its officers in removing trespassers from. 35 L.R.A.(N.S.) 435.

## PUBLIC HALL.

- Power of municipality to construct. 26 L.R.A. (N.S.) 425.

## PUBLIC HEALTH.

See HEALTH.

## PUBLIC HOME.

What constitutes residence entitling inmate of public home to privilege of public schools. 36 L.R.A. (N.S.) 344; 51 L.R.A. (N.S.) 234.

## PUBLIC IMPROVEMENTS.

- I. In general, §§ 1-4.
- II. What are, \$\$ 5, 6.
  III. Contracts for, \$\$ 7-9.
- IV. Assessments; payment or liability for work done, §§ 10-31. a. In general, §§ 10-13a.

  - b. Nature of improvements, \$\$ 14, 15.
  - c. Persons and property liable; exemptions, \$\$ 16-23.
  - d. Rules of apportionment, 24-26.
- **e. En**forcement; priorities, § \$ 27-31. Consult also L.R.A. Digests of Cases.

## PUBLIC IMPROVEMENTS-cont'd

## I. In general.

8 1. Generally.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 141.

Drains and sewers, generally, see Drains AND SEWERS.

Change of street grade, see Highways, §§ 52, 53.

Municipal plants, see MUNICIPAL CORPORA-TIONS, §§ 68-70.

Right of abutting owner to make improvements in street. 44 L.R.A.(N.S.) 552,

Submission of question as to, to voters. 26 L.R.A.(N.S.) 665.

Bribery by offer to public to obtain. 14 L.R.A. 62.

Persons engaged in, as independent con-

tractors. 65 L.R.A. 487, 493.
Corporations as "residents" within public improvement statutes. 43 L.R.A. (N.S.)

Delegation by city council of the power to determine the width, grade, material, etc., of street, sidewalk, or sewer improvements. 20 L.R.A. 653.

Implied power of municipality to construct on credit. 4 L.R.A. (N.S.) 746.

Rights of laborers or materialmen in fund retained pursuant to contract for public work to insure payment of their claims. 37 L.R.A.(N.S.) 575.

Right of subcontractor, materialmen, or laborer to maintain action on con-tractor's bond to owner. 27 L.R.A. (N.S.) 573; L.R.A.1915A, 768. Applicability of Workmen's Compensation

Acts to employee, engaged in constructing. L.R.A.1918F, 192.

Proceeding for, as a civil suit within statute allowing change of venue. 12 L.R.A. (N.S.) 900.

Finality of decisions pertaining to local improvements. 19 L.R.A.(N.S.) 382.

Right of taxpayer, in absence of statute, to enjoin unlawful expenditures by mu-nicipality on highways. 36 L.R.A. (N.S.) 23.

Duty and right of municipality to reimburse public-service corporation for expenses entailed by improvements in street. 6 L.R.A. (N.S.) 1026.

§ 2. Right to prevent construction of sidewalk.

Right of abutting owner to prevent con-struction of sidewalk in front of his property. 13 L.R.A.(N.S.) 1110.

Right of municipality to prohibit construction of sidewalk by abutting owner in front of his property. 13 L.R.A.(N.S.) 1113.

§ 3. Petition for or remonstrance

procedure; Right of lessee to sign petition for public improvements. 44 L.R.A.(N.S.) 696.

PUBLIC IMPROVEMENTS, I .-- cont'd Doctrine of equitable conversion as affecting one's right to sign consent or remonstrance as land owner. 50 L.R.A. (N.S.) 32.

Validity of private agreement with certain property owners to obtain their consent to local improvement. 50 L.R.A.(N.S.) 396.

Joining in petition for local improvement as estoppel to deny benefits. 36 L.R.A. (N.S.) 41.

Right to withdraw names from petition or remonstrance. 11 L.R.A.(N.S.) 372; 35 L.R.A.(N.S.) 1113.

§ 4. Liability for injury by.

Damages to property from improving highway, see Highways, § 47a.

Damages from establishing and fixing grade of street, see Highways, §§ 50, 51

Liability of municipality for temporarily interfering with access to property in making improvements. 46 L.R.A. (N.S.) 620.

Liability of county for injuries to real property from. 39 L.R.A. 63.

Intercepting rights in subterranean waters. by. 19 L.R.A. 94.

#### II. What are.

§ 5. Generally.

Construction and operation of canals as. 61 L.R.A. 833.

Rural highway as a local improvement, the cost of which may be assessed against tributary property upon the basis of special benefit. 40 L.R.A.(N.S.) 73.

6. Levees as. Eminent domain. 58 L.R.A. 757. Taxation. 58 L.R.A. 758. Duty of abutting owner. 58 L.R.A. 759. Repair. 58 L.R.A. 759. Levee districts. 58 L.R.A. 760. Other matters. 58 L.R.A. 761.

#### III. Contracts for.

7. Generally.

Effect of indirect interest of public officer in performance of contract for construction of public improvement. 50 L.R.A. (N.S.) 1140.

Validity of contract for material patented or held in monopoly where a letting to the lowest bidder is required. 46 L.R.A.(N.S.) 990; L.R.A.1197A, 442.

Duty of street railway company to pave part of street as affecting municipality's power to contract for paving entire street. 48 L.R.A.(N.S.) 138.

Sufficiency of specification for guidance of bidder for public contract. 30 L.R.A. (N.S.) 214.

Remedy of lowest bidder for refusal of authorities to award contract to him. 30 L.R.A.(N.S.) 126.

Loss of profits as element of damages for breach of contract for construction or repair of highway. 53 L.R.A. 49, 68.

PUBLIC IMPROVEMENTS, III.-cont'd Right of owner of tradename to protection against its use to describe character of material to be used in performing a contract. 12 L.R.A.(N.S.) 339.

Conclusiveness as between municipality and contractor of decision of engineer or other empowered officer as to matters concerning contract for public improvement. 23 L.R.A.(N.S.) 317.

§ 8. Power of city to bind contractor to repair pavement.

Power of city to bind contractor to repair pavement which he makes. 44 L.R.A. 527; L.R.A.1915F, 854.

§ 9. What included in provision for keeping in repair.

What conditions or defects are covered by provision in paving contract requiring contractor to keep pavement in repair. 9 L.R.A.(N.S.) 154; 49 L.R.A.(N.S.) 922.

IV. Assessments; payment or liability for work done.

## a. In general.

§ 10. Generally.

Assessments for drains and sewers, see DRAINS AND SEWERS, §§ 12-14.

Estoppel as to, see ESTOPPEL, § 7. Covenant in lease as to payment of assessments, see LANDLORD AND TENANT, § 18a.

Parties plaintiff in actions affecting, see PARTIES, § 5.

Assessment or nonassessment of property as affecting its dedication or acceptance for public use. L.R.A.1916B, 1175.

Power of municipality to assume part or all of burden of adapting street or bridges for use of railroads or street railways. 50 L.R.A.(N.S.) 143.

Special assessment as municipal indebtedness. 59 L.R.A. 618.

Legislative power as to payment for public improvements. 48 L.R.A. 469.

Delegation by city council of power with

respect to pavement assessment. L.R.A. 656.

May an assessment of benefits rest upon prospective action in completing improvement. 28 L.R.A.(N.S.) 669.

Implied right to interest on assessment. 6 L.R.A.(N.S.) 694.

Assessment for improvements made before property was included within the improvement district. 39 L.R.A.(N.S.) 543.

Waiver of objection that assessment exceeds the percentage limited by charter or statute. 38 L.R.A.(N.S.) 582.

Location of improvement as affecting liability for expense thereof on division of territory of municipality, town, or county. 39 L.R.A.(N.S.) 290.

Increase in proportion of assessment imposed on property as impairment of vested rights. 8 L.R.A.(N.S.) 546.

Begin with this book on every law question.

PUBLIC IMPROVEMENTS, IV. a—cont'd PUBLIC IMPROVEMENTS, IV. b-Validity of assessment as affected by un For drains and sewers. 60 L.R.A. 2 lawful invasion of property rights. L.R.A.1915D, 772.

🖁 11. Assessment as a tax. Special assessment as tax. 3 L.R.A.(N.S.) 837.

§ 12. Taxation for improvements. Conscription of labor for working highway as a tax. 5 L.R.A.(N.S.) 1139.

§ 13. Defects in work as defense to assessment.

In general. 56 L.R.A. 905; 27 L.R.A. (N.S.) 1086.

Application to street assessments. 56 L.R.A. 907.

Application to sidewalk assessments. 56 L.R.A. 918.

Application to sewer assessments. 56 L.R.A.

Application to drainage assessments. L.R.A. 921.

Application to assessments for water mains. 56 L.R.A. 922.

Defective or improper work as a set-off or counterclaim. 56 L.R.A. 922.

13a. Lien for.

Lien for, generally, see Liens, §§ 12, 16. Mechanics' lien for sidewalks, paving or water or sewer connections in street.

42 L.R.A.(N.S.) 356.

Distribution of award in condemnation of land subject to an assessment for public improvements. 45 L.R.A. (N.S.)

## b. Nature of Improvements.

14. Generally.

What constitutes reconstruction, as distinguished from repair, of pave-

ment. 44 L.R.A.(N.S.) 590. May cost of bridge be assessed against property benefited. 45 L.R.A.(N.S.) 918.

Assessment for cost of abolishing grade crossings. 26 L.R.A. 95.

Charging expense of grading for sidewalk upon abutting owner. 28 L.R.A. 496.

Power to compel abutting property owner to improve or care for space between sidewalk and curb. 38 L.R.A.(N.S.) 935.

Power to improve streets for park purposes at expense of abutting owner. L.R.A. (N.S.) 1056.

Right to use public funds to maintain or improve private ways, or ways dedicated to public but never accepted. 35 L.R.A. (N.S.) 524.

Power to assess cost of improvements for wharf purposes on fee owner. 5 L.R.A. (N.S.) 289.

Power to fill lowlands at expense of owner. 30 L.R.A.(N.S.) 709.

Laying water mains at expense of abutting property. 3 L.R.A.(N.S.) 817.

Assessments for purchase or construction of municipal water plant. 61 L.R.A. 52. For drainage ditches. 69 L.R.A. 810. Consult also L.R.A. Digests of Cases.

-cont'd For drains and sewers. 60 L.R.A. 227.

§ 15. Street sprinkling, lighting, and sweeping.

Right to impose on abutting owners the duty or expense of sprinkling, sweeping, and cleaning streets or sidewalks. 24 L.R.A. 412.

Special assessment for street sprinkling 18 L.R.A.(N.S.) 182.

Power to improve and repair streets as conferring power to expend money for sprinkling. 5 L.R.A.(N.S.) 434.

Power to compel street railway to sprinkle tracks. 36 L.R.A.(N.S.) 235.

Street lighting as a local improvement assessable against property benefited. L.R.A.1917A, 1098.

c. Persons and property liable; exemp-

§ 16. Generally.

For assessments for drains and sewers, see DRAINS AND SEWERS, § 13.

Covenant in lease as to payment of assessments, see LANDLORD AND TENANT, § 18a.

Duty of life tenant as to assessments, see LIFE TENANTS, § 10.

Assessments on rural lands within limits of municipality. 34 L.R.A. 200.

Assessment for, on highway. 44 L.R.A.

(N.S.) 837.

Assessment against cemetery or owners of lots therein. L.R.A.1918A, 157.

Liability of homestead. L.R.A.1915E, 662. What property other than realty may be assessed for the construction and maintenance of levees. L.R.A.1917F, 1003.

§ 17. State. Claims against state for work on. 42 L.R.A. 56.

§ 18. — municipal assessment of state property. Generally. 23 L.R.A. 807.

Distinction between assessment and taxa-

tion. 23 L.R.A. 807. Liability to assessment. 23 L.R.A. 808. Government property. 23 L.R.A. 810.

§ 19. Municipality.

General liability of municipality which is unable or has failed to enforce assessments for local improvements. 32 L.R.A. (N.S.) 163.

Cost of, as indebtedness within debt limit provision. 37 L.R.A.(N.S.) 1072; L.R.A.1917E, 443.

\$ 20. Abutting owner.

For what improvements liable, see supra, §§ 14, 15.

Charging burden of street improvement on abutting lot directly. 14 L.R.A. 758.

Personal liability of property owner to pay assessments for local improvements. 18 L.R.A.(N.S.) 1259; 29 L.R.A.(N.S.) 770.

PUBLIC IMPROVEMENTS, IV. c—cont'd PUBLIC IMPROVEMENTS, IV. c—cont'd Assessment of cost of local improvement Liability of company where city is to furmade under municipal authority against abutting owner who had made improvement on his own initiative. L.R.A.(N.S.) 877.

Effect of intervention of narrow strip owned by third person between the street and the property sought to be assessed. L.R.A.1916B, 1033.

21. Railroad right of way. Generally. 28 L.R.A. 249; 12 L.R.A. (N.S.) 112; 40 L.R.A. (N.S.) 935. The English cases. 28 L.R.A. 249. Property not contiguous. 28 L.R.A. 249. Property not benefited. 28 L.R.A. 249. Property, generally. 28 L.R.A. 250. Right of way and trackage. 28 L.R.A. 250; 15 L.R.A. (N.S.) 487. Liability to assessments for drains or sew-

§ 22. Street railway.

ers. L.R.A.1915A, 129.

In general. 46 L.R.A. 193; 15 L.R.A. (N.S.) 487.

Liability of company on the ground that its property and franchises are property benefited. 46 L.R.A. 193; 15 L.R.A. (N.S.) 489.

Liability of company under statute authorizing assessment of "lands," "buildings," etc. 46 L.R.A. 193.

Liability for pavements laid before track. 46 L.R.A. 194.

Liability after removing tracks. 46 L.R.A. 195.

Space which company is required to pave. 46 L.R.A. 195.

Liability for pavements outside of track. 46 L.R.A. 196.

Liability for paving at street intersections. 46 L.R.A. 196.

Liability for paving streets bordering on neutral ground occupied by street railway tracks. 46 L.R.A. 196.

Effect of agreement at time of extending tracks. 46 L.R.A. 196.

Exemption from assessment on payment of license fees. 46 L.R.A. 197.

Extent of repairs; repaving. 46 L.R.A. 197. Reflooring bridge. 46 L.R.A. 199. Changing method of staying stringers. 46

L.R.A. 199.

Liability for preliminary work. 46 L.R.A. 199. Preliminary notice to company. 46 L.R.A.

199. Estoppel of company to deny liability. 46 L.R.A. 200.

Amount for which company is liable. 46 L.R.A. 200.

Liability of company for worthless pavement. 46 L.R.A. 200.

Liability of company's receiver. 46 L.R.A. 201.

Necessity of assessing company. 46 L.R.A.

When street is paved so as to impose on 46 L.R.A. 202.

nish materials used. 46 L.R.A. 202.

Increasing liability of company. 46 L.R.A. 202.

By whom assessment collected. 46 L.R.A. 203.

Lien for assessment. 46 L.R.A. 203. When duty assumed by street railway to repave or repair arises. 43 L.R.A. (N.S.) 463.

Duty of street railway company to pave part of street as affecting municipality's power to contract for paving entire street. 48 L.R.A.(N.S.) 138.

Power to compel street railway to sprinkle tracks. 36 L.R.A.(N.S.) 235.

#### § 28. Exemptions.

Exemption from taxes, see Taxes, §§ 14-38, 95-100.

Liability to local assessments for benefits of property exempt from general taxation. 35 L.R.A. 33; 18 L.R.A. (N.S.) 451; 32 L.R.A.(N.S.) 303; 44 (L.R.A.(N.S.) 57; L.R.A.1916F, 864.

From liability for expense of drainage. 58 L.R.A. 380.

Exemption from tax for municipal water supply. 61 L.R.A. 56.

Right, in absence of statute, to exempt property within improvement district from special assessment, in consideration of acts done or other obligations assumed. 41 L.R.A.(N.S.) 781.

### d. Rules of apportionment.

## § 24. Generally.

Apportionment of assessment for drains and sewers. 60 L.R.A. 234.

Validity of assessments upon abutting property, made by charging upon each piece the cost of the improvement in front of it. 21 L.R.A. 563.

Right to subdivide private owner's !and for the purpose of assessment for public improvements. 23 L.R.A.(N.S.) 405.

## § 25. Frontage tax.

Assessments for improvements by the frontfoot rule. 17 L.R.A. 330; 28 L.R.A.

(N.S.) 1124; L.R.A.1917D, 372. Frontage assessment for construction of water mains. 61 L.R.A. 54.

Assessment of corner lot. 50 L.R.A. (N.S.) 922.

## § 26. Benefits to property.

Necessity of special benefit to sustain assessment for local improvement. 14 L.R.A. 755.

## e. Enforcement; procedure; priorities.

## § 27. Generally.

For drains and sewers, see DRAINS AND SEWERS, § 14.

company the duty to repair or repave. Limitation of action to enforce, see LIMITA-TION OF ACTIONS, § 12.

Begin with this book on every law question.

PUBLIC IMPROVEMENTS, IV. e-cont'd Who is entitled to penalties for delay in paying improvement assessment. 47 L.R.A. (N.S.) 704.

Who entitled to notice to redeem from sale for delinquent special assessment. 44 L.R.A.(N.S.) 677.

Necessity of giving mortgagee or other lienor notice. 37 L.R.A.(N.S.) 558.

Selection of interested person to assess benefits from improvement. 16 L.R.A.(N.S.)

Right of property owner to have amount of assessment fixed by jury. 60 L.R.A. 236.

Removal of local assessment proceedings because of separable controversy. 5 L.R.A.(N.S.) 77.

Validity of statutory provision for attorney's fees in proceedings involving collections of taxes or special assessments. 28 L.R.A. (N.S.) 1062.

# § 28. Personal liability to pay assessment.

Personal liability of property owner to pay assessments for local improvements. 35 L.R.A. 58; 18 L.R.A. (N.S.) 1259; 29 L.R.A. (N.S.) 770.

#### 29. Set-off.

Right of set-off or a counterclaim in action by state. 33 L.R.A.(N.S.) 376.

## 8 30. Reassessment.

Effect of running a limitation since original assessment upon a reassessment order because of invalidity of original. 28 L.R.A.(N.S.) 735.

General liability of municipality on failure to make reassessment after failure to enforce assessment. 32 L.R.A.(N.S.) 176.

## § 30a. Liens; priorities.

For paving assessment. 46 L.R.A. 203. Liability of homestead to lien. L.R.A. 1915E, 662.

## § 31. - priority of lien.

Priority over mortgage, see MORTGAGE, §

Superiority of lien of local assessment over prior lien. 35 L.R.A. 372; 30 L.R.A.(N.S.) 761.

L.R.A.(N.S.) 761.

Existence of lien of local assessment depends upon legislative enactment. 35
L.R.A. 373.

Existence of the law enables the lien to dominate the land itself, regardless of ownership. 35 L.R.A. 375.

The law being statutory, compliance with its terms is necessary and sufficient. 35 L.R.A. 375.

Enactment of law before encumbrance is notice to encumbrancers of priority of subsequent assessment. 35 L.R.A. 376.

Enactment of law after encumbrance makes priority of assessment depend upon constitutional control of retroactive law. 35 I.R.A. 377

Consult also L.R.A. Digests of Cases,

PUBLIC IMPROVEMENTS, IV. e—cont'd Priority of assessments over kindred liens. 35 L.R.A. 378.

Exceptions to all the stated rules. 35 L.R.A. 378.

#### PUBLIC INSTITUTION.

## § 1. Generally.

Claim by, against state. 42 L.R.A. 63.
Officers of, as public officers. 17 L.R.A. 246.
Applicability to, of Workmen's Compensation
Acts. L.R.A.1918F, 190.

Liability of county for personal injury due to negligence of officer or agent at county institution. L.R.A.1916B, 1263.

Liability of public, or officers having charge of public charitable institution, for negligence toward inmate. 6 B. R. C. 552.

## 2. Residence at.

Residence of student at, for purpose of voting. 23 L.R.A. 215.

Acquiring residence as a voter while an inmate of. 40 L.R.A.(N.S.) 168.

Residence of inmate of, for school purposes. 51 L.R.A.(N.S.) 234.

#### PUBLIC LANDS.

## I. In general, §§ 1-3.

II. Grants and reservations by United States generally, §§ 4-6.

III. Disposal through land department; entry; sale, \$\$ 7-19.

## I. In general.

#### § 1. Generally.

Improvements on, see infra, §§ 9, 10. Mines on, see MINES, II.

Private land claim, see PRIVATE LAND CLAIM.

Jurisdiction of state courts over lands of United States. 17 L.R.A. 720.

Question as to land titles under act of Congress as Federal question. 62 L.R.A. 532.

Mechanics' liens on. 35 L.R.A. 144.

Appropriation of percolating water on public lands. 30 L.R.A. 186; 21 L.R.A. (N.S.) 76.

First and last days in computing time for matters relating to. 49 L.R.A. 246.

Applicability of state community property law to real property acquired from Federal government. 26 L.R.A.(N.S.) 1117.

Statutes legalizing invalid grants by county or municipal corporation. 27 L.R.A. 696.

## § 2. Fences on.

Erection of fences so as to interfere with ingress and egress to and from. 3 L.R.A.(N.S.) 733.

stitutional control of retroactive law. Injunction against obstruction of, by fences or gates. 7 L.R.A. (N.S.) 84.

PUBLIC LANDS, I.—cont'd 3. Right to cut timber on.

What timber is within the statutes. L.R.A. 874.

Remedies against timber trespassers. L.R.A. 875. 70

Trespasser's title. 70 L.R.A. 879. Mistake. 70 L.R.A. 879.

Right to cut timber as affected by land grant. 70 L.R.A. 880.

Homestead and pre-emption land. L.R.A. 885.

Title relating back affecting previous trespass. 70 L.R.A. 893.

Rights of purchasers not having acquired title. 70 L.R.A. 899.

Licenses and permits. 70 L.R.A. 900. Timber culture acts. 70 L.R.A. 904.

Timber culture acts. 70 L.R.A. 904. Mineral lands. 70 L.R.A. 904. Cutting timber on reservations. 70 L.R.A.

909.

## II. Grants and reservations by United States generally.

§ 4. Generally.

How far title to islands is included in government grants. 58 L.R.A. 675.

Government grant bounded by nontidal river as carrying title to land thereunder. 24 L.R.A.(N.S.) 1240.

Location of mining claim on agricultural grant. 7 L.R.A.(N.S.) 798.

\$ 5. Grant to railroad.

Location of mining claim on railroad aid grant. 7 L.R.A.(N.S.) 801.

Right to cut timber on public land as affected by grant to railroad. 70 L.R.A.

6. Forest reservation.

Location of mining claim on forest reservation. 7 L.R.A. (N.S.) 804.

## III. Disposal through land department; entry; sale.

§ 7. Generally.

Conclusiveness of decisions or findings of the Land Department. L.R.A.1918D, 597

Duty of life tenant to pay assessments. 32 L.R.A. 746.

Property granted or sold by reservation of title or lien in favor of public, as subject of taxation. 35 L.R.A.(N.S.) 669.

Possession taken under mistaken belief that land is part of public domain as adverse to true owner. 31 L.R.A. (N.S.) 153.

Right as affected by parties living in illicit relations. 36 L.R.A.(N.S.) 840.

Rights and liabilities of one claiming under final certificate in event of its cancelation. L.R.A.1918E, 1002.

8. Highways over.

Establishment of highways over public land subsequent to entry thereon by one who has not perfected his title. 24 L.R.A. (N.S.) 764.

Begin with this book on every law question.

PUBLIC LANDS, III.—cont'd

Necessity and sufficiency of acceptance of grant of right of way over public land for public highway. L.R.A.1917A, 355.

§ 9. Improvements; crops.

Taxation of public land claims and improvements thereon. 15 L.R.A. 297. Plowing and cultivating land as an "improvement." 20 L.R.A. (N.S.) 378.

§ 10. — right of one who buys, or makes lawful entry on, to crops and improvements placed thereon by another.

Crops. 70 L.R.A. 799; L.R.A.1918A, 557. Improvements. 70 L.R.A. 800.

Removal during possession. 70 L.R.A. 802. Relief under occupying claimant, and similar acts. 70 L.R.A. 803.

11. Sale or transfer of land entered. Mortgage on homestead, see infra, § 17.

Prohibition of grant as including lease. 37 L.R.A. (N.S.) 686.

Title acquired by subsequent grants as passing under quitclaim. 35 L.R.A. (N.S.) 1188.

12. - inheritance of.

Inheritance by alien of patented lands. 81 L.R.A. 180.

Alien's right to inherit lands granted for military services and colonization. 31 L.R.A. 180.

13. - devise of.

Right of entryman to devise claim or interest in public land. 34 L.R.A. (N.S.) 397.

14. Liability for debts.

Liability of claim or interest in public lands for debts contracted before issuance of patent. 34 L.R.A. (N.S.) 405.

§ 15. Pre-emption.

Location of mining claim on pre-emption grant. 7 L.R.A.(N.S.) 798.

16. Homestead.

Effect of the contracting or dissolution of marriage after the initiation, but before the consummation, of right under homestead entry. 7 L.R.A.(N.S.) 967. Title, for purpose of insurance, of house

on government land under homestead entry, as within sole and unconditional ownership clause in insurance policy. 8 L.R.A. (N.S.) 903.

Right of homesteader on public land, before receiving patent, to recover for injury to premises, and measure of damages therefor. 17 L.R.A.(N.S.) 958.

Location of mining claim on homestead grant. 7 L.R.A.(N.S.) 798.

Right to preliminary injunction in case of contest between entrymen which would have effect of transferring possession of property from defendant to plaintiff. 39 L.R.A.(N.S.) 34. PUBLIC LANDS, III .-- cont'd

Necessity of both residence and cultivation as a condition of a patent under a homestead entry under the Federal laws. 42 L.R.A.(N.S.) 752.

§ 17. — mortgage on. Validity of mortgage on public lands executed by claimant under homestead acts prior to patent or final proof. 6 L.R.A. (N.S.) 934; L.R.A.1915B, 681.

18. Town sites.

Conclusiveness of decisions of the Land Department as to town sites. L.R.A. 1918D, 621.

Right to change lot lines of occupants after entry under the townsite act. L.R.A.(N.S.) 183.

Location of mining claim on. 7 L.R.A. (N.S.) 796.

#### \$ 19. Patents.

Conclusiveness of decision or findings of the Land Department where a patent has been issued. L.R.A.1918D, 597, 610, 623, 627, 630.

Conclusiveness of decision of the Land Department canceling a patent. L.R.A. 1918D, 634.

For lode claims after issuance of placer patent. 50 L.R.A. 293.

Use of fictitious name as affecting validity of patent. 39 L.R.A. 424.

Validity of contract not to protest against application for patent to. 9 L.R.A. (N.S.) 529.

Necessity of both residence and cultivation as condition of a patent under home-stead entry. 42 L.R.A. (N.S.) 752.

Presumption as to time of alteration in patent to land. 39 L.R.A.(N.S.) 104.

## PUBLIC MONEY.

1. Generally.

Appropriation of, generally, see APPROPRIA-TIONS.

Necessity and requisites of appropriation of, see APPROPRIATIONS, § 2.

Deposits of, in bank, see BANKS, § 10. Loss of, by bank failure, see Banks, § 16. Loan of, see Loan, § 6.

As to use of school funds, see Schools, § 38.

Keepers of, as public officers. 17 L.R.A. 246.

Charge of misuse of, against officer or candidate for office as libel or slander. L.R.A.1918E, 29.

Right of municipality to recover back money paid out in violation of the Constitution. 13 L.R.A.(N.S.) 157.

Right to recover back public money appropriated to sectarian institution. L.R.A. (N.S.) 171.

Liability of public officer on his bond for interest received on public money. L.R.A. 1918B, 811.

Constitutionality of statute releasing public officer or his surety from liability all of burden of adapting street or for loss of public fund. 41 L.R.A. bridges for use of railroads or street (N.S.) 97.

Consult also L.R.A. Digests of Cases, 71

PUBLIC MONEY-cont'd

Larceny by making or procuring fraudulent orders on public funds. 32 L.R.A. (N.S.) 234.

§ 1a. Investment of.

Deposit of public funds in bank as investment within statute requiring the investment of such funds. 50 L.R.A. (N.S.) 274.

2. Mandamus to compel payment of. See Mandamus, § 8.

§ 3. Injunction against waste or illegal use of.

Right of citizen or taxpayer to enjoin waste or unlawful expenditure of state funds. L.R.A.1915D, 178.

Right of taxpayer, in absence of statute, to enjoin donation by municipality. 36 L.R.A. (N.S.) 13.

4. For what purposes used. For reward, see REWARD, § 2.

Recovery back of payment made for goods purchased, see SALE, §§ 47, 52.

In general. 14 L.R.A. 474.

Requiring payment from inmate as affecting right of charitable institution to public aid. 29 L.R.A.1917B, 782. 29 L.R.A. (N.S.) 190;

Support of schools. 14 L.R.A. 474.

Support or education of children committed to sectarian schools. L.R.A. 1918B, 210.

Public buildings, parks, and improvements. 14 L.R.A. 474.

Celebrations; public entertainments. L.R.A. 475.

Relief or loans to citizens. 14 L.R.A. 475. Protection against fire or disease. L.R.A. 476.

Furnishing soldiers. 14 L.R.A. 476.

Expenses relating to corporate existence. 14 L.R.A. 477.

Payment of moral obligations. 14 L.R.A. 477.

Aid to business corporations or enterprises. 14 L.R.A. 478.

Aid to railroads. 14 L.R.A. 479. Rewards for criminals. 14 L.R.A. 480.

Power of legislature to make appropriation to compensate injured militiaman. 44 L.R.A.(N.S.) 83.

Validity of pension or bounty to Confederate soldiers. 45 L.R.A. (N.S.) 692. Constitutionality of statute providing for

transportation of pupils at public expense. 50 L.R.A. (N.S.) 428.

Power of municipal corporation or governmental body to use public funds to promote the passage, or to secure the defeat, of a law. L.R.A.1917B, 358.

Right of county or municipality to use public funds to secure the retention, or location, of a state institution within its limits. L.R.A.1917E, 845.

railways. 50 L.R.A.(N.S.) 143.

PUBLIC MONEY-cont'd

Use of public funds to pay expense incurred by officer or citizen in litigation. L.R.A.1916D, 92.

For expenses of legislative committee to attend public function. 1 L.R.A. (N.S.) 409.

Expenses incurred by public officials or employees in attending conventions, etc., as a proper charge on public funds. L.R.A.1917E, 332.

Use of, to establish drains and sewers. 60 L.R.A. 226.

Power of legislature to authorize counties or other political divisions to build, purchase, or operate railroad or street railway as affected by restrictions on power to aid private enterprises. 28 L.R.A.(N.S.) 412.

Use of public fund to maintain or improve private ways or ways dedicated to public but never accepted. 35 L.R.A. (N.S.) 524.

Right to use public funds to relieve persons not entirely without means of their own. 27 L.R.A.(N.S.) 1079.

Validity of statute providing for govern-mental assistance of individual members of certain classes of unfortunate or afflicted persons. 7 L.R.A.(N.S.) 1196.

Right of state to authorize or direct diversion of county funds to purpose other than that for which collected. L.R.A. 1915D, 274.

Construction of improvement by public body with option to private concern to purchase as violation of constitutional pro vision against lending credit. L.R.A. 1915B, 306.

## PUBLIC MORALS.

Municipal control over nuisance affecting, see MUNICIPAL CORPORATIONS, § 40.

Injunction against nuisances affecting. 41 L.R.A. 321.

Right of municipality to revoke license to carry on business as incident to duty to protect. 35 L.R.A. (N.S.) 718.

Criminal responsibility of corporation for offenses against. 2 B. R. C. 249.

## PUBLIC OFFICERS.

See Officers.

## PUBLIC PEACE.

Disorderly language as disturbance of.

PUBLIC PLACES.

Grant of right to use for advertising purposes. 9 L.R.A. (N.S.) 455.

#### PUBLIC POLICY.

1. Generally.

Contracts opposed to, see Contracts, IV. a.

Consolidation of parallel or competing railroads as against. 45 L.R.A. 272.

Exemption of officer's salary on grounds of. 54 L.R.A. 568.

As related to communistic life or tenure of property. 8 L.R.A.(N.S.) 909; 52 L.R.A.(N.S.) 459.

In relation to effect of homicide on devolution of property. 3 L.R.A.(N.S.) 726; L.R.A.1915C, 329.

In relation to effect of murder of insured by beneficiary on right to proceeds of policy. L.R.A.1917B, 671. Claims illegal or void by statute or public

policy as subject of valid compromise. 25 L.R.A.(N.S.) 297.

Lawfulness of boycott by other than labor union when violative of public policy. 33 L.R.A.(N.S.) 1034.

Validity from standpoint of, of provision in will for forfeiture of interest by contesting beneficiary. 68 L.R.A. 447.

Necessary accordance with, in enforcement of general bequest for charity or religion. 14 L.R.A.(N.S.) 71; 37 L.R.A. (N.S.) 998.

Designation as beneficiary, in insurance policy or benefit certificate, of one without insurable interest, as affected by considerations of. 16 L.R.A.(N.S.) 555.

§ 2. Effect of, on enforcement of law of other state or country.

to law governing insurance contract. 63 L.R.A. 848; 23 L.R.A. (N.S.) 972; 52 L.R.A. (N.S.) 277.

As to action for death or bodily injury under law of other state. 56 L.R.A. 202.

As to married woman's contract. 26 L.R.A. (N.S.) 774.

Of forum, sale of intoxicating liquor in violation of. 61 L.R.A. 429.

As to right of nonresident or foreign corporation to sue. 70 L.R.A. 521.

Laws as to gambling and lottery contracts. 46 L.R.A. (N.S.) 650.

## PUBLIC PRINTING.

L.R.A. (N.S.) 505. See PRINTING. § 2. Begin with this book on every law question.

#### PUBLIC PROPERTY.

Mechanics' lien on, see MECHANICS' LIENS, See SCHOOLS. § 18.

Liability to local assessment, see Public Improvements, §§ 17-19, 23. School property, see Schools, §§ 29, 30. Taxation of, see Taxes, §§ 30-32.

See also STATE INSTITUTIONS.

Injunction against sale of, under execution. 30 L.R.A. 103.

Mechanics' liens on. 35 L.R.A. 141.

For which public money may be used. 14 L.R.A. 474.

Property leased by public as subject to taxation. 35 L.R.A.(N.S.) 167; 52 L.R.A.(N.S.) 991.

Diversion of property donated for public library to other uses. 45 L.R.A. (N.S.)

## PUBLIC PROSECUTOR.

See DISTRICT AND PROSECUTING ATTORNEY.

## PUBLIC PURPOSE.

For which property may be condemned, see EMINENT DOMAIN, §§ 9-23.

Manufacturing as, see MANUFACTURER, § 3.

Liability of lessor of property to be used for a public purpose for personal injuries to third persons. L.R.A.1915B, 364, 387.

## PUBLIC RECORDS.

See RECORDS AND RECORDING LAWS.

## PUBLIC RESORTS.

Employer's nonliability for acts of independent contractor at entertainments at. 65 L.R.A. 644.

## PUBLIC SAFETY.

Injunction against nuisance affecting. 41 L.R.A. 322.

Municipal regulation of nuisances relating to. 38 L.R.A. 305.

## PUBLIC SALE,

On resale of goods to fix damages for purchaser's refusal to accept. 42 L.R.A. (N.S.) 683.

Consult also L.R.A. Digests of Cases.

#### PUBLIC SCHOOLS.

## PUBLIC SECURITIES.

Bonds, see Bonds, III.

General exemption of, from taxation as comprehending death duties. 1 B. R. C.

Personal liability of a trustee for losses to trust estate from investments in. 44 L.R.A.(N.S.) 887.

#### PUBLIC SERVICE COMMISSION.

Power to regulate rates of carriers, see CAR-RIERS, § 156.
Regulation by, of rates generally, see RATES,

§ 2.

Delegation to railroad commission of power to regulate carriers. 32 L.R.A. (N.S.) 639.

Power of Public Service Commission to regulate disposition of surplus products. L.R.A.1918C, 680.

Power and duty of, to control the issuance of securities by public service corporations. 45 L.R.A.(N.S.) 629.

Power of commission to compel production of papers and records for inspection. L.R.A.1917F, 1202.

Jurisdiction of Public Utilities Commission over rates as limited by constitutional or statutory power of municipality to regulate utilities. L.R.A.1918D, 315. Power of Public Service Commission to pre-

scribe the character of materials for depots. L.R.A.1918C, 495.

Decisions and orders of, as to regulation of jitney buses. L.R.A.1915F, 845; L.R.A. 1918B, 916.

Action against, as action against the state.
44 L.R.A.(N.S.) 198.
Right to appeal to court from decision of.
49 L.R.A.(N.S.) 565.

Constitutionality of statute empowering commission to determine amount of compensation in eminent domain proceedings. 52 L.R.A.(N.S.) 850.
Remedy to enforce orders of. L.R.A.1918E,

303.

## PUBLIC SERVICE CORPORATIONS.

1. Generally.

Recovery back of money from, see Assumpsit, § 7.

Use of highway by, see Highways, §§ 21-32.

Mandamus to, see Mandamus, §§ 13-15. Rates charged by, see RATES, § 2. For irrigation purposes, see WATERS, §§

92-97.

For supplying water generally, see WATERS,

PUBLIC SERVICE CORPORATIONS—| PUBLIC cont'd

See also Carriers; Electricity; Electric Lights; Gas; Insurance; Railroads; Street Railways; Telegraphs; Telephones; Warehousemen; Waters.

Effect of rendering incidental service to members of the public to make corporation, otherwise private, a public utility. L.R.A.1918A, 213.

Cotton ginning as a business affected with a public interest. L.R.A.1918A, 285.

Pipe line companies as public utilities. L.R.A.1918C, 855.

Fire insurance as a business affected by public interest. 29 L.R.A.(N.S.) 1195; L.R.A.1915C, 1189.

Specific performance of agreement for maintenance of license on land. 49 L.R.A. 518.

Recovery back of excessive payments to. 18 L.R.A. (N.S.) 124.

Involuntary bankruptcy proceedings against. 33 L.R.A.(N.S.) 454.

Right to interfere with wires of, in moving house along street. 14 L.R.A.(N.S.) 448; L.R.A.1917C, 774.

Duty and right of municipality to reimburse for expenses entailed by improvement in street. 6 L.R.A.(N.S.) 1026.

Does taxation of business or occupation of public-service corporation and taxation of its franchise or right to occupy the streets amounts to double taxation. 28 L.R.A.(N.S.) 221.

Power to require public service corporation to carry municipal wires on its poles. 32 L.R.A.(N.S.) 997.

Right of public service corporation to challenge powers or privileges of rival. L.R.A.1916B, 1087.

Compensation to be paid public utility company upon taking its plant. 47 L.R.A. (N.S.) 770.

Requiring connection or joint use of properties of public service corporations as a taking for which compensation must be made. 50 L.R.A. (N.S.) 652; L.R.A. 1916E. 759: L.R.A. 1917E. 1083

1916E, 759; L.R.A.1917E, 1083.

Power and duty of public authorities to control the issuance of securities by public service corporations. 45 L.R.A. (N.S.) 629; 47 L.R.A.(N.S.) 1167.

Force permissible in resisting or aiding the attempt of a public service corporation to plant poles, lay tracks, etc. 45 L.R.A.(N.S.) 601.

Lack of, or invalidity of franchise as a defense to an action by a public service corporation for service rentals. 52 L.R.A.(N.S.) 713.

Incorporation of territory into municipality as affecting existing contract of public service corporation to supply a commodity or service in that territory. L.R.A.1916A, 1071.

Power of public to determine capacity and suitableness of particular officer, agent or employee of corporation whose business is affected with a public interest. L.R.A.1915E, 708.

PUBLIC SERVICE CORPORATIONS cont'd

Duty of purchaser of public utility franchise or property to carry out franchise obligations as to service. L.R.A.1918A, 266.

§ 2. Rights and powers of.

Right of appropriator of water for distribution to the public to grant exclusive or preferential rights to the individual. 29 L.R.A.(N.S.) 213.

Right of public-service corporation performing two distinct kinds of service to refuse to furnish one without the other. 33 L.R.A.(N.S.) 1078.

Validity of contract by public service corporation for exclusive right of way across private property. 36 L.R.A. (N.S.) 456.

Federal courts following state decisions as to. 40 L.R.A.(N.S.) 443.

§ 3.—as to prompt payment of rentals.

Discrimination by requiring payment of rental in advance. 31 L.R.A.(N.S.) 315.

Reasonableness of regulation requiring payment of rentals in advance. 19 L.R.A. (N.S.) 693; 31 L.R.A. (N.S.) 319.

Right of public service corporation to impose penalty or added amount for failure to pay service bills promptly.

31 L.R.A.(N.S.) 329; 43 L.R.A.(N.S.) 63.

Right to discontinue service after tender of amount due. L.R.A.1917C, 376.

§ 4. Liabilities of.

See also Carriers; Eleotric Lights; Gas; Insurance; Railroads; Street Railways; Telegraphs; Telephones; Warehousemen; Waters.

Duty to serve public as affecting liability of public utility for temporary interference with water rights. L.R.A. 1915E, 294.

Liability of, for frightening horses by construction apparatus in street. 28 L.R.A.(N.S.) 942.

Continued duty and liability of public service corporation to members of public after conveyance to foreign corporation incapable of taking title. 33 L.R.A. (N.S.) 362.

Validity of contract making public service

Validity of contract making public service corporation's liability to municipality dependent upon the continuance of its franchise without competition. 21 L.R.A. (N.S.) 214.

Federal courts following state decisions as to. 40 L.R.A.(N.S.) 443.

§ 5. Valuation of property of.

Fundamental principles of valuation of public service property. L.R.A.1916F, 599.

Treatment of overhead charges in public service property valuations. 48 L.R.A.(N.S.) 1037.

Begin with this book on every law question.

SERVICE CORPORATIONS—PUBLIC UTILITIES—cont'd
Heating service as. 37 L.R.A.(N.S.) 510. PUBLIC cont'd

Treatment of franchises, water rights, and miscellaneous intangibles in public service property valuations. L.R.A. (N.S.) 1063.

Treatment of going concern "value" in public service property valuations. 48
L.R.A.(N.S.) 1092.

Treatment of good will in public service property valuations. 48 L.R.A. (N.S.) 1146.

Valuation of public-utility lands. 48 L.R.A. (N.S.) 1196.

Special problems in respect to the treatment of appreciation, in public service property valuations. 51 L.R.A.(N.S.) 7.

Allowante for depreciation in plant in fixing rates. 38 L.R.A.(N.S.) 1209.

Treatment of accrued depreciation in valuation of public service property. L.R.A.1916F, **761**.

#### 6. Return.

What constitutes the return of a public service corporation for rate-making purposes. 52 L.R.A.(N.S.) 15.
Returns to which public service corporations
are entitled. L.R.A.1915A, 5.

## PUBLIC SPEECH.

Copyright in report of. 2 B. R. C. 335.

#### PUBLIC TRIAL.

See CRIMINAL LAW, § 44.

## \*\*\* PUBLIC URINALS.

Injunction against, when constituting nuisance. 23 L.R.A. 303.

## \*\*\* PUBLIC USE.

Dedication of property for, see DEDICATION. Condemnation of property devoted to, see EMINENT DOMAIN, §§ 7, 8. Taking of property for, see EMINENT Do-

MAIN, §§ 9-23.

#### PUBLIC USER.

As acceptance of dedication, see DEDICA-TION, § 7.

## PUBLIC UTILITIES.

In general, see Public Service Corpora-TIONS. Consult also L.R.A. Digests of Cases.

What are, within statute permitting mu-nicipality to exceed debt limit for pur-chase or repair of. 31 L.R.A.(N.S.) 556.

Right of municipality to secure, by piece-meal to avoid constitutional debt limit. 12 L.R.A.(N.S.) 433.

#### PUBLIC WATER SUPPLY.

See WATERS, III.

## PUBLIC WORKS.

Right of subcontractors, laborers, and ma-terialmen on bond of contractor for public work, see Bonds, §§ 9, 10.

Prohibiting or restricting employment of aliens on. L.R.A.1916D, 569.

Validity of statute, ordinance, or contract fixing minimum wage for person employed on public work. 51 L.R.A. (N.S.) 686.

Loss of profits as element of damages for breach of contract for construction or repair of. 53 L.R.A. 49.

Constitutionality of statutes requiring work incident to public contract to be requiring done in state or a local division thereof. 41 L.R.A.(N.S.) 711.

## PUBLISHERS.

Validity of restrictive agreement on sale of publishing business. 24 L.R.A. (N.S.) 931; L.R.A.1916C, 632.

## ---PUBLISHING.

Of forged instrument, see FORGERY.

As a manufacturing business. 64 L.R.A. 62.

#### PUFFING.

As a fraud. 35 L.R.A. 418.

## PULLMAN CAR COMPANY.

See CARRIERS, §§ 96, 97.

## PUMPING PLANT.

Mechanics' lien on. 42 L.R.A. (N.S.) 355.

## PUNCHES.

Master's liability for injury by defect in. 13 L.R.A. (N.S.) 676; 51 L.R.A. (N.S.) 337.

## PUNISHMENT.

For assault and battery, see Assault and BATTERY, § 15. In bastardy proceedings, see BASTARDY, § 5. For contempt, see CONTEMPT, §§ 10-13. For crime generally, see CRIMINAL LAW, Of fraud, see FRAUD AND DECEIT, § 35. For gambling, see GAMING, § 8. For homicide, see Homicide, § 35. For offenses as to intoxicating liquors, see Intoxicating Liquors, § 35. For larceny, see LARCENY, § 12. For maintaining nuisance, see NUISANCES, 31.

For robbery, see ROBBERY, § 7. Homicide by excessive punishment, see Homicide, § 9.

Of child, see PARENT AND CHILD, § 20. Of scholar, see Schools, §§ 21, 22.

## PUNITIVE DAMAGES.

See Damages, §§ 13-19.

#### PUPILS.

See Schools.

## PURCHASE MONEY.

§ 1. Generally.

Injunction against collection of, when title is defective, see Injunction, § 45.

For liquors, liability for, see Intoxicating

Liquors, § 40.
At judicial sale, abatement or return of, see Judicial Sale, § 15.

On sale of chattels, see SALE, §§ 45-47, 60. Abatement from, in action for specific performance, see Specific Performance, § 28.

Usury in interest on deferred payments of, see Usury, § 7.

For land, see VENDOB AND PURCHASER, §§ 10-13.

Reservation of title to property as affecting negotiability of note for purchase price. 43 L.R.A. (N.S.) 945.

Tender of purchase money for real estate by partner. 28 L.R.A. 105.

Usury in deferred payments of. 27 L.R.A.

Possession of partner advancing for partnership real estate, 28 L.R.A. 103.

Begin with this book on every law question.

## PURCHASE MONEY—cont'd

Effect of ward's retention of, to cure failure to require bond of guardian. 33 L.R.A. 763.

Effect of refusal to accept on real estate broker's right to commissions. L.R.A. 604.

Negotiability of note for, as affected by reservation of title of property. 43 L.R.A. 277.

Failure of consideration as ground for injunction against judgment for. L.R.A. 748.

Effect of refusal to execute purchase-money notes to give seller an immediate right of action. 12 L.R.A.(N.S.) 180.

Effect of defendant's mistake of fact as to the right to specific performance of contract induced thereby. 15 L.R.A. (N.S.)

Right of purchaser of land at judicial sale to abatement of purchase price for deficiency in quantity. 28 L.R.A.(N.S.)

Sale with particular description of kind or quality as warranty or condition pre-cedent where purchase price is paid be-fore opportunity to inspect. 35 L.R.A. (N.S.) 273.

Effect of mistake or misunderstanding as to, in contract for sale of personalty. 32 L.R.A.(N.S.) 433.

Right of customer who has advanced pur-chase money to broker or factor to preference in case of insolvency prior to making of purchase. 42 L.R.A. (N.S.) 95.

2. Payment of.

Payable in instalments, see Instalments, § 3.

Medium of payment of, see PAYMENT, § 11. For land, see VENDOR AND PURCHASER. §§ 10-13.

Necessity for immediate payment on tax sale. 33 L.R.A. 481.

Of purchase price of timber conveyed with-out conveying title to the land. 55 L.R.A. 520.

Right of purchasers of, or creditors levying on, goods sold for cash but delivered without payment. 13 L.R.A.(N.S.) without payment. 13 L.R.A.(N.S.) 697; 29 L.R.A.(N.S.) 709; 47 L.R.A.(N.S.) 173.

Right of vendee to specific performance of contract for payment of purchase price where vendor is unable to convey a good and unencumbered title. 10 L.R.A. (N.S.) 117; 38 L.R.A. (N.S.) 1195.

Tender of deed or abstract of title as condition of enforcing forfeiture for vendee's failure to pay last instalment of purchase money. 28 L.R.A.(N.S.) 956.

Necessity of specifying time of payment of, in contract or memorandum for sale of real property. 33 L.R.A.(N.S.) 84.

§ 3. — duty to see to application of. Duty of purchaser from insolvent to see to application of purchase price to debts. 32 L.R.A. 65.

PURCHASE MONEY—cont'd

Duty of purchaser from conditional vendee with right to resell to see that latter's vendor is paid. 26 L.R.A.(N.S.) 585.

Duty of one purchasing from trustees under testamentary trust for payment of debts to see to application of. 5 L.R.A. (N.S.) 370.

Liability of purchaser from partnership to see to application of. 28 L.R.A. 174.

4. Recovery back or return of.

Recovery of purchase price of property sold for unlawful purpose, see CONTRACTS, § 114.

Recovery back of purchase money for land, see VENDOR AND PURCHASER, § 14.

Liability of execution creditor for return of purchase price on failure of title to property sold on execution. 36 L.R.A. (N.S.) 1218.

§ 5. Lien for.

Lien of seller of personalty, see SALE, § 60. Lien of vendor of land for, see VENDOR AND PURCHASER, §§ 30-35.

Maritime lien for. 70 L.R.A. 417.

Is money loaned to improve land part of purchase price within rule that a purchase money lien takes priority over homestead rights. 41 L.R.A.(N.S.) 89.

Homestead exemption as against claim for money loaned by third person to pay off existing purchase money obligation. L.R.A.1915E, 875.

§ 6. Mortgage for. What is, see MORTGAGE, § 12.

Effect of statutory bar of action for pur-chase money on right to enforce lien where vendor takes mortgage which

shows that it is given for the purchase money. 39 L.R.A.(N.S.) 1176.

Transfer of purchase money obligation as affecting reservation of title on conditional sale. 37 L.R.A.(N.S.) 71.

Dower in land subject to purchase money mortgage. 52 L.R.A. (N.S.) 540.

Homestead exemption as against claim for money loaned by third person to pay off existing purchase money mortgage. L.R.A.1915E, 875.

Right of mortgagor giving purchase money mortgage, or those claiming under him, to set up outstanding title or to acquire outstanding title to defeat the mortgage. L.R.A.1918B, 738.

7. — priority of.

Mortgage to secure purchase money advanced to purchase property, as a purchase money mortgage not subject to homestead rights. 40 L.R.A.(N.S.) 275. Priority of later mechanic's lien over. 14 L.R.A. 307.

8. Chattel mortgage for.

Validity of chattel mortgage of stock of merchandise to secure purchase price giving mortgagor possession with power of sale. 36 L.R.A.(N.S.) 1191.

Consult also L.R.A. Digests of Cases.

PURCHASE MONEY—cont'd § 9. Defense to action for.

Failure of consideration as defense to action on note for. 39 L.R.A.(N.S.) 938;

L.R.A.1918A, 1055.

Breach of parol warranty as defense to action between original parties on note for purchase price of chattel. L.R.A.(N.S.) 267.

What misrepresentations as to books sold will constitute a defense to an action for their purchase price. 22 L.R.A.

(N.S.) 1210.

## PURCHASE MONEY MORTGAGE.

See Purchase Money, §§ 6, 7.

## PURCHASING AGENT.

Rights of agent who purchases for an executor or administrator at the latter's own sale. L.R.A.1918B, 42.

## PURE FOOD AND DRUGS ACT.

See DRUGS AND DRUGGISTS; FOOD.

## PURPOSE.

Motive, see MOTIVE.

For which property may be taken under power of eminent domain, see EMINENT DOMAIN, II. d.

For which public money may be used, see PUBLIC MONEY, § 4.

For which taxes may be levied, see TAXES, § 13.

Beneficent purpose as excuse or justification of combination to raise price of commodity. 51 L.R.A.(N.S.) 244.

Stockholder's right to inspect books as affected by. 45 L.R.A. 461; 20 L.R.A. (N.S.) 186.

## PURVEYING.

As a manufacturing business. 64 L.R.A. 64.

## PUSHING.

as affected by provision or agreement | Proximate cause of injury where one person is pushed against another. 1917E, 275.

## PUTATIVE FATHER.

Effect of attempt by, to appoint guardian | Giving prize for composition, or solution of for child against surviving mother. 13 L.R.A.(N.S.) 294.

#### PUZZLE.

puzzle, as lottery. 6 B. R. C. 780.

#### QUAE IPSO USU CONSUMUNTUR.

Effect of bequest for life of chattels consumable in the use. 16 L.R.A.(N.S.) 483.

## QUALIFICATION.

Of voters, see Elections, I.

Of grand jurors, see GRAND JURY, § 3.

Of appraisers of insurance loss, see INSUR-

ANCE, § 152b.
Of person licensed to sell liquor, see In-TOXICATING LIQUORS, § 12.

Of judge, see JUDGES, §§ 3, 4. Of juror, see JURY, §§ 11-14.

Of justice of the peace, see JUSTICE OF THE PEACE, § 2.

Of officers, see Officers, §§ 4-9.

Of teachers, see Schools, § 15.

Of witnesses, see WITNESSES, §§ 9-25.

Effect of disqualification of members of tribunal of mutual benefit society suspending or expelling a member on con-clusiveness of decision. 52 L.R.A. (N.S.) 809.

## QUALIFIED LIMITATIONS.

Under rule in Shelley's Case. 29 L.R.A. (N.S.) 1077, 1121, 1126, 1152.

## QUALIFIED PRIVILEGE.

As to libel or slander, see LIBEL AND SLAN-DER, §§ 22-30.

As to information given by master affecting character or reputation of servant. 4 L.R.A.(N.S.) 1105.

## QUALITY.

Breach of warranty as to, see SALE, §§ 33-

Of land sold, see VENDOR AND PURCHASER, §§ 19-21.

Statement of, as a fraud. 35 L.R.A. 419,

Begin with this book on every law question.

QUALITY—cont'd

Duty of water company as to quality of water furnished. 61 L.R.A. 87.

Relief from purchase at auction on ground of mistake as to. 34 L.R.A.(N.S.) 930.

Effect of delivery to carrier on buyer's right to reject goods for lack of. 8 L.R.A.(N.S.) 1167.

Police regulations prescribing standard of quality of milk. 1 L.R.A. (N.S.) 918.

Parol evidence that parties to a written contract which merely names a class or species contemplated a particular quality. 9 L.R.A. (N.S.) 967.

#### QUANTITY.

Right of witness to express opinion as to. L.R.A.1918A, 700.

Admissibility of memoranda on check stubs as memoranda of. 42 L.R.A. (N.S.) 729.

Statements as to, as a fraud. 35 L.R.A. 419, 438.

Right to rely on representations as to. 37 L.R.A. 610.

Purchaser's right to rely on sellor's estimate of. 17 L.R.A.(N.S.) 419.

Effect of misrepresentation as to quantity of goods by shipper on his right to recover for loss. 23 L.R.A.(N.S.) 745.

Limitation as to quantity of water power granted. 67 L.R.A. 395.

Duty of water company as to quantity of water furnished. 61 L.R.A. 87.

Effect of mistake of fact by defendant as to, on right to specific performance of contract induced by the mistake. L.R.A. (N.S.) 82.

Relief from purchase at auction on ground of mistake as to. 34 L.R.A.(N.S.) 928.

## QUANTUM MERUIT.

Recovery on, generally, see CONTRACTS, §§. 129, 137, 138.

Recovery on quantum meruit by party to ultra vires contract with corporation. L.R.A.1917A, 1028, 1036.

Right of broker securing purchaser for part of the property to recover on quantum meruit. 51 L.R.A. (N.S.) 258.

## QUARANTINE.

Duty and liability of carrier as to, see CAR- | See WHARVES. RIERS, § 44. Of human beings, see HEALTH, § 9.

Delegation by legislature of power as to quarantining cattle. 32 L.R.A.(N.S.) 651.

Validity and construction of statutory regulations as to quarantine of infected animals. 43 L.R.A.(N.S.) 1074.

## QUARRY.

§ 1. Generally.

, Persons operating, as independent contract-

ors. 65 L.R.A. 467, 488.
Right of municipal corporation to maintain. 31 L.R.A.(N.S.) 122; 51 L.R.A. (N.S.) 1145.

Power of municipality to prohibit the opening or working of. 2 L.R.A.(N.S.) 796. Liability of municipality for tort in connection with quarry worked by it. 38 L.R.A.(N.S.) 281.

§ 2. Injury to servant in.

Foreman supervising work in, as vice principal. 51 L.R.A. 533, 555.

Servants in, as fellow servants. 50 L.R.A. 437, 461.

Imputing to master coservant's negligence in respect to dangers in. 54 L.R.A. 138.

Servant's assumption of risk from changing condition of excavations in, during progress of work. 19 L.R.A. (N.S.) 356.

## QUASHING.

Of indictment, see Indictment, Informa-TION, AND COMPLAINT, § 29.

## QUASI PUBLIC CORPORATIONS.

Injunction against sale of property of. 30 L.R.A. 104.

Execution or judicial sale of franchise or property necessary for its enjoyment. 20 L.R.A. 737; 31 L.R.A. 637.

## QUASI PUBLIC PROPERTY.

Liability of, to local assessment. 35 L.R.A. 39; 44 L.R.A. (N.S.) 57.

## QUASI PUBLIC PURPOSE.

Right to transfer or mortgage privilege to use street for. 47 L.R.A. 87; L.R.A. 1917D, 707.

Consult also L.R.A. Digests of Cases

#### QUAY.

## QUESTION FOR COURT.

See TRIAL, III.

## QUESTION OF FACT.

See TRIAL, III.

#### QUIA TIMET.

Effect of remedy at law on jurisdiction by bill quia timet. 12 L.R.A.(N.S.) 53.

## QUIET ENJOYMENT.

Covenant for, see COVENANTS, § 12, 31-33.

#### QUIETING TITLE.

See CLOUD ON TITLE.

## QUITCLAIM DEED.

§ 1. Generally.

Right of grantee in possession under, to question grantor's right to purchase money. 21 L.R.A.(N.S.) 385.

§ 2. Rights of purchaser by.

Right of holder of quitelaim to protection against latent equities. 29 L.R.A. 33. Right of purchasers by quitclaim to in-junction against collection of purchase money, where title to land is defective. 7 L.R.A.(N.S.) 458.

Right to question the validity of a mortgage on land purchased. L.R.A.1917C, 839.

Precedence as between quitclaim deed and senior unrecorded deed. 12 L.R.A. (N.S.) 240; 26 L.R.A.(N.S.) 159.

§ 3. Effect of.

Effect of, in otherwise perfect record title, see RECORDS AND RECORDING LAWS, § 15.

§ 4.— on after-acquired title.

General rule. 35 L.R.A. (N.S.) 1182. Designation of particular interest or estate. 35 L.R.A.(N.S.) 1184.

Covenants in quitclaim. 35 L.R.A.(N.S.) 1185.

Completion or confirmation of interest passing under quitclaim. 35 L.R.A. (N.S.) 1188. QUITCLAIM DEED-cont'd Effect of statutes. 35 L.R.A. (N.S.) 1192. Character of deed as a quitclaim. 35 L.R.A. (N.S.) 1193.

§ 5. Adverse possession under. Possession under quitclaim deed by one of several tenants as adverse to cotenant. 32 L.R.A.(N.S.) 708.

As color of title for adverse possession. 4 L.R.A.(N.S.) 776.

## QUORUM.

Presumption and burden of proof as to, see EVIDENCE, § 58.
At stockholders' meeting, see Corporations,

§ 126. In general, see Parliamentary Law, § 3.

## QUOTATIONS.

Communication naming price as a quotation, or an offer to sell. 3 B. R. C. 229. Mandamus to compel delivery of market quotations to bucket shop. 3 L.R.A.

(N.S.) 153.
Property right in market quotations.
L.R.A.(N.S.) 889.

In newspaper as evidence of value. L.R.A.(N.S.) 758.

## QUOTED PRICE.

Effect of retention of goods after notice of Right to jury in quo warranto proceedings. mistake in. 15 L.R.A.(N.S.) 368.

8 6. Right to jury in.
Right to jury in quo warranto proceedings.
24 L.R.A. 806; 24 L.R.A.(N.S.) 639.

## QUO WARRANTO.

1. Generally.

Right to remove to a Federal court a quo warranto proceeding against a foreign corporation. L.R.A.1918D, 857.

§ 2. Jurisdiction.

Original jurisdiction of court of last resort, see Courts, § 30.

3. When proper remedy.

To inquire into validity of drainage assessment. 60 L.R.A. 243.

Right to maintain quo warranto proceedings for vindication of private rights. 22 L.R.A.(N.S.) 810.

Provision for testing election of city officer before city council or other municipal body as exclusive of quo warrante. 26 L.R.A.(N.S.) 208.

Quo warranto to test validity of liquor license. 24 L.R.A. (N.S.) 555.

4. - corporate matters.

Quo warranto, or information in nature of quo warranto, to test title to office in private corporation. 51 L.R.A. (N.S.) 1126.

To oust foreign association from exercise of corporate function. 24 L.R.A. 295. Against corporations for making illegal charges in the course of authorized business. 63 L.R.A. 761.

§ 5. Who entitled to maintain.

Who may maintain quo warranto to test validity of organization of municipal corporation or political subdivision of state. 21 L.R.A.(N.S.) 685.

As matter of right by attorney general or district attorney. 1 L.R.A.(N.S.) 826. Scope of discretion of public prosecutor with respect to institution of proceedings in nature of quo warranto. 15 L.R.A.(N.S.) 603.

## R

## RACCOON.

Liability for injury by. 52 L.R.A. (N.S.) 379.

#### RACE.

§ 1. Division of mankind.
Civil rights of different races, see CIVIL RIGHTS.

See also Indians; Negroes; Race Segre-GATION.

Begin with this book on every law question.

RACE—cont'd Validity and enforceability of contract or covenant in relation to real property which discriminates against persons because of race. L.R.A.1916B, 1208.

Of delinquent fellow servant as tending to show negligence of master. 48 L.R.A. 379.

§ 2. Contest or game. Horse race, see Horse RACE.

Illegal intent of prosecutor as affecting guilt of obtaining property by fake race. 17 L.R.A.(N.S.) 276.

RACE-cont'd

Lareny by fraudulent race or game. 1 L.R.A.(N.S.) 862; 20 L.R.A.(N.S.) 1164; 42 L.R.A.(N.S.) 735.

Intention to participate in fraudulent race as affecting right of one who was him-

self defrauded. 5 L.R.A.(N.S.) 906.

Municipal liability for failure to prevent.

23 L.R.A.(N.S.) 641; 42 L.R.A.(N.S.)

§ 3. Mill race.

Passing of, by grant of water power. 67 L.R.A. 380.

Creation of easement to use of mill race by conveyance of mill. 26 L.R.A. (N.S.) 359; L.R.A.1915C, 352.

Duty to maintain bridge over race way intersecting highway. 31 L.R.A. (N.S.)

## RACE PREJUDICE.

Libel or slander where "sting" is due to race prejudice or antagonism. L.R.A. 1916E, 679.

#### RACE SEGREGATION.

Separation of white or colored passengers, see CARRIERS, § 43.

Validity of segregation statute or ordinance prohibiting persons of different race or color from living in same locality. 47 L.R.A.(N.S.) 1087; L.R.A.1915D, 684; L.R.A.1918C, 220.

#### RACE WAY.

See RACE, § 3.

#### RADIATORS.

As part of realty. 1 B. R. C. 972.

## RAFTS.

Right to use stream for rafting logs, see LOGS AND LOGGING, §§ 4-10.

## RAFTSMEN.

Right of third persons claiming under raftsmen to assert title as against owner. 25 L.R.A.(N.S.) 781. Consult also L.R.A. Digests of Cases.

#### RAGS.

Power to regulate traffic in. 24 L.R.A. (N.S.) 11**68.** 

#### RAILING.

At dangerous places in highway, see HIGH-WAYS, § 73.

## RAILROAD AID.

In general, see RAILROADS, § 26. Bonds for, see Bonds, § 20.
Grant of land for, see Public Lands, § 5.

## RAILROAD-AID GRANT.

See Public Lands, § 5.

## RAILROAD CARS.

See CARS.

#### RAILROAD COMMISSIONERS.

See Public Service Commission.

#### RAILROAD HAZARD.

What is within statutes abolishing fellow-servant rule. 18 L.R.A.(N.S.) 478; 22 L.R.A.(N.S.) 969; 47 L.R.A.(N.S.) 113.

## RAILROAD RELIEF ASSOCIATION.

See RELIEF ASSOCIATIONS.

## RAILROADS.

- I. In general, \$\$ 1, 2.
- II. Franchises and charter rights; powers generally; motive power, §§ 3-5.
- III. Lease; license; consolidation, \$\$ 6-11.
- IV. Property; right of way; liens; mortgages; taxes, §§ 12-22.
- V. Location; relocation, \$ 23.
- VI. Construction, maintenance, and equipment, \$\$ 24-42.
  - a. In general, §§ 24, 25.

  - b. Aid in construction, § 26.
    c. Depots and stations; bridges, \$\$ 27, 28.

RAILROADS, VI.-cont'd

d. Crossings; cattle guards, \$\$ **31-84**.

e. Sidings, spur tracks, and lateral roads, §§ 35, 36.

f. Fences; gates, §§ 37-41. g. Diversion or obstruction of water, \$ 42.

VII. Operation, \$\$ 43-87.

a. Duty and liability of railroad company, \$\$ 43-78.

1. In general, §§ 43-45. 2. Liability generally, \$\$

46-50. 3. Liability for injuries to children, § 51.

4. Injuries to persons on or near track, §§ 52-57.

5. Accidents at crossing, \$\$ 58-70.

(a) In general, §§ 58-65.

(b) Signals, \$\$ 66-69.

(c) Flagmen; safety gates, § 70.

6. Speed, \$\$ 71, 72. 7. Injuries to animals, §§

73-76. 8. Fires, §§ 77, 78. b. Contributory negligence, \$\$

1. In general, \$ 79.

79-86

2. Persons on or near track, \$ 80.

3. At crossing, \$\$ 81-84. 31. Injuries to minors, \$ 84a.

4. Injuries to animals, § 85.

5. As to fires, § 86.

c. Criminal liability of third obstructing persons for track, \$ 87.

## I. In general.

§ 1. Generally.

Electric railways, see Electric Railways. Elevated railroads, see ELEVATED RAIL-ROADS.

Interurban railroads, see Interurban Rail-ROADS.

Private railroads, see Private Railroads. Street railways, see STREET RAILWAYS. Terminal railways, see TERMINAL RAIL-WAYS.

As common carrier, see CARRIERS.

Compulsory connection with sidetracks, see CARRIERS, § 149.

Delegation of power as to, see Constitu-

TIONAL LAW, § 17. Constitutionality of statutes as to, see Cox-STITUTIONAL LAW, § 142.

Validity of contracts with railroad company, see Contracts, § 95.

Exercise of power of eminent domain by, see EMINENT DOMAIN.

Taking railroad property for other public purpose, see EMINENT DOMAIN, § 8. Begin with this book on every law question.

RAILROADS, I.-cont'd

Injunction against, see Injunction, §§ 66,

Laying out highway across, see HIGHWAYS. § 7.

Use and obstruction of highway by, see HIGHWAYS, IV. e.

Lighting of streets and bridges by railroad

company, see Highways, § 55.
Liability for injury by defective condition
of highway crossing, see Highways, § 88.

Municipal liability for injury by acts or omissions of railroad company, see HIGHWAYS, § 63.

Income of railroad company, see INCOME,

Mandamus against railroad company, see MANDAMUS, § 15.

Employees of, generally, see MASTER AND SERVANT.

Fellow servants of employees of, see Mas-TER AND SERVANT, III. d.

Unlawful combination of, see MONOPOLY AND COMBINATIONS, § 7.

Liability for nuisance, see Nuisances, § 19.

Railroad commission, see RAILBOAD COM-MISSION.

Receiver for, generally, see RECEIVERS.

Liability of receiver, see RECEIVERS, §§ 15-21.

Service of process on, see WRIT AND PROC-ESS, II. c.

Authority of officer or agent of railway company to contract for services of other persons. L.R.A.1918F, 60-65.

Right to place on private right of way. L.R.A.1918A, 263.

Temporary railroad as violation of covenant against offensive trade or business. 9 L.R.A. (N.S.) 1039.

Use for railroad purposes of squares, parks or commons as a diversion. 25 L.R.A. (N.S.) 980; 50 L.R.A.(N.S.) 465.

Right of railroad, constructively liable for tort, to contribution or indemnity from one actually responsible for its commission. 40 L.R.A. (N.S.) 1149.

Railroad policemen as public officers. L.R.A. (N.S.) 882.

Street or interurban railway as within statute abrogating fellow-servant rule. 17 L.R.A. (N.S.) 117.

Constitutionality of statute imposing penalty or added liability for failure to 42 L.R.A.(N.S.) 102; pay claim. 42 L.R.A.1917B, 929.

Requiring connection or joint use of properties of railroad companies as a taking for which compensation must be made. 50 L.R.A. (N.S.) 652; L.R.A. 1916E, 759; L.R.A.1917E, 1083.

49 L.R.A. (N.S.) 977. Full crew acts.

Existence of railroad right of way across land at time of conveyance as breach of covenants. 48 L.R.A.(N.S.) 619.

Right of owner or lessee of mineral in place to use surface for construction of railroads or tramways. 48 L.R.A. (N.S.) 886.

RAILROADS, I.—cont'd

2. Foreign companies.

Service of process on, see WRIT AND PROC-ESS, II. c. 2.

Right of foreign railroad companies in state. 24 L.R.A. 313.

Locality of jurisdiction of state court in counties in which foreign railroads extend. 70 L.R.A. 696.

II. Franchises and charter rights; powers generally; motive power.

## § 3. Generally.

Franchise for railroad in street, see High-WAYS, §§ 26-32.

Treatment of franchises in valuation of property of. 48 L.R.A.(N.S.) 1063.

Nature of railroad franchise. 66 L.R.A. 36. What is within charter power to build lateral railroad. 12 L.R.A.(N.S.) 326.

Privilege of using street as a contract within constitutional provision against impairing obligation of contracts. L.R.A. 143.

§ 4. Powers of, generally,

Right of railroad company to challenge powers or privileges of rival. L.R.A. 1916B, 1087.

Right of railroad company to guarantee the securities of another railroad company. L.R.A.1918D, 175.

Implied power of railroad to engage in or guarantee enterprise other than transportation of goods or passengers. 2 L.R.A.(N.S.) 887; 38 L.R.A.(N.S.) 830.

Right of railroad to contract for the use of its cars for advertising purposes. 24 L.R.A.(N.S.) 1010.

## § 5. Motive power.

What motive power may be used. 2 L.R.A. (N.S.) 138.

## III. Lease; license; consolidation.

## 6. Lease.

Lease of parallel or competing railroads. 45 L.R.A. 274.

Service of process on servant or agent of lessee. 4 L.R.A.(N.S.) 272.

7. — liability of parties to.

Liability of lessor of railroad for injuries caused by negligence of lessee. L.R.A. 737; L.R.A.1918E, 255.

Duty of lessee of railroad as to condition of track. 6 L.R.A.(N.S.) 787.

Liability of railroad lessee to its servant for condition of track. 6 L.R.A.(N.S.)

1917A, 589.

Consult also L.R.A. Digests of Cases.

RAILROADS, III.-cont'd

§ 8. Liability in case of license or common use of property.

Liability of railroad for injuries caused by negligence of another company using the road under a license or other contract. L.R.A.1918E, 255. Injuries to passengers. 44 L.R.A. 737; 36 L.R.A.(N.S.) 887; L.R.A.1918E, 257.

Liability of licensee to its servant for condition of track. 6 L.R.A. (N.S.) 787.

Duty of licensee as to railroad fences. L.R.A.1917A, 539.

Liability to servants where two or more railway companies use same tracks or station grounds. 46 L.R.A. 102. Liability of railroad company for negli-

gence of an employee while running on the road of another company, subject to the order of the latter's train despatcher. 22 L.R.A.(N.S.) 323.

Liability of railroad for fires set out by engines of other company permitted to use its road. 10 L.R.A.(N.S.) 1175; L.R.A.1918A, 940.

§ 9. Combinations; consolidation.

Authority of railroads to consolidate. 5 L.R.A. 726.\*

## 10. — restrictions on right,

Restrictions on consolidation of parallel or competing railroads. 45 L.R.A. 271.

§ 11. — liability in case of.

Liability of consolidated company for debts of its predecessor. 23 L.R.A. 231.

Liability of lessor of railroad for injuries by negligence of another company using road under ineffectual attempt to consolidate. 44 L.R.A. 753.

Liability of one railroad corporation possessing stock control of another for acts and contracts of the latter. 35 L.R.A.(N.S.) 770.

## IV. Property; right of way; liens; mortgages; taxes.

§ 12. Property generally.

Valuation of property of, see Public Serv-ICE CORPORATIONS, § 5.

Effect of language in deed indicating that land is to be used for railroad purposes. 19 L.R.A. 266; L.R.A.1918B, 700.

Appurtenances to railroads. 15 L.R.A. 658. Right of foreign corporations to own land in state. 24 L.R.A. 326.

Location of railroad property as affecting insurance thereon. 26 L.R.A. 242.

Right to dower in lands purchased by railroad company. 29 L.R.A.(N.S.) 726.

13. Nature of railroad property. Duty of lessee as to railroad fences. L.R.A. | Nature of railroad, whether real estate or personal property. 66 L.R.A. 33.

RAILROADS, IV .--eont'd

§ 14. Sale or transfer of property.

Validity of sale of real estate by railroad corporation. 25 L.R.A. 139.

Injunction against execution sale of property of. 30 L.R.A. 104.

Attachment or garnishment of foreign rail-road cars. 64 L.R.A. 501; L.R.A.1915D,

Preliminary injunction which would have effect of transferring possession of property from one to another of two companies contesting right to property. 39 L.R.A.(N.S.) 33.

§ 15. Right of way.

For siding or spur track, see infra, § 36. Taking lands of, under power of eminent domain, see EMINENT DOMAIN.

As additional burden upon easement, and injury to property abutting on highway, see EMINENT DOMAIN.

Adverse possession of right of way, see AD-

VERSE POSSESSION, § 11. Use and obstruction of highway by railroad, see Highways, §§ 26-32.

Rights and liabilities as against abutting owner where railroad constructed in highway, see HIGHWAYS, § 27.

Liability for improvement assessment, see Public Improvements, § 21.

Pass issued as part of consideration for right of way as within statute prohibiting free transportation of passengers or passenger discrimination in rates. L.R.A.1918B, 1117.

Partition of. 39 L.R.A. (N.S.) 538.

Adverse possession of. 2 L.R.A.(N.S.) 272. Condemnation or grant of land for right of way as carrying right to lateral and subjacent support. 32 L.R.A. (N.S.) 155.

Right of reversion on abandonment of road deeded to railroad company. 1 L.R.A. (N.S.) 806.

Acquisition of prescriptive right of way across. 35 L.R.A. (N.S.) 190; 48 L.R.A. (N.S.) 903.

Contract exempting railroad company from liability for burning building placed upon its right of way under lease or by permission of company. 44 L.R.A. (N.S.) 1127.

Liability of railroad company to one other than an employee, injured because of defects in track or roadbed, while walking along track. L.R.A.1916E, 461.

#### § 16. — how obtained.

Acquisition of right of way by exercise of eminent domain, see EMINENT Do-MAIN.

§ 17. — uses to which right of way may be devoted.

Telegraph right of way, see TELEGRAPHS, £ 2.

General principles. 36 L.R.A.(N.S.) 513. Particular uses. 36 L.R.A.(N.S.) 516.

RAILROADS, IV.—cont'd

English cases. 36 L.R.A.(N.S.) 521. Power to authorize construction of telegraph or telephone line along railroad right of way without compensation to railroad company. 29 L.R.A. (N.S.) 703. Right to carry wires across railroad. L.R.A.1915B, 823.

Measure of damages for right of way for telegraph or telephone line on railroad right of way. 26 L.R.A.(N.S.) 191; L.R.A.1916E, 582.

§ 18. — as encumbrance.

Effect of purchaser's knowledge of railroad right of way in action for breach of covenant against encumbrances. 4 L.R.A.(N.S.) 318.

Railroad right of way across land at time of conveyance as breach of covenant. 30 L.R.A.(N.S.) 843.

§ 19. Liens.

Food furnished contractor for employees and teams as material giving lien on railroad. 15 L.R.A. (N.S.) 509.

Vendor's lien for purchase price of rail-road rails. 66 L.R.A. 44.

Priority of claims against property of, in hands of receiver over recorded liens. 2 L.R.A.(N.S.) 1015.

20. Mortgage.

Effect of, on rails and other permanent fixtures annexed after execution. L.R.A. 44.

Jurisdiction to order foreclosure sale in different states. 32 L.R.A. 208; 69 L.R.A.

§ 21. Taxes.

Nature of property for purpose of. L.R.A. 298; 66 L.R.A. 51.

Franchise tax on, as interference with Federal agency. 57 L.R.A. 55.

Effect of commerce clause of Federal Constitution. 60 L.R.A. 687.

Taxation of receipts of railroad company. 57 L.R.A. 64.

Situs of railroad rolling stock for purposes of taxation, 69 L.R.A. 445.

Principal office of, as domicil for tax purposes. 69 L.R.A. 436.

§ 22. Assessments for local improvements.

See Public Improvements, § 21.

#### V. Location; relocation.

§ 23. Generally.

Validity of contract made to influence location of railroad. 21 L.R.A. (N.S.) 800. Validity of contract to pay an officer of a railroad company for his own benefit, conditioned on specified location of the road. 6 L.R.A. (N.S.) 524; 25 L.R.A. (N.S.) 967.

Right to relocate railroad. 36 L.R.A. 510.

Begin with this book on every law question.

## RAILROADS—cont'd

## VI. Construction, maintenance, and equipment.

## a. In general,

24. Generally.

Condition for construction within specified time, see Conditions, § 9.

Validity of contract which contemplates the turning over by a railroad company to a construction company of bonds and stocks of the former of a par value in excess of the cost of construction. 13 L.R.A.(N.S.) 191.

Prescriptive right to maintain. 53 L.R.A. 90Õ.

Specific performance of agreement for maintenance of railroad on land. 49 L.R.A.

Right of state to require railroad company to equip its road. 13 L.R.A.(N.S.) 320.

Compelling completion of road. 24 L.R.A. 566; L.R.A.1918E, 321.

Allowance of interest on damages to property from negligent construction of railroads. 18 L.R.A. 454.

Duty of railroad company in respect to a restored or substituted highway. L.R.A.1917C, 971.

§ 25. Injury to property; interference with rights of others.

Measure of damages for, see Damages, III.

q.
Right to compensation for, see EMINENT DOMAIN, §§ 49, 50.

Liability of successor of railroad company for damages to abutting property from construction of road in street. L.R.A. 1915D, 397.

Injuries to land from blasting in course of railway construction. 17 L.R.A. 221. Right of railroad company to cut off access

by owner of upland to navigable water. 40 L.R.A. 604.

Statutory authority to commit nuisance by construction or operation of. 70 L.R.A. 585.

Liability of railroad company in constructing its roadway, for removal of lateral support to adjoining property. 21 L.R.A.(N.S.) 318; L.R.A.1918D, 714. Right to cut wires crossing tracks. 35

L.R.A. (N.S.) 1212.

#### b. Aid in construction.

§ 26. Generally, Railroad aid bonds, see Bonds, § 20. Grant of public land to, see Public Lands, § 5.

Aid with public money. 14 L.R.A. 479. Power of municipality to assume part or all of burden of adapting street or bridges for use of railroads. 50 L.R.A. (N.S.) 143.

Statutes legalizing invalid subscriptions to. 27 L.R.A. 696.

Consult also L.R.A. Digests of Cases.

RAILROADS, VI. b-cont'd

Delegation of municipal power as to rail-road grants. 20 L.R.A. 726.

Power of legislature to authorize counties or other political divisions to build, purchase, or operate railroad or street railway, as affected by restrictions on power to aid private enterprises. 28 L.R.A.(N.S.) 412.
Construction of grants to railroad com-

panies as to percolating water. L.R.A. 99.

Combining in single question to voters of municipality the object of granting aid to railroads. 26 L.R.A.(N.S.) 669.

## c. Depots and stations; bridges.

27. Depots and stations.

Duty of carrier toward passenger in relation to station, see CARRIERS, §§ 45, 46, 48, 70, 71, 94.

Governmental regulations as to stations, see CARRIERS, §§ 161, 162.

Specific performance of contract as to, see SPECIFIC PERFORMANCE, § 10.

Duty of railroad company to one who goes upon station premises to transact business with third person. L.R.A.1916A,

Duty of railroad company to one who goes on station grounds for purpose of mailing letters on mail train. 24 L.R.A. (N.S.) 585.

Validity of contract by railroad company to establish and maintain station. 15

L.R.A. (N.S.) 594.

Validity of contract to pay an officer of a railroad company for his own benefit conditioned on specified location of depot. 6 L.R.A.(N.S.) 524; 25 L.R.A. (N.S.) 967.

Specific performance of contract to establish or maintain station. 16 L.R.A. (N.S.) 307.

28. Bridges.

Duty to construct bridges at its own expense over public drainage ditches. 3 L.R.A. (N.S.) 1118; L.R.A. 1915B, 486.

Obstruction of waters of stream by railroad. bridge. 59 L.R.A. 863,

Power of municipality to assume part or all of burden of adapting bridges for use of railroads. 50 L.R.A.(N.S.) 143.

## d. Crossings; cattle guards.

§ 29. Crossing by other railroad or street railroad.

Right to carry wires across railroad. L.R.A.1915B, 823.

Delegation by legislature to railroad commission of power as to track connections and crossings. 32 L.R.A.(N.S.) 654.

Right of railroad company to compensation for laying street railway across its track on a street crossing. 29 L.R.A. 485.

RAILROADS, VI. d—cont'd Right of railroad company to compensation for the crossing of its track where it

intersects a street or highway by an electric road. 13 L.R.A.(N.S.) 916; L.R.A.1915D, 843.

## 30. Private crossings.

Parol agreement to construct private way across railroad. 17 L.R.A.(N.S.) 702; 24 L.R.A.(N.S.) 375.

General nature of duty owed by railroad company to one permitted by it to use private crossing constructed by it. 7 L.R.A. (N.S.) 597.

Lands for benefit of which statute requires construction of private crossing. L.R.A.1917D, 909.

#### § 31. Highway crossings.

Accidents at, see infra, §§ 58-70.

Contributory negligence at crossing, see infra, §§ 81-84.

Requirements at crossings, see Highways, §§ 30, 31.

Power of municipality to change grade of railroad, see HIGHWAYS, § 31.

Obstruction of crossings by trains, see Highways, § 32.

Liability for dangerous or defective condition of crossing, see Highways, § 88.

Power to lay out streets or highways across railway property or right of way. 24 L.R.A. (N.S.) 1213.

Power to compel railroad to establish or maintain at its own expense an overhead or underground highway crossing. 28 L.R.A. (N.S.) 298; L.R.A.1915E, 751.

Power to require railroad to construct sidewalk across its tracks or right of way. L.R.A.1918D, 1157.

Duty of railroad to conform crossing to change of grade of street. L.R.A. 1915B, 766.

Liability of railroad company to abutting owner for damages from change of grade of highway necessary to carry it across tracks. 26 L.R.A.(N.S.) 226; L.R.A.1916D, 1078.

Necessity of making compensation, and measure thereof, upon laying of street across railway property. 24 L.R.A. (N.S.) 1226.

Compensation for construction and maintenance of crossing and safeguards as element of damages for laying out street across railway property. 24 L.R.A. (N.S.) 1232.

## § 32. — abolishing grade crossing.

Liability for cost of changing grade of street to prevent the crossing of a railroad at grade. 26 L.R.A. 92. Power to compel railroad to establish or

ower to compel railroad to establish or maintain at its own expense overhead or underground crossing, as affected by the fact that the street or highway is opened subsequently to construction of the railroad. 28 L.R.A.(N.S.) 298.

RAILROADS, VI. d—cont'd § 33. — safety gates and flagmen. Duty and liability as to, see infra, § 70.

Power of municipality to require safety gates at crossing. 3 L.R.A. (N.S.) 141; 45 L.R.A. (N.S.) 946.

Delegation of power to make regulations as to safety gates and flagman. 32 L.R.A. (N.S.) 646.

Compensation for maintaining flagmen. as element of damages for laying out street across railway property. 24 L.R.A.(N.S.) 1235.

#### 34. Cattle guards.

Duty of railroad company to keep cattle guards in condition. 36 L.R.A. (N.S.) 997; L.R.A.1915B, 134.

Constitutionality of statute requiring railroad company to build. 31 L.R.A. (N.S.) 861.

Constitutionality of statutes excluding defense of contributory negligence and assumption of risk on failure to build. 31 L.R.A.(N.S.) 867.

Effect of contributory negligence of owner of stock getting on track through defects in. 36 L.R.A.(N.S.) 100.

Compensation for making, as element of damages for laying out street across railway property. 24 L.R.A.(N.S.) 1234.

Private action for violation of statute as to building and maintenance of cattle guards. L.R.A.1915E, 539.

Liability for damage by trespassing cattle which enter upon railroad property because of absence of, or defective condition of cattle-guards, and thence wander to adjoining property. 43 L.R.A. (N.S.) 447; L.R.A.1916E, 448.

# e. Sidings, spur tracks, and lateral roads.

§ 35. Generally.

Power to compel road to build or maintain or connect with sidetracks for accommadation of shippers. 28 L.R.A. (N.S.) 1013; L.R.A.1915E, 682; L.R.A.1918B, 795.

Power of municipality to compel removal of spur track, turnout, or switch from street or highway. L.R.A.1918B, 481.

Presumption of statutory authority of railroad to commit nuisance by maintaining. 70 L.R.A. 589.

Validity, as affected by public policy, of contract to maintain private sidings. 17 L.R.A.(N.S.) 130.

What is within charter power to build lateral railroad. 12 L.R.A.(N.S.) 326.

Liability of railroad to servants of persons upon whose premises it operates a spur track. 46 L.R.A. 100.

## § 36. Right of way for.

Condemnation of land for, see EMINETT Do-MAIN, § 22.

Begin with this book on every law question.

RAILORADS, VI. e-cont'd

Right of railroad company to condemn right of way over or across tracks of another company for a spur track to private establishments. 5 L.R.A. (N.S.) 512.

## f. Fences; gates.

§ 87. Fences.

Injury to animals due to lack of or defects in, see infra, § 75.

Effect of lease or other contract on failure of duty to fence. 44 L.R.A. 755.

Duty of lessee or licensee as to railroad fences. L.R.A.1917A, 539.

Measure of care of railroad company to maintain fence once constructed. 11 L.R.A. (N.S.) 228.

Private action for violation of statutory duty to fence right of way. 9 L.R.A. (N.S.) 347.

Private action for violation of statutory duty to fence right of way. (N.S.) 347; L.R.A.1915E, 539.

Liability for damage by trespassing cattle which enter upon railroad right of way and thence wander to adjoining property. 43 L.R.A. (N.S.) 447; L.R.A. 1916E, 448.

## § 38. - constitutionality of statute requiring fence.

Duty implied, though not expressly imposed. 31 L.R.A.(N.S.) 802.

Constitutionality of penalties. 31 L.R.A. (N.S.) 863.

Impairing obligation of contract. 31 L.R.A. (N.S.) 866.

Necessity of uniformity of requirements as to fencing. 31 L.R.A.(N.S.) 867.

Delegability of power to compel railroads

to fence. 31 L.R.A.(N.S.) 867.

Excluding defense of contributory negligence and assumption of risk. 31 L.R.A. (N.S.) 867.

Constitutionality of statutes relating to fixing value of stock killed on unfenced road. 31 L.R.A.(N.S.) 867.

Constitutionality of statute making failure to fence evidence of negligence. 31 L.R.A.(N.S.) 867.

§ 39. — toward whom duty owed. Duty of railroad company to fence tracks against persons. 30 L.R.A.(N.S.) 1197. Duty to fence against children. 25 L.R.A. 784; 16 L.R.A. (N.S.) 1103.

Obligation of railroad company to employees as to fencing track. 25 L.R.A. 320; L.R.A.1916E, 207.

40. — at what place.

What are depot grounds within the meaning of fence laws. 7 L.R.A. (N.S.)

Duty of railroad company to fence right of way within limits of city, town, or village. 27 L.R.A.(N.S.) 796.

Duty of railroad to fence as requiring barrier across culvert or under bridge. 5 B. R. C. 182.

Consult also L.R.A. Digests of Cases. 72

RAILROADS, VI. f-cont'd

§ 41. Gates.

Safety gates at crossing, see supra, § 33.

Duty to keep gates in railroad fence closed. 49 L.R.A. 625.

## g. Diversion or obstruction of water.

42. Generally.

Obstruction of waters of stream by railroad bridge. 59 L.R.A. 863.

Railroad causing overflow or accumulation, as a nuisance. 32 L.R.A.(N.S.) 376.

Presumption as to statutory authority to commit nuisance by obstruction of water by railroads. 70 L.R.A. 586.

Liability for injury by damming back water of stream. 59 L.R.A. 853.

Right of railroad to divert water from nontidal stream without compensation to riparian owner. 37 L.R.A.(N.S.) 311.

Liability of railroad for conducting surface water through its embankments and onto the property of an adjoining owner. 12 L.R.A.(N.S.) 680.

Necessity of notice to purchasing railroad company to construct culverts where road was originally constructed without them. 12 L.R.A.(N.S.) 571.

Private action for violation of statute reguiring construction of culverts. L.R.A.1915E, 539.

Duty as to protection of banks of changed water course. L.R.A.1916F, 1302.

Duty of owner or tenant to protect crops

from backwater caused by obstruction of water by railroad company. L.R.A.(N.S.) 760.

## VII. Operation.

## a. Duty and liability of railroad company.

#### In general,

43. Generally.

Power of employee to employ physician for injured person, see MASTER AND SERV-ANT, §§ 18, 18a.

Injury to employees, see MASTER AND SERV-ANT, III.

Question for jury as to negligence of railroad company, see TRIAL, § 43.

Right to enforce by mandamus duty of railroad company arising wholly from contract. 13 L.R.A.(N.S.) 1084. Right as riparian owner to take water from

stream for its engines. 31 L.R.A. (N.S.) 543.

## # 44. Abandonment: compelling operation.

Right of railroad to abandon operation of its road. L.R.A.1915A, 549.

Compelling operation of; compelling increased facilities; compelling completion of road. 24 L.R.A. 564.

Consideration of entire return of railroad company in passing upon its duty to operate a branch line at a loss. L.R.A. 1917F, 1193.

RAILROADS, VII. a, 1-cont'd § 45. Lighting tracks.

Compelling roads to light their tracks in city. 41 L.R.A. 422.

Power to compel railroad companies to light their tracks in cities. 19 L.R.A. (N.S.)

## 2. Liability, generally.

§ 46. Generally.

In case of consolidation, see supra, § 11. Liability for injury by frightening horse, see

Horses, § 10.

Liability for injuries to employees, see
MASTER AND SERVANT, III.

Liability for acts of servant, see MASTER AND SERVANT, IV.

Liability for injury to servants of third persons, see MASTER AND SERVANT, §§ 200-202.
As to "last clear chance," see Negligence,

§§ 50-52.

Proximate cause of injury, see PROXIMATE CAUSE, §§ 11, 12.

For general questions of negligence and contributory negligence, see NEGLIGENCE.

Liability of proprietor of logging railroad, or other railroad used for private purpose, for injuries sustained by one other than an employee, while being carried thereon. 12 L.R.A.(N.S.) 131; 22 L.R.A.(N.S.) 190.

Duty to protect one other than employee from injury by movement of cars or trains while loading or unloading freight or express. 31 L.R.A.(N.S.) 960; L.R.A.1915F, 866.

Liability of railroad company for injury to persons other than employees caused by defectively loaded cars. 26 L.R.A. (N.S.) 204.

Duty of railroad company to one who goes upon station premises to transact business with third person. L.R.A.1916A,

Liability for injury to person in building upon right of way. 50 L.R.A.(N.S.) 1191.

Liability for creating nuisance. 70 L.R.A. 579; 1 L.R.A. (N.S.) 62; 32 L.R.A. (N.S.) 371.

Duty of railroad company to avoid interference with extinguishment of fires. 12 L.R.A.(N.S.) 382; 20 L.R.A.(N.S.) 1110; 39 L.R.A.(N.S.) 20.

Sufficiency of general allegations of negligence of. 59 L.R.A. 222.

Evidence of prior accidents. (N.S.) 1102. 32 L.R.A.

Evidence as to conditions before and after accident. 32 L.R.A.(N.S.) 1085. Admissibility of declarations of agents of,

as res gestæ. 19 L.R.A. 745.

Violation by servant of rule adopted by railway company for protection of the public, as evidence of negligence toward a member of the public. 1063; L.R.A.1917C, 793. 8 L.R.A. (N.S.)

Train despatcher's record as evidence. L.R.A. (N.S.) 1190.

RAILROADS, VII. a, 2-cont'd

Right of court to decide question as to quickest means of stopping train, as a matter of common knowledge. 14 L.R.A. (N.S.) 262.

## § 47. Criminal liability.

Of one obstructing track, see infra. § 87.

Criminal responsibility of railroad company. 2 B. R. C. 253.

Criminal homicide in operation of railroad. 61 L.R.A. 281; L.R.A. 1917C, 536.

## § 48. Liability for injuries due to acts of third persons.

Liability in case of lease, see supra, § 7.

In case of license or common use of property, see supra, § 8.

Liability for acts of employees, see MASTER AND SERVANT, IV.

For accident caused by wrongful act of stranger. 22 L.R.A. 306.

Liability of railroad company for fire started by persons allowed to be on the right of way. 12 L.R.A.(N.S.) 472.

Proximate cause of injury by car or engine set in motion by third person. L.R.A.(N.S.) 719.

Act of third person as excuse to railroad for blocking street crossing. 23 L.R.A. (N.S.) 350.

Liability of railroad company for injury resulting from act of shipper of consignee in setting car in motion. 51 L.R.A. (N.S.) 888.

## § 49. — independent contractors.

For act of independent contractor. 9 L.R.A. 604;\* 14 L.R.A. 828.

Liability of railway companies in respect to operation of plant negligently constructed by independent contractor. 66 L.R.A. 140.

Employer's nonliability for acts of independent contractor in work on. L.R.A. 643, 646.

Right of railroad company to delegate to independent contractor the maintenance of gates or of flagman at a street crossing. 13 L.R.A.(N.S.) 1177.

## § 50. Duty and liability imposed by statute or ordinance.

Stepping on track in front of approaching train running in excess of speed prescribed by ordinance. 3 L.R.A. (N.S.) 196.

Private action for violation of statute imposing duties on railroads. 9 L.R.A. (N.S.) 347; L.R.A.1915E, 533.

Violating ordinance as to operation, as ground for private action. 5 L.R.A. (N.S.) 188.

Requisites of averments in complaint as to causal connection between violation of law or ordinance by a railroad company and injury. 8 L.R.A.(N.S.) 987. Begin with this book on every law question.

## RAILROADS, VII. a-cont'd

## 3. Liability for injuries to children.

#### 51. Generally.

Liability for injury to children on cars, see CARRIERS, § 55.

Care required of railroad companies to prevent injuring small children upon the track. 25 L.R.A. 784.

Lookout for children. 25 L.R.A.(N.S.) 786; 32 L.R.A.(N.S.) 566.

Right of persons in charge of train to presume that child will get out of danger. 6 L.R.A.(N.S.) 283.

Duty to keep lookout for infant trespassers on track. 8 L.R.A.(N.S.) 1079.

Negligent operation of train at crossing as ground of liability for killing or injuring child incapable of contributory negligence, who was aware of train's approach. 34 L.R.A.(N.S.) 645.

Duty of railroad company to fence tracks against children. 16 L.R.A.(N.S.) against children. 1103.

Liability of railroad operating trains longitudinally along public street for injury to children. 49 L.R.A. (N.S.) 671. Liability of railroad company for injury to, by car running wild. L.R.A.1915A,

Liability for injuries on turntable. 14 L.R.A. 781; 4 L.R.A.(N.S.) 80; 16 L.R.A.(N.S.) 1129.

Doctrine of "attractive nuisance" as applied to injury from cars. 19 L.R.A. (N.S.)

Doctrine of "attractive nuisance" as applied to railroad tracks and structures. ,19 L.R.A.(N.S.) 1150.

Wreck as attractive nuisance. L.R.A.1917F, 1031.

## 4. Injuries to persons on or near track.

## § 52. Generally.

Injuries due to excessive speed, see infra, §§ 71, 72.

Contributory negligence, see infra, § 80.

Liability for injuries caused by negligence of another company using the road under a lease, license, or other contract. L.R.A.1918E, 261.

Implied license to go upon railroad track. 13 L.R.A. 634.

Right of railroad to keep trespassers from track or right of way. 66 L.R.A. 587.

Posting signs warning trespassers as affecting liability of railroad company for injury to persons walking on track. 47 L.R.A.(N.S.) 506.

Violation of rule adopted by railway company as evidence of negligence in case of injury to trespasser or licensee. L.R.A.1917C, 803.

Liability for personal injuries from negli-gent operation of trains to person on adjoining property or highway. 31 L.R.A.(N.S.) 980.

Consult also L.R.A. Digests of Cases.

RAILROADS, VII. a, 4-cont'd

Duty as to equipping car or train so as to avoid or minimize injury to persons on or near tracks. L.Ř.A. 1915A, 742.

Liability of railroad company for injury to trespasser or licensee by car running wild. L.R.A.1915A, 143.

Negligence of railroad company in respect to flying switches or detached cars moving by their own momentum. L.R.A.1916C, 1033.

Liability of railroad company for personal injuries by objects thrown from moving train. 6 L.R.A.(N.S.) 581; L.R.A. 1917B, 916.

Duty and liability of railroad company toward one who goes upon its property to pass around a train blocking the crossing. 5 L.R.A.(N.S.) 775.

Liability for injury to person near track in consequence of suction from passing

train. L.R.A.1917B, 1163.
Liability of railroad for injuries to one not an employee, by closing gap between standing cars at point other than a highway crossing. 19 L.R.A.(N.S.)

Duty to moderate speed of train when trespassers are to be anticipated. 11 L.R.A.(N.S.) 352.

Ordinance affecting operation of railroads as intended for benefit of trespassers. 5 L.R.A.(N.S.) 208.

Right of action against railroad company for mutilation of the body of person killed on track. 16 L.R.A. (N.S.) 405.

Liability of electric railway for injury to trespasser or licensee from exposed third rail. 28 L.R.A.(N.S.) 98.

Application of doctrine of last clear chance in case of trespassers or others injured upon railroad track. 55 L.R.A. 418. [See also notes cited under Negligence, §§ 50, 51.]

Intoxication of persons on railroad track as affecting applicability of last clear chance. 31 L.R.A.(N.S.) 1031.

Sufficiency of general allegations of negligence. 59 L.R.A. 223.

Necessity and sufficiency of allegation or proof as to time of injury. L.R.A. 1915A, 781.

## § 52a. Railroad operated longitudinally along street.

Duty and liability of railroad company operating trains or cars longitudinally along public street. 49 L.R.A.(N.S.) 660.

## § 53. Undiscovered persons.

Duty to discover, see infra, § 56.

Doctrine of last clear chance, in case of. 55 L.R.A. 424; 36 L.R.A. (N.S.) 957.

May wantonness or wilfullness, precluding defense of contributory negligence, be predicated of omission of a duty before discovery of a person in peril on a rail-road track, 21 L.R.A. (N.S.) 427.

RAILROADS, VII. a, 4—cont'd § 54. Negligence after discovery. Negligence after discovery of small children on track. 25 L.R.A. 787.

Last moment to which presumption that person on track will seek place of safety may be indulged. 69 L.R.A. 554.

## § 55. Helpless persons. Children, see supra, § 51.

Duty to avoid injury to persons in helpless position on track. 25 L.R.A., 790; 69 L.R.A. 513.

Duty to discover disability of person on track. 69 L.R.A. 539.

Duty of trainmen, upon perceiving object the character of which is unknown, but which in fact is a trespasser helpless on track. 2 L.R.A.(N.S.) 498.

## § 56. Keeping lookout. At crossing, see infra, § 65. For animals, see infra, § 74. Lookout on street car, see STREET RAIL-

WAYS, § 14.

On locomotive or train. 25 L.R.A. 287.

Duty to keep lookout for trackmen. L.R.A.

1916F, 564.
To what places and operations does statute or ordinance requiring lookout on

or ordinance requiring lookout on trains apply. 51 L.R.A. (N.S.) 618. Duty to discover peril or disability of person on railroad track. 69 L.R.A. 539.

Duty of railroad company to keep lookout for trespassers on track. 8 L.R.A. (N.S.) 1069; 25 L.R.A. 289; 41 L.R.A. (N.S.) 264.

Duty to keep lookout for children on track. 8 L.R.A. (N.S.) 1079; 25 L.R.A. 786; 32 L.R.A. (N.S.) 566; 41 L.R.A. (N.S.) 274.

Duty as to lookout of railroad operating trains or cars longitudinally along public street. 49 L.R.A. (N.S.) 676.

Duty of railroad to remove obstructions on right of way interfering with lookout from train. L.R.A.1916F, 130.

Duty of employees in charge of engine to keep a lookout, as affected by other duties. 21 L.R.A.(N.S.) 723.

Intoxication of persons on railroad track as affecting applicability of doctrine of last clear chance. 31 L.R.A.(N.S.) 1033.

## § 57. Signals. At crossings, see infra, §§ 66-69.

Admissibility of negative inferences as to. L.R.A.1918A, 744.

Failure to give signal to children on track. 25 L.R.A. 788.

Duty of railroad company to warn track employees of approach of train or car. L.R.A.1916F, 555.

Duty of railroad company operating trains or cars longitudinally along public street as to signals. 49 L.R.A. (N.S.) 672.

RAILROADS, VII. a-cont'd

## 5. Accidents at crossing.

## (a) In general.

§ 58. Generally.

Speed at, see infra, §§ 71, 72.

Contributory negligence, see infra, §§ 81-84.

Liability for injuries caused by negligence of another company using the road under a lease, license, or other contract. L.R.A.1918E, 260.

Violation by servant of rule adopted by railway company as evidence of negligence toward one other than servant. L.R.A.

1917C, 801.

Negligence of railroad company in respect to flying switches or detached cars moving by their own momentum. 18 L.R.A. 63; L.R.A.1916C, 1034. Liability of railroad for personal injuries

Liability of railroad for personal injuries to persons on highway from negligent operation of train. 31 L.R.A.(N.S.) 980.

Liability for killing or injuring one who went on railroad crossing without knowledge of its existence. 28 L.R.A. (N.S.) 382.

Liability for injury to bicyclist crossing 43 L.R.A. 301; 42 L.R.A. (N.S.) 158. Private action for violation of crossing reg-

Private action for violation of crossing regulations. 9 L.R.A. (N.S.) 373; L.R.A. 1915E, 535.

Application of doctrine of last clear chance. 55 L.R.A. 418.

Sufficiency of general allegations of negligence. 59 L.R.A. 224.

Duty and liability of railroad company as to crossing which appears to be part of a public street or highway. 51 L.R.A.(N.S.) 1215.

Liability where person or vehicle runs into side of train at crossing. L.R.A.1915-A, 363.

Liability in case of collision of road vehicle with car standing on crossing. L.R.A. 1918E, 792.

## § 59. Private crossing.

General nature of the duty owed by a railroad company to one who, with its permission, uses a private crossing constructed by it. 7 L.R.A.(N.S.) 597.

## § 60. Defects in crossing.

Injuries otherwise than by train, see High-. ways, § 88.

Defective condition of railroad crossing as affecting traveler's right to recover for injuries sustained in collision with train. 14 L.R.A.(N.S.) 312; 20 L.R.A. (N.S.) 426.

Private action for violation of statute as to blocking frogs, switches and crossings. L.R.A.1915E, 537.

Defects in roadbed of company operating

Defects in roadbed of company operating train or cars longitudinally along public street. 49 L.R.A. (N.S.) 678.

Begin with this book on every law question.

RAILROADS, VII. a, 5, (a)—cont'd **§ 61.** Obstruction of traveler's view at crossing.

Duty of railroad employees on approaching crossing as affected by obstruction of traveler's view of track. 22 L.R.A.(N.S.) 232.

Negligence of railroad company in permitting obstructions on its right of way which obscure view of track from highway crossing. 12 L.R.A.(N.S.) 1067.

62. Obstructing crossing.

Contributory negligence, see infra, § 82. Obstruction of crossings by trains generally, see Highways, § 32.

Violation of statute or ordinance in relation to blocking railroad crossing as affecting liability for injury. 47
L.R.A.(N.S.) 820.

Duty toward person attempting to cross

train obstructing highway. 13 L.R.A.

(N.S.) 1074.

Duty and liability towards person going on its property to pass around a train

blocking crossing. 5 L.R.A.(N.S.) 775. Liability of railroad company for act of employee in inviting pedestrian to cross train obstructing highway. 13 L.R.A.(N.S.) 1071; 34 L.R.A.(N.S.) 469; L.R.A.1917E, 823.

§§ 68, 64. Undiscovered persons. Doctrine of last clear chance in case of. 55

L.R.A. 424; 36 L.R.A.(N.S.) 957. May wantonness or wilfulness, precluding defense of contributory negligence be predicated of omission of duty before discovery of person in position of peril at crossing. 21 L.R.A. (N.S.) 432, 440.

§ 65. Lookout.

For persons on track, see supra, § 56. For animals, see infra, § 74.

To what places and operations does statute or ordinance requiring lookout on trains apply. 51 L.R.A.(N.S.) 618.

Liability for failure to maintain lookout at

crossings. 25 L.R.A. 287.
Application of last clear chance in case of omission of duty to keep a lookout. 55 L.R.A. 418.

#### (b) Signals.

§ 66. Generally.

At places other than crossings, see supra, § 57.

Fright of horse by, see Horses, § 10.

Admissibility of negative inferences as to. L.R.A.1918A, 744.

Liability for failure to give statutory sig-nals when they would not have pre-vented the injury. 21 L.R.A. 723.

Violation of rule as to giving of signals as evidence of negligence towards member of public. 8 L.R.A. (N.S.) 1063; L.R.A. 1917C, 801.

Private action for violation of ordinances requiring warning signals. 5 L.R.A. Liability of railroad company for frightening horse on highway by flagmen. (N.S.) 240.

Consult also L.R.A. Digests of Cases.

RAILROADS, VII. a, 5, (b)—cont'd

Private action for violation of statutory duty to signal approach of crossings. 9 L.R.A.(N.S.) 365; L.R.A.1915E, 533.

Power of municipal corporations to regulate signals from trains at crossings. 17 L.R.A.(N.S.) 561.

Failure to give crossing signals as proximate cause of injury by running into side of train. 38 L.R.A. (N.S.) 1153.

Duty of one crossing railroad track as affected by flagman's signaling to proceed. 15 L.R.A.(N.S.) 803.

Failure to give customary signals as excusing nonperformance of duty to look and

listen. 3 L.R.A.(N.S.) 391.
Statements by engineer as to failure to whistle made sometime after accident as res gestæ. 42 L.R.A.(N.S.) 931.

Right of traveler to rely on automatic signals at crossing. L.R.A.1916D, 788.

\$ 67. Statutory signals as measure of

Neglect to give signals. 15 L.R.A. 427. Neglect to exercise due care. 15 L.R.A. 428. Instances. 15 L.R.A. 428.

Apparent exceptions to the first rule. 15 L.R.A. 428.

Province of jury. 15 L.R.A. 429.

68. Toward whom duty owed.

For whose benefit signals by approaching trains are required by statute at railway crossings. 17 L.R.A. 254.

Duty to give crossing signals for the benefit of persons near a crossing. but who are not about to use the same. 14 L.R.A.(N.S.) 998; 31 L.R.A.(N.S.) 667; L.R.A.1915D, 962

Right of employee to rely on statute requiring signal to be given by train approaching crossing. 40 L.R.A.(N.S.) Ì105.

Failure to give signal as affecting liability for injury to small children on track. 25 L.R.A. 788.

Duty to give crossing signals for protection of animals. 46 L.R.A. (N.S.) 881.

69. At what crossings.

At what railway crossing signals of trains are required. 16 L.R.A. 119.

Duty as to signals by locomotive approaching overhead crossings. 1 L.R.A. (N.S.) 307; 22 L.R.A.(N.S.) 915.

Duty of railroad to give crossing signals at place not technically a highway crossing, but used as such. 49 L.R.A.(N.S.) 814.

#### (c) Flagmen; safety gates.

§ 70. Generally.

In general, see supra, § 33.

Violation of rule as to flagmen as evidence of negligence toward one other than servant. L.R.A.1917C, 802.

RAILROADS, VII. a, 5, (c)—cont'd Duty as to operation of safety gates at railroad crossing. 33 L.R.A.(N.S.) 988.

Delegation by legislature of power to require flagmen and gates at railroad

crossings. 32 L.R.A.(N.S.) 646. Necessity for flagman at crossing where traveler's view of track is obstructed. 22 L.R.A.(N.S.) 237.

Right of railroad company to delegate to independent contractor the maintenance of. 13 L.R.A.(N.S.) 1177.

Violation of police ordinance as to flagman as ground for private action. 5 L.R.A. (N.S.) 245.

Violation of police ordinance as to safety gates as ground for private action. L.R.A.(N.S.) 246.

Conduct of flagman or absence from his post as affecting liability for injury at crossing. 41 L.R.A.(N.S.) 355.

Duty of one crossing railroad track as affected by flagman's signal to proceed. 15 L.R.A. (N.S.) 803.

Duty of traveler going on crossing when gates are open. 4 L.R.A.(N.S.) 521; L.R.A.1916E, 821.

Effect of flagman, or lowered gates, on contributory negligence of child at crossing. L.R.A.1917F, 151.

#### 6. Speed.

§ 71. Generally.
Speed of street car, see STREET RAILWAYS, §§ 12, 13.

Speed at country crossing as negligence. 3  $L_{\bullet}R.A.(N.S.)$  778.

Negligence as to speed of railroad company operating trains or cars longitudinally along public street. 49 L.R.A.(N.S.)

Rate of speed preventing stoppage of trains within distance disclosed by headlight. 39 L.R.A.(N.S.) 978.

In case of small children on track. L.R.A. 789.

Duty to moderate speed of train where trespassers are to be anticipated. L.R.A.(N.S.) 352.

Frightening horse on highway by excessive speed of train. 33 L.R.A.(N.S.) 127. Evidence as to speed of trains and hand cars. 34 L.R.A.(N.S.) 790.

Right of witness to express opinion as to. L.R.A.1918A, 701.

Violation by servant of the rule adopted by company as to speed as evidence of negligence towards member of public. L.R.A. (N.S.) 1063; L.R.A.1917C, 801.

Assumption which one approaching railroad track may indulge as to speed of coming train. 24 L.R.A.(N.S.) 493.

§ 72. Regulations of, by statute or ordinance; violations of regulations.

Power of municipal corporations to regulate speed of, trains at highway crossings. 17 L.R.A. (N.S.) 561.

RAILROADS, VII. a, 6-cont'd

Right to require stopping of interstate mail trains. 14 L.R.A.(N.S.) 293.

Right to limit speed of mail trains. 14 L.R.A.(N.S.) 293; L.R.A.1917F, 1187. Private action for violation of statutory 9 L.R.A. (N.S.) limitation of speed.

373; L.R.A.1915E, 538. Violation of ordinance as to, as ground for private action. 5 L.R.A. (N.S.) 197, 218.

Violation of ordinance as to, by company operating trains or cars longitudinally along public street. 49 L.R.A. (N.S.) 674.

Stepping on track in front of approaching train running in excess of speed pre-scribed by ordinance. 3 L.R.A. (N.S.)

Presumption and burden of proof as to negligence of railroad company operating trains longitudinally along public street. 49 L.R.A. (N.S.) 688.

## Injuries to animals.

73. Generally.

Duty of railroad company as to cattle guards, see supra, § 34. Contributory negligence, see infra, § 85.

Frightening horses, see Horses, § 10.

Liability for injuries caused by negligence of another company using the road un-

der a lease, license, or other contract. L.R.A.1918E, 262. When injury to livestock is done "by" or "caused by" railroad train or engine, within the meaning of statutes on that subject. 14 L.R.A. 841.

Liability for killing or injuring live stock on track because of lack of proper headlight. 39 L.R.A.(N.S.) 271.

Duty as to equipping car or train so as to avoid or minimize injury to animals on or near tracks. L.R.A.1915A, 742. Duty to give crossing signals for protection of animals. 46 L.R.A. (N.S.) 881.

Liability for failure to take precautions to prevent injuries which could not have been prevented. 21 L.R.A. 723.

Liability of company operating railroad along highway for injury to live stock. L.R.A.1917E, 770.

Liability of railroad company for attracting animals running at large, to its premises, by allowing freight or waste attractive to live stock to remain exposed thereon. 28 L.R.A.(N.S.) 83.

Duty of railroad as to fowls upon track. 47 L.R.A.(N.S.) 1125.

Constitutionality of statute imposing absolute liability for injury to animals. 25 L.R.A. 162; 35 L.R.A.(N.S.) 1018.

Application of doctrine of last clear chance. 55 L.R.A. 418.

Sufficiency of general allegations of negligence. 59 L.R.A. 231.

Necessity and sufficiency of allegation or proof as to time of injury. L.R.A. 1915A, 781.

Presumption of negligence from injury to livestock by railway train. 15 L.R.A.

Begin with this book on every law question.

RAILROADS, VII. a, 7—cont'd

Power of legislature to make the killing of stock prima fcaie evidence of negligence. 32 L.R.A.(N.S.) 227.

Right to interest on damages allowed for injuries to stock by passing train. 18 L.K.A. 450.

Validity of statutory provision for attorney's fee in action for killing cattle. 17 L.R.A. (N.S.) 910; L.R.A.1915E, 944.

## 74. Lookout for.

Duty to keep lookout for stock on track. 25 L.R.A. 291; 24 L.R.A. (N.S.) 858.

Duty to keep lookout for horses on highway parallel with track. 33 L.R.A. (N.S.)

§ 75. Lack of, or defects in fences or

Duty as to fences generally, see supra, §§ 37-40.

Duty as to gates generally, see supra, § 41.

Liability of lessee or licensee. L.R.A.1917A, 539.

Liability of railroad whose failure to maintain fences permits escape of live stock, which is killed or injured outside its right of way. 29 L.R.A.(N.S.) 573.

Duty of railroad to fence as requiring barrier across culvert or under bridge.

5 B. R. C. 182.

Liability for injury to stock other than by trains, because of breach of statutory duty to fence. 37 L.R.A.(N.S.) 1181.

Injury by reason of leaving gates in rail-road fence open. 49 L.R.A. 625.

Constitutionality of statute making failure to fence evidence of negligence. L.R.A.(N.S.) 867.

Constitutionality of statutes as to fixing value of stock killed on unfenced road. 31 L.R.A.(N.S.) 867.

## 76. Dogs.

Liability for killing dogs. 37 L.R.A. 659. Action for injury to dogs by railroad trains. 40 L.R.A. 509.

Duty with respect to dogs on track. 6 L.R.A. (N.S.) 911.

#### 8. Fires.

#### 77. Generally.

Contributory negligence, see infra, § 86.

Liability of railroad for setting fires which spread to property of others. 21 L.R.A. 262.

Liability for burning property stored or piled on right of way by licensec. 1 L.R.A.(N.S.) 533.

Liability for fires started by persons allowed to be on right of way. 12 L.R.A. (N.S.) 472.

Liability for fire set by engines of other company permitted to use road. 10 L.R.A. (N.S.) 1175; L.R.A.1918A, 940.

Liability of railroad company for personal injury to person struck by sparks or cinders escaping from locomotive. 18 L.R.A. (N.S.) 241.

Consult also L.R.A. Digests of Cases.

RAILROADS, VII. a, 8-cont'd

Constitutionality of statute imposing absolute liability for. 25 L.R.A. 161; 35 L.R.A.(N.S.) 1016.

Validity of statutory provision for attorney's fee in action against railroad for damages from fire. 17 L.R.A.(N.S.) 910.

Constitutionality of statute denying insur-er's right of subrogation against person responsible for destruction of property where fire is caused by railroad company. 41 L.R.A.(N.S.) 1202.

Sufficiency of general allegations of negligence. 59 L.R.A. 234.

Variance between allegation and proof as to time in action against railroad company for setting out fires. 41 L.R.A. (N.S.) 635.

Right to interest on sum allowed as damages from railway fires. 18 L.R.A. 449.

May one who destroys insured property defeat an action by the owner upon the ground that the right of action is in the insurer. 23 L.R.A.(N.S.) 870; the insurer. 23 L.R.A.1918F, 145.

Duty to avoid interference with extinguishment of fires. 12 L.R.A.(N.S.) 382; 20 L.R.A.(N.S.) 1110; 39 L.R.A.(N.S.) 20.

Private action for violation of statute requiring spark arresters on engines. L.R.A.1915E, 539.

Construction and effect of statute giving railroad company, responsible for the destruction of property by fire, the benefit of insurance effected by owners. 52 L.R.A.(N.S.) 203.

Scope and effect of clause in fire insurance policy exempting insurer from liability for loss by fire from, or occasioned locomotive engines. 51 L.R.A. (N.S.) 518.

Measure of damages for destruction of standing timber by fire set by locomotive. 52 L.R.A. (N.S.) 92.

§ 78. Presumptions; evidence.

Violation by servant of rule adopted by railway company as evidence of negligence toward one other than servant. L.R.A. 1917C, 805.

Presumption as to negligence in case of railway fires. 15 L.R.A. 40.

Effect of presumption from fact that fire was set by locomotive to carry question of negligence to jury. 5 L.R.A. (N.S.)

Power of legislature to make injury by fire from locomotives prima facie evidence of negligence. 32 L.R.A. (N.S.) 227.

Admissibility of evidence of other fires. 32 L.R.A. (N.S.) 1146.

Distance within which sparks from a properly equipped engine will set fire as a subject of expert testimony. 22 L.R.A. (N.S.) 1039.

## b. Contributory negligence.

## 1. In general.

§ 79. Generally, Of children, see infra, § 84a. RAILRAODS, VII. b, 1-cont'd

Persons on train, see CARRIERS, §§ 75-84.

Contributory negligence of railroad employees, see Master and Servant, III. c. Doctrine of last clear chance or humanitarian doctrine, see NEGLIGENCE, §§ 50-

Contributory negligence as to street cars, see STREET RAILWAYS, §§ 20-23.

Presumption of care of person killed at crossing. 4 L.R.A.(N.S.) 344.

Effect of continuing negligence of person injured on liability of the company. 55 L.R.A. 418.

Effect of, on liability for violating police ordinance affecting operation of railroads. 5 L.R.A. (N.S.) 230.

Defective hearing of person injured as bearing upon contributory negligence. 41 L.R.A. (N.S.) 196, 197.

#### 2. Persons on or near track.

\$ 80. Generally.

Liability of company, see supra, §§ 52-57. Contributory negligence of passenger while crossing track, see CARRIERS, § 83.

On tracks of interurban railroad, see INTER-URBAN RAILBOAD, § 4.

Doctrine of last clear chance, see NEGLI-GENCE, §§ 50-52.

On street car track, see STREET RAILWAYS, §§ 20-23.

Negligence of passenger ejected from train, In walking on railroad track. 12 L.R.A. (N.S.) 359.

May wantonness or wilfulness, precluding defense of contributory negligence, be predicated of the omission of a duty before the discovery of a person in peril on a railroad track. 21 L.R.A.(N.S.) 427.

Contributory negligence in stepping on track in front of approaching train running in excess of speed prescribed by ordinance. 3 L.R.A.(N.S.) 196.

Contributory negligence of person injured by railroad trains or cars operated longitudinally along public street. L.R.A.(N.S.) 679.

Intoxication of person injured on track as contributory negligence. 47 L.R.A. (N.S.) 734, 736.

Right of one on railroad track to rely on custom to move trains on certain track only in one direction. L.R.A. 1916D, 706.

## 3. At crossing.

§ 81. Generally.

Negligence of company, see supra, §§ 58-69. Negligence of children, see infra. § 84a.

Contributory negligence in attempting to use railroad crossing known to be in dangerous or defective condition. L.R.A.1915C, 813.

Where person or vehicle runs into side of train at crossing. L.R.A.1915A, 362. Begin with this book on every law question.

RAILORADS, VII. b, 3—cont'd

Care required of driver of automobile at railroad crossing. 21 L.R.A.(N.S.) railroad crossing. 21 L.R.A.(N.S.) 794; 29 L.R.A.(N.S.) 924; 46 L.R.A. (N.S.) 702.

Right of one going on railroad crossing to rescue property to recover for injury. 28 L.R.A. (N.S.) 346.

Contributory negligence in attempting to cross in front of engine or cars standing near street crossing. 11 L.R.A. (N.S.) 963.

Intoxication of person injured amounting to contributory negligence. 40 L.R.A. 133; 47 L.R.A. (N.S.) 735.

In respect to flying switches or detached cars moved by their own momentum. 18 L.R.A. 65; L.R.A.1916C, 1039.

Duty of one crossing railroad track as affected by flagman's signal to proceed. 15 L.R.A.(N.S.) 803.

Right of one about to cross railroad track to rely upon train schedules. 17 L.R.A. (N.S.) 1253.

Right of one crossing railway tracks to assume that approaching train will stop at intervening station. 20 L.R.A. (N.S.) 380.

Right of traveler to rely on automatic signals at crossing. L.R.A.1916D, 788.

Duty of traveler going upon railroad crossing when gates are open. L.R.A. 1916E, 821.

Assumption which one approaching railroad crossing may indulge as to speed of coming train. 24 L.R.A. (N.S.) 493.

Conduct of flagman or absence from his post as affecting liability for injury at crossing. 41 L.R.A.(N.S.) 355.

Stepping on track in front of approaching train running in excess of speed prescribed by ordinance. 3 L.R.A. (N.S.) 196.

Personal contributory negligence of person riding in vehicle driven or controlled by another at railroad crossing. L.R.A.1915E, 225.

crossing. L.R.A.1915E, 225.
Presumption as to exercise of due care by person found killed at crossing. L.R.A. 261.

Right to rely on presumption of self-preservation in action for negligent killing at railroad crossing in order to pre-vent nonsuit where there were no eyewitnesses to the killing. 11 L.R.A. (N.S.) 844.

§ 82. Where train obstructs crossing. Negligence of company, see supra. § 62. Obstruction of crossings by trains generally, see Highways, § 32.

Contributory negligence in attempting to cross a train standing on a crossing. 13 L.R.A.(N.S.) 1066; 34 L.R.A.(N.S.) 466; 50 L.R.A.(N.S.) 1012.

Effect of contributory negligence on liability for injury resulting from violation of statute or ordinance in relation to blocking crossing. 47 L.R.A.(N.S.) 828.

RAILROADS, VII. b, 3—cont'd § 83. Duty to stop, look, and listen.

On street car track, see STREET RAILWAYS, § 21.

Duty of children as to. L.R.A.1917F, 125. Duty to stop, look, and listen after entering on first track. 17 L.R.A.(N.S.) 505.

Fright of team as excuse for omission to look and listen at railroad crossing. 21 L.R.A.(N.S.) 415.

Effect of pedestrian's looking or failure to look before attempting to cross train standing on crossing. 13 L.R.A.(N.S.) 1069.

Duty of passenger embarking or disembarking at station to stop, look, and listen before crossing track at station to his train. 13 L.R.A.(N.S.) 620; 27 L.R.A.(N.S.) 128; 31 L.R.A.(N.S.) 338.

Duty to look and listen before crossing interurban electric railway on company's own right of way. 23 L.R.A.(N.S.) 1224.

Duty of traveler to stop, look, and listen upon approaching overhead or underground railroad crossings. 6 L.R.A. (N.S.) 150.

Duty of traveler going upon railroad crossing when gates are open. 4 L.R.A. (N.S.) 521; L.R.A.1916E, 821.

Failure to give customary signals as ex-

Failure to give customary signals as excusing nonperformance of duty to look and listen. 3 L.R.A.(N.S.) 391.

Credibility and effect of testimony of person injured at a railroad crossing that he looked and listened where he must have detected the train had he looked or listened. L.R.A.1915B, 140.

Duty of driver of automobile as to stopping, looking, and listening. 46 L.R.A.(N.S.) 702.

Failure to look before crossing train standing on a crossing. 50 L.R.A. (N.S.) 1013.

# § 84. — duty as to place and direction of observation.

Care required in selecting place for observation. 37 L.R.A.(N.S.) 136.

Distance. 37 L.R.A.(N.S.) 137.

Looking at the customary place. 37 L.R.A. (N.S.) 138.

At a place dangerous in itself. 37 L.R.A. (N.S.) 138.

Duty to look more than once. 37 L.R.A. (N.S.) 138.

Duty where view near track is obstructed. 37 L.R.A.(N.S.) 142.

When looking would have been useless. 37 L.R.A. (N.S.) 145.

Direction for looking. 37 L.R.A.(N.S.) 146.

Duty of driver of automobile where view is obstructed. 46 L.R.A. (N.S.) 705.

Duty of driver who has traveled some distance parallel with track after looking for car, to look again before crossing track. 21 L.R.A.(N.S.) 309.

Consult also L.R.A. Digests of Cases.

RAILROADS, VII. b-cont'd

#### 31. Injuries to minors.

§ 84a. Generally.

Contributory negligence of children on or about railroad tracks. L.R.A.1917F,

#### 4. Injuries to animals,

8 85. Generally.

Negligence of company, see supra, §§ 73-76.

In case of injury to live stock by railroad operating along highway. L.R.A.1917E, 770.

Effect of contributory negligence of owner of stock getting on railroad track through defects in cattle guards. 36 L.R.A.(N.S.) 1000.

Effect of contributory negligence where railroad company has failed to perform duty as to keeping cattle guards in proper condition. 36 L.R.A.(N.S.) 997; L.R.A.1915B, 134.

Constitutionality of statutes excluding defense of contributory negligence and assumption of risk on failure of railroad company to fence tracks and build cattle guards. 31 L.R.A.(N.S.) 867.

#### 5. As to fires.

§ 86. Generally.

Negligence of company, see supra, §§ 77, 78.

Duty of abutting owner to prevent accumulation of combustible materials near right of way. 12 L.R.A.(N.S.) 624.

Duty of owner of property adjoining a railroad right of way to protect it from fires set out by passing locomotives. 12 L.R.A. (N.S.) 526; 49 L.R.A. (N.S.) 166.

# c. Criminal liability of third persons for obstructing track,

§ 87. Generally.

Instigation to offense of obstructing railroad track. 25 L.R.A. 345.

Criminal liability of children for obstructing railway track. 36 L.R.A. 208.

Homicide by derailing railway train. 63 L.R.A. 378.

Cruel and unusual punishment for obstructing railroad track. 35 L.R.A. 577.

# RAILROAD SIDINGS.

See SPUB TRACKS AND SIDINGS.

#### RAILROAD TRESTLE.

for car, to look again before crossing Duty to avoid injury to person walking on. track. 21 L.R.A. (N.S.) 309. 69 L.R.A. 576.

#### RAILROAD YARDS.

Supervising employees in, as vice principals. 51 L.R.A. 552, 581.

### RAILWAY POLICE.

Authority of superior officer of railway police to contract for services of other persons. L.R.A.1918F, 65.

#### RAILWAYS.

See RAILBOADS.

#### RAIN.

Carrier's liability for injury to passenger by rain from open doors or windows. 11 L.R.A. (N.S.) 926.

Effect of, on question of negligence in running train at speed preventing stoppage within distance disclosed by headlight. 39 L.R.A.(N.S.) 980.

Liability of railroad company to employees for injuries caused by defects in roadbed caused or accompanied by rainfall. 49 L.R.A.(N.S.) 198.

#### RAISED CHECKS.

See Banks, §§ 24, 29.

# RAISING.

Of commercial paper, see Banks, §§ 24, 29; BILLS AND NOTES, § 16.

#### RAISING BLOOD.

What constitutes, within meaning of insurance policy. 23 L.R.A.(N.S.) 917.

# \*\*\* RANGE.

As part of realty. 1 B. R. C. 972.

# RANGER.

Of royal park as a tenant. 4 L.R.A. (N.S.) 713, 719.

# RANSOM.

Of vessel captured by pirates; jurisdiction | Proof of corpus delicti in prosecution for. of admiralty over suit as to. 66 L.R.A. 207

Begin with this book on every law question.

#### RAPE.

Generally.

Preparation to commit assault with intent to rape or ravish as distinguished from overt act in commission of offense itself. 42 L.R.A. 524.

Right of husband to recover for illicit intercourse with wife, accomplished by force.

52 L.R.A.(N.S.) 373.

Giving liquor or drugs to female with view to having sexual intercourse with her as constructive rape or assault with intent to commit rape. 46 L.R.A.(N.S.)

Impotency or senility as defense to prosecution for rape or assault with intent to commit rape. L.R.A.1915B, 131.

Of female of unsound mind. L.R.A.1916F, 742.

Intercourse secured through sham marriage as rape. L.R.A.1916F, 796.

Jurisdiction to punish assault with intent to rape committed on Indian reservation within state limits. L.R.A.1915F, 591.

Right of court to exclude public from court room. 44 L.R.A.(N.S.) 583; L.R.A. 1918C, 1168.

Argument of prosecuting attorney that an acquittal would encourage lynch law as ground for reversal. 51 L.R.A. (N.S.) 914.

Former jeopardy in case of. L.R.A.1915A, 256.

What intoxication will excuse. 36 L.R.A. 479.

Cruel and unusual punishment for. L.R.A. 576; L.R.A.1915C, 569.

Necessity and sufficiency of description of offense in bail bond or recognizance. 38 L.R.A. (N.S.) 313.

§ 2. By infant,

Liability of infant for. 36 L.R.A. 203, 208.

§ 3. Of female under age of consent.

Effect of statute fixing age of consent in defining statutory rape as determining age of consent for marriage. 21 L.R.A. (N.S.) 847.

Civil liability for intercourse with child under age of consent. 51 L.R.A. (N.S.)

Does statute fixing age of consent render girl below that age incapable of sexual crime. 27 L.R.A.(N.S.) 872.

Effect of defendant's mistake as to age of girl, under statute denouncing sexual offenses against females below specified age. 25 L.R.A.(N.S.) 661.

Evidence of specific instances to prove character for chastity of victim of crime. 14 L.R.A.(N.S.) 723.

§ 4. Evidence in prosecution for.

68 L.R.A. 56, 70, 71, 73; L.R.A.1916B, 747.

RAPE-cont'd

Evidence of other crimes in prosecution for. 62 L.R.A. 314, 322, 329; 48 L.R.A. (N.S.) 236.

Evidence of other crime in prosecution for assault with intent to commit. L.R.A. 228; 48 L.R.A. (N.S.) 236.

Presumption and burden of proof as to chastity, where it is an ingredient of the L.R.A. (N.S.) 476.

Right of accused to show unchastity of prosecutrix in statutory rape. 48 L.R.A. (N.S.) 269.

Evidence of specific instances to prove char-

Impeachment of character of prosecutrix for chastity by proof of prior acts of intercourse with defendant. 30 L.R.A.

the corroboration of prosecutrix necessary to conviction of rape be supplied by her own complaints out of court.

26 L.R.A.(N.S.) 1149. May the corroboration of prosecutrix necby her own complaints out of court. 26 L.R.A.(N.S.) 1149.

Admissibility of previous statements by a witness out of court consistent with his testimony. 41 L.R.A.(N.S.) 886.

Admissibility of declarations by prosecutrix

as res gestæ. 19 L.R.A. 744. Admissibility of declarations of infant too young to be sworn as a witness at the trial. 65 L.R.A. 316.

Necessity of instruction as to law on circumstantial evidence on prosecution for. 69 L.R.A. 204.

Letters identified only by prosecutrix as corroboration of her testimony to prove rape. 49 L.R.A.(N.S.) 1198.

Wife as witness against husband in prosecu-

tion for. L.R.A.1917E, 1134.

Admissibility against one spouse of evidence of facts revealed by physical examination of other spouse who would be an incompetent witness. 49 L.R.A. (N.S.) 563.

#### RATES.

1. Generally. Of interest, see Interest, § 19. See also RENTALS.

Is exempt portion of estate to be included or excluded in determining amount for purpose of fixing rate of succession tax. 51 L.R.A. (N.S.) 1075.

Of compulsory pilotage fees. 39 L.R.A. 191. Libel in charging one with exacting excessive rates. 40 L.R.A.(N.S.) 79.

2. Of public service corporations. Of carrier, see Carriers, §§ 154-160. For ferry, see FERRIES, § 7. For gas, see GAS, §§ 7, 8.
Of insurance, see INSURANCE, § 119.
For driving, floating, or rafting logs, see Logs and Logging, § 10. For mills, see MILLS, § 4. Of telegraph company, see Telegraphs, § 7. Consult also L.R.A. Digests of Cases.

RATES—cont'd

Of telephone company, see TELEPHONES,

Of warehousemen, see WAREHOUSEMEN, § 3. For water, see WATERS, §§ 97, 120-123. For use of wharf, see WHARVES, §§ 10, 11.

Equity jurisdiction to fix, see Equity, § 20. Constitutionality of provision as to, see CONSTITUTIONAL LAW, § 143.

offense or a condition of conviction. 43 Reasonableness of matters relating to, see REASONABLENESS, § 4.

Valuation of public utility plants and re-turn of public service corporation for rate-making purposes, see Public SERVICE CORPORATIONS, §§ 5, 6.

acter for chastity in prosecution for. Power of public service corporation as to 14 L.R.A.(N.S.) 714; L.R.A.1916B, 965. enforcing prompt payment of rentals, enforcing prompt payment of rentals, see Public SERVICE CORPORATIONS, § 3.

Right of state to maintain action to re-

within limits of legislative authority. L.R.A.1918A, 389.

Consumer's right to compel public service corporation to respect rates stipulated in contract with municipality. L.R.A. 1915D, 917.

Incorporation of territory into municipality as affecting existing contract of public service in that territory as to rate. L.R.A.1916A, 1071.

Giving of free service or reduced rates by public service corporation to governmental agencies, cities, schools, school children, charities, and the like is unlawful discrimination. L.R.A.1918D,

Jurisdiction of Public Utilities Commission over rates as limited by constitutional or statutory power of municipality to regulate utilities. L.R.A.1918D, 315.

Exercise of rate-making power as illegal interference with corporate management of public utility. L.R.A.1918F. 277.

Power of municipality apart from contract to regulate the rates to be charged by public service corporations. 33 L.R.A. (N.S.) 759; 43 L.R.A.(N.S.) 994.

Power of municipality operating a public utility to make a special rate to a particular company or person. L.R.A. 1916D, 996.

Kinds of business affected with a public interest subjecting them to regulation and control in respect to rates or prices. 6 L.R.A. (N.S.) 834.

Suits concerning, against state officers, as suits against the state. 44 L.R.A. (N.S.) Ž15.

Right to reduce rates of public service corporation fixed by franchise or charter. L.R.A.1915C, 261.

Right to raise rates of public service corporation fixed by franchise. L.R.A.1915C, 287.

Effect of contract with patrons to preclude regulation of rates of public service corporations. L.R.A.1915C, 282.

#### RATIFICATION.

§ 1. Generally.

Of forged instrument or signature, see For-GERY, § 11.

Of loan, see LOAN, § 2.

Of invalid marriage, see MARRIAGE, § 7. Of invalid contract, see CONTRACTS, §§ 110,

111.

By corporation, see Corporations, § 34.
Of agent's acts, generally, see Principal and Agent, §§ 28-31.

Estoppel by, see ESTOPPEL, § 12.

Necessity of ratifying payment of debt by volunteer or stranger. 23 L.R.A. 122. Of broker's acts in finding purchaser or in exchanging principal's property. 44

L.R.A. 618.

Liability of municipal corporation for false imprisonment and unlawful arrest as affected by. 44 L.R.A. 800.

Damages for breach of warranty by existence of unexpired lease which has been ratified by grantee. 35 L.R.A.(N.S.)

Subsequent ratification of unauthorized destruction as revocation of will. 2 B. R. C. 550.

Retention of consideration as a ratification defeating defense that contract was made on Sunday. 44 L.R.A. (N.S.) 289.

By connecting carrier of contract made by initial carrier. 52 L.R.A.(N.S.) 865.

By grantee where agreement to pay mortgage is inserted in deed by mistake, L.R.A.1918A, 1005.

Of purchase by executor or administrator at his own sale. L.R.A.1918B, 43.

§ 2. By husband.

Of debt previously contracted by wife by husband's express promise to pay. 7 L.R.A.(N.S.) 1048.

Husband's liability for necessaries furnished wife on ground of ratification. 47 L.R.A.(N.S.) 282.

Husband's liability on ground of ratification for wife's purchases on his credit of articles for her personal use. 65 L.R.A. 549.

§ 8. By parent.

By parent of child's act in making contract other than for necessaries. 39 L.R.A. (N.S.) 885.

By parent of child's tort. 10 L.R.A.(N.S.) 937.

§ 4. By employer.

Of employment of subagent by real estate broker. 43 L.R.A. (N.S.) 802.

Of servant's wrongful appropriation of thing bailed. 29 L.R.A. 96.

Of servant's wrongful act by retaining him in service. L.R.A.1918B, 155.

Employer's ratification of independent contractor's tort as affecting former's liability for injuries occurring during work. 66 L.R.A. 956.

Begin with this book on every law question.

RATIFICATION—cont'd

§ 5. By partners.

Of acts of partner with respect to partnership real estate. 28 L.R.A. 101.

Of note given by member of firm after dissolution in payment of firm debt. 32 L.R.A. (N.S.) 260.

§ 6. By client.

Of unauthorized compromise of action by attorneys. 31 L.R.A.(N.S.) 529.

Of unauthorized employment of associate counsel. 23 L.R.A. (N.S.) 708.

Effect of failure to object before judgment to unauthorized appearance by an attorney upon right to relief from judgment. L.R.A.1918B, 899.

RATS.

See VERMIN.

#### RAVINES.

As water courses. 15 L.R.A. 630.

RAVISHMENT.

See RAPE.

# READING BILLS.

Showing by journal nonobservance of requirement as to reading bill. 45 L.R.A. (N.S.) 14.

Of single statute enacting code, compilation of laws, or amendment or numerous sections thereof in enacting same. 55 L.R.A. 835.

# READVERTISEMENT.

On rejecting bids for public contract. 26 L.R.A. 710.

Necessity of, on judicial sale on adjourned or postponed data. 38 L.R.A. (N.S.) 249.

REAL ESTATE AGENT.

See BROKERS.

REAL PARTY IN INTEREST.

As proper party to bring suit, see Parties, § 3.

#### REAL PROPERTY.

1. Generally. Abstracts of title, see Abstracts. Adverse possession of, see Adverse Posses-

SION. Assault in protection of, see Assault and

BATTERY, § 5.
Injury to, by blasting, see BLASTING.

Boundaries of, see Boundaries.

Cloud on title of, see CLOUD ON TITLE.

Conditions relating to, see Conditions, II. Conflict of laws as to rights in, see CONFLICT OF LAWS, §§ 26, 27.

Construction of contracts relating to, see CONTRACTS, § 67.

Right of corporation to take or own, see CORPORATIONS, §§ 26, 26a, 142. Right of foreign corporation to own, see

CORPORATIONS, § 142.

Covenants restricting use of premises, see COVENANTS, §§ 5-7, 21-25. Jurisdiction in matters affecting land in

other state, see Courts, §§ 21, 22.

Covenants relating to, see COVENANTS. Damages for injury to, see Damages, §§ 10, 71-79.

Measure of damages to real property from nuisance, see DAMAGES, §§ 17, 80.

Measure of damages for breach of contract as to, see Damages, §§ 31-34.

Dedication of, see DEDICATION. Description of, see DESCRIPTION, § 4.

Condemnation of, see EMINENT DOMAIN. Equitable conversion of personalty into, see WILLS, EQUITABLE CONVERSION;

§§ 116-118. Estoppel to claim after acquired title, see

ESTOPPEL. § 5. Admissibility of declarations of former own-

er, see Evidence, § 233.
Injunction as to, see Injunction, §§ 19-24. Conclusiveness of judgment in action re-

lating to, see JUDGMENT, §§ 37, 37a. Limitation of actions as to, see LIMITATION

OF ACTIONS, §§ 9, 39-43, 55-57. Matters as to lis pendens, see LIS PENDENS. Notice of rights in, see NOTICE, §§ 16, 17. Parties plaintiff in action affecting, see PAR-TIES, § 4.

Partition of, see Partition.

Partnership to deal in, see PARTNERSHIP,

Rights of deceased partner's estate as to, see Partnership, § 47.

Possession of, see Possession, §§ 1-4. Protest as to rights in, see PROTEST, § 3.

Possession of, see Possession, I. Valuation of property of public utility corporations, see PUBLIC SERVICE CORPO-

RATIONS, § 5.

Recording of instruments affecting real property, see Records and Recording Laws, §§ 12-27.
Timber on, see Timber.

Contracts for, see Contracts, §§ 40-49, 58, 59: SPECIFIC PERFORMANCE; VENDOR AND PURCHASER.

Rights in land under water, see WATERS, §§ 12-17.

Probate of wills relating to, see WILLS, 88 47-56.

Consult also L.R.A. Digests of Cases.

REAL PROPERTY—cont'd

As to fixtures, see FIXTURES.

As to flats, see FLATS.

As to mines, see MINES.

Partnership land, see Partnership, §§ 18-24.

Public lands, see Public Lands.

Tide land, see Tide Lands.

Effect of foreign bankruptcy or insolvency proceedings or assignment for creditors upon. 23 L.R.A. 44; 65 L.R.A. 362.

Situs of, for purposes of administration. 24 L.R.A. 688.

Right to plead inconsistent defenses in actions relating to. 48 L.R.A. 198.

Right of insane person to institute proceedings affecting, before commission of lunacy. 64 L.R.A. 524.

Power to fill low lands at expense of owner. 30 L.R.A. (N.S.) 709.

May a state court protect an inchoate in-terest in real property under attachment in suit pending in Federal court or vice versa. 6 L.R.A. (N.S.) 624.

Removal to Federal court of actions relating

to. 5 L.R.A.(N.S.) 69. Lien on, acquired by service of notice in supplementary proceedings. 3 L.R.A. (N.S.) 129.

Federal courts following state decisions as to questions concerning. 40 L.R.A. (N. S.) 380.

Duress of real property. L.R.A.1915B, 498. Doctrine as to possibility of issue extinct as affecting property rights. 48 L.R.A. (N.S.) 865.

Real property or things savoring of realty as the subject of larceny. 49 L.R.A. (N.S.) 965.

Right of action for statements affecting value of real property, other than those relating to title. 6 B. R. C. 509.
Real estate as "effects" within meaning of

will. L.R.A.1918F, 775.

2. What regarded as.

What constitutes real property for purpose of taxation, see Taxes, § 21.

See also Equitable Conversion; Wills, §§ 116-118.

Rights under optional land contract as real or personal property. 358. L.R.A.1916F,

Classification of growing fruit as. 16 L.R.A. 103.

Oil and gas lease as real property. 42 L.R.A.(N.S.) 472.

Whether railroad is real estate or personalty. 66 L.R.A. 33.

Nature of interest of vendor or vendee in a land contract as real or personal property. 57 L.R.A. 643.

§ 3. Title to, or estate in.

Estate by curtesy in, see CURTESY, § 21. Dower in, see Dower.

Homestead in, see HOMESTEAD.

By adverse possession, see Adverse Posses-SION.

Rights of cotenants as to, see COTENANCY.

REAL PROPERTY—cont'd

Effect on legal title of a conveyance in fraud of creditors, see FRAUDULENT CONVEYANCES, § 4.

Rights of husband and wife in, see HUSBAND

AND WIFE, IV.

Respective rights of life tenants and remaindermen, see LIFE TENANTS. Notice of rights in, see NOTICE, §§ 16, 17.

Notice of, from possession of land, see No-TICE, § 17.

Estoppel of one who permits title of real property to stand in another's name to assert title as against the latter's creditors. 46 L.R.A. (N.S.) 1097.

Effect upon title to real property of appointment of foreign receiver. L.R.A. 57.

Sufficiency of equitable title to sustain action for injury to. 30 L.R.A.(N.S.)

4. Sale or transfer of.

Liability for defects in abstract of title, see ABSTRACTS, § 2.

Conflict of laws as to transfer of, see Con-FLICT OF LAWS, §§ 25, 28, 29.

Extent of recovery for taking of, under power of eminent domain, see DAM-AGES, §§ 82-93.

Conveyances of, generally, see DEEDS; QUIT-CLAIM DEED.

As to champertous conveyances, see CHAM-PERTY AND MAINTENANCE.

Character and nature of estate passing un-

der deed, see DEEDS, §§ 28-31.
Taking of, under power of eminent domain, see EMINENT DOMAIN.

Power of personal representative to sell, see Executors and Administrators, § 17.

Sale of, by personal representative, see Ex-ECUTORS AND ADMINISTRATORS, § 59.

Gift of, see GIFT, § 5. Sale of, by guardian, see GUARDIAN AND

WARD, § 14. Conveyance of, in fraud of creditors, see FRAUDULENT CONVEYANCES.

Injunction against transfer of, see INJUNC-TION, § 15.

Lease of, see LANDLORD AND TENANT, III. As subject of levy, see LEVY AND SEIZURE,

Mortgage of, see MORTGAGE. Partition of, see Partition.

Perpetuities and suspension of power of alienation, see PERPETUITIES.

Sale under power, see Powers. Rights, duties and liabilities on transfer of, see VENDOR AND PURCHASER.

Character and nature of estate passing under will, see WILLS, §§ 77-102. Devise of, generally, see WILLS, V.

Effect of a devise or bequest of business to carry the realty upon which the business is conducted. L.R.A.1917D, 439.

Devise of real property by nuncupation. L.R.A.1916E, 1132.

Degree of proof necessary to establish parol gift of. 9 L.R.A. (N.S.) 508.

Sale of, as an abandonment. 10 L.R.A.(N. 8.) 633.

Begin with this book on every law question.

REAL PROPERTY—cont'd

Validity of sale of, in violation of law. 12 L.R.A. (N.S.) 598.

Right to preliminary injunction which would have effect of transferring possession from defendant to plaintiff. 39 L.R.A. (N.S.) 31.

#### REASONABLE DOUBT.

Proof beyond in criminal case, see EVIDENCE, §§ 323-325.

Degree of certainty necessary to establish fraud in a civil action. 33 L.R.A.(N. S.) 836.

Instruction in homicide cases upon rule of reasonable doubt with reference to cause of death. 49 L.R.A.(N.S.) 913.

#### REASONABLENESS.

1. Generally.

Presumption and burden of proof as to, see EVIDENCE, § 110.

Of time, see TIME, §§ 6, 12.

Question for jury as to, see TRIAL, §§ 23, 24.

Of rule in Shelley's Case. 29 L.R.A. (N.S.)

Reasonableness of use after breach of warranty or noncompliance with contract of sale as a question for court or jury. 36 L.R.A. (N.S.) 474.

Rights conferred by grant of unrestricted easement as limited to a reasonable use. 15 L.R.A.(N.S.) 292.

Of agreement in restraint of trade ancillary to sale of business or profession. 24

L.R.A. (N.S.) 913. Of sum of which carrier may be required to take passenger's fare and return change. 35 L.R.A. 489; 21 L.R.A. (N.S.)

Of detention of prisoner as affecting of-

ficer's liability. 51 L.R.A. 216. classifications for purposes of corporate taxation. 60 L.R.A. 345. Of punishment of pupil. 65 L.R.A. 897.

Of fines in loan associations. 35 L.R.A. 217. Of amount of alimony awarded on absolute divorce. 44 L.R.A.(N.S.) 1015.

Of agreement in restraint of trade ancillary to sale of business or profession. L.Ř.A.1916C, 626.

Of regulations as to speed of automobiles. LR.A.1918D, 135.

2. Matters as to banks.

Of care of savings bank in paying out de-posits to fraudulent claimants. 69 L.R.A. 317.

Of by-law of savings bank for protection of depositors from payments to fraudu-lent claimants. 69 L.R.A. 326.

§ 3. Matters as to waters.

Of correlative acts of upper and lower proprietors as to use and flow of water in stream. 41 L.R.A. 738.

REASONABLENESS-cont'd Of use of percolating water. 6 L.R.A.(N.S.) 266.

Discontinuing service to compel payment of unreasonable water bill. 31 L.R.A. (N. S.) 303.

§ 4. Matters as to rates or prices. Of license fees, see LICENSE, §§ 47-49.

Reasonable return to which public service corporations are entitled. L.R.A. corporations are 1915A, 21.

Tests of reasonableness of tolls, rates, or prices fixed by legislature. 33 L.R.A. 185.

Elements entering into determination of reasonableness of railroad rates prescribed by state for local traffic. 15 L.R.A.(N.S.) 108; 25 L.R.A.(N.S.) 1001.

Right to question reasonableness of statutory rate for gas. 15 L.R.A.(N.S.) 763.

Discontinuing service to compel payment of unreasonable water bill. 31 L.R.A.(N. S.) 303.

§ 5. Matters as to skill, care, or negligence.

Of municipal diligence in caring for condition of streets. 20 L.R.A.(N.S.) 581.

§ 6. Of amount fixed as liquidated

Reasonableness of amount stipulated for as liquidated damages in land contract. 34 L.R.A.(N.S.) 27.

Of stipulation for damages in building contracts as determining whether penalties or liquidated damages are intended. 34 L.R.A. (N.S.) 600.

- \$ 7. Of by-laws, rules, and regulations. Of carrier's rules, see CARRIERS, § 4.
- Of regulation of draymen. 45 L.R.A. (N.S.) 1156.
- Of new by-laws as implied condition of consent to change of by-laws. 8 L.R.A. (N.S.) 521.
- Of by-law of savings bank for protection of depositors from payment to fraudulent claimants. 69 L.R.A. 326.
- Of regulation of public service corporation requiring payment of rentals in advance. 19 L.R.A.(N.S.) 693; 31 L.R.A. (N.S.) 319.

Of ordinance affecting operation of railroads. 5 L.R.A.(N.S.) 193.

Of rules as to office hours of telegraph companies. 53 L.R.A. 732.

Of rules promulgated for conduct of master's business. 43 L.R.A. 361.

#### REASONABLE TIME.

See TIME, §§ 6, 12. Consult also L.R.A. Digests of Cases.

#### REASSESSMENT.

For local improvement, see Public IMPROVE-MENTS, § 30. Of taxes, see Taxes, § 59.

#### REASSIGNMENT.

Of homestead, see Homestead, § 21.

#### REBATES.

By carrier, see CARRIERS, § 160.

Validity of contract for. 12 L.R.A. (N.S.) ROŠ.

Validity of rebate plan to control price at which an article shall be resold. 27 L.R.A. (N.S.) 396.

Custom among real estate agents to take rebates from other party as affecting right to compensation from employer, 34 L.R.A. (N.S.) 1047.

Applicability of statute against rebates to allowance by agent to insured of part of former's commission. 23 L.R.A.(N. S.) 722.

General liability of municipality for assessments for local improvements where it grants rebates to property owners. 32 L.R.A.(N.S.) 178.

Criminal responsibility of corporation for granting. 2 B. R. C. 252.

Recovering back, invalid tax paid to obtain

rebate. 28 L.R.A.(N.S.) 1045.

Agreement made at inception of insurance policy with respect to payment of pre-miums as discrimination or rebate. L.R.A.1918D, 194.

Effect of rebate on insurance premium upon contract of insurance and its incidents. 35 L.R.A.(N.S.) 485; 49 L.R.A.(N.S.) 147.

# REBELLION.

Right to recover price of property sold in aid of rebellion. 15 L.R.A. 834.

#### REBUILDING.

Insurer's option as to, see Insurance, § 174.

#### REBUKE.

To attorney during trial as prejudicing rights of party. 42 L.R.A.(N.S.) 428.

# REBUTTAL.

See EVIDENCE, §§ 276, 277.

#### RECALL.

See Initiative, Referendum, and Recall, § 2.

#### RECAPTURE.

Of property, assault during, see ASSAULT AND BATTERY, § 5.

Of personal property generally, see PERSON-AL PROPERTY, § 8.

Right of peace officer to enter dwelling to recapture escaping prisoner. 16 L.R.A. 501.

Homicide in making. 67 L.R.A. 303. Escaped convicts. 67 L.R.A. 303.

Right of seamen to salvage on recapture of ship from pirates, enemeis, or bellig-erents. 64 L.R.A. 199.

#### RECEIPT.

§ 1. Generally.

Admissibility of, in evidence, see EVIDENCE, § 136.

Of warehouseman, see WAREHOUSEMEN, § 5.

Parol evidence to vary, in favor of or against a stranger to the contract. L.R.A.1916A, 597, 608.

For part payment, as accord and satisfac-tion. 20 L.R.A. 787; L.R.A.1917A, 719. Demanding receipt as condition of payment

as duress. 1 L.R.A.(N.S.) 867.
To whom delivery may be made under shipping receipts. 38 L.R.A. 362.

2. Alteration or forgery of.

Presumption as to time of alteration in. 39 L.R.A.(N.S.) 100.

Forgery by making or altering. 54 L.R.A. 796.

Uttering or publishing of forged receipt. 8 L.R.A.(N.S.) 1178.

#### 8 8. Effect of.

As evidence of payment as against third parties. 29 L.R.A. 737.

Right of insurance company to rely on clause giving it option as to pavee of proceeds of policy and making receipt conclusive evidence of payment to proper person. 928. 20 L.R.A. (N.S.)

As affecting question whether taking of commercial paper operates as payment of debt. 35 LR.A. (N.S.) 103.

Effect of giving receipt on transfer with-out indorsement of worthless check or note of third person. 10 L.R.A.(N.S.)

Effect of receipt by carrier for goods sold to satisfy statute of frauds. 22 L.R.A. **428**.

#### RECEIVERS.

I. In general, § 1.
II. Appointment, §§ 2-10.

III. Rights and powers, \$\$ 11-14. IV. Liability; claims; priorities; setoff; receivers' certificates; liens, \$\$ 15-21.

V. Actions; accounting; garnishment of, \$\$ 22-25.

VI. Cost of receivership, \$ 26.

VII. Foreign receivers, \$ 27.

VIII. Sales by, 🖇 28.

# I. In general.

§ 1. Generally.

Taxation of property in hands of receiver. L.R.A.1915E, 211.

Injunction against strike by employees of. 28 L.R.A. 471.

Whose servants are employees operating railroads for receivers. 37 L.R.A. 85.

Right of officer of corporation to refuse to turn over books to a receiver upon the ground that they have a tendency to incriminate him. 30 L.R.A. (N.S.) 725.

Federal courts following state decisions as to construction and effect of statutes relating to receiverships. (N.S.) 431.

Effect of bankrupt law on receiverships. 45 L.R.A. 190,

Liability of corporation on cause of action for tort arising while the corporation was in the hands of a receiver. L.R.A. 1918F, 320.

#### II. Appointment.

§ 2. Generally.

Appointment of receivers of corporation to protect creditors. 20 L.R.A. 214.

Appointment of receiver for dissolved corporation. L.R.A.1917D, 1035.

Dissensions in management of corporation as ground for appointment of receiver. L.R.A.1918D, 229.

Right of stockholder to sue for appointment of receiver on account of transactions occurring prior to his acquisition of stock. L.R.A.1917F, 704.

Right of simple contract creditor to the appointment of a receiver of the property of his individual or firm debtor. L.R.A.

1918C, 632. Right to have receiver appointed to take charge of claims not legally or equita-

bly enforceable. 5 L.R.A.(N.S.) 771. When may notice of application for appointment of receiver of growing crop be dispensed with. 11 L.R.A. (N.S.) 960.

Time from which order appointing receiver becomes operative. 15 L.R.A. (N.S.) 657.

3. Jurisdiction to appoint.

Jurisdiction of equity to appoint receiver of real property in another state or country. 69 L.R.A. 693.

Begin with this book on every law question.

RECEIVERS, II.—cont'd

Jurisdiction of equity to appoint to preserve status quo pending action or proceedings before other tribunal. 38 L.R.A. (N.S.) 228.

of Inherent jurisdiction equity, pendently of statute, at the instance of stockholders, to appoint a receiver because of mismanagement or fraud of its officers. 39 L.R.A.(N.S.) 1032; L.R.A.1915A, 606.

Power to appoint receiver for foreign corporation for which no domiciliary receiver has been appointed. L.R.A. 1917D, 295.

§ 4. Exhausting remedies at law as a condition of judgment creditor's right to a receivership. General rule. 33 L.R.A. 546.

Common-law writ must have been sued out. 33 L.R.A. 546.

Necessity of a return. 33 L.R.A. 546. Remedies must be shown to have been exhausted. 33 L.R.A. 548.

Irregular return. 33 L.R.A. 549.

What other remedy will bar receivership. 33 L.R.A. 549.

Statutory changes. 33 L.R.A. 549.

Supplementary proceedings. 33 L.R.A. 550. Effect of laches. 33 L.R.A. 551.

§ 5. Power to appoint receivers of corporation when no other relief asked.

Appointing receivers of corporations in a direct action for that purpose. L.R.A. 210.

Proceedings under the statutes. 20 L.R.A. 211.

In case of consent. 20 L.R.A. 213.

Right to receiver on failure to elect officers or upon corporation ceasing to act. 20 L.R.A. 213.

Appointment of receivers where the officers disagree as to management. 20 L.R.A. 213.

Appointment of receivers in case of mismanagement. 20 L.R.A. 214.

Requiring a stockholder to seek relief first from the corporation. 20 L.R.A. 214. Appointment of receivers for building associations. 20 L.R.A. 214.

Receiver to protect creditors. 20 L.R.A. 214.

**§ 6.** Effect of appointment.

Exclusiveness of jurisdiction first acquired where receiver has been appointed, see COURTS, § 50.

Effect of appointment of, on compensation of officers, agents, or employees for unexpired term. 51 L.R.A. 146.

Effect of appointment of receiver for insured on fire insurance. 19 L.R.A. (N.S.) 643.

Effect of, on right of set-off. 17 L.R.A. 458. Effect of appointment of receiver for corporation on right to deal with corpora-tion directly. 34 L.R.A.(N.S.) 1200. To whom notice of protest or nonpayment

of bill or note should be given after appointment of receiver. 61 L.R.A. RECEIVERS, II.—cont'd

Service of process after appointment of receiver upon person designated by statute to receive service for corporation. 47 L.R.A.(N.S.) 179.

Appointment of receiver for corporation as affecting its right to sue. 50 L.R.A. (N.S.) 384.

Interest during receivership on claims accruing prior to appointment of receiver. L.R.A.1917D, 1157.

§ 7. Exclusiveness of jurisdiction by appointment of. See Courts, § 50.

8. Appeal from order appointing. Effect of appeal from order appointing a receiver of corporation to enable a court of concurrent jurisdiction to take jurisdiction. 22 L.R.A.(N.S.) 316.

Effect of order to turn back the property after appeal from appointment of receiver, upon right of other courts to exercise jurisdiction over it. 15 L.R.A. (N.S.) 963.

9. Costs in suit for appointment. Costs of receivership, see infra, § 26.

Allowance of attorney's fees in suit for appointment of receiver of corporation. 54 L.R.A. 823.

10. Bonds of receiver.

Effect on surety on bond of, of judgment against principal. 40 L.R.A.(N.S.) 721; L.R.A.1918E, 818.

## III. Rights and powers of.

§ 11. Generally. Action by, see infra, § 22.

Right of receiver in supplementary proceedings to contest will. L.R.A.1918A, 462. Right of receiver to question validity of attachment. 35 L.R.A. 770.

Right of receiver of drawer, appointed after the issuance of a draft or check but before its presentation, as against the holder. 2 L.R.A.(N.S.) 83.

Right of receiver to appeal. L.R.A.1915D, 802.

Right of lessor as against receiver of lessee to declare forfeiture for breach of conditions or covenants prior to appointment. L.R.A.1915B, 998.

Right of receiver of insurance company to fund deposited with state official to secure performance of contract. 46 L.R.A. (N.S.) 187.

Power of railway receiver to contract for transportation beyond own line. L.R.A. (N.S.) 33.

Authority of receiver of initial carrier to extend its undertaking beyond its own line. 31 L.R.A.(N.S.) 33.

Right of receiver of foreign corporation to question its contracts upon the ground that it had not complied with conditions of doing business. L.R.A.1918A, 504.

Consult also L.R.A. Digests of Cases. 78

RECEIVERS, III .-- cont'd

Right of receiver in behalf of general creditors to complain of failure to record contract of conditional sale. L.R.A. 1917C, 442.

§ 12. Right of possession.

Effect of attachment of real estate to defeat the right of possession of receiver subsequently appointed by another court. 3 L.R.A. (N.S.) 1073.

Right of receiver to take property from pos-session of stranger. 47 L.R.A. (N.S.) 744.

13. Right to compensation.

Right of partner appointed receiver on tiquidation to compensation. 17 L.R.A. (N.S.) 399; L.R.A.1917F, 576.

Right of surviving partner acting as receiver to compensation. 17 L.R.A. (N.S.) 408.

Right of receiver to appeal from order affecting his compensation. L.R.A. 1915D, 808.

# § 14. Right to deal with receivership for own benefit,

Right to purchase. 1 B. R. C. 411. Dealings otherwise than by purchase. 1 B. R. C. 413.

IV. Liability; claims; priorities; setoff; receivers' certificates; liens.

§ 15. Generally.

Actions against, see infra, § 23. Accounting by, see infra, § 24. Garnishment of, see infra, § ?5. Liability for interest, see Interest, § 15. Liability for rent of premises occupied by, see Landlord and Tenant, § 86.

Liability of arbitrators as receivers of property. 42 L.R.A.(N.S.) 281.

Personal liability of receiver who signs

contract adding words indicating representative capacity to his signature. 42 L.R.A.(N.S.) 61.

#### 16. For what liable.

Liability for interest, see Interest, § 15.

For torts or negligence of servants. L.R.A. 228.

Liability of the receiver of a railroad for personal injuries or death caused by its operation. 15 L.R.A. 262.

Liability for paving assessment on street railway. 46 L.R.A. 201.
Obligation of receiver on the contract of

the party whose property he holds. 16 L.R.A. 90.

Liability for rent of premises occupied by. 59 L.R.A. 673.

Duty of receiver of fund to pay funeral expenses. 23 L.R.A. (N.S.) 201.

Liability of receiver for acts or contracts of former receiver. L.R.A.1916C, 520. Liability of receiver for continuance of nuisance created before his appointment. L.R.A.1916F, 1020.

Begin with this book on every law question.

RECEIVERS, IV.—cont'd Criminal liability of railroad company in hands of receiver for blocking street or highway crossing. L.R.A.1915B, 329.

Liability of, for loss of money deposited in bank. 45 L.R.A.(N.S.) 17.

Liability of receiver for wrongfully taking property from possession of stranger. 47 L.R.A.(N.S.) 756.

#### 17. Priority of claims.

Right of preferred stock to preference as to capital. 21 L.R.A.(N.S.) 288.

Are claims of creditors of an insolvent company who undertake to conduct its business postponed to claims or debts-incurred during their management. 24 L.R.A. (N.S.) 1166.

Priority of claims against property in hands of receiver over recorded liens. 2 L.R.A.(N.S.) 1013; 41 L.R.A. (N.S.) 695.

§ 18. Set-off. Set-off of claims. 23 L.R.A. 313.

Effect of appointment of receiver on right of set-off. 17 L.R.A. 458.

Right to set-off against receiver claims purchased after insolvency. 21 L.R.A. 280.

#### 19. Liens.

Power to permit receiver of a private corporation to create liens on its property. 16 L.R.A. 603.

# 20. Receivers' certificates.

Priority of receivers' certificates of indebt-edness. 9 L.R.A. 143; 2 L.R.A. (N.S.) 1052, 1063.

#### § 21. Liability of insolvent for acts of receiver.

Criminal prosecution of corporation for acts or omissions while in the hands of a receiver. 26 L.R.A. 710.

V. Actions; accounting; garnishment of.

# § 22. Actions by.

To enforce liability of stockholders, see CORPORATIONS, § 116a.

As real party in interest by whom action must be brought. 64 L.R.A. 609.

Collection of notes by receiver of mutual fire insurance company. 32 L.R.A. 486.

Power of receiver to sue out jurisdiction of appointment. 4 L.R.A.(N.S.) 824. Right of foreign receiver to sue. 23 L.R.A. 54.

Right of creditor, who is also a stockholder of an insolvent corporation, to offset debt due from corporation in action by receiver to enforce his statutory liability. 41 L.R.A.(N.S.) 996.

#### § 23. Actions against.

Necessity of leave of court for enforcement of order of Public Service Commission against receiver operating utility. L.R.A.1918E, 315.

RECEIVERS, V .-- cont'd

Jurisdiction of equity to try claims against its receiver, which involve purely legal questions. 13 L.R.A.(N.S.) 709.

Service of process in action against receiver upon person designated by statute to receive service for corporation. 47 L.R.A.(N.S.) 181.

Right of receiver to appeal. L.R.A.1915D, 802.

3 24. Accounting by.

Right of court to surcharge account of, in absence of objection to account, or upon an objection by amicus curiæ. 18 L.R.A. (N.S.) 284.

Right of receiver to appeal from decree settling his accounts. L.R.A.1915D,

#### § 25. Garnishment of.

Garnishment of money due from. 26 L.R.A. 218.

Right to attach or garnish fund in hands of, after direction to pay same to party. 13 L.R.A. (N.S.) 758; 30 L.R.A. (N.S.)

#### VI. Cost of receivership.

§ 26. Generally.

Costs in suit for appointment of receiver, see supra, § 9.

Liability for cost of receivership where final judgment is against the party who procured the receivership. L.R.A. (N.S.) 412.

Right of receiver to be indemnified for costs of defending an action charging him with fraud or misconduct. 2 B. R. C. **423.** 

What court has jurisdiction to fix attorneys' fees for services in suit by or against receiver. L.R.A.1915F, 1219.

# VII. Foreign receivers.

§ 27. Generally.

Conflict of laws as to matters affecting receiver, see Conflict of Laws, § 25.

Service of process after appointment of foreign receiver upon person designated by statute to receive service for cor-

poration. 47 L.R.A.(N.S.) 181.

Power of receiver to sue out of jurisdiction of appointment. 4 L.R.A.(N.S.) 824. Rights of receiver as to property outside

of the jurisdiction in which he is appointed. 23 L.R.A. 52.

# VIII. Sales by.

38. Generally.

Sale by receiver as violation of covenant in lease against assignment or sale. 14 L.R.A.(N.S.) 1203.

Right of receiver to purchase property. 1 B. R. C. 411.

Right of purchaser at receiver's sale of land subject to mortgage to question validity of the mortgage. L.R.A.1917C, 839. Consult also L.R.A. Digests of Cases.

#### RECEIVER'S CERTIFICATES.

See RECEIVERS, § 20.

# RECEIVING STOLEN PROPERTY.

Indictment for, see Indictment, etc., § 27b. As to larceny, see LARCENY.

Constitutionality of statute making the receiving of certain kinds of property a criminal offense. L.R.A.1917F, 709.

Statute making failure to inquire as to possessor's right, equivalent to guilty knowledge. 46 L.R.A.(N.S.) 31.
Instigation to. 25 L.R.A. 345.

Knowledge necessary to convict one of receiving stolen goods. 22 L.R.A.(N.S.)

Where property in question was stolen in foreign state or country. 28 L.R.A.

(N.S.) 750. Prosecution for larceny of one who receives or sells within the state property actually stolen with his connivance by another in another state. 42 L.R.A.(N.S.) 207.

Necessity and sufficiency of description of offense in bail bond or recognizance. 38 L.R.A.(N.S.) 314, 320.

Evidence of other crimes in prosecution for. 62 L.R.A. 269.

Proof of corpus delicti in prosecution for. 68 L.R.A. 55.

Cruel and unusual punishment for. L.R.A. 577.

# RECENT DEFECTS.

Liability of township for injury by recent defects in highway. 13 L.R.A. (N.S.) 1273.

#### RECENTLY STOLEN PROPERTY.

Possession of, as evidence of burglary. 12 L.R.A.(N.S.) 199.

Production of bill of sale as repelling presumption of guilt from possession of. 39 L.R.A.(N.S.) 320.

# RECEPTACLES.

Legislation to protect manufacturers or dealers against loss of receptacles in which their products are put up. 14 L.R.A. (N.S.) 1128.

Measure of damages for carrier's delay in delivery of receptacles for perishable goods. 24 L.R.A. (N.S.) 134; 40 L.R.A. (N.S.) 901.

What passes under bequest of contents of. L.R.A.1915C, 653.

#### RECEPTION.

Of evidence, see TRIAL, §§ 12-14. Of verdict, see TRIAL, §§ 76, 77.

#### RECIPROCAL RIGHTS.

In artificial condition of body of water. 50 L.R.A. 841.

#### RECITALS.

Effect of recital as to security on negotiability of paper, see BILLS AND NOTES, § 23.

As to consideration, see CONTRACTS, § 17. Of money consideration in deed, see DEEDS, § 14.

Estoppel by recitals in bond of public corporation, see ESTOPPEL, § 2.

Effect of recitals in bonus stock. 38 L.R.A.

Of money consideration in deed as contractual. 68 L.R.A. 925.

Recital in deed as evidence of heirship. 45 L.R.A.(N.S.) 93.

In deed of mortgaged property to mortgagee; effect on question of merger.

39 L.R.A.(N.S.) 843.
Recital in note as to security as affecting its negotiability. 32 L.R.A.(N.S.) 858.

In will of conveyance of land as devise where conveyance was not in fact made or proved ineffectual. 3 L.R.A.(N.S.) 645

Estoppel by, in deed or mortgage by married woman. 22 L.R.A. 780.

#### RECKLESS DRIVING.

Violation of ordinance against as ground for private action. 5 L.R.A. (N.S.) 254.

# \*\*\* RECKLESS INJURY.

As an assault. 14 L.R.A. 227.

#### RECKLESS STATEMENTS.

As a fraud. 35 L.R.A. 431.

# RECLAMATION.

justification for drainage of private

lands. 49 L.R.A. 783.

Taking of property for reclamation of marshes as a public purpose. 22 L.R.A. (N.S.) 163.

Immunity of reclamation district from liability for damages. L.R.A.1918B, 1010. Begin with this book on every law question.

# RECLAMATION DISTRICTS.

Applicability to, of Workmen's Compensa-tion Acts. L.R.A.1918F, 193.

#### RECOGNITION.

Of illegitimate child, see ILLEGITIMACY, §

Effect of President's recognition of the Carranza government. L.R.A.1917A, 280; L.R.A.1918E, 361.

Waiver of purchaser's right to rescind contract for purchase of real property by expressly recognizing the contract. 30 L.R.A.(N.S.) 878.

#### RECOGNIZANCE.

See BAIL AND RECOGNIZANCE.

#### RECOMMENDATION.

Recommendation of another as proper subject for credit as ground of liability. L.R.A.1915A, 100.

#### RECOMMENDATION TO MERCY.

Intimation that recommendation to mercy would be entertained as ground for reversal of conviction. 40 L.R.A. (N.S.) 239.

#### RECOMMITMENT.

Of person convicted of crime, see CRIMINAL Law, § 76.

Recommitment without further hearing of person discharged from insane hospital. 14 L.R.A. (N.S.) 468.

# ---RECONCILIATION.

Power of court to allow attorney's fees in divorce suit after reconciliation of par-

ties. 36 L.R.A.(N.S.) 1001.

Effort by one spouse to induce other to return home as condition of desertion by latter. 39 L.R.A.(N.S.) 1118.

Effect of, on separation agreement. L.R.A. (N.S.) 1219.

#### RECONSIDERATION.

Right of municipality, county, or town authorities to reconsider action as to allowance of claim. 21 L.R.A.(N.S.) 289.

#### RECONVENING.

Of grand jury. 27 L.R.A. 787.

#### RECONVERSION.

Of partnership real estate. 27 L.R.A. 476. Into real property after equitable conversion into personalty by contract for sale of land. 57 L.R.A. 652.

#### RECORDS AND RECORDING LAWS.

\*\*\*

- I. In general, \$\$ 1-5.
  II. Records of legislature, \$ 6.
- III. Judicial records, \$\$ 7, 8.
- IV. Records of title, \$\$ 9-27.
  - a. To personal property, \$\$ 9-11.

  - b. To real property, \$\$ 12-27. 1. In general, \$\$ 12-15a.
    - 2. Who entitled to protec-
    - tion, \$ 16. 3. What may be recorded,
    - \$ 17.
    - 4. Requisites and sufflciency of record, \$ 18.
    - 5. Necessity for recording; effect of failure, \$\$ 19-
    - 6. Time of recording; delay, § 23.
    - 7. As notice; effect of recording, \$\$ 24-27.

# I. In general.

#### # 1. Generally.

Amendment of, on certiorari, see CERTIO-RABI, § 6.

Inspection of, see DISCOVERY AND INSPEC-TION, § 4.

Judicial notice of, see EVIDENCE, §§ 7, 8. Admissibility of, in evidence, see EVIDENCE, §§ 126-129.

Lost records, see Lost Instruments, § 4. Of mining location, see MINES, § 19.

Libel or slander by charge against public officer or candidate of tampering with public records. L.R.A.1918E, 40.

Right to rent or other compensation from private persons or corporations making special or unusual use of public records. L.R.A.1918E, 942.

Effect of insertion of unauthorized provisions in recorder's bond. L.R.A.1917B.

Parol evidence to vary or supplement minutes of public body. 50 L.R.A. (N.S.) 99.

Sufficiency of record of benevolent society as to expulsion of member to render it conclusive on the courts. 52 L.R.A. (N.S.) 813.

Consult also L.R.A. Digests of Cases.

RECORDS AND RECORDING LAWS, I .cont'd

When statute begins to run against action by private person based on breach of duty by recording officer. 52 L.R.A. (N.S.) 711.

Loss or alteration of, as ground of injunction against judgments. 30 L.R.A. 562, 563.

Presumption as to time of alteration in record. 39 L.R.A.(N.S.) 115.

Form of Christian name required in. 24 L.R.A. 543.

Discovery of matters of record as ground bill of review. 30 L.R.A. (N.S.) for 1042.

Power of equity to cancel false records. 14 L.R.A. (N.S.) 304. Denial upon information and belief of mat-

ters appearing on public records. 30 L.R.A.(N.S.) 779.

Admissibility of secondary evidence to identify. 2 L.R.A.(N.S.) 652.

Use of, as standard for comparison of handwriting. 63 L.R.A. 435.

May records of sales of liquor which a druggist is required by law to keep be used as evidence against him in a criminal prosecution. 25 L.R.A. (N.S.) 818.

§ 2. Right to inspect public records. Records of title to real property, see infra, § 13.

Abstracters. 27 L.R.A. 82.

Suits. 27 L.R.A. 83.

Record making or copying. 27 L.R.A. 83. Account books of public officers. 27 L.R.A. 83.

As to title of office. 27 L.R.A. 85.

Liquor records. 27 L.R.A. 85. Patent records. 27 L.R.A. 85.

Right to inspect public records relating to public contracts. 41 L.R.A. (N.S.) 280.

Right of indicted person to inspect minutes of grand jury. 27 L.R.A.(N.S.) 558. Privilege of records of insane asylum. 51 L.R.A. (N.S.) 22.

§ 8. Index as part of record. Index as part of record of title. 14 L.R.A. 393.

§ 4. Necessity of recording; effect of

failure to record. Instruments transferring personal property, see infra, § 10.

Instruments transferring real property, see infra, §§ 19-22.

Release of surety upon creditor's failure to record papers. 37 L.R.A.(N.S.) 710.

Validity of statute or ordinance requiring persons engaged in the business of loan-ing money on chattel security or security of wages to file a record of loans made. 25 L.R.A.(N.S.) 686.

Who may take advantage of failure to file assignment of a building contract or of the money due thereunder. L.R.A. 1917F, 1127.

RECORDS AND RECORDING LAWS, I.— | RECORDS AND RECORDING LAWS, III. cont'd

§ 5. Effect of recording.

Instruments transferring personal property, see infra, § 11.

Instruments transferring real estate, see infra, §§ 24-27.

Recording of forged instrument as uttering or publishing. 8 L.R.A.(N.S.) 1180. Effect of public record as notice or evidence of notice to start statute of limitations against action based on fraud. 22 L.R.A.(N.S.) 208.

# II. Records of legislature.

6. Generally.

Impeachment of enrolled bill by. 40 L.R.A. (N.S.) 31.

Conclusiveness of enrolled bill as to compliance with provisions for recording vote. 23 L.R.A. 342.

Showing by journal's failure to record vote on bill. 40 L.R.A. (N.S.) 19.

#### III. Judicial records.

7. Generally.

On appeal, see APPEAL AND ERROR, §§ 18-

In criminal case, see CRIMINAL LAW, § 90. Record of judgment, see JUDGMENT, §§ 14-18.

Right to have record of arrest canceled. L.R.A.1917E, 777.

Judicial notice of court's own record in other actions. 11 L.R.A.(N.S.) 616; 29 L.R.A.(N.S.) 905.

Denial on information and belief of court records. 30 L.R.A.(N.S.) 781.

Admission on record as affecting burden of proof and right to open and close. 61 L.R.A. 530.

Of finding of indictment. 28 L.R.A. 34. Record of bringing indictment into open court. 26 L.R.A.(N.S.) 683.

Right of indicted person to inspect minutes of grand jury. 27 L.R.A. (N.S.) 558.

Showing of record as to number and agreement of jurors. 43 L.R.A. 72.

Effect of recording verdict on right to correct. 23 L.R.A. 735.

Sufficiency of record of guardian's bond. 33 L.R.A. 762.

Injunction against judgment obtained by fraud in matters of record. 30 L.R.A.

Injunction against judgment for irregularities in. 30 L.R.A. 709.

When statute begins to run against action by private person based on breach of duty by recording officer. 52 L.R.A. (N.S.) 711.

Parol evidence to vary judicial record in favor of or against a stranger thereto. L.R.A.1916A, 598, 608.

Sufficiency of record offered to prove conviction or acquittal. L.R.A.1916B, 954.

# § 8. Amendment.

On appeal, see APPEAL AND ERROR, § 21.

Begin with this book on every law question.

-cont'd

Of record as to indictment. 26 L.R.A. (N.S.) 688.

Amendment of, to cure defect for which mo-tion in arrest of judgment has been made. 67 L.R.A. 179.

Power of trial court to correct its records after an appeal or writ of error. 31 L.R.A. (N.S.) 207.

#### IV. Records of title.

#### a. To personal property.

9. Generally.

Recording of transfer by bankrupt, see

BANKBUPTCY, § 16.
Record of chattel mortgage, see CHATTEL MORTGAGE, §§ 16-22.

Of transfer of corporate stock, see CORPORA-TIONS, § 89.

Record of goods sold, see SALE, § 19.

Recording of bottomry bonds. 70 L.R.A. 429.

Right to rely on representations as to. 37 L.R.A. 603.

§ 10. Necessity of recording; effect of failure.

As to real property, see infra, §§ 19-22.

What is "personal property" within registration laws. L.R.A.1917C, 629.

Necessity of recording instrument creating lien or reserving title to personal property in state to which property is sub-sequently removed. 64 L.R.A. 356; 35 L.R.A. (N.S.) 385; L.R.A.1917D, 942.

Effect of failure to record contract of conditional sale on vendor's right to relief in case of purchaser's bankruptcy. 38 L.R.A.(N.S.) 554.

# § 11. Effect of recording.

As to real property, see infra, §§ 24-27.

Recordation of lien on fixtures as personalty as notice to purchaser or mortgagee of realty. 1 B. R. C. 691; 49 L.R.A.(N.S.) 400.

# b. To real property.

# 1. In general.

§ 12. Generally.

As to abstracts of title, see ABSTRACTS.

Delivery of deed for record as delivery, see DEEDS, § 8.

Constitutionality of mortgage registration tax. L.R.A.1916A, 865. Requiring mortgagor to pay mortgage or

recording tax as usurv. 51 L.R.A. (N.S.) 465; L.R.A.1918F, 383. The Torrens Law. L.R.A.1916D, 14.

Right to rely on representations as to. 37

L.R.A. 603.

Of assignment of lease. 15 L.R.A. 755.

Record of mining claim. 7 L.R.A. (N.S.) 864.

RECORDS AND RECORDING LAWS, IV. | RECORDS AND RECORDING LAWS, IV. b-cont'd

Purchaser's duty to examine records to determine location of property. 38 L.R.A. (N.S.) 307.

Effect of failure to pay registration tax or fee. 42 L.R.A. (N.S.) 146.

Liability of registrar of deeds for neglect, delay, or mistake in registering or indexing instrument affecting title to real property. 23 L.R.A. (N.S.) 127.

Federal courts following state decisions as to construction and effect of recording acts. 40 L.R.A.(N.S.) 420.

Right to jury in proceedings for registra-tion of land titles. 41 L.R.A.(N.S.) 1044.

§ 13. Right to inspect.

Right of abstracters to inspect. 27 L.R.A. 82.

Right to inspect public records as to boundaries and titles. 27 L.R.A. 84.

§ 14. Conveyance recorded before grantor obtained title.

The doctrine of estoppel. 23 L.R.A. 561. The doctrine of notice from registration. 23 L.R.A. 565.

Comparison and limitation of the opposing principles. 23 L.R.A. 567.

\$ 15. Effect of quitclaim deed in otherwise perfect record title.

Quitclaim purchasers not protected against latent equities. 29 L.R.A. 33.

Purchaser with notice. 29 L.R.A. 34.

Other rulings. 29 L.R.A. 36.

Distinction between conveyance of land and of mere interest. 29 L.R.A. 37.

Doctrine of the United States Supreme Court. 29 L.R.A. 38.

Where not protected. 29 L.R.A. 41. Where entitled to protection. 29 L.R.A. 42.

The Iowa doctrine. 29 L.R.A. 44. Care must be used. 29 L.R.A. 46.

Remote quitelaim in chain of title. L.R.A. 47.

Effect of remote quitclaim in chain of title upon rights of subsequent purchaser. 25 L.R.A.(N.S.) 1035.

15a. Possession under unrecorded instrument as notice of title. See NOTICE, § 17.

#### 2. Who entitled to protection.

16. Generally.

Discharge of antecedent debt as a consideration sustaining one's character as a bona fide purchaser or encumbrancer. 27 L.R.A.(N.S.) 620.

Protection of purchaser from apparent vendee under instrument apparently a conveyance but intended as a mortgage. 32 L.R.A.(N.S.) 1046.

Right of one claiming through heir or devisee to protection against unrecorded conveyance by ancestor or his personal representative. 34 L.R.A.(N.S.) 328. Consult also L.R.A. Digests of Cases.

b, 2—cont'd Right of heirs to protection of recording acts as against acts or conveyances of ancestor. 43 L.R.A.(N.S.) 1144.

Protection under recording acts of mortgage given as security for pre-existing debt. 33 L.R.A.(N.S.) 57.

#### 3. What may be recorded.

17. Generally.

What may be recorded under the Torrens Law. L.R.A.1916D, 27.

Lease as conveyance within meaning of recording statutes. 24 L.R.A.(N.S.) 879.

# 4. Requisites and sufficiency of record.

🖇 18. Generally.

Certainty and accuracy necessary in respect to Christian names or initials in record or index relied on as imparting constructive notice. 7 L.R.A.(N.S.) 415; 25 L.R.A.(N.S.) 1211; L.R.A.1915D, 1211.

Mistake in description of property as affecting record of instrument relating to real property. L.R.A.1916A, 530.

Should absolute conveyance which is intended as a mortgage be recorded as a deed or mortgage. L.R.A.1916B, 600.

Recordation of lien on fixtures as personalty as notice to purchaser or mortgagee of realty. 49 L.R.A.(N.S.) 400.

#### 5. Necessity of recording; effect of failure.

§ 19. Generally.

As to personal property, see supra, § 10.

Unrecorded deed as color of title. L.R.A. 1915B, 1006.

Failure to record conveyance as a fraud upon creditors. 31 L.R.A. 638.

Estoppel by allowing record title to remain in another. 22 L.R.A. 256; 46 L.R.A. (N.S.) 1097.

Effect of gap in record title on marketability of title. 38 L.R.A.(N.S.) 24.

Effect of unrecorded prior conveyance on marketability of title. 38 L.R.A. (N.S.)

Burden of proof as to bona fides of pur-chaser claiming against prior unre-corded conveyance or encumbrance. 36 L.R.A.(N.S.) 1124.

When local law deemed to require registering or recording of a transfer within meaning of § 60a of the bankruptcy 5 L.R.A.(N.S.) 148; 18 L.R.A. law. (N.S.) 1233.

Failure to record defeasance as against creditors of grantee in deed intended as a mortgage. 5 L.R.A. (N.S.) 387.

Failure to record conveyance to insured as affecting his sole unconditional owner-

ship. 22 L.R.A.(N.S.) 732. Remedy of one who fails to record a deed against his grantor who subsequently conveys to an innocent third person. 26 L.R.A.(N.S.) 284.

RECORDS AND RECORDING LAWS, IV. RECORDS AND RECORDING LAWS, IV. b, 5-cont'd

Effect of destruction or cancelation, or redelivery to grantor for that purpose, of delivered but unrecorded deed. 18 L.R.A.(N.S.) 1167; 34 L.R.A.(N.S.) 495; L.R.A.1918F, 402.

May one be a "purchaser" for a valuable consideration where nothing capable of money measurement is given. 4 B. R. C. 782.

Effect of failure to record lease on rights of tenant as against transferee of reversion. L.R.A.1915C, 195.

#### § 20. Priority of unrecorded instrument.

Priority of judgment over unrecorded conveyance, see JUDGMENT, § 62.
Priority over unrecorded mortgage, see

MORTGAGE, § 36.

Priority as between judgment and prior unrecorded conveyance. 10 L.R.A. 411; 16 L.R.A. 668.

Priority of unrecorded deed as against purchaser at judicial sale. 21 L.R.A. 33.

Priority as between unrecorded deed or mortgage of real estate and lien acquired by attachment. L.R.A.1918A, 1089.

When mechanics' lien superior to earlier unrecorded mortgage. 14 L.R.A. 306. Precedence as between quitclaim deed and senior unrecorded deed. 12 L.R.A. (N.S.)

240; 26 L.R.A.(N.S.) 159.

Precedence as between conveyance of land for a nominal or inadequate consideration and senior unrecorded conveyance. 16 L.R.A.(N.S.) 1073.

Necessity for recording assignment for creditors as against attaching creditor. 26

L.R.A. 594.

## § 21. Who affected by failure to record.

Discharge of antecedent debt as a consideration sustaining one's character as a bona fide purchaser or encumbrancer for value entitled to protection of Recording Acts. L.R.A.1918C, 438.

§ 22. Notice of unrecorded conveyance. Effect of notice of prior unrecorded conveyance on rank of lien of judgment.

16 L.R.A. 670.

Possession of land as notice of title. 13 L.R.A. (N.S.) 49.

#### 6. Time for recording; delay.

#### § 23. Generally.

First and last days in computing time for recording. 49 L.R.A. 242.

Delay in recording as fraud against creditors. 32 L.R.A. 69.

Effect of unrecorded agreement, not incorporated in conveyance, restricting use of property, upon successor in title. 40 L.R.A.(N.S.) 357. b, 6-cont'd

### 7. As notice; effect of recording.

#### § 24. Generally.

As to personal property, see supra, § 11. Sufficiency of record to give notice, see supra, § 18.

To one claiming estoppel to set up title, see ESTOPPEL, § 7a.

Effect on holder of record title of judgment. against parties designated in an action as unknown. L.R.A.1918F, 618.

Effect of recording conveyance by one co-tenant to third person to found adverse possession against others. 32 L.R.A. (N.S.) 708.

Effect of recording tax deed on limitation of actions to recover land sold for taxes. 27 L.R.A.(N.S.) 356. Effect of recorded agreement not incorpo-

rated in a conveyance restricting use of property upon successor in title. 15 L.R.A. (N.S.) 1129.

Taking deed from stranger to record title as constructive notice of instruments of record to or by him. L.R.A.1918C, 787. Conveyance recorded before grantor obtained title as notice. L.R.A.1918C, 792.

#### § 25. As delivery.

Record of deed by grantor as delivery to grantee. 54 L.R.A. 865; 9 L.R.A. (N.S.) 224; 38 L.R.A. (N.S.) 941.

Effect of recording undelivered transfer or assignment. 21 L.R.A. 696.

Permitting undelivered deed wrongfully re-corded by grantee to remain on record, as estoppel of grantor or his successors to deny its delivery as against one purchasing in reliance on the record. L.R.A.(N.S.) 712.

#### § 26. As notice.

Doctrine of notice from registration, of conveyance recorded before grantor obtained title. 23 L.R.A. 565.

Recordation of lien on fixtures as personalty, as notice to purchaser or mort-gagee of realty. 1 B. R. C. 691.

Notice by record as affecting fraudulent statements. 37 L.R.A. 603.

Destruction of record of deed or mortgage as affecting constructive notice imparted thereby. 23 L.R.A.(N.S.) 1180.

Recording lease as constructive notice transferee of reversion. L.R.A.1915C, 195.

§ 27. — instrument not entitled to be recorded.

Record of instrument not entitled to be recorded as actual notice. 38 L.R.A. (N.S.) 400.

Record of instrument acknowledged before a stockholder or officer of a corporation which is a party to the instrument, as notice. 41 L.R.A. (N.S.) 376.

#### RECOUPMENT.

See SET-OFF AND COUNTERCLAIM, § 13.

Begin with this book on every law question.

# RÉCOURSE.

Assignor without, as an indorser. 36 L.R.A. | Validity of statutory or other regulation 119.

#### RECOVERY BACK.

Of payments made, see ASSUMPSIT, II.

# RECOVERY OVER.

See Indemnity, §§ 2-4.

# RECREATION.

See AMUSEMENTS.

# RECRIMINATORY DEFENSE.

In action for divorce, see DIVORCE AND SEP-ARATION, § 33.

#### RECRUITING.

Prosecutions under the Espionage Act of June 15, 1917, for obstructing. L.R.A. 1918F, 410.

#### RECTOR.

See Religious Societies, §§ 6-9.

#### RECTORY.

See Parish House.

### REDELIVERY.

Of deeds, see DEEDS, § 33.

# REDEMPTION.

From judicial sale, see Judicial Sale, § 19. From mortgage, see MORTGAGE, §§ 85-91. Of pledged property, see PLEDGE AND COL-LATERAL SECURITY, § 10.

From tax sale, see TAXES, §§ 82-85.

From sale enforcing vendor's lien. L.R.A. (N.S.) 285.

Liability of government or other public body for its own obligations stolen from it after redemption. 39 L.R.A. (N.S.) 446.

Of corporate stock which has been forfeited. 27 L.R.A. 311.

Extension of time for redemption when last day falls on Sunday. 14 L.R.A. 122.

Jurisdiction of suit to redeem land in another state or country. 69 L.R.A. 685. See WITNESSES, § 39. Consult also L.R.A. Digests of Cases.

#### RED FLAG.

forbidding display of red flag or other symbol tending to incite disorder. L.R.A.1915B, 706.

#### REDIRECT EXAMINATION.

See WITNESSES, § 39.

#### REDUCED RATES.

Power to require of carrier, see CARRIERS. § 157.

#### REDUCTION.

Of stock, see CORPORATIONS, § 71.

Of damages, see Damages, §§ 3-11.

Of punishment, for good behavior, see CRIMINAL LAW, § 81.

Mandamus to restore to original rank officer who has been reduced in rank. 19 L.R.A. (N.S.) 80.

Right to reduction in rent of farm because part of it is not tillable. 36 L.R.A. (N.S.) 555.

Of shares of preferred, guaranteed, and interest bearing stock. 27 L.R.A. 151.

#### RE-ELECTION.

After ouster of officer for misconduct. 6 L.R.A. (N.S.) 843; L.R.A.1916D, 959.

### RE-ENACTMENT.

Construction of re-enacted statutes, see STATUTES, § 27.

Of Code or compilation of laws by single statute. 55 L.R.A. 853.

#### RE-ENTRY.

Landlord's right of, see LANDLORD AND TEN-ANT, § 94.

Re-entry for condition broken in case of devise to religious society for specified use. 11 L.R.A.(N.S.) 524.

#### RE-EXAMINATION.

#### REFERENCE.

§ 1. Generally.

Constitutionality of statute requiring, see CONSTITUTIONAL LAW, § 189.

Right of referee to resign. 46 L.R.A. (N.S.)

To medical referee under workmen's compensation act. L.R.A.1916A, 190; L.R.A.1917D, 114.

For determination of disputed questions in summary proceedings to compel attorney to surrender money or property L.R.A.1918D, 838.

Personal liability of referee to sell property for broker's services. 38 L.R.A.(N.S.)

Effect of interposing a counterclaim, set-off, or affirmative defense which would in itself be a proper subject for a compulsory reference, where the cause of action declared upon by plaintiff would not. 25 L.R.A.(N.S.) 264.

§ 2. Compulsory, as denial of constitutional, right to jury trial.

In general. 25 L.R.A. 68; 13 L.R.A. (N.S.)

146; 39 L.R.A.(N.S.) 46.

The United States Constitution. 25 L.R.A. 68.

Where the right existed prior to the state Constitution. 25 L.R.A. 68.

State statute no infringement of constitu- | See WITNESSES, § 28. tional right. 25 L.R.A. 69. Equitable account. 25 L.R.A. 70. Constitution violated. 25 L.R.A. 70.

Action at law. 25 L.R.A. 71. State Constitution. 25 L.R.A. 71.

§ 2a. — action on account.

Compulsory reference of accounts as denial of constitutional right to jury trial. 25 L.R.A. 70.

Denial of jury trial in actions involving accounts. 39 L.R.A.(N.S.) 46.

§ 3. Report.

Effect of failure to file report within proper time. 34 L.R.A.(N.S.) 581.

# ---REFERENDUM.

See Initiative, Referendum, and Recall, As fixture. 30 L.R.A. (N.S.) 576. § 1.

# REFORMATION.

As affecting right to divorce on ground of drunkenness or use of drugs. L.R.A. 1917D, 364.

# REFORMATION OF INSTRUMENTS.

Of deeds, see DEEDS, § 36. Jurisdiction of equity, see EQUITY, § 16. Begin with this book on every law question.

REFORMATION OF 'INSTRUMENTS-

Of insurance policy, see INSURANCE, § 48. Of mortgage, see MORTGAGE, § 4. Of will, see WILLS, § 33.

Effect of the Statute of Frauds upon the power of equity to reform a contract. L.R.A.1917A, 571.

Reformation of contract because of mistakeof law as to its effect. 28 L.R.A.(N.S.) 900.

Mistake of law as to effect of instrument as ground of. 28 L.R.A. (N.S.) 785.

Right to accept favorable part of decree and appeal from the rest. 29 L.R.A. (N.S.) 11.

#### REFORMATORIES.

Commitment of infants to, without conviction of crime. 16 L.R.A. 691.

Transfer for reformatory to state prison as cruel and unusual punishment. L.R.A. 1915C, 560.

#### REFRESHING MEMORY.

#### REFRESHMENT.

Right to use railroad right of way for purpose of refreshment place as against owner of fee. 36 L.R.A. (N.S.) 518.

Applicability of Sunday laws to sale of food and refreshments. L.R.A.1917C, 381.

Accident to one while seeking or taking refreshment as one arising out of and in the course of his employment within Workmen's Compensation Act. 6 B. R. C. 471.

#### REFRIGERATOR.

#### REFRIGERATOR CARS.

Carrier's duty with respect to. 10 L.R.A. (N.S.) 317.

Duty of carrier to furnish cars of a type not owned by it. 20 L.R.A. (N.S.) 310.

# REFUNDING BONDS.

See Bonds, III.

#### REFUSAL.

Rights conferred by, see CONTRACTS, § 23. Effect of loss or destruction of. 28 L.R.A.

#### REFUSE.

Liability of abutting owner for injury to pedestrian by refuse on sidewalk. 29 L.R.A. (N.S.) 707.

Municipal liability for injury by refuse in street. 20 L.R.A.(N.S.) 610.

Liability of municipality for injury by em ployee engaged in removing. L.R.A. 1918C, 1188.

Right to throw into stream. 41 L.R.A. 751. Obstruction of navigation by, liability for. 59 L.R.A. 73.

Pollution of stream by refuse from mining 22 L.R.A. (N.S.) 276; operations. L.R.A.1915D, 911.

#### REGISTER,

Admissibility of, as proof of partnership. 20 L.R.A. 599.

#### REGISTERED MAIL.

See Postoffice, § 8.

# REGISTRAR OF DEEDS.

Liability for neglect, delay, or mistake in registering or indexing instrument affecting title to real property. 23 L.R.A. (N.S.) 127.

# REGISTRATION.

Of voters, see Elections, § 6. Of instrument to affect title, see RECORDS AND RECORDING LAWS, IV.

Constitutionality of statute as to registering births, deaths, etc. 39 L.R.A. (N.S.) 1015.

Requiring registration of herds of cattle belonging to persons selling milk. L.R.A. 1917C, 253.

Of automobile. 1 L.R.A.(N.S.) 215.

#### REGISTRATION TAX.

Effect of failure to pay. 42 L.R.A. (N.S.) 146. Consult also L.R.A. Digests of Cases.

#### REGISTRY LIST.

(N.S.) 989.

#### REGULATION.

Of carriers, see CARRIERS, V. Of corporations generally, see CORPORA-

TIONS, § 12.
Of physicians and surgeons, see Physicians AND SUBGEONS, §§ 6-11.

Reasonableness of, see REASONABLENESS, § 7.

#### REHEARING.

On appeal, see APPEAL AND ERROR, § 45.

## · REIMBURSEMENT.

Of personal representative, see EXECUTORS AND ADMINISTRATORS, § 53.

Of one holding under void tax deed, see TAXES, § 79.

Of purchaser at void judicial sale. 21 L.R.A.

Of purchaser on annulling judicial sale. 69 L.R.A. 39.

Right of mortgagee who has paid taxes to maintain independent action against mortgagor for reimbursement before or after foreclosure of mortgage. 10 L.R.A. (N.S.) 679.

Of partner for money paid for partnership real estate. 28 L.R.A. 102.

School-teacher's right to reimbursement for money expended for school without precedent authority. 42 L.R.A.(N.S.) 1177.

Contingency of claim for reimbursement of sureties and indorsees as affecting time for its presentation. 58 L.R.A. 87.

#### REINSTATEMENT.

Of insured after forfeiture, see Insurance. § 109.

Of mortgage, see MORTGAGE, §§ 59, 60.

Of officer, see Officers, § 26.

Reinstatement or placing in statu quo as condition to relief, from mistake of law as to effect of instrument. 28 L.R.A. (N.S.) 902.

#### REINSURANCE.

See INSURANCE, §§ 209, 210.

#### REISSUE.

Effect of the reissue of a bill or note that has been paid by or transferred to a party primarily liable thereon. 28 L.R.A. (N.S.) 1066; L.R.A.1918E, 170.

#### RELATION.

See RELATIVE.

#### RELATION BACK.

Entry of judgment nunc pro tune, see Judg-MENT, § 18.

Of order appointing receiver. 15 L.R.A. (N.S.) 657.

Of deed delivered to third person. 54 L.R.A. 891.

Of judgment to beginning of term. 38 L.R.A.

Judgment by relation back to time prior to death of judgment debtor. 49 L.R.A. 167.

Of subcontractor's lien to date of that of

original contractor. 16 L.R.A. 335.

Of lien of mortgage of future crops to time of execution. L.R.A.1917C, 14.

Of amended pleading to prevent bar of limitations. 3 L.R.A. (N.S.) 268; 47 L.R.A. (N.S.) 932.

Retroactive effect of filing chattel mortgage for record as against lien acquired after execution of mortgage, 33 L.R.A. 163.

# RELATIONSHIP.

Resemblance as evidence of, see EVIDENCE, § 154.

Relationship to attorney in case as disqualifying judge. 42 L.R.A.(N.S.) 1172; L.R.A.1918F, 1036.

Effect of, to disqualify one to serve as commissioner or juror in eminent domain proceedings. 47 L.R.A.(N.S.) 151.

Necessity of relationship and decree essential to recover for mental anguish for failure to deliver telegram announcing death or illness. 49 L.R.A.(N.S.) 250.

Notice to telegraph company that relationship between parties is such that delay in transmission of message will cause mental anguish. 49 L.R.A. (N.S.) 320.

# RELATIVE.

1. Generally.

Various particular relatives, see AUNTS; BROTHERS AND SISTERS; BROTHERS-IN LAW; COUSINS; GRANDPARENTS; HUSBAND AND WIFE; PARENT AND CHILD; SISTERS-IN-LAW; UNCLES.

By affinity, see AFFINITY.

Begin with this book on every law question.

RELATIVE—cont'd

Implied contract to pay for services to, see
CONTRACTS, §§ 4, 5.
Measure of damage for injury to, see
DAMAGES, §§ 7, 57-64, 100, 101, 110.

Measure of damage for death of, see DAM-AGES, §§ 65-67, 101.

Damages for mental anguish resulting from negligence in transmission of message relating to illness or death of, see DAM-

AGES, § 102. Right of action for death of, see DEATH, §§ 3-10.

Descent and distribution of property of, see DESCENT AND DISTRIBUTION.

Validity of contract procured by threat to

prosecute, see Duress, § 4. Validity of transactions between, FRAUDULENT CONVEYANCES, §§ 21, 21a.

Illegitimate children, see ILLEGITIMACY.

Incest between, see INCEST.
Right to custody of infant child, see IN-FANTS, §§ 6-10.

Insurable interest of, see Insurance, §§ 27-

Relationship by adoption, see PARENT AND CHILD, §§ 16-18.

Discrimination against, in succession tax, see Taxes, §§ 93, 94.

Legacy to, see WILLS, §§ 69, 70.

Right of relative of party to instrument to take acknowledgment. 33 L.R.A. 340.

Resemblance as evidence of relationship. 52 L.R.A. 500.

Moral consideration arising from relationship as a sufficient consideration to support a promise to become respon-sible for another's debt. 3 L.R.A.(N.S.) 436.

Love and affection as consideration for executory promise to pay existing debt of relative. L.R.A. 1918C, 543.

Effect of relationship on contract otherwise champertous. 14 L.R.A. 747; L.R.A. 1916E, 76.

Reputed father's right to custody or control of illegitimate child as against. 65 L.R.A. 694.

Admissibility of declarations of relative of claimant upon issue of his relationship or heirship to decedent. 3 (N.S.) 530; L.R.A.1915D, 215. 36 L.R.A.

What constitutes residence of child living with relative entitling him to privilege of public schools. 36 L.R.A.(N.S.) 342; 51 L.R.A. (N.S.) 234.

Right to compel or restrain removal of remains of deceased relative. 3 L.R.A. (N.S.) 491.

Privilege of communications to relative of person defamed. L.R.A.1915A, 572.

Malice as essential to an action for alienation of affections by relatives. L.R.A.(N.S.) 469.

Imputing negligence of one to other. L.R.A.(N.S.) 662; L.R.A.1915A, 765.

2. As juror or grand juror. As juror, see JURY, § 11a.

As grand juror. 28 L.R.A. 202.

RELATIVE—cont'd

§ 3. Support of...

Support of infant child, see DIVORCE AND Separation, § 57; Infants, §§ 11-12.

Promise to pay for past support of. 53 L.R.A. 355.

Power of state to make relatives of person committed to insane asylum, liable for cost of his maintenance therein. L.R.A.(N.S.) 295.

Liability of relative for medical services to pauper. L.R.A.1915E, 844.

# 4. Trust between relatives.

Enforcement in equity of grantee's oral promise to grantor to hold in trust in case of conveyance between relatives. 39 L.R.A. (N.S.) 925, 926, 928.

§ 5. Criminal responsibility of one assisting or avenging relative

Homicide in defense of. 67 L.R.A. 546; 45 L.R.A.(N.S.) 145.

Is one assisting relative in peril bound by the latter's act in bringing on the difficulty. 15 L.R.A. (N.S.) 1013; 39 L.R.A. (N.S.) 671.

Killing or assaulting of, as sufficient provocation to reduce homicide to manslaughter. 17 L.R.A.(N.S.) 795.

#### RELEASE.

§ 1. Generally.

Effect of provision for, in assignment for creditors, see Assignment for Credi-TORS, § 14a.

On bail, see BAIL AND RECOGNIZANCE. of surety on bail bond, see BAIL AND RE-

COGNIZANCE, \$ 8.

Of indorser, see BILLS AND NOTES, § 34. Of claim for injury resulting in death, see

DEATH, V.

Of expectancy, see Expectancies, § 3. On habeas corpus, see Habeas Corpus, § 6. From liability on insurance policy, see In-

SURANCE, § 180.

Of joint tort feasor, see JOINT CREDITORS
AND DEBTORS, §§ 8-11.

From mortgage, see Mortgage, §§ 52-60. See also ACCORD AND SATISFACTION; COM-PROMISE AND SETTLEMENT.

Addition of name of attesting witness to release as an alteration. L.R.A.1917D,

Release of original debtor as a condition of novation by substitution of debtors. L.R.A.1918B, 113.

By personal representatives of claim due estate. 14 L.R.A. 414.

From liability for damage by damming back water of stream. 59 L.R.A. 868.

Of expectancy by prospective heir to ancestor. 25 L.R.A.(N.S.) 439.
Stipulation making execution of release from liability for damages a condition precedent to payment of benefits out of relief fund. 11 L.R.A.(N.S.) 194; 48 L.R.A.(N.S.) 446.

Consult also L.R.A. Digests of Cascs.

RELEASE—cont'd

Releases by servant after injury has been received and without reference to a prior contract. 11 L.R.A. (N.S.) 194; 48 L.R.A.(N.S.) 447.

Applicability to release of rule against conveyance of land held adversely. 35 L.R.A.(N.S.) 735.

Formal release under seal or in writing on payment of part of liquidated and undisputed debt. 11 L.R.A.(N.S.) 1026; L.R.A.1917A, 724.

Law governing release of claim for damages for death or bodily injury. 56 L.R.A. 223.

Presumption as to time of alteration in. 39 L.R.A.(N.S.) 110.

Admissibility of parol evidence that release was delivered on condition. 36 L.R.A. (N.S.) 1147.

Admissibility of parol evidence to vary written release in favor of or against a stranger to the contract. L.R.A. 1916A, 600, 611.

Release from covenant in lease as to payment of taxes and assessments. L.R.A. 1915A, 361.

Right to reinstatement of mortgage when released by mistake. 58 L.R.A. 788; L.R.A.1917E, 1059.

2. What operates as.

Of surety, see PRINCIPAL AND SURETY, §§ 10-18.

Of drawer or indorser by certification of check. 9 L.R.A. (N.S.) 698; 29 L.R.A. (N.S.) 205.

Of one partner by other partner's assumption of debts on dissolution of partner-ship. 9 L.R.A.(N.S.) 90; 48 L.R.A. (N.S.) 547.

§ 3. What included in; extent of.

Does release of damages for construction of railroad in highway include damages from elevation of grade. 10 L.R.A. (N. S.) 1202.

Effect of specification of particular claim to limit import of general release. L.R.A.(N.S.) 1034.

Scope of release under policy indemnifying insured against loss of time by sickness or accident. 24 L.R.A.(N.S.) 211.

§ 4. Effect.

On bail, see BAIL AND RECOGNIZANCE, § 6.

As affecting right of action for death. 34 L.R.A. 790.

Of interest in estate by one receiving ad-

vancement; effect on right to share in after-acquired property. 65 L.R.A. 578.

Release of principal after maturity of obligation as affecting guarantor. L.R.A.(N.S.) 875.

Effect on prior surety of release of later surety. 21 L.R.A. 252.

Of other security as affecting protection under recording act of mortgage given as security for antecedent indebtedness. 33 L.R.A. (N.S.) 57,

RELEASE-cont'd

Discharge of one primarily liable for loss of insured property as affecting insured's right of action against insurer. 29 L.R.A. (N.S.) 698.

Rebuttal of presumption of acceptance of assignment or deed of trust for creditors by conditions imposing. 24 L.R.A. 375.

Release of one of two or more persons severally, but no jointly, liable for a tort, as affecting liability of others. L.R.A. 1917A, 273.

Effect of release of one person from liability for a tort to release another where the former was not in fact or law liable. L.R.A.1918D, 183.

Effect of release of one joint tort feasor on liability of the other. 58 L.R.A. 293; L.R.A.1918F, 363.

Effect, in release of one joint tort feasor, of reservation of right as against oth-

ers. L.R.A.1915E, 800. Effect of release of lessee from liabilities for rent after assignment of lease. 52 L.R.A. (N.S.) 974.

Release of all claim for injury before receiving injury resulting in death as affecting right of statutory beneficiaries. L.R.A.1915E, 1170.

Settlement by injured person as precluding action for his death resulting from the injury. L.R.A.1915E, 1163.

Settlement between insured and tort feasor as affecting insurer's rights to subrogation. L.R.A.1916A, 1282.

Effect of release of security on right of obligee to be subrogated to security held by surety. L.R.A.1916C, 1079.

Release by person injured as affecting his claim against physician or surgeon employed by other party. L.R.A.1918A, **227.** 

Release of employer by acceptance of benefit of relief fund as affecting other tortfeasor. L.R.A.1918A, 996.

# 5. As consideration.

Of promise to marry as consideration for contract. 19 L.R.A. (N.S.) 656.

# 6. Validity; setting aside.

Effect of fraud on, see FRAUD AND DECEIT, § 17.

Effect of mistake, see MISTAKE, § 14.

Settlements and releases of each other by corporate promoters. L.R.A.1918E, 840.

In case of settlement under accident insurance policy under mistake as to the extent of the injury. L.R.A.1918E, 931.

Power of attorney to bind client by release of person or property of debtor from process to enforce judgment. L.R.A. 1918D, 808.

Right in action at law to attack release for fraud. 20 L.R.A.(N.S.) 915.

Effect of misrepresentations or undue influence by physician to avoid release. 5 L.R.A.(N,S.) 663; 48 L.R.A.(N.S.) 447.

Avoidance by infant of release of cause of action ex delicto. 11 L.R.A.(N.S.) 690.

Begin with this book on every law question.

RELEASE—cont'd

Validity of settlement between guardian and ward out of court. L.R.A.1916E, 863.

Furnishing medical attention as a consideration for release of liability for personal injuries or death. 46 L.R.A. (N.S.) 419.

Releases by servant after injury has been received and without reference to a prior contract. 48 L.R.A.(N.S.) 447.

Release of right to third person's services. L.R.A.1917F, 842.

Voluntary release of debt as fraud upon creditors of releasor. L.R.A.1918A, 404.

# 7. - return of consideration.

Return or tender of consideration for release of claim for personal injuries set aside on ground of fraud. L.R.A. (N.S.) 660; L.R.A.1918F, 1073.

#### RELETTING.

Of leased premises, see Landlord and Ten-ANT, § 31.

#### RELEVANCY.

Of evidence, see EVIDENCE, XII.

#### RELIANCE.

On fraudulent representations, see FRAUD AND DECEIT, §§ 13, 14.

# RELIEF.

Injunctive relief, see Injunction. From judgment, see Judgment, §§ 87-97.

Of citizens, appropriations for. 14 L.R.A. 475.

Settlement by injured person as precluding action for his death resulting from injury. 27 L.R.A.(N.S.) 176.

# RELIEF ASSOCIATIONS.

Contract with servant as to option of injured servant to accept benefits from relief fund, see MASTER AND SERVANT, § 53.

Do associations providing relief for railroad employees constitute insurance companies. 47 L.R.A.(N.S.) 299.

Who may or must be admitted to hospital

maintained by. L.R.A.1918D, 561.

Effect of Federal Employers' Liability Act on stipulation making acceptance of benefits for injury or death of employee under contract of membership in railroad relief department. L.R.A. (N.S.) 50.

RELIEF ASSOCIATIONS-cont'd

Rights and remedies in respect to relief department fund upon termination of employment. L.R.A.1916A, 1148.

Release of employer by acceptance of benefit of relief fund as affecting other tort-feasor. L.R.A.1918A, 996.

Liability for negligence of attendants furnished by relief department toward which employees contribute. 17 L.R.A. (N.S.) 1167; 30 L.R.A.(N.S.) 1207; 48 L.R.A. (N.S.) 531.

#### RELIGION.

Devise or bequest for, see CHARITIES.

Effect of religion of parent on right to custody of child. 41 L.R.A.(N.S.) 610. Validity and enforceability of contract or covenant in relation to real property which discriminates against persons because of religion. L.R.A.1916B, 1208.

#### RELIGIOUS BELIEF.

As qualification of witness, see WITNESSES, § 12.

Religious belief as insane delusion. 37 L.R.A. 269.

Religious belief as excuse for failure to furnish medical aid to child. 36 L.R.A.

(N.S.) 633. Validity of trust to propagate a particular religious belief as a charity. 6 L.R.A. (N.S.) 320.

Effect of bequest with a condition as to religious belief. 5 L.R.A.(N.S.) 804.

#### RELIGIOUS BOOKS.

Admissibility of entries in, in evidence, see EVIDENCE, § 145.

#### RELIGIOUS EXERCISES.

In public schools. 16 L.R.A.(N.S.) 860; L.R.A.1915D, 941.

Effect of provisions of ordinance of 1787 upon question whether religious exercises in public schools infringe upon religious freedom. 52 L.R.A. (N.S.) 312.

# RELIGIOUS FREEDOM.

See Constitutional Law, § 29a.

#### RELIGIOUS GARB.

At schools, see Schools, § 5. Consult also L.R.A. Digests of Cases.

RELIGIOUS GARB—cont'd Right to require or prohibit wearing of, in college. 42 L.R.A. (N.S.) 337.

#### RELIGIOUS INSTRUCTION.

In schools, see Schools, § 37.

# RELIGIOUS MANIA.

As affecting testamentary capacity. L.R.A. (N.S.) 89; L.R.A. 1915A, 462.

#### RELIGIOUS PREJUDICE.

Validity and enforceability of contract or covenant in relation to real property which discriminates against persons because of religion. L.R.A.1916B, 1208.

Libel or slander where "sting" is due to re-ligious prejudice or antagonism. ligious prejudice or L.R.A.1916E, 680.

#### RELIGIOUS RIGHTS.

Religious freedom, see Constitutional Law, § 29a.

Religious belief as affecting competency of witness. 42 L.R.A. 553; 23 L.R.A. (N.

S.) 1023. Effect of admission of state into the Union upon ordinance of 1787 as to. L.R.A.(N.S.) 312.

# \*\*\* RELIGIOUS SOCIETIES.

I. In general, §§ 1, 2.

II. Title to, or control of, property, § 3.

III. Schism or division of, §§ 4, 5.

IV. Ministers and priests, §§ 6-9.

V. Trustees, \$ 10.

VI. Membership in, \$\$ 11-18.

VII. Pew holders, § 14.

# I. In general.

§ 1. Generally.

Bequest for, see CHARITIES.

Specifying in will, use of devise to, see Wills, § 84.
Freedom of worship, see Constitutional

LAW, § 29a.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 146.

Jurisdiction over, see Courts, § 12.

Tribunals of, see Ecclesiastical Tribu-NALS.

Identity of, see IDENTITY AND IDENTIFICA-TION, § 7.

RELIGIOUS SOCIETIES, I .-- cont'd Injunction against, see Injunction, § 37. Sale of liquors within prohibited distance of church, see Intoxicating Liquons, § 27.

Tax on, see Taxes, §§ 24-26.

Mechanics' lien on property of. 51 L.R.A. (N.S.) 161.

As trustee in charitable bequest. 14 L.RA. (N.S.) 113.

Giving of free service or reduced rates to, by public service corporation as an unlawful discrimination. L.R.A.1918D, 916.

#### 3 2. Meetings of.

Disturbing meeting, see DISTURBING MEET-TNG.

Use of public school building for religious meetings. 31 L.R.A.(N.S.) 593.

# II. Title to, or control of, property.

8 S. Generaliv.

In case of schism or division, see infra, §§ 4,

Adverse possession by. 27 L.R.A. (N.S.) 388.

Conveyance on condition that property be used for church purposes. 19 L.R.A. 262.

Effect of specifying use of real estate in devise to. 11 L.R.A.(N.S.) 509.

Enjoining control, use of, or interference with, church property. 3 L.R.A. (N.S.) 854

Public policy as related to communistic life or tenure of property. 8 L.R.A.(N.S.) 909; 52 L.R.A.(N.S.) 459.

Right of member of church to injunction against unlawful sale by trustees. L.R.A.(N.S.) 828.

Disposition of property of church upon its dissolution. 47 L.R.A. (N.S.) 1015.

# III. Schism or division of.

4. Generally.

Litigation growing out of schism or division in religious society. 24 L.R.A. (N.S.) 692.

on or reunion of Cumberland Church with Presbyterian Church Union or U. S. A. 24 L.R.A. (N.S.) 717; 30 L.R.A. (N.S.) 666.

Effect of statute providing for use of church property by both parties in case of a schism or division in the society. 24 L.R.A. (N.S.) 729.

Right to preliminary injunction which would have effect of transferring possession of property from one faction to another. 39 L.R.A.(N.S.) 33.

### § 5. Power of local church to withdraw from general body. See also supra, § 4.

Independent congregations, 32 L.R.A. 92. Entitled to compensation. 38 L.R.A. 689. Rights of majority and minority. 32 L.R.A. Individual liability. 38 L.R.A. 689; 52 Independent congregations. 32 L.R.A. 92.

RELIGIOUS SOCIETIES, III.-cont'd Rule under particular statutes. 32 L.R.A.

Property acquired under express trust or for particular purpose. 32 L.R.A. 95. Synodical relations. 32 L.R.A. 96.

Rule where governing body of denomination changes its laws. 32 L.R.A. 97.

Immaterial change. 32 L.R.A. 98.

Withdrawal under laws of church. 32

L.R.A. 98.

Division of property. 32 L.RA. 98. Effect of statutory permission. 32 L.R.A. 98.

Effect of unanimous action. 32 L.R.A. 98. Rights of third persons. 32 L.R.A. 98.

# IV. Ministers and priests.

§ 6. Generally.

Privileged communications to, see EVIDENCE, § 220.

Libel of, see LIBEL AND SLANDER, § 19.

Giving of free service or reduced rates toclergymen by public service corporation as an unlawful discrimination. L.R.A. 1918D, 916.

Liability for improperly performing mar-riage ceremony. L.R.A.1917E, 868.

Liability for retusing the sacraments. L.R.A.1916D, 374.

Ministers as public officers. 17 L.R.A. 245. Right to remove minister summarily. 15-L.R.A. 96,

Character of occupation of premises by ministers. 4 L.R.A.(N.S.) 713, 721. Injunctive relief affecting. 3 L.R.A. (N.S.)

854.

Oral promise by, to one conveying land to him to hold in trust as giving rise to constructive trust. 39 L.R.A. (N.S.)

Going to another state, county, or district to preach as effecting change of domicil or residence. 22 L.R.A.(N.S.) 996; L.R.A.1917A, 294.

Ignorance that parties to marriage are under age as defense to prosecution for officiating at the marriage. 29 L.R.A. (N.S.) 504.

Sending for, as evidencing sense of impending death at time of dying declarations. 56 L.R.A. 415; 30 L.R.A.(N.S.) 398.

§ 7. Liability for salary of.

Generally. 38 L.R.A. 687; 52 L.R.A. (N.S.) 171.

Taxes, subscriptions, etc. 38 L.R.A. 687. A contract for services is binding. L.R.A. 687.

Interference with performance of duties. 38 L.R.A. 688.

Absence of contract. 38 L.R.A. 688.

Absence of incorporation. 38 L.R.A. 689; 52 L.R.A.(N.S.) 171.

Dissolution of pastoral relation. 38 L.R.A. 689; 52 L.R.A. (N.S.) 172.

L.R.A. (N.S.) 172.

Begin with this book on every law question.

RELIGIOUS SOCIETIES, IV.—cont'd Sale of property. 38 L.R.A. 689; 52 L.R.A. (N.S.) 172. Voluntary contributions. 52 L.R.A. (N.S.) 172. Unauthorized contracts. 52 L.R.A. (N.S.)

Implied contracts. 52 L.R.A. (N.S.) 172. Accord and satisfaction. 38 L.R.A. 689.

§ 8. Bequest for support of. Bequest for support of. 14 L.R.A.(N.S.) 94.

Validity of general bequest for education and support of ministry. 37 L.R.A.(N. S.) 1004.

§ 9. Review by civil court of dismissal or removal of priest or minister by ecclesiastical tribunal. See Courts, § 12.

#### V. Trustees.

10. Generally.

Injunctive relief affecting church trustees. 3 L.R.A.(N.S.) 860.

Extrinsic evidence to show who is liable on note executed by trustees of. 20 L.R.A. 705.

Power of court to order new election for trustee of religious society because of doubt as to result of original election. 31 L.R.A.(N.S.) 686.

Right of member of church to injunction against unlawful sale by trustees. 2 L.R.A.(N.S.) 828.

#### VI. Membership in.

§ 11. Generally,

Right of member to injunction against unlawful sale by trustees. 2 L.R.A.(N. S.) 828.

Right of educational, charitable, or religious institution to exclude person on account of race or color. 24 L.R.A.(N.S.) 447.

Membership in a religious society or denomination as disqualification to serve as juror in a cause involving its rights. 25 L.R.A.(N.S.) 992.

Right of one member to maintain action for libel or slander based on charges against religious body, 23 L.R.A. (N. S.) 730.

§ 12. Liability for debts. In general. 69 L.R.A. 255. Early rule in Massachusetts, Connecticut, and Maine. 69 L.R.A. 255. Incorporated societies. 69 L.R.A. 256. Unincorporated societies. 69 L.R.A. 257.

§ 13. Expulsion or excommunication of members.

Civil power to review. 15 L.R.A. 801. Conclusiveness of decision of ecclesiastical tribunal. 49 L.R.A. 354.

Review by civil courts of expulsion of member. 4 L.R.A.(N.S.) 1154.

Consult also L.R.A. Digests of Cases, 74

RELIGIOUS SOCIETIES, VI.—cont'd Power of civil court to compel restoration of member expelled by. 36 L.R.A.(N. 8.) 945.

#### VII. Pew holders.

14. Rights of,

The nature of their right and title. 22 L.R.A. 206.

Rights of the parish or society. 22 L.R.A. 212.

Rights of the pew owner. 22 L.R.A. 213. Free church. 22 L.R.A. 215.

Attachment. 22 L.R.A. 215.

Assessment and taxation. 22 L.R.A. 215. Relief under the English law. 22 L.R.A. 217.

#### RELIGIOUS WORSHIP.

Freedom of, see Constitutional Law, § 29a.

Injunction to prevent disturbance of. L.R.A.1917D, 996.

#### RELOCATION.

Of mining claim, see MINES, §§ 22, 23. Of railroad, see RAILROADS, § 23.

#### RELUCTANT WITNESS.

Power of court to examine. 57 L.R.A, 881; L.R.A.1916A, 1196.

# REMAINDERMEN.

Adverse possession by or against, see AD-VERSE POSSESSION, § 9.

As to respective rights of life tenants and remaindermen, see LIFE TENANTS.

Right of remaindermen to maintain ejectment. 18 L.R.A. 790.
Rights of remaindermen on condemnation

of property. 21 L.R.A. 212.

Right to partition among remaindermen pending life estate. 28 L.R.A.(N.S.) 125.

### REMAINDERS.

Contingent interests, generally, see CONTIN-GENT INTERESTS.

In land, see Deeds, § 31; LIFE TENANTS; WILLS, §§ 81, 82, 91, 101, 102.

Acceleration of, by widow's election, see WILLS, § 115.

Acceleration of, by renunciation of life. estate. L.R.A.1915A, 671.

REMAINDERS—cont'd

Estates in remainder as assets which will pass to the trustee in bankruptcy. 47 L.R.A.(N.S.) 284.

Estoppel of remaindermen to assert interest as against purchaser of fee by concealing the same. 48 L.R.A.(N.S.) 756.

# \*\*\* REMAINS.

See CORPSE.

#### REMARRIAGE.

After divorce, see MARRIAGE, §§ 12, 15.

#### REMEDIES.

In general, see Specific Titles, e. g., Ac-TION OR SUIT; EQUITY; INJUNCTION, etc.

Conflict of laws as to, see Conflict or Laws, §§ 38-45.

Impairment of obligation of contract by change of, see Constitutional Law, §§ 35–37.

Election of, see ELECTON OF REMEDIES. For testing election, see Elections, § 28. For fraud, see FRAUD AND DECEIT, §§ 36-

Against conveyance in fraud of creditors, see Fraudulent Conveyances, §§ 24-

Of or against heirs, see Heirs, § 7.

On insurance policy, see INSURANCE, §§ 201-

Against monopolies and combinations, see Monopoly and Combinations, §§ 13,

For relief from mistake of law as to effect of instrument. 28 L.R.A.(N.S.) 894. Remedies which the parties to an ultra vires contract are entitled to pursue apart from an action on the contract itself.

L.R.A.1917A, 1026. Lessee's remedy to secure possession. L.R.A. 1918A, 54.

Right of action for fraud or deceit causing loss of remedy. L.R.A.1917F, 719.

#### REMEDY AT LAW.

Exhaustion of, as condition precedent to equitable remedies of creditors, see CREDITORS' BILL, § 2.

Exhaustion of, as condition precedent to judgment creditor's right to receivership, see RECEIVERS, § 4.

Effect of, on equitable jurisdiction, see VI. Removal of criminal causes, \$\$ 18, Equity, § 3; Injunction, § 3.

Begin with this book on every law question.

#### REMISSION.

Of fines of loan association. 35 L.R.A. 222.

#### REMITTITUR.

Curing excessive verdict by, see New TRIAL, § 14.

On appeal to prevent reversal. 26 L.R.A.

#### REMONSTRANCE.

Against liquor license, see INTOXICATING

LIQUORS, § 11.

Against public improvement, see PUBLIC IMPROVEMENTS, § 3.

Doctrine of equitable conversion as affecting one's right to sign consent or remonstrance as landowner. 50 L.R.A. (N.S.) 32.

Against establishment of drains and sewers. 60 L.R.A. 218.

Right to withdraw names from. 11 L.R.A. (N.S.) 372; 35 L.R.A.(N.S.) 1113.

#### REMOTE GRANTEE.

Right of, to sue for breach of covenant when covenantor had neither title nor possession. 14 L.R.A.(N.S.) 514; L.R.A.1916D, 613. Will covenant of general warranty sustain

action by remote grantee evicted under an encumbrance, where the deed also contains covenants not running with the land. 26 L.R.A.(N.S.) 1094.

#### REMOVAL.

Of executor or administrator, see EXECU-TORS AND ADMINISTRATORS, § 8.

Of officers, see MUNICIPAL CORPORATIONS, § 117; OFFICERS, §§ 22-24.

Of cause, see REMOVAL OF CAUSES.

Of trustee, see Trusts, § 20.

#### REMOVAL OF CAUSES.

I. In general; right of, §§ 1, 2.

II. What suits removable; amount in controversy, §§ 3, 4.
III. Grounds, §§ 6-10.

IV. Practice; procedure, §§ 11-15.

V. Effect of removal; subsequent proceedings, \$\$ 16, 17.

#### REMOVAL OF CAUSES-cont'd

#### I. In general; right of.

#### 4 1. Generally.

By appeal or proceedings in error, see Ap-PEAL AND ERROR.

Effect of motion for removal as extending

time to plead. 47 L.R.A.(N.S.) 857. Removal of cause from state to Federal court. 37 L.R.A.(N.S.) 392.

Whether case made for removal, as Federal

question. 62 L.R.A. 538.

Mandamus to compel removal of case to Federal court or remanding of case to state court. 37 L.R.A.(N.S.) 392.

#### § 2. Right of.

Right of plaintiff to remove cause. 9 L.R.A. 229.

Effect of subsequent amendment to take away right. 3 L.R.A. 546.\*

#### 11. What suits removable; amount in controversy.

#### § 3. Generally.

Removal of action under Federal Employers' Liability Act. 47 L.R.A. (N.S.) 69; L.R.A.1915C, 75.

#### § 4. Ancillary suits.

Ancillary suits not removable. 3 L.R.A. 554.

#### 5. Amount in controversy.

Right dependent on amount in dispute. L.R.A. 65;\* 9 L.R.A. 228;\* 11 L.R.A. 568.\*

Amount in controversy, in case of set-off. 1 L.RA. 67.\*

# III. Grounds.

#### 6. Generally.

Removal of criminal cause for discrimination as to jurors. 55 L.R.A. 574.

Reliance upon Federal statute to defeat a defense in an action otherwise maintainable at common law, as a ground for removal of case to the Federal court. 17 L.R.A.(N.S.) 861.

# 7. Citizenship,

Removal of cause to Federal court because of diversity of citizenship. 5 L.R.A. (N.S.) 57.

Fraud in joining a resident as codefendant with a nonresident defendant, for the purpose of preventing a removal to the Federal court on the ground of diverse citizenship. 22 L.R.A. (N.S.) 1235. Right in case of diversity of citizenship to

remove action brought in a state court outside the territorial jurisdiction of either the plaintiff's or defendant's residence. 50 L.R.A. (N.S.) 828.

# 8. — corporations. Effect of removal, see infra, § 16. Consult also L.R.A. Digests of Cases.

REMOVAL OF CAUSES, III.—cont'd Stipulation against, by foreign corporation. 24 L.R.A. 294.

Citizenship and residence of corporations. 14 L.R.A. 184.

Removal of cause by nonresident corporation joined with resident employee. L.R.A.(N.S.) 370, 375.

Right to remove to Federal court a quo warranto proceeding against a foreign corporation. L.R.A.1918D, 857.

#### 9. Separable controversy.

Removal of cause to Federal court because of separable controversy. 5 L.R.A. (N.S.) 50.

§ 10. Prejudice or local influence. Of criminal prosecution under U. S. Rev. Stat. § 641. 53 L.R.A. 573.

# IV. Practice; procedure.

#### § 11. Generally.

Preservation of property pending proceedings. 1 L.R.A. 66.

Effect of amendment to take away right. 3 L.R.A. 546.\*

When removal perfected. 1 L.R.A. 65,\* 66.\* Practice and procedure in circuit court. 3 L.R.A. 545.\*

#### § 12. Petition; affidavit.

Petition; affidavit. 1 L.R.A. 65; 3 L.R.A. 546;\* 9 L.R.A. 232;\* 11 L.R.A. 567.\* Affidavit for removal. 3 L.R.A. 547.

How affidavit taken and certified. 3 L.R.A.

548. By whom affidavit to be made. 3 L.R.A. 548.

# § 13. Place of application for removal. Where application to be made. 11 L.R.A. 570.

Application made to circuit court. 9 L.R.A. 231.\*

# § 14. Time.

Time within which application must be made. 3 L.R.A. 545; 9 L.R.A. 230;\* 11 L.R.A. 569.\*

# § 15. Bond.

Bond. 5 L.R.A. 476.\*

# V. Effect of removal; subsequent proceedings.

# 16. Generally.

Of criminal prosecution. 53 L.R.A. 576, 580.

Effect of transition from Federal court to state court on running of limitations. 3 L.R.A.(N.S.) 295.

Revocation of license of foreign corporation on account of removal of action to Federal court. 1 L.R.A. (N.S.) 1019; L.R.A. 1915F, 1187.

REMOVAL OF CAUSES, V.—cont'd § 17. Subsequent proceedings.

Power of state court to render judgment for costs in case removed to Federal court and not remanded. 30 L.R.A. (N.S.) 1059.

Right of plaintiff, after removal of action commenced in state court to the Federal court, and its dismissal in the latter court without prejudice, to commence a new action in a state court upon the same cause of action. 7 L.R.A.(N.S.) 501; 34 L.R.A.(N.S.) 1195. Effect of pendency in Federal court of ac-

tion in personam removed from state court upon right to commence a new action upon the same cause in the state court. 26 L.R.A.(N.S.) 969.

#### VI. Removal of criminal causes.

🖇 18. Generally.

Removal of criminal cause from one Federal court into another. 53 L.R.A. 568.

Removal of criminal cause from territorial into Federal courts. 53 L.R.A. 581.

# § 19. Removal of criminal cause from state to Federal court.

Pow r of Congress to authorize removals. 53 L.R.A. 571.

Removals under U. S. Rev. Stat. § 641, to protect Federal rights. 53 L.R.A. 572.

Removals under U. S. Rev. Stat. § 643, of causes against Federal officers. 53 L.R.A. 577.

Removals under act of Congress of March 3, 1863. 53 L.R.A. 581.

# RENEWAL.

Of note, see BILLS AND NOTES, §§ 56, 57. Of chattel mortgage, see CHATTEL MOBT-GAGE, § 22.

Of insurance policy, see Insurance, § 39. Of lease, see LANDLORD AND TENANT, §§ 20a, 25, 50.

Effect of void renewal on liability on original contract, see CONTRACTS, § 72.

Extension of mortgage lien by renewal of secured debt, see Mortgage, § 55.
As affecting liability of surety, see Princi-

Of ferry license. 59 L.R.A. 535.

PAL AND SURETY, §§ 15, 16.

Validity and effect of stipulation in contract to renew on terms to be agreed upon. 32 L.R.A.(N.S.) 201.

Of obligations by incompetent person. 34 L.Ř.A. 274.

Extension of lien of mortgage by renewal of secured debt. 55 L.R.A. 673.

Effect on renewal of fire insurance policy of circumstances invalidating original policy but which in the meantime have ceased to exist. 1 B. R. C. 610.

Assignability of insurance agent's right to commissions on renewal premiums. 18 L.R.A.(N.S.) 193.

Begin with this book on every law question.

RENEWAL-cont'd

Termination of agency as affecting insurance agent's right to commissions on. 35 L.R.A.(N.S.) 153.

Liability of former stockholder for debts of corporation as affected by renewal after transfer of stock. L.R.A.1915B,

# RENTALS.

For, gas, payment of, see Gas, § 9. Rent generally, see LANDLORD AND TENANT, V.

See also RATES.

Action on contractor's bond for rental of transportation facilities. 43 L.R.A. (N.S.) 171.

Action on contractor's bond for rental of machinery. L.R.A.1915F, 952.

Right to compel water company to furnish general supply while municipality is in default in paying hydrant rentals. 34 L.R.A.(N.S.) 196.

Power of municipality to exact fee or rental for vaults or areaways in street. 31 L.R.A.(N.S.) 868.

Reasonableness of regulation of public service corporation requiring payment of, in advance. 19 L.R.A. (N.S.) 693; 31 L.R.A. (N.S.) 319.

Statutory lien on property of third person for rental of personal property let to contractor for use in work of a lienable nature. 16 L.R.A.(N.S.) 585; 42 L.R.A.(N.S.) 872.

Discrimination by public service corporation by requiring payment of rental in advance. 31 L.R.A.(N.S.) 315.

Right of public service corporation to impose penalty or added amount for failure to pay service bills promptly. 31 L.R.A.(N.S.) 329; 43 L.R.A.(N.S.) 63.

Right of public service corporation to discontinue service after tender of amount. due. L.R.A.1917C, 376.

#### RENT INSURANCE.

See INSURANCE, § 218.

#### RENTS.

Accounting for, by cotenant, see COTENANCY,

In general, see LANDLORD AND TENANT, \$\$ 77-93.

Guaranty or insurance of, see Insurance, § 218.

For lease of mine, see MINES, III.

Rights and liabilities of parties to mort-gage as to, see MORTGAGE. § 33.

Right to, on foreclosure, see MORTGAGE, § 79a.

See also RENTALS.

RENTS—cont'd

As a family expense or necessary within statute rendering wife or her property liable therefor. L.R.A.1917F, 862.

Right to rent or other compensation from private persons or corporations making special or unusual use of public records. L.R.A.1918E, 942.

#### RENUNCIATION.

Of benefit under will, see WILLS, §§ 110-

# \*\*\* REORGANIZATION,

Of corporations, see CORPORATIONS, III.

#### REPAIRS.

Of bridge, see Bridges, § 3. Cotenant's liability for, see COTENANCY, § 9. Duty of railroad company as to repairs in highway, see Highways, § 48.

Option of insurance company to make, see

INSURANCE, § 174.

Covenant as to, see LANDLORD AND TENANT, §§ 17, 17a, 71.

Duty and liability of landlord as to, see LANDLORD AND TENANT, IV. d.

Tenant's duty as to, see Landlord and Ten-ANT, § 57.

Lien for, see LIENS, § 11.

Master's duty as to making, see MASTER AND SERVANT, § 80.

Effect of master's promise to repair, see MASTER AND SERVANT, §§ 119, 120, 130. Imputing to master, coservants' neglect of

duty as to repairs, see MASTER AND SERVANT, § 161.

Provisions in paving contract for keeping in repair, see Public Improvements, §§ 8.

Of right of way. L.R.A.1918A, 593. Of levees, 58 L.R.A. 759.

Of drainage ditch. 69 L.R.A. 807.

Maritime lien for. 70 L.R.A. 391, 439.

Right of life tenant to timber for.

L.R.A. (N.S.) 765.

Right of water company to require customer to keep service pipe in repair. 32 L.R.A. (N.S.) 229; 43 L.R.A. (N.S.) 144.

When separate property of married woman is chargeable with costs of. 3 L.R.A. (N.S.) 307.

Duty of street railway as to repairs of defects in track or street. 52 L.R.A. 449. Right of one leaving chattels in another's possession for repairs to claim title against latter's vendees or creditors. 25 L.R.A.(N.S.) 796.

Duty of gas company as to repair of lines to prevent escape or explosion of gas. 32 L.R.A.(N.S.) 814; L.R.A.1915E, 1022.

Effect of, to extend time for filing mechanics' lien. 35 L.R.A.(N.S.) 908.

What constitutes reconstruction, as distinguished from repair, of pavement. 44 Of privileged statement as evidence of mal-L.R.A.(N.S.) 590. ice. 42 L.R.A.(N.S.) 1109.

Consult also L.R.A. Digests of Cases.

REPAIRS-cont'd

Employees engaged in repairing tracks as within purview of statutes abrogating fellow-servant rule. 47 L.R.A. (N.S.)

Right and duty of mortgagee in possession as to. 49 L.R.A.(N.S.) 123.

Duty of bailor and bailee respectively as to repair of subject of bailment for use. 52 L.R.A. (N.S.) 412.

Treatment of cost of, in estimating the return of a public service corporation for rate-making purposes. 52 L.R.A. (N.S.) 15.

Specific performance of repair contracts. 6 B. R. C. 912.

#### REPAIR SHOP.

Presumption of statutory authority of railroad to commit nuisance by maintaining. 70 L.R.A. 589.

#### REPARATION.

Actions to enforce reparation awards by Public Service Commissions. L.R.A. 1918E, 313.

#### REPAVING.

Liability of street railway for. 46 L.R.A. 197.

#### REPEAL.

Of corporate charter, see CORPORATIONS, § 19. Of ordinance, see MUNICIPAL CORPORATIONS, § 22. Of statute, see STATUTES, §§ 31-35.

# REPEATED MESSAGE.

See also Unrepeated Message.

Applicability of stipulation as to repeated messages to telegraph messages to failure or delay in transmission or delivery. 28 L.R.A.(N.S.) 566.

#### REPEATED TRESPASSES.

Injunction against. 13 L.R.A.(N.S.) 173; 21 L.R.A.(N.S.) 417.

# \*\*\* REPETITION.

ice. 42 L.R.A.(N.S.) 1109.

#### REPLEVIN.

I. In general, \$\$ 1, 2. II. Right of action and recovery, \$\$ 3-10.

a. In general, §§ 3-5. b. For what, §\$ 6-10. III. Procedure, §§ 11-16.

#### I. In general.

§ 1. Generally. Action of trover, see TROVER.

Right to damages for detention of property pending appeal in replevin. 52 L.R.A. (N.S.) 1199.

First and last days in computing time on. 49 L.R.A. 223.

Objection to specific performance of contract in relation to personal property that replevin or detinue furnishes a remedy. L.R.A.1918E, 606.

§ 2. Duty to preserve and return property replevied.

Loss or destruction of the property. 69

L.R.A. 283.

Depreciation of the property. 69 L.R.A. 286.

# II. Right of action and recovery.

#### a. In general.

3. Generally.

Right of tenant or cropper to maintain replevin for crops. L.R.A.1917C, 1114.

Shipper's right to maintain replevin for goods shipped for less rate than that fixed by interstate commerce act. 38 L.R.A.(N.S.) 354.

Seller's mistake as to identity of vendee as affecting the passing of the title to the goods sold. 13 L.R.A. (N.S.) 413.

Bringing action for purchase price as waiver of right in conditional sale to recover property in specie. 23 L.R.A.(N.S.) 144.

Right of one who intends to make an illegal use of property to invoke aid of court for recovery from one who has wrongfully taken the same. 39 L.R.A. (N.S.) 1093.

To recover goods purchased with knowledge of inability to pay for them. 44 L.R.A. (N. S.) 1.

To recover stranded logs or timber. 43 L.R.A.(N.S.) 460.

Right of garnishee to replevy his property taken in execution upon judgment against him where there was no legal service upon the principal debtor in the principal suit. 51 L.R.A. (N.S.) 601.

Bailee's right to maintain action of, for damage or conversion of bailed property. 3 B. R. C. 393.

Right of chattel mortgagor to maintain replevin to recover property unlawfully seized by mortgagee assuming to act under mortgage. L.R.A.1915E, 193.

REPLEVIN, II. a-cont'd § 4. Conditions precedent.

Necessity of returning consideration before bringing replevin for property obtained by fraudulent purchase. 21 L.R.A. 206; 1 L.R.A. (N.S.) 474.

Right of conditional seller to replevin property without returning or offering to return purchase money. 38 L.R.A. (N.S.) 897; 51 L.R.A.(N.S.) 251.

§ 5. Where defendant not in possession.

Right to maintain action to recover property in specie against one not in possession. 18 L.R.A.(N.S.) 1265.

#### b. For what.

8 6. Generally.

Possessory action for tax receipts. L.R.A.(N.S.) 785.

recover gambling device. 45 L.R.A. (N.S.) 336. For crops. L.R.A.1917C, 1114. For dogs. 40 L.R.A. 507.

For intoxicating liquors. 20 L.R.A.(N.S.) 1118.

For timber cut but not removed before expiration of time limit. 29 L.R.A. piration of time limit. (N.S.) 547.

To recover the produce of trees unlawfully cut from land. 19 L.R.A. 654.

For deed of real property. 20 L.R.A.(N.S.) 507.

For promissory note. 3 L.R.A.(N.S.) 138. Right to maintain trover to recover possession of paid bill or note. 16 L.R.A. (N.S.) 1043.

§ 7. Undivided interest in personalty. General rule. 37 L.R.A. (N.S.) 267; L.R.A. 1916B, 1183.

Exception as to divisible property of uniform kind, quality, and value. L.R.A.(N.S.) 269.

Commingled goods. 37 L.R.A. (N.S.) 270; L.R.A.1916B, 1183.

8. Things severed from land.

Right to maintain, by or against one in adverse possession of land, for things severed. 69 L.R.A. 732.

To recover fence post cut by adjoining owner from hedge on boundary line. L.R.A.(N.S.) 6.

Right of owner of land to replevin severed crops grown thereon by one not in privity with him. L.R.A.1918A, 552.

§ 9. Property in custody of law. For property taken by levy under void or voidable judgment. 55 L.R.A. 280.

§ 10. — property already replevined. Right of one from whom property has been taken in replevin to maintain similar action for its recovery. L.R.A.(N.S.) 216.

Right of one not a party to original replevin action to recover property seized under process in that action. 5 L.R.A.(N.S.)

Begin with this book on every law question.

REPLEVIN—cont'd

Replevin for property held under redelivery bond given to secure release of property from legal process. L.R.A.1917D, 987.

#### III. Procedure.

§ 11. Generally.

Measure of recovery in, see DAMAGES, § 69.

Right to break and enter dwelling to serve writ of. L.R.A.1916D, 284.

Effect of admission to change burden of proof and right to open and close. 61 L.R.A. 539, 546.

Right to accept favorable part of judgment and appeal from the rest. 29 L.R.A. (N.S.) 14.

Who is real party in interest, who must bring action in replevin. 64 L.R.A.

Whether action to be brought against executor or administrator in personal or representative capacity. 51 L.R.A. 266.

12. Bond.

Measure of recovery on, see Damages, § 28.

Presumption as to time of alteration in. 39 L.R.A.(N.S.) 100.

Condition that replevin bond shall not take effect until signed by others. 45 L.R.A. 334.

Effect of delivery of bond unsigned by principal obligor. 12 L.R.A. (N.S.) 1118.

Replevy bond as precluding defendant in attachment suit from attacking the ground of attachment. 32 L.R.A.(N.S.) 406.

Form of judgment on replevin bond. 62 L.R.A. 453.

Effect upon surety on replevin bond of judgment against principal. 40 L.R.A. (N.S.) 744; L.R.A.1918E, 820.

Filing bond to secure release of property as an appearance. L.R.A.1916F, 587.

Effect of bond or receipt given to secure surrender of property by officer as an estoppel after it has been returned to officer. L.R.A.1916F, 942.

Liability of sureties on replevin bond where judgment is in favor of one principal and against another. 51 L.R.A.(N.S.)

Liability on replevin bond where suit is dismissed or discontinued or nonsuit suffered, without a judgment for the return of the property. L.R.A.1917A, turn of the property.

Replevin for property held under a redelivery bond given to secure release of property from legal process. L.R.A.1917D,

§ 13. — defects or irregularities in, as defense to action on bond which has served its purpose.

Effect of insertion of unauthorized provisions in. L.R.A.1917B, 990.

Enforceable as a common-law bond. 29 L.R.A. (N.S.) 747. Amount of the bond. 29 L.R.A. (N.S.) 748.

Consult also L.R.A. Digests of Cases.

REPLEVIN, III.-cont'd

Defect in condition of bond. (N.S.) 748. 29 L.R.A.

Omission of name. 29 L.R.A.(N.S.) 749. Irregularities in execution of bond. L.R.A. (N.S.) 749.

Signing or delivering on Sunday. 29 L.R.A. (N.S.) 750.
Delivery. 29 L.R.A. (N.S.) 751.

Acceptance and approval. 29 L.R.A. (N.S.) 751.

Filing. 29 L.R.A. (N.S.) 751.
Failure of sureties to justify. 29 L.R.A. (N.S.) 751.

Clerical errors. 29 L.R.A. (N.S.) 751.

Officer's assignment. 29 L.R.A. (N.S.) 752. Alteration of bond. 29 L.R.A. (N.S.) 752. Filing additional bond as release of sure-

ties on original undertaking. L.R.A. 752.

Effect of disability of one of the makers. 29 L.R.A. (N.S.) 752.

§ 14. Defenses.

To action on bond, see supra, § 13.

Availability of breach of warranty as defense in replevin or claim and delivery where not specially pleaded. 34 L.R.A. (N.S.) 473.

15. Judgment, verdict.

What matters concluded by judgment, see JUDGMENT, § 36.

Judgment against plaintiff in replevin of logs involving boundary as establishing boundary claimed by defendant. L.R.A.(N.S.) 1020.

Requisites of special verdict in action of. 24 L.R.A.(N.S.) 18.

Right to reject property because of de-preciation, under alternative judgment for return of property or for its value. . 45 L.R.A.(N.S.) 40.

Liability on replevin bond where suit is dismissed or discontinued, or nonsuit suffered, without a judgment for the return of the property. L.R.A.1917A, 1191.

16. Set-off; recoupment.

Right of one garnished in respect of property wrongfully taken from debt to set off his own claim against latter. 30 L.R.A. (N.S.) 1185.

Right in replevin to recoup damages growing out of same transaction. 24 L.R.A. (N.S.) 748.

#### REPLY.

See also PLEADING, § 40.

Necessity of proof of genuineness of reply letter. 17 L.R.A.(N.S.) 229.

# REPORT.

Contempt in publishing inaccurate report of court decision, see CONTEMPT, §§ 6, REPORT-cont'd

Liability of corporate officers for failure to file, see Corporations, § 56.

Admissibility in evidence, see EVIDENCE, § 130.

Privileged nature of, see LIBEL AND SLAN-DER, §§ 24-27.

Of referee, see REFERENCE, § 3.

Collateral attack for fraud not affecting jurisdiction on judgments and orders confirming. 36 L.R.A. (N.S.) 982.

Liability of corporate officer who fails to file report required by statute to surety or guarantor of corporate property. 35 L.R.A.(N.S.) 865.

False statements in reports required by statute to be made by public officer as basis of action by individuals at common law for deceit against corporate officers or directors personally. L.R.A. (N.S.) 872.

#### REPORTER.

See NEWSPAPERS.

#### REPRESENTATION.

As fraud, see FRAUD AND DECEIT. By insured, see INSURANCE, V. h.

Of persons not in being. 8 L.R.A. (N.S.)

Taxation without. 15 L.R.A.(N.S.) 67. Power of corporate president and vice president as to. 14 L.R.A. 359.

Effect of admission of state into the Union upon provisions of ordinance of 1787 as to proportionate representation of the people in the legislature. 52 L.R.A. (N.S.) 311.

# REPRODUCTIONS.

As infringement of common law rights in literary productions. 51 L.R.A. 379; 43 L.R.A.(N.S.) 639.

#### REPUBLICAN FORM OF GOVERN-MENT.

See Constitutional Law, § 21.

#### REPUDIATION.

Of agreement to turn state's evidence. 18 L.R.A. (N.S.) 823.

#### REPUGNANCY.

In provisions of will, see WILLS, §§ 63, 78. Validity of condition in deed that the grantee shall not sell in the lifetime of the grantor. L.R.A.1916D, 930.

Validity of restraints on alienation of legal life estates. L.R.A.1918E, 571.

#### REPURCHASE.

See also RESALE.

By corporation of its own shares of stock. 44 L.R.A.(N.S.) 156; L.R.A.1916F, 286.

Validity of contract by vendor to repurchase vendee's interest after latter's default. 35 L.R.A.(N.S.) 544.

Agreement by corporation at time of sale to repurchase its own shares of stock. 25 L.R.A.(N.S.) 53.

#### REPUTATION.

As to character, see CHARACTER. Evidence as to, see EVIDENCE, §§ 249-253.

Of deceased as affecting homicide, see Homi-CIDE, § 3.

Actionability of statement as to servant's reputation, see LIBEL AND SLANDER, 88 20, 27.

Competency of witness as to, see WITNESSES, § 25.

Statute making reputation prima facie evidence of character. L.R.A.1915C,

Necessity of corroborating evidence as to reputation of house to support a conviction for keeping disorderly house. 46 L.R.A.(N.S.) 593.

Of indorser as putting purchaser of negotiable paper on inquiry. 29 L.R.A. (N.S.) 373; 44 L.R.A. (N.S.) 403; L.R.A.1918F, 1153.

Truth as defense to civil action for libel or slander injurious to. 31 L.R.A. (N.S.) 143.

Extent of trespasser's liability for injury to. 53 L.R.A. 634. Certificate of, to servant; rights and lia-

bilities as to. 4 L.R.A.(N.S.) 1091. Liability growing out of repetition of in-

formation affecting character of reputa-tion of servant. 4 L.R.A.(N.S.) 1114.

Right of innkeeper to refuse to accept as guest, persons of bad reputation. 52 L.R.A.(N.S.) 744.

Admissibility of declarations and repute on question whether child was born dead or alive. L.R.A.1918D, 1085.

# REPUTED FATHER.

Right of officer to repudiate resignation. Right to custody or control of illegitimate L.R.A.1917F, 547. child. 65 L.R.A. 689. Begin with this book on every law question.

#### REPUTED WIFE.

Lisbility for necessaries furnished to. L.R.A.1917B, 1290.

#### REQUEST.

As condition precedent to bringing of suit, see ACTION OR SUIT, § 9.

Of party for arbitration of insurance loss.
\_ 15 L.R.A.(N.S.) 1065.

For goods as subject of forgery. 32 L.R.A. (N.S.) 327.

#### RESALE.

For purpose of fixing damages from purchaser's refusal to accept goods, see Damages, § 35a.

Control over, as element of monopoly, see Monopoly and Combinations, §§ 5, 6. See also REPUBCHASE.

Measure of damages for nondelivery of goods as affected by resale before time of delivery. 7 B. R. C. 356.

Measure of damages for delay in delivery of

goods purchased as affected by price at which they were resold. 7 B. R. C. 331.

Purchaser's right on rejecting goods for breach of warranty to resell them on seller's account. 27 L.R.A. (N.S.) 932.

Validity of contract provision seeking to control prices at which articles shall be resold. 27 L.R.A.(N.S.) 395; 51 L.R.A.(N.S.) 522; L.R.A.1917A, 1285. Validity of conditional sale contracts as af-

fected by expressed or implied permission to purchaser to resell in the or-dinary course of business. L.R.A. 1917B, 658.

#### RESCISSION.

For breach of condition subsequent, see Con-DITIONS, § 13.

Of contract, generally, see CONTRACTS, §§ 149-156.

Of deed, see DEEDS, § 33.

Of contract of employment, see MASTER AND SERVANT, § 38.

Of contract for sale of personalty, see SALE, §**§ 62**–70.

Of contract for sale of land, see VENDOR AND PURCHASER, §§ 22-25.

See also Cancelation of Instruments, §§ 22-25.

Power of corporation to rescind declaration of dividend. L.R.A.1917B, 736.

### RESCUE.

Homicide to prevent. 67 L.R.A. 302. Consult also L.R.A. Digests of Cases. RESCUE-cont'd

Right of one going on railroad crossing to rescue property to recover for injury. 28 L.R.A. (N.S.) 346.

Voluntarily incurring danger to save another's life as contributory negligence. 27 L.R.A. (N.S.) 1069.

Care required of one attempting to rescue another in sudden emergency. 37 L.R.A. (N.S.) 46.

#### RESEMBLANCE.

As evidence of relationship, see EVIDENCE, Right of witness to express opinion as to.

L.R.A.1918A, 719.

#### RESENTENCE.

Of person convicted of crime, see CRIMINAL LAW, § 76.

#### RESERVATION.

§ 1. Generally.

In deeds, see DEEDS, §§ 24-27. Creation of easement by, see EASEMENTS, § 8.

Of rights against others by releasing one joint debtor, see JOINT CREDITORS AND DEBTORS, § 9.

Of title on sale of personal property, see SALE, XI. b.

Of title in bailment for sale. 22 L.R.A. 850.

Knowledge or notice of, sufficient to put purchaser from fraudulent vendor on inquiry. 32 L.R.A. 56.

Of right to dam back water of stream. 59 L.R.A. 830.

Transfer of purchase money obligation as affecting reservation of title on conditional sale. 37 L.R.A.(N.S.) 71.

Reservation of right of re-entry as affecting character of instrument as assignment or sublease. 42 L.R.A.(N.S.) 1084.

Validity of reservation in dedicating land for street. L.R.A.1917C, 229.

§ 2. Of public land.

Indian reservation, see Indian RESERVATION. Military reservation, see MILITARY RESER-VATION.

Naval reservation, see NAVAL RESERVATION. Forest reservation, see Public Lands, § 6. Cutting of timber on. 70 L.R.A. 909.

# RESERVE.

Effect of statute providing for application of reserve to purchase of extended or paid up insurance. 13 L.R.A. (N.S.) 1046.

#### RESERVE FUND.

Taxation of, as part of capital stock of corporation. 58 L.R.A. 569.

Effect of provision that deficiency in assessment may be paid from. 10 L.R.A. (N.S.) 264.

#### RESERVOIR.

Passing of storage reservoir to grantee of mill. 58 L.R.A. 490.

Liability for withdrawing water from. L.R.A. 579.

Liability for escape of water from. L.R.A.(N.S.) 535.

Doctrine of "attractive nuisance" as ap plied to. 19 L.R.A.(N.S.) 1143; 47 L.R.A.(N.S.) 1101.

Contributory negligence of child falling into. L.R.A.1917F, 109.

Right to consider value of property as part of natural water power in fixing com-pensation for taking land for. 3 L.R.A.(N.S.) 912.

#### RES GESTÆ.

See EVIDENCE, XI.

#### RESHIPMENT.

Right of stoppage in transitu after reshipment. 34 L.R.A.(N.S.) 31.

#### RESIDENCE.

See Domicil and Residence.

# RESIDENT COUNSEL.

Attorney's implied power to employ. L.R.A.(N.S.) 707. 23

# RESIDUARY CLAUSE.

What property passes under, see WILLS, § 74.

#### RESIDUARY LEGATEE.

Right of, to gift failing for remoteness. 20 L.R.A. 517.

When will the appointment of a residuary legatee amount to a gift of undisposed of realty. 5 B. R. C. 141.

# RESIGNATION.

Of personal representative, see EXECUTORS AND ADMINISTRATORS, § 8. Of officer, see Officers, § 19.

Of referee, see REFERENCE.

Necessity of and time for acceptance of resignation by employee of a private employer. L.R.A.1915D, 477.

# RES IPSA LOQUITUR.

See EVIDENCE, III. g.

#### RESISTANCE.

Of arrest, see Arrest, §§ 7, 8. Of trespass, see TRESPASS, § 3.

#### RESISTING ARREST.

See ARREST, §§ 7, 8.

#### RESISTING OFFICER.

See ARREST, §§ 7, 8.

# RES JUDICATA.

See JUDGMENT, III.

# RESOLUTION.

Distinguished from ordinance. 14 L.R.A.

First and last days in computing time for passing and taking effect of. 49 L.R.A. 248.

Effect of resolution of city to pay judgment against it to excuse creditor's failure to issue execution or revive judgment during statutory period. 2 L.R.A. (N.S.) 855.

Effect of resolution by corporate directors to complete a contract. 18 L.R.A. (N.S.) 293.

Retroactive effect of resolution of mutual insurance company changing period during which policy may be contested for suicide. 12 L.R.A.(N.S.) 504.

#### RESPONDEAT SUPERIOR.

In general, see Master and Servant, IV. Begin with this book on every law question.

#### RESPONDENTIA.

Bonds of, as giving maritime lien. 70 L.R.A.

#### RESTAURANT.

1. Generally.

Power to require license to keep, see LI-CENSE, § 22b.

Municipal control over, see MUNICIPAL COR-PORATIONS, § 47.

Use of railroad right of way for purposes of, as against owner of fee. 36 L.R.A. (N.S.) 518.

2. Liability of keeper of.

Liability for serving unfit food. 40 L.R.A. (N.S.) 480; L.R.A.1915B, 481.

Liability of keeper of, for assault by his servant upon a patron. 12 L.R.A. (N.S.) 1155; L.R.A.1918E, 708.

Liability of restaurant keeper to customer for injury by act of servant in emergency. 21 L.R.A.(N.S.) 464. Proprietor of hotel conducted on European

plan as keeper of, within license statute or ordinance. 17 L.R.A.(N.S.) 566.

Serving liquor with meals by proprietor of hotel or restaurant as a sale thereof. 25 L.R.A. (N.S.) 943; 52 L.R.A. (N.S.) 722.

Serving game or fish with meal as violation of game law. L.R.A.1917F, 769.

#### RESTITUTION.

On reversal, see APPEAL AND ERBOR, § 44a.

# RESTORATION.

As prerequisite to rescission of contract, see CONTRACTS, § 156.
On disaffirmance of infant's contract, see

INFANTS, § 23.

To office, see Officers, § 26.

Restoration of right to vote by service of sentence upon conviction for crime. 32 L.R.A. (N.S.) 418.

Right of riparian owner to restore stream which has changed its course by natural causes to old' channel. L.R.A. 1916F, 407.

#### RESTRAINT OF TRADE.

Contracts in restraint of trade, see Con-TRACTS, §§ 107-109, 117, 118; MONOP-OLY AND COMBINATIONS.

Breach of contract not to engage in rival business, see CONTRACTS. § 131c. Consult also L.R.A. Digests of Cases.

#### RESTRAINT ON ALIENATION.

In will, see WILLS, §§ 78, 87. See also PERPETUITIES.

#### RESTRAINT ON MARRIAGE.

See Marriage, § 3.

#### RESTRICTIONS.

Restrictive covenants, see Covenants, §§ 5-7, 21-25.

On use of dedicated property, see DEDI-CATION, § 3.

On purchaser of patent, or patented article, see PATENTS, §§ 12, 13.
On right of railroads to combine, see Rail-

roads, § 10.

On sale or use of property as affecting purchaser, see SALE, § 43.

power of corporation or association to take under will, see WILLS, §§ 72, 73. In will, see WILLS, §§ 83-90.

On admission to theater or other place of amusement. L.R.A.1916E, 253.

Right of purchaser of personalty to sell or use it free from restrictions affecting it in hands of vendor. 55 L.R.A. 631.

Validity of restriction in deed as to use of property inserted for purpose of securing a monopoly to the grantor. 14 L.R.A.(N.S.) 910.

Right of manager to impose restrictions on admission to theater. 1 L.R.A. (N.S.) 1188.

Offense of keeping gaming house as affected by restrictions on admission. L.R.A.(N.S.) 549.

#### RESTRICTIVE COVENANTS.

See COVENANTS, §§ 5-7, 21-25.

#### RESULTING TRUSTS.

See TRUSTS, § 13.

#### RETAIL.

What constitutes sale of liquor at, see In-TOXICATING LIQUORS, § 21.

Right to fix retail price of book as incident of copyright. 15 L.R.A.(N.S.) 767.

Condition imposed by manufacturer as to retail price, as binding upon retailer purchasing from middleman. 3 B. R. C. 299.

#### RETAINER.

Of attorney, see ATTORNEY, § 7.

#### RETAINING WALL.

Duty as to maintenance and repair of. L.R.A.1917F, 683.

of lateral support. 68 L.R.A. 706.

#### RETAKING.

Seller's right to retake property, see SALE, 88 44, 50.

#### RETALIATION.

Disproportionate retaliation as affecting degree of homicide in heat of passion. 5 L.R.A.(N.S.) 822.

Retaliatory statements in argument of counsel to jury. L.R.A.1918D, 18, 107.

#### RETALIATION LAWS.

In respect to corporate taxation. 60 L.R.A. 360.

Imposing restrictions on business of foreign insurance companies. 24 L.R.A. 303.

# RETENTION.

Of witnesses, see WITNESSES, § 3.

# RETENTION OF POSSESSION.

Presumption of fraud towards creditors

from, see Evidence, § 49.

Effect of, on validity of conveyance as against creditors, see FRAUDULENT CONVEYANCES, §§ 19, 20.

# RETORNO HABENDO.

Right to break and enter dwelling to serve writ of. L.R.A.1916D, 284.

#### RETRACTION.

Sufficiency of, to reduce damages in libel as a question for court or for jury. L.R.A. (N.S.) 796.

Begin with this book on every law question.

#### RETRAXIT.

Right of attorney to enter retraxit. 25 L.R.A.(N.S.) 1318.

#### RETREAT.

Cost of, as element of damages for removal | Necessity of, before committing homicide, see Homicide, § 29.

#### RETROSPECTIVE BY-LAW.

Validity of retrospective by-law of benefit society or insurance company, see In-SURANCE, § 47.

#### RETROSPECTIVE STATUTES.

In general, see Constitutional Law, §§ 8-10; STATUTES, § 28.

Criminal responsibility for violation of a statute after a judicial ruling that it was unconstitutional and before that ruling had been changed. 33 L.R.A. (N.S.) 788.

#### RETURN.

§ 1. Generally.

To execution, see EXECUTION, § 10.

Of public service corporations, see PUBLIC

SERVICE CORPORATIONS, § 6.
Of process generally, see WRIT AND PROC-

Necessity of, to protect officer making arrest. 51 L.R.A. 201.

2. Of money or goods.

Of insurance premium, see INSURANCE, §§ 116-118.

Recovery back of money paid, see Assumpsit, §§ 2-10.

Of purchase price, see JUDICIAL SALE, § 15; PURCHASE MONEY, § 4.

Of consideration on setting aside release, see RELEASE, § 7.
Necessity of, on breach of warranty, see

SALE, § 57.

Of consideration as prerequisite to rescission of contract of sale, see SALE, § 64.

Necessity for, as condition of judgment creditor's right to receivership. 33 L.R.A. 546.

Liability of auctioneer or clerk of auction for return of money. 35 L.R.A.(N.S.) 481.

Construction of provision for return of goods sold in case of rescission for breach of warranty. 32 L.R.A.(N.S.) 212.

#### RETURN DAY.

Amendment of claim or pleading by changing return day as discharge of sureties on bonds given to dissolve attachments or on bail bonds in civil actions. 42 L.R.A. (N.S.) 490.

Effect of uncertainty as to return day in copy of writ or process delivered to person served. L.R.A.1917C, 156.

#### REVALUATION.

Of homestead, see Homestead, § 21.

#### REVENUE.

Internal revenue, see INTERNAL REVENUE.

What are acts for raising revenue which must originate in lower branch of legislature. 35 L.R.A. 188.

Conclusiveness of enrolled bill for raising. 40 L.R.A.(N.S.) 1.

Execution of revenue bond on condition that others shall sign. 45 L.R.A. 335. What is revenue on which guardian is enti-tled to commissions. L.R.A.1917C, 194.

#### REVENUE OFFICERS.

Liability of landlord of office building for injury to. L.R.A.1916F, 1120.

## REVENUE STAMP.

In general, see Internal Revenue, § 2.

Omission from copy of writ or process delivered to person served of copy of revenue stamp upon the original writ. L.R.A.1917C, 154.

## REVERSAL.

Grounds for, see APPEAL AND ERROR, §§ 35-40.

## REVERSED CONVICTION.

As evidence of probable cause. L.R.A. 1916F, 196.

## REVERSIBLE ERROR.

See APPEAL AND ERROR, §§ 35-40. Consult also L.R.A. Digests of Cases.

#### REVERSION.

Of property dedicated, see DEDICATION, § 9. Under provisions of deed, see DEEDS, § 35. Of street, see Highways, § 112.

Reversionary interests as subject of attachment or levy on execution. 23 L.R.A. 643; 30 L.R.A. (N.S.) 118.

Are "heirs" who take under the possibility of reverter determined as of the time of the ancestor's death, or as of the time of the termination of the fee. 18 L.R.A.(N.S.) 624.

Possibility of reverter on dedication of land in which third persons have an interest. 31 L.R.A.(N.S.) 1026.

Effect on estates in reversion of tax sale during existence of life estate. 33 L.R.A. 688.

#### REVERSIONARY INTEREST.

Personal liability of a trustee for losses to trust estate from investing funds on security of. 44 L.R.A. (N.S.) 918.

#### REVERSIONERS.

Adverse possession by or against, see Adverse Possession, § 9.

Rights of, in eminent domain proceedings,

see EMINENT DOMAIN, § 37.

Liability of reversioner for injury to ten-ant's guests and servants from defects in premises. 34 L.R.A. 611; 46 L.R.A. 85.

Rights of, in case of injury by escape and explosion of gas. 29 L.R.A. 359.

#### REVERTER.

See REVERSION.

#### REVIEW.

§ 1. Generally.

By appeal or error, see APPEAL AND ERROR. By certiorari, see CERTIORARI.

As to new trial, generally, see NEW TRIAL.

First and last days in computing time for. 49 L.R.A. 226.

Supplemental bill in nature of bill to review interlocutory decree. 1 L.R.A.

(N.S.) 1029.

Review of controversies arising in bankruptcy proceedings. 10 L.R.A.(N.S.) 765.

Bill in equity to set aside a divorce as a bill of review. L.R.A.1917B, 421.

Review of findings of fact by administrative board or trial court in Workmen's Compensation cases. L.R.A.1917D, REVIEW—cont'd

§ 2. Right to maintain bill of, as dependent on interest.

Who cannot file bill of review. 36 L.R.A. 385.

Bill in nature of bill of review. 36 L.R.A.

Original bill. 36 L.R.A. 386.

Who may maintain bill of review. L.R.A. 386.

Must be injured. 36 L.R.A. 386. Reversal must benefit. 36 L.R.A. 387. Must show interest. 36 L.R.A. 388. Statutes. 36 L.R.A. 389.

§ 3. For newly discovered evidence. ln general. 4 L.R.A.(N.S.) 865; 30 L.R.A.

(N.S.) 1030. Purpose of bill. 30 L.R.A.(N.S.) 1031. Necessity of leave to file. 30 L.R.A.(N.S.) 1031.

Petition for leave. 30 L.R.A.(N.S.) 1033. Nature of new evidence. 30 L.R.A.(N.S.) 1034.

Time of discovery. 30 L.R.A.(N.S.) 1038. Diligence in discovery of evidence. 30 L.R.A.(N.S.) 1039.

#### REVISORY LAWS.

Title of, see STATUTES, § 14.

#### REVIVAL.

Of action, see ABATEMENT AND REVIVAL, § 8. Of debt released by discharge in bankruptcy, see BANKBUPTCY, § 36. Of judgment, see JUDGMENT, §§ 79, 80. Of mortgage, see MORTGAGE, §§ 59, 60. Revival of will, see WILLS, §§ 43, 44.

Conflict of laws as to revival of policy. 63 L.R.A. 846.

Of lien upon automobile for repairs or storage. L.R.A.1918D, 335.

Of condoned matrimonial offenses. 6 B. R. C. 650.

#### REVOCATION.

Of submission to arbitration, see Arbitra-TION, § 3.

Of authority of broker, see BROKERS, § 4. Of check, see CHECKS.

Of foreign corporation's license, see Corpo-RATIONS, § 141. Of deed, see DEEDS, § 34.

Of letters of administration or probate, see EXECUTORS AND ADMINISTRATORS, §§ §§ 9, 16.

Of gift, see GIFT, § 16.

Of license generally, see LICENSE, §§ 10, 11, 17, 18.

liquor license, see INTOXICATING LIQUORS, § 15.

AND SURGEONS, § 10.

Of teacher's license, see Schools, § 14. Begin with this book on every law question.

REVOCATION-cont'd

Of power of sale under mortgage, see MORT-GAGE, § 76.

agency, see Principal and Agent, §\$ 6, 7, 9, 10.

Of trust, see Trusts, § 17. Of will, see Wills, §§ 34-42. Of probate, see Wills, § 55.

Of appointment of agent on whom process may be served, see WRIT AND PROCESS, § 29.

Of privilege of using streets as an impairment of contract obligations. L.R.A. 1918E, 892.

Of contract for transfer of parental responsibility or authority. 27 L.R.A. 58; 42 L.R.A. 1016.

proxy to vote corporate stock. L.R.A. 848. Of

Of conveyance by husband to wife. L.R.A. 367.

Sufficiency of execution by will of power of appointment after its revocation. 64 L.R.A. 905.

Does power of sale in mortgage or deed of trust prevent its revocation by death of mortgagor. 70 L.R.A. 135.

Liability of owner on revoking authority of real estate broker employed for a definite period. 38 L.R.A.(N.S.) 366; nite period. 38 L.R.A.1918D, 731.

Revocability of executed gift. 2 L.R.A. (N.S.) 285.

Statute of limitations as defense to revocation of attorney's license. 11 L.R.A.

(N.S.) 557; L.R.A.1915D, 1218. Of codicil to will as affecting will.

L.R.A. (N.S.) 983. Revocation of consent given by one spouse to will of the other in the latter's lifetime. L.R.A.1915E, 815.

## REVOLUTION.

Litigation arising out of Mexican Revolu-L.R.A.1917A, 280; L.R.A.1918E, tion. 361.

#### REVOLVING DOOR.

Doctrine of attractive nuisance as applied to. L.R.A.1915D, 170.

#### REVOLVING SHAFT.

Doctrine of "attractive nuisance" as applied to injury from. 19 L.R.A.(N.S.) 1130.

#### REWARDS.

§ 1. Generally.

For finding property. 37 L.R.A. 119. Claims against state for. 42 L.R.A. 63.

Of physician's license, see Physicians Necessity of prior knowledge of reward as condition of earning the same. L.R.A. (N.S.) 1057.

REWARDS-cont'd

Right to maintain action for prize offered in prize contest. 33 L.R.A.(N.S.) 305.

Voluntariness of confession induced by promise of. 18 L.R.A.(N.S.) 823; 50 L.R.A.(N.S.) 1086.

Legentry and the prize of the confession induced by promise of the confession induced by the confession induced by promise of the confession induced by the confession induced by promise of the confession induced by promise of the confession induced by the confession induced by

Larceny of property found by holding for reward. 37 L.R.A. 125; 52 L.R.A. (N.S.) 1016.

§ 2. Use of public money for.

Use of public money for rewards for criminals. 14 L.R.A. 480.

§ 3. What must be done to earn.

Prior knowledge of reward as a condition of earning the same. L.R.A.1916A, 1279.

What must be done to earn reward for arrest. 7 L.R.A. (N.S.) 217; 46 L.R.A. (N.S.) 662.

§ 4. Right of officer to.

Right to claim reward for arrest. 11 L.R.A.(N.S.) 1170; 34 L.R.A.(N.S.) 924; 43 L.R.A.(N.S.) 131; L.R.A. 1918E, 351.

Effect of assistance of officers on right to reward for procuring arrest. 7 L.R.A. (N.S.) 217.

#### RHEUMATISM.

As element of damages for negligent injury. 48 L.R.A. (N.S.) 102.

## RICE BEER.

Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 316.

#### RIDER.

Effect of, on insurance policy. 30 L.R.A. **636.** 

#### RIGGING.

Nondelegability of duty to protect servant from defects in. 54 L.R.A. 72.

# -RIGHT AND WRONG.

Impulse obliterating sense of, as excuse for crime. 18 L.R.A. 229.

## RIGHT OF ACTION.

See ACTION OR SUIT, § 4.

# RIGHT OF ENTRY.

On condition broken, see Conditions, § 12. Consult also L.R.A. Digests of Cases.

#### RIGHT OF WAY.

#### RINKS.

As places of amusement within civil rights acts. 19 L.R.A. (N.S.) 907.

#### RIOTS.

See Mobs and Riots.

## RIPARIAN OWNERS.

See WATERS, II.

#### RIPARIAN RIGHTS.

See WATERS, II.

#### RISK.

Insurance against, see Insurance, §§ 153-

Assumption of, by servant, see MASTER AND SERVANT, III. b.

Agreement as to risk as a test to determine when title passes under a contract of sale. L.R.A.1918B, 822.

#### RITUAL.

Right of benevolent, fraternal, or social order to protection against use of, by another organization. L.R.A.1915B. 1074.

## RIVAL BUSINESS.

Restriction against servant conducting, see MASTER AND SERVANT, §§ 8, 16.

#### RIVERS.

In general, see WATERS.

As boundary between states, see Bound-ARIES, § 2 a.

boundary of private property, see BOUNDARIES, § 6.

Jurisdiction over inland rivers. 46 L.R.A. 276.

Navigability of. 42 L.R.A. 305.

RIVERS-cont'd

Water overflowing banks as surface water. 25 L.R.A. 529.

Title to land under rivers. 42 L.R.A. 162. Duty and obligation of vessel on, in respect to sick or injured member of crew. 35 L.R.A.(N.S.) 199.

#### ROADBED.

Master's liability for injury by defective roadbed. 54 L.R.A. 169; 49 L.R.A. (N.S.) 198.

Scope of provision exempting insurer or limiting liability when insured injured on roadbed of railroad. 8 L.R.A. (N.S.) 970.

## ROAD COMMISSIONERS.

Power of, to vacate highway. 26 L.R.A. 824.

#### ROADMASTER.

As fellow servant. 52 L.R.A.(N.S.) 1101. Authority of roadmaster or railway company to contract for services of other persons. L.R.A.1918F, 64.

#### ROAD WORK.

Compulsory use of private property in. 42 L.R.A.(N.S.) 1045; L.R.A.1918D, 974.

#### ROBBERY.

§ 1. Generally.

Of passenger, see CARRIERS, III. e.

Of other's spouse's property, see HUSBAND AND WIFE, § 46.

Indictment for, see Indictment, etc., § 28. Insurance against loss by, see Insurance, § 221.

Effect of provision in accident insurance policy exempting insurer or limiting its liability in case of injury intentional-ly inflicted by another where injuries were inflicted by robbers. 48 L.R.A. (N.S.) 528.

What intoxication will excuse. 36 L.R.A.

As affected by right, or belief in right, to property sought to be secured. 40 L.R.A.(N.S.) 801.

Forcibly compelling payment of debt as robbery. 10 L.R.A. (N.S.) 744.

By officers after making an arrest. 1
L.R.A. (N.S.) 1024; 3 L.R.A. (N.S.)

Several offenses growing out of same facts. 31 L.R.A.(N.S.) 725.

Homicide in attempting to prevent. L.R.A. 534.

ROBBERY-cont'd

Responsibility of one assisting in robbery during which his companion commits murder. 45 L.R.A.(N.S.) 55.

Absence from the scene of homicide as affecting the responsibility of a party to a common design to commit robbery. L.R.A.1918B, 75.

As affecting liability on official bond. 22 L.R.A. 450.

2. Instigation to commit.

Instigation to commit. 25 L.R.A. 343. Instigation of offense as a defense to prosecution. 30 L.R.A.(N.S.) 952.

§ 3. Attempt to commit.

Procuring or providing instrumentality adapted to commission of, with intent to commit same as an attempt to commit. 6 L.R.A.(N.S.) 804.

§ 4. By taking from person property belonging to another. In general. 67 L.R.A. 344.

Taking from wife or servant. 67 L.R.A. 346.

§ 5. What force sufficient to constitute. In general. 57 L.R.A. 432; 46 L.R.A. (N.S.) 1150; L.R.A.1918E, 937.

Actual force. 57 L.R.A. 432; 46 L.R.A. (N.S.) 1150; L.R.A.1918E, 937.

Constructive force. 57 L.R.A. 439; 46 L.R.A.(N.S.) 1151; L.R.A.1918E, 938. Force used to obtain property under color of right or claim of ownership. 57 L.R.A. 443.

Force employed as a means of escape or to prevent a recaption of property taken without force. 57 L.R.A. 443; 46 L.R.A. (N.S.) 1153; L.R.A.1918E, 938.

Decisions under special statutes. 57 L.R.A. 445; 46 L.R.A. (N.S.) 1153; L.R.A. 1918E, 938.

6. Evidence in prosecution for. Right of one to testify as to his intent. 23 L.R.A.(N.S.) 390.

Evidence of other crimes in prosecution for. 62 L.R.A. 288, 318, 324; L.R.A.1917D, 388.

Proof of corpus delicti in prosecution for. 68 L.R.A. 46, 65, 70.

Necessity of instruction as to law on circumstantial evidence on prosecution for. 69 L.R.A. 203.

§ 7. Punishment for.

Cruel and unusual punishment for. L.R.A. 577; L.R.A.1915C, 569.

## ROCK.

As defect in dock or wharf. 61 L.R.A. 948. As deadly weapon. 21 L.R.A.(N.S.) 507. 67 Injury by rocks rolling down hillside or de-cline. L.R.A.1915B, 426.

Begin with this book on every law question.

#### ROCK OILS.

Keeping of, on insured premises. L.R.A. 1917C, 278.

#### ROENTGEN RAY.

See X-RAY.

## ROGUES' GALLERY.

Right to take or retain in rogues' gallery picture of one accused of crime before conviction. 7. L.R.A.(N.S.) 274; 23 L.R.A.(N.S.) 739; L.R.A.1916A, 743.

Truth of charge as to, as defense to civil action for libel or slander. 31 L.R.A. (N.S.) 146.

#### ROLLER SKATING.

Liability for injury to child skating on street. 34 L.R.A.(N.S.) 118. Reciprocal duty of driver of automobile and child roller skating in street. L.R.A. 1918A, 257.

## ROLLING OBJECTS.

Permitting articles to roll down hillside or decline. L.R.A.1915B, 426.

#### ROLLING STOCK.

Injury to servant by defects in, see MASTER AND SERVANT, § 93.

Applicability of res ipsa loquitur in case of injury to servant by derailment of rolling stock. L.R.A.1917E, 212.

State regulation of equipment of railroad rolling stock as interference with interstate commerce. 32 L.R.A.(N.S.) 20. Situs of, for tax purposes. 69 L.R.A. 447. Of railroad as personalty or real estate. 66 L.R.A. 49, 55.

#### ROOF.

Landlord's duty to repair. 14 L.R.A. 241. Landlord's liability for injuries from defective condition of. 4 L.R.A.(N.S.) 1142; L.R.A.1917B, 225, 236.

Negligence as to electric wires on. 32 L.R.A. 401.

#### ROOMERS.

See Lodgers.

Consult also L.R.A. Digests of Cases.

#### ROOMING HOUSE.

See LODGING HOUSES.

#### ROPES.

Nondelegability of duty to protect servant from defects in. 54 L.R.A. 72.

Application of res ipsa loquitur in case of injury to servant by breaking of. L.R.A.1917E, 239.

Contributory negligence of one struck by guy rope stretched across street. L.R.A.1918A, 205.

#### ROTATION.

Provision in irrigation contract as to furnishing water by rotation. L.R.A. 1916F, 270.

#### ROUNDHOUSE.

Servants in, as fellow servants. 50 L.R.A. 460.

Work in, as railroad hazard within statute changing fellow servant rule. 18 L.R.A. (N.S.) 482; 47 L.R.A. (N.S.) 117.

Railroad roundhouse as nuisance. 32 L.R.A. (N.S.) 374.

## ROUND TRIP TICKET.

See CARRIERS, § 22.

#### ROUTE.

Regulation of route of jitney busses. L.R.A.1918B, 915; L.R.A.1918F, 476. Duty of carrier as to. 37 L.R.A.(N.S.) 222. Extent of ticket agent's authority as to. 31 L.R.A.(N.S.) 231. Routing of telegram. 50 L.R.A.(N.S.) 94. Reasonableness of rule as to route by which passengers shall be carried. L.R.A.

1915B, 761.

Privilege from service of process as affected by route taken. L.R.A.1917B, 252.

#### ROUTE AGENT.

Authority of route agent of express company to contract for services of other persons. L.R.A.1918F, 68.

#### ROYALTIES.

Provision for, in mining lease, see MINES, III.

For use of patent, see PATENTS, III.

#### RUBBISH.

Municipal liability for injury by rubbish in street. 20 L.R.A.(N.S.) 610. Fire in, as attractive nuisance. 1917F, 1036.

#### RULE IN SHELLEY'S CASE.

See DEEDS, § 30; WILLS, § 82.

#### RULE OF THE ROAD.

See NEGLIGENCE, §§ 25, 40,

#### RULES.

Of carrier, see CARRIERS, § 4. insurance company, see Insurance,

§§ 46, 47. Master's duty and liability as to, see MAS-

TER AND SERVANT, § 71.

Disobedience of, by servant, as contributory negligence, see MASTER AND SERVANT, § 125.

Master's liability to third person for injury by servant's disobedience of, see MAS-TEB AND SERVANT, § 184.

Of miners as to location of mining claim. 7 L.R.A.(N.S.) 768.

Of gas company as to meters. 30 L.R.A. (N.S.) 492.

Effect of clearing house rules. 25 L.R.A. 830.

Violation by servant of rule adopted by railway company for protection of the public as evidence of negligence towards a member of the public. 8 L.R.A. (N.S.) 1063.

Rule or custom of clearing-house relating to time for presentation of checks as affecting liability of collecting bank. 50 L.R.A. (N.S.) 542.

Reasonableness of rule of telephone company requiring subscriber to pay for all long distance messages originating from his telephone. L.R.A.1915E, 323.

Right of labor union to enforce rules as to the minimum number of employees. L.R.A.1918C, 817.

Violation of rule by servant as serious and wilful misconduct within meaning of Workmen's Compensation Act. L.R.A. 1917D, 133.

## RULES OF APPORTIONMENT.

For improvement assessment, see Public IMPROVEMENTS, §§ 24-26.

Begin with this book on every law question.

#### RUM.

Obligation of tenant to remove. 64 L.R.A. As intoxicating liquor. 20 L.R.A. 649.

652, 662.

Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 305.

#### RUMOR.

As evidence before grand jury. 28 L.R.A.

#### RUNAWAY.

See Horses, §§ 7-14.

#### RUNNING BOARD.

Duty of street car company to passenger on, see CARRIERS, § 60. Contributory negligence in riding on, see CARRIERS, § 80.

#### RUNNING EXPENSES.

Priority of claims for, against property in hands of receiver over recorded liens. 41 L.R.A.(N.S.) 710.

#### RUNNING WITH THE LAND.

Covenants which run with the land, see COVENANTS, §§ 14, 15.

Right of action for damages to real property as. 2 L.R.A.(N.S.) 819.

#### RUPTURE.

Rupture of blood vessel as accident within accident insurance policy. 19 L.R.A. (N.S.) 1206.

Hernia as breach of condition or warranty in insurance contract as to health or bodily condition. L.R.A.1917B, 747.

## RURAL HIGHWAYS.

Duty of municipality as to conditions of rural highways within city or village limits. 29 L.R.A.(N.S.) 823.

#### RURAL LANDS.

limits of corporation. 27 L.R.A.(N.S.)

Cinstitutionality of frontage rule of assessment of, for public improvements 17 L.R.A. 332.

Assessment of rural lands for public improvements by front-foot rule. L.R.A. (N.S.) 1191,

#### RUST.

Municipal taxation of rural lands within limits of corporation. 27 L.R.A.(N.S.) loss caused by negligence. 6 B. R. C. 128.

#### RUTS.

Municipal liability for permitting ruts to remain in highway. 9 L.R.A.(N.S.) 1266.

#### SACRAMENTAL PURPOSES.

Applicability to wines intended for, of regulations in relation to intoxicating liquors. L.R.A.1918F, 266.

#### SACRAMENTS.

Liability for refusing the sacraments. L.R.A.1916D, 374.

#### SAFE.

Iron safe clause, see Insurance, § 79.

Levy of attachment or execution upon safe and its contents. 41 L.R.A. (N.S.) 764. Exemption of, from execution. 46 L.R.A. (N.S.) 287.

## SAFE DEPOSIT BOX.

Garnishment of contents of. 41 L.R.A. (N.S.) 764.

What passes under bequest of contents of. L.R.A.1915C, 654.

## SAFETY.

Effect of assurance of, by master or coservant on assumption of risk, see MASTER AND SERVANT, § 118.

Effect of master's assurance of, on servant's contributory negligence, see MASTER AND SERVANT, § 129.

Municipal control over nuisance affecting, see MUNICIPAL CORPORATIONS, § 41.

Municipal power over nuisances affecting. 38 L.R.A. 305.

Injunctions by municipality against nuisance affecting. 41 L.R.A. 322.

## SAFETY APPLIANCE ACT.

See Master and Servant, § 96. Consult also L.R.A. Digests of Cases.

#### SAFETY CLAUSE.

Effect of, in chattel mortgage, see CHATTEL MORTGAGE, § 26.

#### SAFETY GATES.

At railroad crossing, see RAILBOADS, §§ 33, 70.

## SAGGING WIRES.

See ELECTRICITY, III.

#### SAILORS.

See SEAMEN.

#### SALARY.

Assignment of, see Assignment, § 6. Exemption of, see Exemption, § 5. Garnishment of, see GARNISHMENT, § 10a. Of employee, see MASTER AND SERVANT, §§ 24-31.

Of officer, see Officers, §§ 31-37, 44.

minister, liability for, see RELIGIOUS Societies, § 7.

Of school teacher, see Schools, §§ 17, 18.

Treatment of salaries paid officers in estimating the return of a public service corporation for rate-making purposes. 52 L.R.A. (N.S.) 53, 69. Claim against state for. 42 L.R.A. 53.

Preference of, in distribution of assets of insolvent insurance company. L.R.A. 107.

Oral promise to see salary paid. 15 L.R.A. (N.S.) 217.

#### SALE.

I. In general, § 1.

II. When sale complete; termination of contract of, §§ 2, 3.

III. What constitutes, § 4.

IV. Validity, \$\$ 5, 6. V. Effect, \$\$ 7, 8.

VI. Passing of title, \$\$ 9-18. VII. Delivery; tender, \$ 14.

VIII. Conditional sale, §§ 15-20.

IX. Acceptance; retention, §§ 21-25. X. Warranty, §§ 26-38.

a. In general, \$\$ 26-29.

b. On sale by manufacturer, § 30.

c. Of fitness, §§ 31, 32.

d. Of quality or kind, \$\$ 33-28.

e. On sale of goods by sample, \$ 37.

f. Effect of test or inspection or opportunity to inspect, \$ 38.

XI. Duties, rights, and remedies of parties, §§ 39-72.

a. In general, §§ 39-47.

b. Condition at sale, §§ 48-52.

c. On breach of warranty, \$\$ *53-59*.

d. Lien for price; stoppage in transitu, §§ 60, 61.

e. Rescission, \$\$ 62-70. 1. In general, §\$ 62-64.

2. Grounds, \$\$ 65-68.

3. Waiver of right, §§ 69,

f. Rights of bona fide purchasers, §§ 71, 72.

## I. In general.

1. Generally.

Of animals, see ANIMALS, § 5.

At auction, see Auction.

Of commercial paper, see BILLS AND NOTES. §§ 26-42.
Of bill of lading with draft attached, see

BILLS OF LADING, § 2.

Of mortgaged chattels, see CHATTEL MORT-GAGE, § 28.

Of copyright, see COPYRIGHT, § 6.

Of corporate stock, see Corrorations, §§ 82-

Of cotenants interest, see Cotenancy, §§ 11, 12.

Of future crop, see Chops, § 5.

Of property in custody of law, see CustoDY OF LAW, §§ 2, 3.

Of game, see GAME LAWS. Of ice, see ICE, § 3.

Of intoxicating liquors, see Intoxicating Liquors, §§ 19-37.

Judicial sale, see JUDICIAL SALE.

On foreclosure, see Mortgage, §§ 75-84.

Of physician's practice, see Physicians AND SUBGEONS, § 4.

Of pledged property, see PLEDGE AND COL-LATERAL SECURITY, §§ 11-14.

Of poison, see Poison, § 2.

Of public land, see Public Lands, §§ 11-13.

Of railroad property, see RAILROADS, § 14.

Begin with this book on every law question.

SALE, I.—cont'd

Of real property generally, see REAL PROPERTY, § 4; VENDOR AND PUBCHASER.
Of timber, see TIMBER, §§ 2-5.

Of trademark, see TRADEMARK, §§ 4, 5.

For taxes, see Taxes, §§ 71, 72-81a.

By executor or administrator, see Execu-TORS AND ADMINISTRATORS, §§ 17, 59.

By guardian of ward's land, see GUARDIAN

AND WARD, § 14.

By incompetent person, see INCOMPETENT PERSONS, § 16.

By inventor, see PATENTS, III.

By receiver, see RECEIVERS, § 28.

Assignment, see Assignment.

Matters as to interstate commerce, see COMMERCE, §§ 14-18.

Conflict of laws as to, see CONFLICT OF Laws, §§ 30, 31.

Offers, see Contracts, §§ 22, 23.

Construction of contract of, see CONTRACTS,

Damages in case of, see Damages, §§ 35-37. Parol evidence as to written contract of sale, see EVIDENCE, VII.

Power of personal representative to sell property of estate, see EXECUTORS AND Administrators, § 17.

Exemption of proceeds of exempt property sold, see EXEMPTIONS, § 8.

As to matters in relation to food, see FOOD.

Guaranty of payment, see GUARANTY.

Injunction against, see Injunction, § 15.

Seller's intent, see INTENT, § 6.

Covenant in lease against, see LANDLORD AND TENANT, § 19.

Market regulations restricting sales, see MARKETS, § 2.

As to personal injuries from defects in articles sold, see NEGLIGENCE, § 15.

Medium of payment for, see PAYMENT, §§ 6-

Authority of agent for sale of personal property to contract for services of other persons. L.R.A.1918F, 14.

Effect of war on c. i. f. contract. 7 B. R. C. 956.

Income tax on sales of property. L.R.A. 1917E, 566.

Applicability of Sunday laws to sale of food and refreshments. 18 L.R.A. (N.S.) 617; L.R.A.1917C, 381.

False pretenses in misrepresenting the quality, condition or status of the subject of a sale. 49 L.R.A.(N.S.) 574.

Right of railroad company to sell material or mineral taken from right of way. 45 L.R.A.(N.S.) 796.

Bicycles as subjects of. 47 L.R.A. 305.

Use of negatives or engraved plates without the consent of the party who has paid for the same. 50 L.R.A. 397.

Necessity of franchise for taking of tolls on. 37 L.R.A. 718.

Bailee's right to assert against bailor hostile, adverse, paramount title of purchaser of bailed property from bailor. 33 L.R.A.(N.S.) 694.

Presumption as to time of alteration in bill

of sale. 39 L.R.A.(N.S.) 115.

SALE, I.—cont'd

Will action in rem lie against proceeds of private sale of property against which such an action would lie. 2 B. R. C.

Of letters, injunction against. 37 L.R.A. (N.S.) 944.

Right to require that articles offered for sale shall answer a designated standard of purity. 41 L.R.A.(N.S.) 149

Denials upon information and belief as to. 30 L.R.A. (N.S.) 775.

Sale of another's property as larceny. 10 L.R.A. (N.S.) 816.

Retaking property upon failure to carry out contract as larceny. 41 L.R.A. (N.S.)

Increasing price upon sale on credit as usury. 28 L.R.A.(N.S.) 102.

Oral promise to be responsible for price of goods sold. 15 L.R.A.(N.S.) 221.

Power of state to restrict or regulate sale of patent right. 29 L.R.A. 786.

Libel in charging one with excessive compensation for goods sold. 40 L.R.A. (N.S.) 79.

## II. When sale complete; termination of contract of.

2. When sale complete.

Offers generally, see CONTRACTS, §§ 22, 23.

Right to withdraw order given agent before acceptance by principal. 10 L.R.A. (N.Š.) 1138.

Communication naming price as a quotation, or an offer to sell. 3 B. R. C. 229.

Parol evidence that written instrument which on its face imports a complete transfer was intended to operate as a mortgage or pledge. L.R.A.1916B, 18.

3. Termination of contract of. Effect of death of party on contract of sale. 23 L.R.A. 708; 45 L.R.A. (N.S.) 349.

## III. What constitutes.

§ 4. Generally.

What is a conditional sale, see infra, § 16. In case of intoxicating liquors, see Intoxi-CATING LIQUORS, §§ 20, 21.

Question whether automobile distribution · contract is one of agency or sale. L.R.A.1915B, 110.

Construction of contract having some provisions peculiar to consignment and agency contracts, and others to sale contracts. L.R.A.1917B, 626.

Transaction as a sale or assignment of accounts or a loan with a pledge of the ac-counts as security within usury law. L.R.A.1917E, 1121.

Distinguished from contracts to manufacture, within the meaning of the statute of frauds. 14 L.R.A. 230.

Distinction between sales of personalty and agreements for work and labor as affecting statute of frauds. 30 L.R.A. (N.S.) 319; 43 L.R.A.(N.S.) 97.
Consult also L.R.A. Digests of Cases.

SALE, III.—cont'd

What amounts to a violation of covenant in lease against sale. 14 L.R.A.(N.S.) 1200.

Loss of, or injury to, goods during ship-ment as affecting fulfilment of commission to purchase goods. 19 L.R.A. (N.S.) 261.

Serving game or fish with meal as a sale within meaning of game law. L.R.A. 1917F, 769.

## IV. Validity.

§ 5. Generally.

Of conditional sale, see infra, § 18.

Right to recover purchase price, see infra, § 45.

Effect of provision empowering mortgagor to sell chattels, see CHATTEL MORTGAGE, § 14a.

As to contract within statute of frauds, see CONTRACTS, §§ 35, 36, 56, 57.

Of sale of expectancy, see EXPECTANCY, § 3. Fraud in obtaining credit, see FRAUD AND DECEIT, § 11.

Validity of, as against creditor, see FRAUDU-LENT CONVEYANCES.

Sale as an unlawful preference, see INSOL-VENCY, § 3.

Of intoxicating liquor, see Intoxicating Liquors, §§ 21a-31.

Validity of sales made on Sunday, see Sun-DAY, § 4.

Conducting business in violation of law as affecting contract for its sale. 45 L.R.A.(N.S.) 810.

What misrepresentations as to the contents of an instrument will render it void in law. 4 B. R. C. 663.

Mutuality of accepted proposition to furnish such material as one needs in his business. 43 L.R.A.(N.S.) 730.

Validity of contract for purchase of indefi-nite quantity. 15 L.R.A. 218.

Validity of agreement to sell entire output. 7 B. R. C. 551.
Validity of sales in violation of law. 12

L.Ř.A.(N.S.) 595.

Validity of transfer of property in violation of restraining order. L.R.A.(N.S.) 871.

Validity of sale of future or growing crops. 23 L.R.A. 449; L.R.A.1917C, 8.

Power of state to make invalid a provision in a sale of goods for resale, forbidding purchaser to handle goods of other dealers. 11 L.R.A.(N.S.) 968.

Right to sell property while in custody of law. 1 L.R.A.(N.S.) 1055.

Validity of sale of, or agreement to sell, commercial paper to one primarily liable thereon. 35 L.R.A.(N.S.) 820.

Sufficiency of identification for purposes of executory contract, where goods are ordered by reference to a catalogue or price list. 31 L.R.A.(N.S.) 927.

Mutuality of accepted proposition to furnish such materials as one needs in his business. 11 L.R.A. (N.S.) 713; L.R.A. 1918E, 296. SALE, IV.—cont'd

Collateral to contracts forming illegal combination. 30 L.R.A. (N.S.) 680.

Validity of agreement by which compensation for making, is dependent upon success in procuring contract with public officer or board. 39 L.R.A. (N.S.) 747; L.R.A.1915C, 823.

Admissibility of declarations by seller made out of court as to his purpose in making transfer attacked as fraudulent against creditors. 41 L.R.A.(N.S.) 1.

6. Sale in bulk. See FRAUDULENT CONVEYANCES, § 1a.

#### V. Effect.

§ 7. Generally. Of conditional sale, see infra, § 20. Effect of sale of good will, see Good WILL, § 2.

Effect of sale of, or agreement to sell, commercial paper to one primarily liable thereon. 35 L.R.A. (N.S.) 820.

§ 8. What passes as appurtenant. What articles will pass as appurtenances upon sale of chattels. 8 L.R.A. (N.S.) 793.

## VI. Passing of title.

§ 9. Generally.

On sale of goods with privilege of return. L.R.A.1916E, 1209.

Effect of acceptance of order for goods. 17 L.R.A. 178.

Necessity of meeting of minds as to price. 32 L.R.A.(N.S.) 429.

Seller's mistake as to identity of vendee, as affecting the passing of title to the goods sold. 13 L.R.A. (N.S.) 413; L.R.A. Ĭ**91**8B, 975.

Effect of attaching draft to bill of lading to prevent title passing upon delivery of goods to carrier. 2 L.R.A.(N.S.) 1078.

When title passes under consignment of goods for sale with provision in effect that consignee purchase balance of consignment. 39 L.R.A. (N.S.) 620.

Effect of indorsing and mailing to purchaser a bill of lading, naming seller as consignee, to pass title to purchaser. 34 L.R.A. (N.S.) 293.

When title passes where vendor consigns goods to himself and vendee is to be notified of their arrival and to receive them upon payment of draft. L.R.A.(N.S.) 309.

Provision for payment of instalments of price of article during construction as indicating intention to pass title. 2 B. R. C. 646.

Agreement as to risk as a test to determine when title passes under a contract of sale. L.R.A.1918B, 822.

Must seller or buyer bear loss from failure to contract with carrier for full liability. L.R.A.1917F, 561.

Begin with this book on every law question.

SALE, VI.—cont'd § 9a. Under contract for sale of goods to be produced or manufactured.

Intention of the parties as the test. 50 L.R.A.(N.S.) 113.

When intention is a question of law, and when of fact. 50 L.R.A.(N.S.) 113.

Whether title passes upon the execution of the contract. 50 L.R.A.(N.S.) 114.

Whether title passes prior to completion or production of article. 50 L.R.A. (N.S.) 115.

Whether title passes upon completion or production of article. 50 L.R.A. (N.S.) 122.

Necessity of some act of appropriation. L.R.A.(N.S.) 123.

What constitutes an appropriation. L.R.A. (N.S.) 127. 50

Effect of payment of purchase price. L.R.A.(N.S.) 139.

Effect of insurance of property or provisions relative thereto. 50 L.R.A.(N.S.) 140. Provisions as to title. 50 L.R.A.(N.S.) 140. Miscellaneous provisions. 50 L.R.A. (N.S.)

§ 10. By delivery.

Necessity of delivery. 17 L.R.A. 177.

Necessity and sufficiency of delivery to pass title under contract for sale of goods to be produced or manufactured. 50 L.R.A.(N.S.) 127.

Right of purchasers of, or creditors levying on, goods sold for cash, but delivered without payment. 13 L.R.A. (N.S.) 697; 29 L.R.A. (N.S.) 709; 47 L.R.A. (N.S.) 173.

Effect of premature delivery to pass title to purchaser. 31 L.R.A.(N.S.) 942.

Symbolic delivery by sample to satisfy stat-ute of frauds. 70 L.R.A. 321.

Passing of title by delivery f. o. b. 62 L.R.A. 802; 33 L.R.A.(N.S.) 54.

§ 11. — to carrier.

Question of law or fact. 22 L.R.A. 415. Between buyer and seller. 22 L.R.A. 415.

Between consignor and L.R.A. (N.S.) 418. consignee.

Conduct indicating an intention to retain title. 22 L.R.A. 420.

Sufficiency of change of possession as regards creditors. 22 L.R.A. 425.

Place where sale is consummated. L.R.A. 425; 44 L.R.A. (N.S.) 450.

Effect of receipt by carrier to satisfy statute of frauds. 22 L.R.A. 426.

Right to maintain action. 22 L.R.A. 427. Delivery to carrier as satisfying statute of

fraud. 35 L.R.A. (N.S.) 1038. Where title passes upon shipment of intoxicating liquor C. O. D. 2 L.R.A. (N.S.)

383; 24 L.R.A.(N.S.) 143.

Passing of title to consignee on delivery to carrier as affected by provisions of bill of lading and attachment of draft thereto. 2 L.R.A.(N.S.) 79.

Effect of delivery to carrier on buyer's right to reject for lack of quality. 8 L.R.A.

(N.S.) 1167.

SALE, VI.—cont'd

Circumstances indicating acceptance by de-livery to carrier. 35 L.R.A.(N.S.)

12. — of goods sold out of larger lot. Necessity of delivery of goods sold out of a larger lot. 26 L.R.A.(N.S.) 21.

Effect of actual delivery of goods sold out of

a larger lot. 26 L.R.A.(N.S.) 22. What constitutes a sufficient delivery to transfer title to property sold. 26 L.R.A.(N.S.) 27.

§ 12a. Effect of destruction before delivery.

Effect on sale, of destruction of property after actual or constructive delivery, preventing the ascertainment of the price according to the terms of the contract. 19 L.R.A. (N.S.) 197.

§ 13. Sufficiency of selection or designation of goods sold out of larger lot

The definition and elements of a sale. 26 L.R.A.(N.S.) 5.

Distinction between executory and executed sales. 26 L.R.A.(N.S.) 6.

The influence of the intention of the parties. 26 L.R.A.(N.S.) 7.

Risk of loss an accompaniment of title. 26 L.R.A. (N.S.) 10.

The completion of a sale. 26 L.R.A. (N.S.) 10.

The necessity of agreeing upon the price. 26 L.R.A. (N.S.) 12.

The necessity of the buyer's acceptance. 26 L.R.A. (N.S.) 13.

The need to put property sold in a de-liverable state. 26 L.R.A.(N.S.) 14.

The necessity of identifying the subject of a sale. 26 L.R.A.(N.S.) 15.

Identification by marks. 26 L.R.A. (N.S.) 16.

The necessity of counting, weighing, or measuring the subject of a sale. 26 L.R.A. (N.S.) 17.

Property in the keeping of third persons. 26 L.R.A.(N.S.) 47.

Community of ownership in masses of personal property. 26 L.R.A.(N.S.) 52.

The necessity of dividing bulk on sales of part of a mass. 26 L.R.A. (N.S.) 54.

## VII. Delivery; tender.

14. Generally.

Delivery passing title, see supra, §§ 10-12. Necessity and sufficiency of change of possession to protect purchaser against the creditors of seller, see FRAUDULENT CONVEYANCES, §§ 19, 20.

Law governing validity of sale as depending on transfer of possession. L.R. A. 829.

Duty of parties with respect to delivery and receipt of articles sold with particular description of kind or quality. L.R.A. (N.S.) 287.

Consult also L.R.A. Digests of Cases.

SALE, VII.—cont'd

Tender of property to buyer who is in de-fault in fixing date for delivery and is not present at the agreed place. 2 L.R.A. (N.S.) 529.

Failure of seller to deliver goods on agreed date as ground for rescission by purchaser. L.R.A.1916E, 940.

Retaining control of bill of lading to insure payment as affecting sufficiency of delivery to carrier as compliance with provision requiring delivery at place of shipment. L.R.A.1915B, 537. Must seller or buyer bear loss from failure

to contract with carrier for full lia-

bility. L.R.A.1917F, 561.

Duty of vendor of trees, shrubs, plants. or vines, as to delivery and notice thereof. 49 L.R.A.(N.S.) 1155.

Rights of purchasers from, or creditors of, buyer to whom goods are delivered before perfecting reservation of title or lien to secure purchase price according to contract. 47 L.R.A. (N.S.) 561.

Time for delivery of goods sold to be de-

livered in reasonable instalments, or in instalments as required by the buyer.

L.R.A.1918A, 609. Construction and effect of "strike" clause in contract of sale and delivery. L.R.A.(N.S.) 1187.

Delivery on week day pursuant to contract made on Sunday. 20 L.R.A.(N.S.) 86.

Delay in attempting to regain property obtained under agreement to pay therefor on delivery, as waiver of that condi-tion. 11 L.R.A.(N.S.) 948; 23 L.R.A. (N.S.) 824; L.R.A.1915D, 355.

Effect of acceptance of goods as a waiver of damages for delay in delivery. 54 L.R.A. 718; 7 L.R.A. (N.S.) 1114.

Admissibility of extrinsic evidence as to time for delivery of goods where none is specified in written contract. 31 L.R.A. (N.S.) 619; L.R.A.1916B, 1039.

Admissibility of books of account to prove delivery of goods sold. 52 L.R.A. 690.

#### VIII. Conditional sale.

§ 15. Generally.

Rights of parties, see infra, §§ 48-52.

Law governing. 64 L.R.A. 833. Reservation of title to property as affecting negotiability of note for purchase price. 43 L.R.A. 277; 43 L.R.A. (N.S.) 9**4**5.

Effect of taking collateral security upon conditional sale. 33 L.R.A.(N.S.) 491.

Transfer of purchase-money obligation as affecting reservation of title. 37 L.R.A. (N.S.) 71.

Destruction of property sold conditionally while in seller's possession. 36 L.R.A. (N.S.) 595.

Parol evidence to vary written contract of conditional sale in favor of or against a stranger to the contract. L.R.A. 1916A, 599, 610.

SALE, VIII.—cont'd

Rights of purchaser from, or creditors of, buyer to whom goods are delivered before perfecting reservation of title or lien to secure purchase price according to contract. 47 L.R.A. (N.S.) 561.

## § 16. What is.

Construction of contract having some pro-visions peculiar to consignment and agency contracts and others to sale contracts. L.R.A.1917B, 626.

§ 17. What constitutes payment of purchase price.

Rights of parties on default of payment, see infra, § 49.

Acceptance of commercial paper as payment of purchase price upon conditional sale. 35 L.R.A.(N.S.) 90.

Notes given for purchase money on conditional sale as payment of dcbt. 35 L.R.A.(N.S.) 90.

## § 18. Validity.

against creditors of, and purchasers from, buyer. 12 L.R.A. 703.

As affected by express or implied permission to purchaser to sell in the ordinary course of business. L.R.A.1917B, 658.

Reservations of title in bailments for sale. as against creditors of bailor and bailee. 22 L.R.A. 850.

Conditional sale contract executed prior to, but filed within four months of bank ruptcy, as a voidable preference. L.R.A. (N.S.) 1223.

## § 19. Recording of.

Necessity of recording of conditional sale in state to which property is subsequently removed. 35 L.R.A.(N.S.) 387; L.R.A.1917D, 942.

Recordation of lien on fixtures as personalty as notice to mortgagee of realty.

B. R. C. 691.

Right of assignee or receiver, in behalf of general creditors, to complain of failure to record contract of conditional sale. L.R.A.1917C, 442.

## § 20. Effect of.

Federal courts following state decisions as to construction and effect of conditional sales. 40 L.R.A.(N.S.) 416.

Assignment or transfer of purchaser's interest under a conditional sale. L.R.A. (N.S.) 873.

Effect of retention of title to personal property until payment of purchase price, to characterize sale 88 executory. 5 L.R.A. (N.S.) 475.

## IX. Acceptance; retention.

#### § 21. Generally.

Remedy of conditional vendor for refusal to

right to reject goods for lack of quality. 8 L.R.A.(N.S.) 1167.

SALE, IX.—cont'd

Selling or mortgaging chattel as waiver of purchaser's right to return. 38 L.R.A.(N.S.) 1035.

Necessity of buyer's acceptance of goods sold out of a larger lot. 26 L.R.A. (N.S.) 13.

Necessity of acceptance to pass title under contract for sale of goods to be produced or manufactured. 50 L.Ř.A. (N.S.) 133.

Remedies of parties under a contract for the sale of an article on approval. 50 L.R.A. (N.S.) 808; L.R.A.1918B, 873.

Repudiation of contract of sale of personal property on one ground as waiver of other objections. 3 B. R. C. 591.

§ 22. What constitutes an acceptance. Particular circumstance indicating acceptance by delivery to carrier. 35 L.R.A. (N.S.) 1043.

Acknowledgment by seller of receipt of order for goods as an acceptance. 38 L.R.A.(N.S.) 903.

Offer by purchaser to sell property to a third person as acceptance which will satisfy statute of frauds. 36 L.R.A. (N.S.) 76.

What constitutes acceptance which will pass title under contract for sale of goods to be produced or manufactured. 50 L.R.A. (N.S.) 138.

Under contract for sale of article on approval. 50 L.R.A. (N.S.) 808; L.R.A. 1918B, 873.

#### § 28. — retention of possession as.

Retaining possession of article sold on approval. 50 L.R.A. (N.S.) 812; L.R.A. 1918B, 873.

Effect of retention of goods after notice of mistake in quoted price. 15 L.R.A. (N.S.) 368.

Effect of use of property purchased on approval after expression of dissatisfaction. 14 L.R.A.(N.S.) 1107.

Right of buyer to retain goods and defeat action for price on discovering that goods do not comply with requirements of contract. 4 L.R.A.(N.S.) 1167.

## 24. Effect of acceptance.

Waiver of known breach of warranty by, see infra, § 59.

Acceptance as satisfying statute of frauds, see CONTRACTS, § 56a.

Effect of acceptance of goods deliverable in instalments on right to rescind contract or refuse further deliveries for breach as to quality. 38 L.R.A.(N.S.) 542.

Acceptance of chattel before agreement as to purchase price, as assent to seller's price. 11 L.R.A.(N.S.) 254.

Effect of acceptance of trees, shrubs, plants, or vines on liability of vendor.

accept. 68 L.R.A. 100.

Effect of delivery to carrier upon buyer's

-:-ht to reject goods for lack of qual
with particular description of kind

""" and T.P.A. (N.S.) 279. or quality. 35 L.R.A. (N.S.) 279.

Begin with this book on every law question.

SALE, IX.—cont'd

Effect of acceptance of goods as a waiver of damages for delay in delivery. 54 L.R.A. 718; 7 L.R.A.(N.S.) 1114.

Acceptance with knowledge of breach of warranty as waiver of breach. 35 L.R.A.(N.S.) 501.

25. — as passing title. Effect of acceptance of order for goods to pass title. 17 L.R.A. 178.

#### X. Warranty.

## a. In general.

§ 26. Generally.

Rights and duty on breach of, see infra, §§ 53-59, 68.

Implied warranty of genuineness on transfer of commercial paper, see BILLS AND Notes, § 32.

Parol evidence as to, see EVIDENCE, § 163. Of stallion, see STALLIONS, § 3.

Law governing. 64 L.R.A. 825.

Does warranty extend to obvious defects in animal or slave. 12 L.R.A. (N.S.) 82.

Effect of stipulation that goods shall be "satisfactory." 17 L.R.A. 208.

Construction of guaranty of efficiency as affected by specifications. L.R.A.1918F,

Statement as to the economy of operation as a warranty. L.R.A.1917C, 1078.

Implied warranty on sale of stock. 53 L.R.A. 153.

Effect of, on sale of exemptancy by prospective heir. 33 L.R.A. 274.

Implied or ostensible authority of an agent for the sale of personal property to warrant the same. L.R.A.1916C, 412.

Extent of commercial traveler's implied or ostensible authority to warrant goods. 39 L.R.A.(N.S.) 1151.

Right of one liable for damages from defective article to recover over against vendor or manufacturer. L.R.A.1915C, 336.

Evidence as to results of use of substance upon issue as to breach of warranty as to ingredients. L.R.A.1915D, 875.

Breach of warranty as affecting purchaser of purchase money note with knowledge of the character of the consideration. 46 L.R.A.(N.S.) 868.

27. Parol warranty.

Rights on breach of, see infra, § 55.

Right to show parol warranty in connection with contract for sale of personalty. 19 L.R.A.(N.S.) 1183.

**28.** Of title.

Does implied covenant of title on sale of chattels protect against outstanding liens or encumbrances. 16 L.R.A. (N.S.) 410.

Implied warranty of, by one transferring without indorsement check or note of third person. 10 L.R.A.(N.S.) 542.

When does statute of limitations begin to run against action for breach of war-| ranty. L.R.A.1916F, 818.

SALE, X. a—cont'd § 28a. On sale of secondhand article.

Implied warranty. L.R.A.1915B, 478. Express warranty. L.R.A.1915B, 479. Construction of warranty. L.R.A.1915B,

Extent of warranty. L.R.A.1915B, 480. Existence of warranty whether question for the jury. L.R.A.1915B, 480.

§ 29. On transfer of third person's note without indorsement.

Implied warranties by one transferring without indorsement check or note of third person. 10 L.R.A.(N.S.) 542. ·

#### b. On sale by manufacturer.

§ 30. Generally.

Implied warranty of fitness of particular article purchased from manufacturer for particular use. 2 L.R.A.(N.S.) 855. 22 L.R.A. 189; 15

Warranty on sale by manufacturer of goods

by sample. 70 LR.A. 665. Express warranty as to quality of article to be manufactured as excluding implied warranty. 33 L.R.A. (N.S.) 508. Sale of manufactures by sample as excluding implied warranty other than that

goods shall conform to sample. 29 L.R.A.(N.S.) 139.

Implied warranty by manufacturer of machinery or apparatus not in itself defective of fitness for use under existing conditions. 6 L.R.A.(N.S.) 180.

Latent defects in both sample and bulk of goods sold by manufacturer. 70 L.R.A. Ğ65.

Right of purchaser to reject goods for breach of warranty relating to goods to be manufactured. 27 L.R.A. (N.S.) 924.

Right of one liable for damages from defective article to recover over against manufacturer. L.R.A.1915C, 336.

# c. Of fitness.

§ 31. Generally.

By manufacturer or vendor of machinery or apparatus not in itself defective, of fitness for use under existing conditions. 6 L.R.A.(N.S.) 180.

§ 32. Implied warranty of fitness of property bought for special purpose.

In general. 22 L.R.A. 187; 15 L.R.A. (N.S.) 868; 31 L.R.A.(N.S.) 783; 34 L.R.A. (N.S) 737.

Contract executed or executory. 22 L.R.A. 188.

Depreciation of article. 22 L.R.A. 193. Latent defects. 22 L.R.A. 193. Knowledge of purpose. 22 L.R.A. 194. Effect of inspection. 22 L.R.A. 194.

Articles of food, etc. 22 L.R.A. 195; 15 L.R.A. (N.S.) 884; L.R.A.1917F, 472. Animals sold for slaughter. L.R.A.

1917D, 823.

Begin with this book on every law question.

SALE, X. c-cont'd

Fitness of food or medicine for live stock. L.R.A.1916B, 1109.

Provisions of the state Codes and statutes. 22 L.R.A. 196.

English doctrine. 22 L.R.A. 197. Implied warranty of trees, shrubs, plants, or vines. 49 L.R.A.(N.S.) 1151.

On sale of secondhand article. 1915B, 478.

Of fitness of a particular article purchased from a manufacturer or producer for a particular, use. 22 L.R.A. 189; 15 L.R.A. (N.S.) 855.

#### d. Of quality or kind.

§ 33. Generally.

Rights and remedies of parties, see infra, § 54.

Distinction between warranty of identity and warranty of quality. 85 L.R.A. (N.S.) 265.

Effect of representing things sold to be "good." 15 L.R.A. 795.

What amounts to a breach of warranty of soundness of a horse. 32 L.R.A.(N.S.) 182.

On sale of secondhand article. L.R.A.1915B,

Implied warranty of quality of food or medicine for live stock. L.R.A.1916B, 1109.

Right of purchaser of goods deliverable in instalments to rescind the contract or refuse further deliveries for breach as to quality. 38 L.R.A.(N.S.) 539.

May words in an executory contract, from which the law implies a warranty as to quality, be relied on as an express warranty. 25 L.R.A.(N.S.) 160.

Exhibition of article or sample to jury on issue of quality of goods. 35 L.R.A. (N.S.) 1021.

Parol evidence that parties to a written contract which merely names a class or species, contemplated a particular quality or lind. 9 L.R.A.(N.S.) 967.

§ 34. Express warranty as to quality excluding implied warranty as to quality.

General rule. 33 L.R.A.(N.S.) 502 Application of rule. 33 L.R.A.(N.S.) 503.

§ 35. Implied warranty of quality in sales by description.

Effect of sale with particular description of kind or quality. 14 L.R.A. 492; 35 L.R.A. (N.S.) 258.

**§ 36.** Of seeds sold. General rule. 37 L.R.A.(N.S.) 79.

Warranty that seed is true to name. 3 L.R.A.(N.S.) 80; L.R.A.1916C, 1012.

Warranty of germinating power. 37 L.R.A. (N.S.) 81; L.R.A.1916C, 1012.

Freedom from noxious weed seeds, etc. L.R.A. (N.S.) 82; L.R.A.1916C, 1013.

Begin with this book on every law question.

SALE, X. d-cont'd

Effect of nonwarranty or disclaimer of warranty clause. 37 L.R.A. (N.S.) 82; L.R.A.1916C, 1013.

Effect of ignorance on part of seller. 37 L.R. 4. (N.S.) 84.

Negligence of purchaser. 37 L.R.A.(N.S.) 84.

Remedies of purchaser. 3 85; L.R.A.1916C, 1013. 37 L.R.A. (N.S.)

Express warranty of, as excluding implied warranty. 33 L.R.A. (N.S.) 803.

Effect of sale of seeds with particular description of kind or quality. 35 L.R.A. (N.S.) 277.

## § 36a. Of trees, shrubs, plants, or vines.

Liability of vendor of trees, shrubs, plants, or vines. 49 L.R.A.(N.S.) 1151. Express warranty. 49 L.R.A.(N.S.) 1151. Implied warranty. 49 L.R.A.(N.S.) 1152.

Where seller purchased stock. 49 L.R.A. (N.S.) 1153.

Limitation of scope of warranty. 49 L.R.A. (N.S.) 1153.

Right of purchaser to rely upon superior knowledge of seller. 49 L.R.A. (N.S.) 1153.

Effect of acceptance. 49 L.R.A.(N.S.) 1154. When breach occurs. 49 L.R.A. (N.S.) 1154. Matters of evidence. 49 L.R.A. (N.S.) 1154. Measure of damages recoverable for breach of warranty. 49 L.R.A.(N.S.) 1155.

## e. On sale of goods by sample.

§ 87. Generally.

Generally. 70 L.R.A. 653.

What constitutes a sale by sample. L.R.A. 654.

Nature and extent of warranty, generally. 70 L.R.A. 660.

Sale by both sample and description. L.R.A. 663.

Latent defect in both sample and bulk. 70 L.R.A. 665.

Does sale by sample exclude implied warranty other than that goods shall conform to sample. 29 L.R.A. (N.S.) 139.

Right of purchaser to reject goods for breach of warranty on sale by sample. L.R.A.(N.S.) 922.

## f. Effect of test or inspection or opportunity to inspect.

§ 38. Generally.

Implied warranty in addition to stipulated test. L.R.A.1915B, 1131.

Effect of inspection on implied warranty of fitness of property bought for special purpose. 22 L.R.A. 194.

Opportunity to inspect as affecting question whether description of kind or quality in contract of sale is a warranty or a condition precedent. 35

L.R.A. (N.S.) 271.
37 Effect of delivery of goods f. o. b. on place

of inspection. 62 L.R.A. 804.

SALE, X. f-cont'd

Failure of vendee to inspect or test goods as waiver of express warranty. 24 L.R.A. (N.S.) 235.

Purchaser's right to reject goods for breach of warranty on inspection where no opportunity for inspection was given until after delivery. 27 L.R.A.(N.S.) 915.

## XI. Duties, rights, and remedies of parties.

#### a. In general.

🖇 39. Generally.

On purchase of bill of lading with draft attached, see BILLS AND NOTES, § 7.

Measure of damages for breach of contract of sale, see DAMAGES, §§ 35-37. Loss of profits as element of damages for

breach of contract of sale, see DAM-AGES, § 115.

Liability for negligence in sale of drugs, sec DRUGS AND DRUGGISTS, § 5.

Liability of seller for negligence in sale of food, see Food, § 5.

As to what constitutes fraud by seller, see FRAUD AND DECEIT, II.

Liability of seller generally for injury due to defects in property sold, see NEGLI-GENCE, § 15.

Specific performance of contract, see Spe-CIFIC PERFORMANCE, II. c.

Agent's criminal responsibility for sale of goods that do not comply with statutory

requirements. L.R.A.1918D, 726. Right of purchaser to benefit of insurance taken out by seller. L.R.A.1918D, 938.

Must seller or buyer bear loss from failure to contract with carrier for full liability. L.R.A.1917F, 561.

What constitutes a broken or defective part within agreement to replace such parts. L.R.A.1917D, 1126.

Right of purchaser to maintain action against carrier. 36 L.R.A.(N.S.) 71.

Claim against state based on a sale. L.R.A. 55.

Liability for negligent performance, by seller, of agreement to ship goods, by reason of which they are lost. 12 L.R.A. (N.S.) 679.

Right of one in possession of another's property to appropriate it to an executory contract with the latter. 36 L.R.A. (N.S.) 622.

Right of buyer to maintain separate action for nondelivery of each instalment under entire contract. 3 L.R.A.(N.S.) 1042.

Liability of vendor of diseased live stock, in the absence of express warranty. 29 L.R.A. (N.S.) 202.

Purchase of bills of lading with draft attached as assumption of seller's obligation. 32 L.R.A. (N.S.) 1173.

Rights and liabilities under contract for sale of personalty as affected by vendor's mistake in fixing price. 23 L.R.A. (N.S.) 1109.

Consult also L.R.A. Digests of Cases.

SALE, XI. a-cont'd

Right of purchaser of personalty to rely on seller's computation of price, or estimate of quantity. 17 L.R.A.(N.S.) 419.

Usurious agreement for interest in case of

sales. 49 L.R.A. 553.

Resale to fix damages for purchaser's refusal to accept goods. 42 L.R.A. (N.S.)

Effect of seller's election to resell goods to fix damages for purchaser's refusal to accept on seller's right to purchase. 42 L.R.A. (N.S.) 675.

Right to plead inconsistent defenses in actions relating to. 48 L.R.A. 196.

Interpleader between seller and agent. 10

L.R.A.(N.S.) 753. Admissibility of books of account to prove sale and delivery of goods. 52 L.R.A.

Tenant's or cropper's abandonment of crop as affecting rights of purchaser. L.R.A.(N.S.) 56.

Right to receiver to take property from possession of purchaser. 47 L.R.A. (N.S.) 749.

Repudiation of contract of sale on one ground as waiver of other objections. 3 B. R. C. 591.

Necessity of pleading statute of frauds in action on contract of sale. 49 L.R.A. (N.S.) 32.

Validity of statute or ordinance for the settlement of weights as between buyer and seller by public weigher. 51 L.R.A. (N.S.) 731.

Agreements as to determination of prices or value by third persons. 47 L.R.A. (N.S.) 384.

Effect of discontinuance of serial publication. 45 L.R.A.(N.S.) 203.

Relief from contract of sale because of over or underestimate of quantity by seller. 45 L.R.A.(N.S.) 243.

Who may exercise option under a contract calling for a maximum or minimum amount of commodity. L.R.A.1918D,

Recommendation of another as proper subject for credit as ground of liability. L.R.A.1915A, 100.

Effect of provision of contract that buyer shall furnish receptacles. L.R.A. receptacles. 1916D, 730.

Remedy of purchaser for failure of seller to furnish assistant to handle subject-matter of sale. 45 L.R.A. (N.S.) 258.

Duty of vendor of dangerous goods to warn purchaser. 3 B. R. C. 449.

Remedies of parties under a contract for the sale of an article on approval. L.R.A. (N.S.) 808; L.R.A.1918B, 873.

Time for exercising option reserved in contract of sale to return or resell property. 50 L.R.A.(N.S.) 594.

Title to goods which purchaser elects to return for credit pursuant to contract. L.R.A.1916E, 1209.

Right of buyer to purchase on market before expiration of time for delivery where seller gives notice that he will not deliver. L.R.A.1917A, 1001.

SALE, XI. a—cont'd

Breach of agreement in contract of sale to give the purchaser the exclusive right of sale, as affecting the remedies of the parties. 'L.R.A.1918C, 1027.

§ 40. Assignability of contract of sale. Assignability of executory contract to per-form particular work as distinguished from contract of sale. 23 L.R.A.(N.S.)

Assignability of contract to supply such quantity of goods as purchaser may require in his business. 2 B. R. C. 444.

§ 41. Under option to purchase,

Specific performance for provisions for appraisal of property preliminary to exercise of option. L.R.A.1917C, 813.

Effect of option to return goods. 17 L.R.A.

Rights conferred by a refusal or option. 21 L.R.A. 127.

Liability for loss of or damage to personal property pending exercise of option to buy or return if unsatisfactory. 6 L.Ř.A. (N.S.) 273.

Purchase by agent for principal of property which agent personally has an option or contract to purchase. 11 L.R.A. (N.S.) 122.

Liability of promoter on sale to corpora-tion of property on which he holds option. 18 L.R.A.(N.S.) 1114.

When title passes under consignment of goods for sale with provision that consignee purchase at option of consignor. 39 L.R.A.(N.S.) 623.

§ 42. Effect of contract to ship goods

f. o. b. In general. 62 L.R.A. 795.

Vendor's liability as to holding and transportation expenses. 62 L.R.A. 796.

Upon whom the duty of furnishing cars or vessels lies. 62 L.R.A. 797; 6 L.R.A. (N.S.) 928; L.R.A.1917A, 1163.

Effect of delivery f. o. b. 62 L.R.A. 798.
Upon the passing of the title.
L.R.A. 802; 33 L.R.A.(N.S.) 54.

§ 43. Restrictions on sale or use of property as affecting purchaser. Of patented article, see PATENTS, § 12.

In general. 55 L.R.A. 631.

Copyrighted articles, electrotype plates, etc. 55 L.R.A. 632.

Validity of contract to resell property at an advanced price. 3 L.R.A.(N.S.) 213.

Condition imposed by manufacturer as to retail price, as binding upon retailer purchasing from middleman. 3 B. R. C. 299.

44. Seller's right to retake property. Under conditional sale, see infra, § 50.

Right of seller of property to municipal corporation under invalid contract to take or remove property upon refusal of payment. 20 L.R.A. (N.S.) 110; L.R.A.1915B, 173.

SALE, XI. a—cont'd Seller's right to recover possession or value of property on default by purchaser. 32 L.R.A. 459.

§ 45. Recovery of purchase price by seller.

Payment of purchase price on conditional sale, see supra, § 17.

Under conditional sale, see infra, § 51.

Rescission of sale for default in payment, see infra, § 66.

Guaranty of purchase price, see GUARANTY. Liability for purchase price of intoxicating liquor, see Intoxicating Liquors, § 40.

Law governing right of action for purchase price before expiration of credit. 64 L.R.A. 828.

Right to recover price of property sold for unlawful use. 15 L.R.A. 834.

Sale of goods to keeper or inmate of house of ill fame. L.R.A.1917B, 1168.

Who is real party in interest by whom action for goods sold must be brought. 65 L.R.A. 597.

Necessity of notice to bind guarantor of payment of purchase price. 20 L.R.A. 259.

Failure of consideration as defense to action on a purchase price note. 39 L.R.A. (N.S.) 938; L.R.A.1918A, 1055.

What misrepresentations will afford defense to action for purchase price of books. 22 L.R.A. (N.S.) 1210.

Delay in attempting to regain property obtained under agreement to pay therefor on delivery as waiver of that condition. 11 L.R.A.(N.S.) 948; 23 L.R.A.(N.S.) 824; L.R.A.1915D, 355.

Action for price as bar to action for damages for fraud. 8 L.R.A.(N.S.) 582.

Effect of setting up defects as a counterclaim in an action on one of a series of notes given for, or to recover an instalment of, the purchase price, upon the right to set up a like counterclaim in subsequent actions. 10 L.R.A.(N.S.) 734.

Right to recover for goods sold under contract containing provision for an exclusive agency. 6 L.R.A. (N.S.) 547.

Right of seller, upon breach of executory contract, to maintain action for contract price. 17 L.R.A.(N.S.) 808; 26 L.R.A.(N.S.) 248.

Right of seller to recover contract price or value of articles delivered while refusing further deliveries for purchaser's failure to pay. 43 L.R.A. 1009.

Right to recover purchase price where purchaser wrongfully repudiates his contract. 51 L.R.A.(N.S.) 735.

46. - time of suing for.

Action for price before expiration of credit. 3 L.R.A.(N.S.) 908.

Effect of refusal to execute purchase-money notes to give vendor an immediate right of action. 12 L.R.A. (N.S.) 180.

Begin with this book on every law question.

SALE, XI. a—cont'd § 47. Recovery back of payment made.

Under conditional sale, see infra, § 52.

Effect of default in payment followed by rescission as forfeiture of payments already made. 3 L.R.A.(N.S.) 785.

#### b. Conditional sale.

§ 48. Generally.

Conflict of laws as to, see Conflict of LAWS, § 33.

Effect on question of fixture generally, of retention of title to, or lien on, chattel sold, see FIXTURES, §§ 6, 7.

Title to foal of mare sold conditionally. 17 L.R.A. 82.

Remedy of conditional vendor for refusal to accept. 68 L.R.A. 100.

Right of vendor under conditional sale as affected by bankruptcy of purchaser. 38 L.R.A. (N.S.) 554.

Effect of taking collateral security upon conditional sale. 20 L.R.A.(N.S.) 1065.

Duty of purchaser of property from conditional vendee with right to sell, to see that latter's vendor is paid. 26 L.R.A. (N.S.) 585.

Damages recoverable by conditional vendor of personalty from third person who converts the same after partial payment of the purchase price. 10 L.R.A. (N.S.) 458.

Destruction of property sold conditionally while in possession of seller. 36 L.R.A. (N.S.) 595.

Liability for loss of or damage to personal property pending exercise of option to buy, or to return if unsatisfactory. 6 L.R.A.(N.S.) 273.

Rights and remedies of parties to conditional sale to infant. 52 L.R.A.(N.S.) 723.

Conditional sale contract executed prior to, but filed within four months of bank-ruptcy, as a voidable preference. 47 L.R.A.(N.S.) 1223.

Accession to property which is the subject of a conditional sale. L.R.A.1916E, 256.

Right to lien for repairs or other services under contract with purchaser under conditional sale. L.R.A.1915D, 1141.

Right of conditional vendor of automobile to lien for storage or repairs made subsequent to the sale. L.R.A.1918D, 335.

Effect of the retaking of property by seller on the rights and remedies of the parties to a contract of conditional sale. L.R.A.1916A, 915.

Renewal of conditional sale note as affecting rights of seller or the intervening rights of third persons to the property. L.R.A.1916A, 927.

Right of conditional vendee of personal property to maintain action for damages to, or conversion of, property.

LaR.A.1917D, 217.

Consult also L.R.A. Digests of Cases.

SALE, XI. b-cont'd

payments Injunction to restrain action by seller to recover property sold by conditional sale. L.R.A.1917C, 77.

§ 49. On default of payment.

Right of vendor. 32 L.R.A. 455. Right of purchaser. 32 L.R.A. 465.

Forfeiture. 32 L.R.A. 469. Rescission. 32 L.R.A. 469.

Statutory provisions as to rights and reme-

dies. 32 L.R.A. 470. Waiver. 32 L.R.A. 471.

Election of remedy under contract. 32 L.R.A. 471.

Right and duty of seller who retakes property under right reserved in the contract, where reservation of title is invalid. L.R.A.1916C, 560.

Bringing an action for the purchase price as a waiver by the vendor of the title and remedy clauses in a conditional sale contract. L.R.A.1916A, 925.

§ 50. Seller's right to retake property. Seller's right to recover from purchaser possession or value of property on default. 32 L.R.A. 459.

Right of vendor in conditional sale to recover property as affected by his knowledge that the purchaser intended to make an unlawful use of it. 40 L.R.A. (N.S.) 967.

Right to employ force in retaking property sold conditionally. 19 L.R.A. (N.S.) 606; L.R.A.1915F, 673.

Liability for abuse of right to retake property sold conditionally, upon breach of condition. 13 L.R.A.(N.S.) 1132.

Bringing action for purchase price as waiver of right of vendor in conditional sale to recover property in specie. 23 L.R.A. (N.S.) 144.

Apparent ownership of conditional vendee, as affecting right of conditional vendor to claim title as against conditional purchaser's vendees or creditors. 25 L.R.A.(N.S.) 766, 782-790.

§ 51. Recovery of purchase price by seller.

Seller's right to collect balance after retaking possession. 32 L.R.A. 455.

Right to recover on unpaid notes or contracts where vendor does not resume possession or accept return of property. 32 L.R.A. 458.

Right to recover purchase price where property is destroyed after delivery. 32 L.R.A. 458.

Right of seller under conditional sale to recover amount unpaid where property lost or destroyed without fault of purchaser. 2 L.R.A. (N.S.) 97.

§ 52. Purchaser's right to recover back payments where seller retakes property.

General rule. 32 L.R.A. 465; 38 L.R.A. (N.S.) 891; 51 L.R.A. (N.S.) 251.

SALE, XI. b-cont'd

Where contract mutually rescinded. L.R.A.(N.S.) 894.

Where seller unlawfully takes or sells the property. 38 L.R.A.(N.S.) 895.

Right of seller to replevin property without returning or offering to return purchase money. 38 L.R.A. (N.S.) 897.

Judgment in replevin action as affecting right to recover purchase money paid.

38 L.R.A.(N.S.) 898.
Where purchase price is represented by buyer's notes. 38 L.R.A. (N.S.) 898.

Where property in hands of third person. 38 L.R.A.(N.S.) 899. Statutory right. 38 L.R.A.(N.S.) 899.

Right to recover property or its value as in trespass. 32 L.R.A. 467.

Infant's right to recover back payments where seller retakes property on disaffirmance of contract by infant. 52 L.R.A.(N.S.) 723.

## c. On breach of warranty.

§ 53. Generally.

Measure of damages for breach of warranty, see Damages, § 37.

Loss of profits as element of damages, see DAMAGES, § 116.

Liability of seller or manufacturer for injuries by dangerous or defective article. see NEGLIGENCE, § 15.

Effect of representing things to be "good." 15 L.R.A. 795.

Liability of infant for false warranty. 57 L.R.A. 680.

Rule of proximate cause in case of false warranties. 45 L.R.A. 90.

Effect of warranty clause in contract on failure of consideration as defense to action on purchase money note. 39 L.R.A. (N.S.) 946.

Arrest under civil process for breach of warranty. 20 L.R.A.(N.S.) 844.

Right of purchaser, upon rejecting goods for breach of warranty, to resell them on account of seller. 27 L.R.A.(N.S.)

Time when limitation begins to run on liability for breach of warranty. L.R.A.(N.S.) 162.

Availability of breach of warranty as defense in replevin or claim and delivery where not specially pleaded. 34 L.R.A. (N.S.) 473.

Effect of change of condition of chattel upon right to return it for breach of warranty. 3 L.R.A. (N.S.) 678.

Breach of warranty in the principal contract as defense to a surety. 21 L.R.A. 406.

May purchaser recover damages for breach of warranty or fraud as to both articles where one article is substituted. for another at his request and both are defective. 37 L.R.A.(N.S.) 298.

When does statute of limitations begin to run against an action for breach of warrantv. L.R.A.1916F, 812.

Begin with this book on every law question.

SALE, XI. c-cont'd

Admissibility upon question as to breach of warranty of evidence as to success or failure of goods or apparatus. L.R.A.1915B, 626.

Right of husband to recover in action for breach of warranty, for loss of services of wife, occasioned by her injury or death in consequence of such breach. 3 B. R. C. 197.

Right of a purchaser of chattel to avail himself of breach of warranty made to the seller. 51 L.R.A.(N.S.) 1111.

Remedies of parties to a contract of sale providing that seller will remove the property if it does not fulfil the warranty. 50 L.R.A.(N.S.) 805.

Yielding to adverse claimant as affecting buyer's right to assert breach of war-ranty of title of personal property. L.R.A.1918B, 1138.

§ 53a. Exclusiveness of remedy provided by contract.

Exclusiveness of remedy for breach of warranty provided in contract for the sale of an animal. 50 L.R.A. (N.S.) 774.

Exclusiveness of remedy for breach of warranty provided in contract for sale of machinery. 50 L.R.A.(N.S.) 753.

Exclusiveness of remedy for breach of warranty given in contract of sale of chattels other than machinery or animals. 50 L.R.A. (N.S.) 778.

54. As to quality or quantity.

Rights and remedies of purchaser in sales by description. 14 L.R.A. 492.

Remedy of purchaser on default of one who sells with particular description of kind or quality. 35 L.R.A.(N.S.) 291.

Right of purchaser of goods deliverable in instalments to rescind the contract or refuse further deliveries for breach as to quality. 38 L.R.A.(N.S.) 539.

Right of purchaser who has resold to recover for breach of warranty as to quantity or quality, where he has not actually made good to his vendees. 3 L.R.A. (N.S.) 465.

When does statute of limitations begin to run against an action for breach of warranty. L.R.A.1916F, 812.

55. Parol warranty.

Breach of parol warranty as defense to action between original parties on note for purchase price of chattel. 28 L.R.A. (N.S.) 267.

§ 56. Compliance with conditions of warranty.

Necessity and sufficiency of compliance with conditions of warranty in sale of 50 L.R.A. personal property. (N.S.) 783.

Effect of provision in contract of sale that claim for defects must be made within certain time, where defects are latent. 11 L.R.A.(N.S.) 245. SALE, XI. c-cont'd

§ 57. — condition as to returning.

In general. 50 L.R.A.(N.S.) 794.

Construction of provision for return in event of rescission for breach of warranty. 32 L.R.A.(N.S.) 212.

Effect of provision in contract of sale for return of defective goods upon buyer's right to recover for breach of warranty, express or implied. 12 L.R.A.(N.S.) 540.

Remedy for breach of warranty of horse where its death prevents its return and the substitution of another, as provided by the contract. 25 L.R.A.(N.S.) 823. Waiver of return. 50 L.R.A. (N.S.) 802.

§ 57a. — waiver of conditions. Waiver of conditions in contract of sale limiting the warranty. 50 L.R.A. (N.S.) 796.

Waiver of stipulated notice of failure of machine to work properly. 1 L.R.A. (N.S.) 142.

Waiver by seller of provision for return of goods in case of rescission for breach of warranty. 32 L.R.A.(N.S.) 214.

## 58. Waiver of breach.

Effect of inspection or opportunity to inspect, see supra, § 38.

Under a contract for sale of goods on approval. 50 L.R.A.(N.S.) 808.

Vendee's failure to inspect or test goods as waiver of express warranty. 24 L.R.A.(N.S.) 235.

#### § 59. — by acceptance with knowledge of breach.

Where warranty express. 35 L.R.A.(N.S.) 502.

Rule that purchaser has option to accept or reject. 35 L.R.A.(N.S.) 506. Doctrine that purchaser must accept. 35 L.R.A.(N.S.) 507.

Right to accept where warranty implied. 35 L.R.A.(N.S.) 507.

Right to retain article after obtaining knowledge of defect. 35 L.R.A.(N.S.) 509.

## d. Lien for price; stoppage in transitu.

## § 60. Lien for price.

Applicability of doctrine of vendor's equitable lien to personal property. 3 B. R. C. 824.

Law governing right to vendor's lien. 64 L.R.A. 831.

Vendor's lien for purchase price of railroad rails. 66 L.R.A. 44.

Right of vendor by conditional sale to assert lien on default of payment. 32 L.R.A. 464.

Personal liability of purchaser of personal property which is subject to a lien. 59 L.R.A. 737.

Waiver of seller's lien by attachment or Rescission of conditional sale on default of execution. 50 L.R.A. 714.

Consult also L.R.A. Digests of Cases.

SALE, XI. d-cont'd

§ 61. Stoppage in transitu.

Waiver of, by attachment or execution. 50 L.R.A. 721.

Effect on, of contract to ship goods f. o. b. 62 L.R.A. 805.

Right of stoppage in transitu after reshipment. 34 L.R.A.(N.S.) 31.

#### e. Rescission.

## 1. In general.

62. Generally.

Right of seller to retake property, see supra,

When sale of expectancy by prospective heir will be set aside. 33 L.R.A. 278, 284. Rescission by vendor of seeds. 37 L.R.A. (N.S.) 85.

Right of infant to rescind sale of corporate stock. 28 L.R.A.(N.S.) 128.

Effect of default in payment, followed by rescission, as forfeiture of payments already made. 3 L.R.A.(N.S.) 785.

Right of purchaser on conditional sale to recover back payments where contract is mutually rescinded. 38 L.R.A. (N.S.) 894.

Duty of buyer where seller refuses to accept property tendered in rescission of the contract. L.R.A.1916F, 479.

#### 63. Prerequisites to.

Notice to vendor as condition of vendee's right to refuse subsequent deliveries after breach as to earlier deliveries. 8 L.R.A.(N.S.) 1110.

#### § 64. — return of consideration.

Necessity of returning consideration before bringing replevin for property obtained by fraudulent purchase. 21 L.R.A. 206; 1 L.R.A. (N.S.) 474.

Necessity that tender, as condition of rescission for breach of warranty, shall cover all the property sold. 8 L.R.A.(N.S.) 727.

Construction of provision for return in the event of rescission for breach of warranty. 32 L.R.A.(N.S.) 212.

#### 2. Grounds.

65. Generally.

What will warrant rescission of contract of sale. 30 L.R.A. 61.

Use as waiver of right to rescind for noncompliance with contract. 36 L.R.A. (N.S.) 467.

Failure of seller to deliver goods on agreed date as ground for rescission by purchaser. L.R.A.1916E, 940.

66. Default in payment.

Rescission for failure to pay for instalment as delivered. 32 L.R.A. (N.S.) 1.

payment. 32 L.R.A. 469.

SALE, XI. e, 2-cont'd 67. Fraud.

What constitutes fraud, see FRAUD AND DE-CEIT, §§ 4-12.

Sale as a fraud upon creditors of seller, see FRAUDULENT CONVEYANCES.

> Conflict of laws as to. 64 L.R.A. 827. Fraud in obtaining credit. 14 L.R.A. 264.

> > Representation to commercial 2 L.R.A. 154;\* 14 agencies. L.R.A. 264.

Election of remedies in case of fraudulent purchase. 15 L.R.A. 89.

False statement as to cost, selling, or market price of property, or as to offers therefor. 35 L.R.A. (N.S.) 175; L.R.A. 1916F, 782.

Lack of reasonable expectation of ability to pay as equivalent of intention not to pay. 6 L.R.A.(N.S.) 556.

Liability of partnership for fraud in pur-chase of property. 51 L.R.A. 484. In sale of property. 51 L.R.A. 485. Necessity of returning amount paid on

fraudulent purchase in action of replevin by seller. 1 L.R.A.(N.S.) 474.

Effect of bankruptcy proceedings on prior action to rescind sale for fraud. 8 L.R.A.(N.S.) 1204.

Right of seller to reclaim goods as against assignee for creditors or trustee in bankruptcy of buyer, who procured them by false representations. 17 L.R.A. (N.S.) 1032.

Burden of proof as to payment of value by, or notice of fraud to, subvendee of chattels, when original seller seeks to rescind for fraud of first purchase. 8 L.R.A. (N.S.) 448.

What misrepresentations will afford ground for rescinding a sale of books. 22 L.R.A.(N.S.) 1210.

Rescission by purchaser for seller's fraud as affecting former's right to recover damages, other than loss of contract. 31 L.R.A. (N.S.) 910.

Waiver of fraud by completing executory contract for sale of personal property after discovering the fraud. 8 L.R.A. (N.S.) 452.

68. Breach of warranty.

Interest on rescission for breach, see INTER-EST, § 7.

Right of rescission on breach of warranty by vendor of seeds. 37 L.R.A.(N.S.) 85; L.R.A.1916C, 1013.

Construction of provisions for return of property, in event of rescission for breach of warranty. 32 L.R.A.(N.S.) 212.

Right of purchaser to reject goods for breach of warranty. 27 L.R.A.(N.S.) 914. Right of purchaser of goods deliverable in instalments to rescind the contract, or refuse further deliveries, for breach as to quality. 38 L.R.A. (N.S.) 539.

SALE, XI. e, 2-cont'd

Purchaser's election to rescind for breach of warranty as affecting recovery against seller. 27 L.R.A. (N.S.) 925.

Use as waiver of right to rescind for breach of warranty. 36 L.R.A.(N.S.) 467.

#### 3. Waiver of right.

§ 69. Generally.

Waiver of right to rescind by use of property to test it. 21 L.R.A. 135.

Acceptance of portion of instalment, as affecting right to rescind continuing contract for failure to deliver whole. 21 L.R.A.(N.S.) 864.

Waiver of fraud by completing executory contract for sale of personal property after discovering the fraud. 8 L.R.A. (N.S.) 452.

§ 70. Waiver by use of right to rescind for breach of warranty or noncompliance with contract.

General rule. 36 L.R.A.(N.S.) 468.

Use for purpose of test. 36 L.R.A.(N.S.) 469.

Use after discovery of defect. 36 L.R.A. 470.

Use after ascertaining failure to meet requirements of contract. 36 L.R.A. (N.S.) 471.

Where further use is at the request of the seller. 36 L.R.A.(N.S.) 472. Use after notice of rescission. 36 L.R.A.

(N.S.) 472. Rescission for delay in delivering.

L.R.A. (N.S.) 474.

Whether reasonableness question for court or jury. 36 L.R.A.(N.S.) 474.

When objection should be made. 36 L.R.A. (N.S.) 475.

## f. Rights of bona fide purchasers.

§ 71. Generally.

Of note, see BILLS AND NOTES, §§ 38-42. Of bond, see Bonds, § 23.

In general, see BONA FIDE HOLDER.

72. Pre-existing debt as consideration for bona fide purchase of non-

negotiable property.

Notice of prior equities. 36 L.R.A. 161.

Value of the property. 36 L.R.A. 162.

Performance of transfer. 36 L.R.A. 163. Generally. 36 L.R.A. 163.

## SALES IN GROSS.

Of trade mark. 1 L.R.A.(N.S.) 708.

#### SALE OR RETURN.

Title to goods which purchaser elects to return for credit under contract of sale or return. L.R.A.1916E, 1209.

Begin with this book on every law question.

#### SALESMEN.

Authority of sales agent who is authorized to collect the whole or part of purchase price on making the sale to receive payment afterwards. 38 L.R.A.(N.S.) 700.

Salesman's right to compensation as affected by employment of improper method to make sales. 39 L.R.A. (N.S.) 1149.

Loss of profits as element of damages for breach of contract of. 53 L.R.A. 77.

#### SALOONKEEPERS.

Liability, at common law, of a saloonkeeper for personal injury to patron. 4 L.R.A. (N.S.) 649.

Liability for malicious acts of servants towards patrons. 4 L.R.A. (N.S.) 485.

#### SALOONS.

Injunction against, see Injunction, \$ 29. As to sale of intoxicating liquor, generally, see Intoxicating Liquor, §§ 19-37. Saloonkeepers, see Saloonkeepers.

Power to license. 20 L.R.A. 722.

Power to exclude women from. 18 L.R.A. (N.S.) 657.

Validity of agreement in restraint of trade, ancillary to sale of saloon, as affected by territorial scope. 24 L.R.A.(N.S.) 928; L.R.A.1916C, 630.

As a place of public accommodation within civil rights act. 9 L.R.A.(N.S.) 601; L.R.A.1918F, 829.

As a place of amusement within civil rights acts. 19 L.R.A.(N.S.) 907.

Effect upon lease of property for saloon purposes of passage of prohibitory laws during term. 19 L.R.A. (N.S.) 964; 23 L.R.A. (N.S.) 497; 34 L.R.A. (N.S.) 773; L.R.A.1917C, 935.

## SALPINGECTOMY.

See STEBILIZATION.

#### SALT.

Right to pump up water where the result is to carry away another's mineral in solution. 5 B. R. C. 254.

## SALT PETER.

Keeping of, on insured premises. L.R.A. | Erection of, as violation of restrictive cove-1917C, 278.

Consult also L.R.A. Digests of Cases. 78

#### SALVAGE.

Traveling salesmen, see COMMERCIAL TRAV- Possibility of salvage as affecting amount of damages for destruction of property.

Authority of sales agent who is sutherized L.R.A.1918A, 276.

Right to, in case of reinsurance. 8 L.R.A. (N.S.) 862.

Legislative power to fix prices for salvage of logs. 33 L.R.A. 182.
Rights of seamen as salvors. 64 L.R.A.

193.

Where vessel causing peril and that claiming salvage have the same owner. 1 L.R.A.(N.S.) 873.

Jurisdiction of admiralty over contract as to. 66 L.R.A. 206, 232.

Rights of seamen as salvors. 64 L.R.A. 193.

Compensation in the nature of salvage. 64 L.R.A. 200.

Maritime lien for. 70 L.R.A. 368, 376.

#### SALVATION ARMY.

Delegation of power to regulate parades of. 20 L.R.A. 721.

Giving of free service or reduced rates to members of, as an unlawful discrimination. L.R.A.1918D, 919.

#### SAMPLE.

Implied warranty on sale by, see SALE. § 37.

Regulation of sales by. 24 L.R.A. 588.

Authority of traveling salesmen to sell. 18 L.R.A. 667.

Solicitation of orders by sample as inter-state commerce. 19 L.R.A.(N.S.) 304.

Liability for loss or destruction of commercial traveler's samples. 35 L.R.A. (N.S.) 350.

Exhibition of sample to jury on issue of quality of goods. 35 L.R.A.(N.S.) 1021.

Requiring that samples of milk for sale be given to inspectors. 1 L.R.A. (N.S.) 918; L.R.A.1917C, 256.

Duty of parties with respect to delivery and receipt of articles sold by sample. 35 L.R.A. (N.S.) 290.

Symbolic delivery by, to satisfy statute of frauds. 70 L.R.A. 321.

## SAMPLE MERCHANDISE.

Carrier's liability for loss of, when carried as baggage. 4 · L.R.A.(N.S.) 1035; L.R.A.1918C, 108.

## SANATORIUM.

nant in deed. 41 L.R.A.(N.S.) 617.

#### SANCTION.

Of evil by statute, when implied. 14 L.R.A. See BANKS, §§ 12, 13, 43, 44.

#### SAND.

Right to sand upon railroad right of way as between company and fee owner. 45 L.R.A.(N.S.) 799.

#### SANDPITS.

Contributory negligence in continuing work in, notwithstanding master's promise to repair. 29 L.R.A.(N.S.) 601.

#### SANITARIUM.

Liability of proprietor of private sanitarium for negligence of nurse or attendant. 6 L.R.A. (N.S.) 306; L.R.A.1915D, 334.

## SANITARY DISTRICTS.

Applicability to, of Workmen's Compensa-tion Acts. L.R.A.1918F, 193.

Incorporation of, into municipality as affecting prior rights as to use of highway. 47 L.R.A.(N.S.) 610.

Immunity of, from liability for damages.
L.R.A.1918B, 1010.

Validity of statutory provision for attorney's fee in actions against sanitary district of Chicago. L.R.A.1915E, 948.

## SANITY.

See Incompetent Persons.

## SATISFACTION.

Accord and satisfaction, see Accord AND SATISFACTION.

Of execution, see EXECUTION, § 11. Of judgments, see JUDGMENT, §§ 74-77. Failure of employee to give, see MASTER AND SERVANT, § 38.

Of condition in will, see WILLS, § 88.

Effect of stipulation that goods sold shall be satisfactory. 17 L.R.A. 208.

Effect of use of property purchased on approval after expression of dissatisfaction. 14 L.R.A.(N.S.) 1107.

What constitutes "satisfactory title" within requirement of land contract or other agreement relating to land 18 other agreement relating to land. 18 L.R.A. (N.S.) 741.

Payment of note by maker which proves ineffectual as a satisfaction as affecting surety's lial L.R.A.(N.S.) 205. liability thereon.

Begin with this book on every law question.

#### SAVINGS BANKS.

#### SAWMILL.

Master's liability for vice principal's negligence in operating. 54 L.R.A. 131. Contributory negligence in continuing work in, notwithstanding master's promise to repair. 29 L.R.A.(N.S.) 602.

#### SCAFFOLD.

Master's liability for injury to servant by, see MASTER AND SERVANT, § 84.

What constitutes "scaffolding" within meaning of workmen's compensation act. L.R.A.1916A, 198.

#### SCALES.

Obstruction of street by. 14 L.R.A. 558. Power of municipality to regulate use of scales by merchants. 23 L.R.A.(N.S.)

Power of municipal corporation to grant right to maintain scales in street. 25 L.R.A. (N.S.) 403.

#### SCALPING.

See CARRIERS, §§ 21, 148.

## SCANDAL.

Cruel and unusual punishment for publications disseminating, 35 L.R.A. 578.

#### SCANDALOUS MATTER.

As reason for omitting part of will from probate. 34 L.R.A.(N.S.) 974.

#### SCAVENGERS.

See GARBAGE.

#### SCENIC RAILROAD.

Liability of person maintaining, for safety of patron. 19 L.R.A.(N.S.) 772; 26 L.R.A. (N.S.) 1054; 42 L.R.A. (N.S.) 1070.

#### SCHEDULE.

In assignment for creditors, see Assign-MENT FOR CREDITORS, § 5.

Sufficiency of rules as to operation of trains by. 43 L.R.A. 332.

#### SCHEDULE TIME.

Liability to servant in charge of a frain or car as affected by his duty to keep schedule time. L.R.A.1916E, 268.

#### SCHISM.

See Religious Societies, §§ 4, 5.

#### SCHOOL DISTRICT.

See SCHOOLS, V.

#### SCHOOLHOUSE.

See Schools, §§ 29, 30.

#### SCHOOL LANDS.

Location of mines on. 7 L.R.A.(N.S.)

#### SCHOOL MONEY.

See Schools, § 38.

#### SCHOOLS.

I. In general, §§ 1, 2.

II. Government; control; attendance; exclusion; tuition, \$\$ 3-11.

III. Teachers, §§ 12-22. IV. Officers; elections, §§ 23-26.

V. Districts; property; schoolhouses; contracts; liabilities; indebtedness; taxes, \$\$ 27-35.

VI. Text-books; instruction; school money, \$\$ 36-38.

#### I. In general,

§ 1. Generally.

Charitable bequest for, see CHARITIES. Constitutionality of statutes as to, see CONSTITUTIONAL LAW, § 148.

Sale of liquor within prohibited distance of, see Intoxicating Liquons, § 27.

Applicability to school janitors of Work-men's Compensation Acts. L.R.A. men's Con 1918F. 192.

Consult also L.R.A. Digests of Cases,

SCHOOLS, I.—cont'd Giving of free service or reduced rates by public service corporation to schools as an unlawful discrimination. 1918D, 914.

Duty of operator of automobile near school. L.R.A.1918A, 252.

Effect of language in deed indicating that land is to be used for school or educational purposes. L.R.A.1918B, 696.

Privilege of communication by or to school authorities regarding conduct of pupil or teacher. L.R.A.1917D, 784.

Liability of one conducting school for in-struction in automobile driving for negligent operation during instruction. L.R.A.1917A, 397.

Conducting public school in sectarian building. L.R.A.1917D, 462.

Who may petition in relation to school matters. 43 L.R.A.(N.S.) 293.

Sale of books or other school supplies upon school property or by persons connected with schools. L.R.A.1915C, 624.

Nature and relation to state of incorporated educational institutions belonging to state. 29 L.R.A. 380.

Protection of school privileges by the equality provision of the 14th Amendment. 14 L.R.A. 581.

Establishment of school as violation of restrictive covenant in deed. 41 L.R.A.

(N.S.) 616.

Taking of property for common schools as a public purpose. 22 L.R.A.(N.S.) 169.

On what basis majority essential to adoption of proposition for establishing high school is to be computed. 22 L.R.A.(N.S.) 478.

Determining character of standing of pro-fessional school or college for purposes of license statutes. 22 L.R.A.(N.S.)

As a violation of covenant against disagreeable noise or nuisance. 9 L.R.A. (N.S.) 1039.

Right of taxpayer, in absence of statute, to enjoin school contract. 36 L.R.A. (N.S.) 16.

School session as a meeting within purview of offense of disturbing meeting. 30 L.R.A.(N.S.) 832.

## § 2. Transportation of pupils.

Power to require carriers to give reduced rates to school children. 11 L.R.. (N.S.) 973; 41 L.R.A. (N.S.) 524. 11 L.R.A.

Duty of public to furnish free transportation to pupils. 37 L.R.A.(N.S.) 1110.

Right to use school money for transportation of pupils. 38 L.R.A.(N.S.) 710.

Who are within statutes or ordinances requiring carriers to give reduced rates to "pupils" or "school children." 43 L.R.A. (N.S.) 172.

Giving of reduced street car fares to school children as an unlawful discrimination. L.R.A.1918D, 915.

SCHOOLS-cont'd

II. Government; control; attendance; exclusion; tuition.

§ 3. Generally.

Power of school authorities to require attendance at particular school as affected by location, accessibility, or distance. 22 L.R.A.(N.S.) 584.

Requiring examination as condition of admission or promotion of pupils. L.R.A.

1916C, 997.

§ 3a. Compulsory education.
What instruction constitutes compliance with compulsory education statute. 41 L.R.A. (N.S.) 95.

Expulsion or exclusion of child from school as excuse or justification for non-compliance with compulsory education law. L.R.A.1915D, 223.

§ 4. Private schools.

Power to regulate or prohibit private schools. 29 L.R.A.(N.S.) 53.

5. Religious garb.

Validity of rule forbidding religious garb in school. 7 L.R.A.(N.S.) 403.

Right to require or prohibit the wearing of uniforms or religious garb in public school or college. 42 L.R.A.(N.S.)

§ 6. Residence of pupils.

What constitutes residence entitling children to the privileges of public schools. 26 L.R.A. 581; 36 L.R.A. (N.S.) 341; 51 L.R.A.(N.S.) 234.

Validity of statute giving nonresident of school district right to attend school without charge. 24 L.R.A. (N.S.) 1104.

Acquiring residence as voter while attend-23 L.R.A. 215; 40 L.R.A. ing school. (N.S.) 170.

Domicil or residence for taxation as affected by purpose to obtain school facilities. LR.A.1917A, 290.

§ 7. Discrimination against colored children; separate schools.

Separate schools for colored children. 14 L.R.A. 581.

Who is negro, mulatto, or person of color within school law not specifically defining the same. 31 L.R.A. (N.S.) 180; L.R.A.1915A, 828.

Right of educational, charitable, or religious institution to exclude person on account of race or color. 24 L.R.A.(N.S.) 447. Right of Indian children to school privileges.

50 L.R.A.(N.S.) 147.

8. Vaccination of pupils.

Vaccination as condition of attendance. 25 L.R.A. 152; 17 L.R.A.(N.S.) 710.

Exclusion of unvaccinated child from school as excuse or justification for noncompliance with compulsory education law. L.R.A.1915D, 223.

9. Control of pupils; suspension. Suspension as affecting tuition, see infra, § 11a.

SCHOOLS, II.—cont'd

Teacher's right to enforce discipline, see infra, § 20.

Teacher's right to chastise pupil, see infra-§ 21.

Teacher's liability for injury to pupil, see infra, § 22.

Forbidding student's affiliation with secret society. 7 L.R.A. (N.S.) 352; L.R.A. 1915D, 588.

Exclusion of unvaccinated child from school as excuse or justification for non-pliance with compulsory education law. L.R.A.1915D, 223.

§ 10. — outside of school grounds.

Power of school authorities over pupils while outside of school grounds. 3 L.R.A.(N.S.) 496.

Right of school authorities to control pupils when going to and from school. L.R.A. 160.

Right of third person to complain of regulations concerning conduct of students by which he is injuriously affected. 51 L.R.A. (N.S.) 17.

§ 11. — right to exclude, suspend, or expel pupils for misconduct of themselves or parents.

Discretion of school authorities. 50 L.R.A. (N.S.) 267.

Where the parent's action affects the child. 41 L.R.A. 593.

For misconduct of pupil. 41 L.R.A. 594.

For absence and tardiness. 41 L.R.A. 597. For connection with secret societies. L.R.A. 599.

Want of proficiency. 50 L.R.A. (N.S.) 268. For failure to participate in certain studies and exercises. 41 L.R.A. 599; 50 L.R.A. (N.S.) 267.

For refusal to perform manual labor. 41 L.R.A. 603.

For failure to pay for injury to school property. 41 L.R.A. 603.

Controlling conduct of pupil after the relation of teacher and pupil has ceased. 41 L.R.A. 604; 50 L.R.A. (N.S.) 268. Questions of pleading and practice. , 41

L.R.A. 604

§ 11a. Tuition.

Expulsion or withdrawal from school as affecting tuition fee. 51 L.R.A. (N.S.) 975.

Free tuition. L.R.A.1918F, 681.

## III. Teachers.

12. Generally.

Teachers as "employees" within meaning of Workmen's Compensation Acts. L.R.A. 1918F, 204.

Libel or slander by insinuation of misconduct of teacher with pupils. 49 L.R.A. (N.S.) 1033.

Privilege of communication by, or to school authorities regarding conduct of pupil or teacher. L.R.A.1917D, 784.

Privileged character of complaints to proper authorities against school-teachers. 27 L.R.A. (N.S.) 1043.

Begin with this book on every law question.

SCHOOLS, III.—cont'd

Privilege of school superintendent or other officer in reporting to school authorities upon character of teacher. 30 L.R.A. (N.S.) 200.

Validity of contract restraining practice of profession after expiration of term of service with another. 26 L.R.A. (N.S.)

Character of occupation of premises by masters. 4 L.R.A.(N.S.) 714, 719, 721.

Going to another state, county, or district to teach school or preach as affecting a change of domicil or residence. 22 L.R.A.(N.S.) 996; L.R.A.1917A, 294.

#### § 13. License.

Validity of contract by unlicensed teacher. 12 L.R.A.(N.S.) 614.

Effect of contract by teacher without license or certificate of qualification. 42 L.R.A. (N.S.) 412.

14. — revocation of.

Interference by courts with revocation of school teacher's license. 15 L.R.A. (N.S.) 1148.

15. Appointment or employment of. For period extending beyond term of trustees. 16 L.R.A. 257.

Employment of teacher by school board without formal meeting. L.R.A.1915F, 1047.

Power of local school authorities to prescribe qualifications or conditions of employment of teachers, other than those prescribed by statute. L.R.A. 1917E, 1073.

Marriage as ground for nonappointment of teacher. L.R.A.1916C, 795.

Power of board to appoint superintendents or teachers for terms extending beyond its own term. 29 L.R.A.(N.S.) 657.

§ 16. Discharge of.
Mandamus to compel the reinstatement of a teacher. 49 L.R.A. (N.S.) 62.

Right of taxpayer to enjoin removal of teacher. 51 L.R.A.(N.S.) 336.

Marriage as ground for dismissal of teacher. L.R.A.1916C, 795.

17. Wages; salary; expenditures.

Exemption of salary from claims of creditors. 54 L.R.A. 572.

Right of school-teacher to be reimbursed for money expended for school purposes without precedent authority. 42 L.R.A. (N.S.) 1177.

18. — while not teaching.

Right of teacher to salary during temporary interruption of school in term time. 50 L.R.A. 371.

Right of school-teachers to pay during absence. 38 L.R.A.(N.S.) 513.

Constitutionality of Teachers' Pension Law. Power to employ teacher without formal L.R.A.1918A, 526.

(N.S.) 652; L.R.A.1915E, 581.

Power to employ teacher without formal meeting of hoard L.R.A.1918A, 1047

Consult also L.R.A. Digests of Cases.

SCHOOLS, III.—cont'd

Power of legislature to require municipality to pension teachers. 34 L.R.A.(N.S.) 609.

Vested right in pension. 50 L.R.A. (N.S.) 1021.

§ 20. Right to enforce discipline.

Control of pupils, generally, see supra, §§ 9-11.

§ 21. — right to punish pupil. Liability for improper punishment, see infra, 22.

Right of teacher to inflict corporal punishment on pupil. 1 B. R. C. 718.

§ 22. — liability for personal injury to

Liability for assault, see Assault and Bat-TERY, § 8.

In general. 65 L.R.A. 891.

Reasonable restraint or correction. L.R.A. 891.

Excessive restraint or correction. 65 L.R.A. 893.

Punishment inflicted without proper cause. 65 L.R.A. 897.

When cause of punishment is unknown to pupil. 65 L.R.A. 897.

Reasonableness or excessiveness of punishment is for the jury. 65 L.R.A. 897.

Statutes. 65 L.R.A. 899.

Homicide by excessive or improper chastisement of pupil. 60 L.R.A. 803.

## IV. Officers; elections.

33. Generally.

Officers of school district as public officers. 17 L.R.A. 247.

Right of woman to be superintendent or other officer of. 38 L.R.A. 212.

Mandamus to, to compel the reinstatement of a teacher. 49 L.R.A.(N.S.) 62. Mandamus to compel issuance of diploma.

LR.A.1916B, 616.

Applicability of statute of limitations to actions by school authorities. LR.A. 1916E, 98.

24. Rights and powers of officers.

Power to act as determined by place of performance. 33 L.R.A. 86. Right of school board to employ attorney. L.R.A.1917D, 246.

When entitled to services of official at-

torney. L.R.A.1917D, 258.
Power of school authorities to purchase text-books. 45 L.R.A.(N.S.) 972.

Power of trustees to hire teacher for period extending beyond their own term. 16 L.R.A. 257.

Power of board to appoint officer or make contract for term extending beyond its own term. 29 L.R.A. (N.S.) 652; L.R.A.1915E, 581.

SCHOOLS, IV.—cont'd Power of local school authorities to prescribe qualifications or conditions of employment of teachers other than those prescribed by statute. 1917E, 1073.

Right of school officer to repudiate or withdraw resignation. 16 1058; L.R.A.1917F, 547. 16 L.R.A.(N.S.)

#### § 25. Liability of officers.

Personal liability to public of school officers who pay out money in excess of debt limit. L.R.A.1917D, 519.

Personal liability of school officers for failure to take bond, or for taking insufficient bond, from contractor, conditioned for payment of claims of subcontractors, materialmen, and laborers. 49 L.R.A. (N.S.) 1200.

Personal liability of school officer on contract in excess of his authority. 23 L.R.A.(N.S.) 428.

Report by superintendent, as privileged communication. 5 L.R.A.(N.S.) 164.

Privilege of communication by, regarding conduct of pupil or teacher. L.R.A. 1917D, 784.

Privilege of school superintendent or other officer in reporting to school authorities on character of teacher. 30 L.R.A. (N.S.) 200.

## § 26. Meetings; elections.

Employment of teacher by school board without formal meeting. L.R.A.1915F, 1047.

Parol evidence to vary or supplement minutes of meeting. 50 L.R.A.(N.S.) 99. Who may sign petition for election. 43

L.R.A. (N.S.) 293. Right to vote in school election; women voters. 21 L.R.A. 662.

Right of women to vote at school meetings. 27 L.R.A.(N.S.) 522; L.R.A.1915B, 247.

V. Districts; property; schoolhouses; contracts; liabilities; indebtedness; taxes.

# § 27. Districts generally; contracts. Estoppel of, see Estoppel, I.

Parol evidence to vary or supplement rec-ords of. 50 L.R.A.(N.S.) 99. Removal for separable controversy of ac-

tion by school district to cancel judgment. 5 L.R.A.(N.S.) 87.

Power of school district to employ attorney. L.R.A.1917D, 246.

When entitled to services of official attorney. L.R.A.1917D, 258.

Right of subcontractor, materialman, or laborer to maintain action on contractor's bond running to school district. 27 L.R.A.(N.S.) 581.

Ratification by school district of unauthorized contract. 20 L.R.A. 136; L.R.A. 1915A, 1023.

Right to withdraw name from petition. 11 L.R.A.(N.S.) 372.

SCHOOLS, V.--cont'd

§ 28. — organization; boundaries.

Effect of changing boundaries of school district on rights in real property. 26 L.R.A. (N.S.) 486.

Who may maintain quo warranto to test validity of organization of school district. 21 L.R.A.(N.S.) 685.

Who may petition in relation to. 43 L.R.A. (N.S.) 293.

## § 29. Property; schoolhouses.

Taxation of, see infra, § 35.

Sale of liquor within prohibited distance of, see Intoxicating Liquors, § 27. Assessment for public improvements, see

PUBLIC IMPROVEMENTS.

Power to exercise eminent domain for purpose of school. 48 L.R.A.(N.S.) 485. Taking school lands for other public uses. 48 L.R.A.(N.S.) 489.

Reverter of land conveyed for school pur-

poses. 44 L.R.A. (N.S.) 1220. Mechanics' liens on schoolhouses. 35 L.R.A. 142; 41 L.R.A.(N.S.) 315.

Implied power of municipality to purchase

or build on credit. 4 L.R.A.(N.S.) 746. Liability of municipal corporation for tort in connection with school building. 25 L.R.A. (N.S.) 88.

Police power of municipal corporation over school building within its limits. 47 L.R.A.(N.S.) 892.

Statutory restrictions as to site of school buildings. 43 L.R.A. (N.S.) 1024.

Power of state or municipality to forbid location of places of amusement near. L.R.A.1916D, 99.

## § 30. — use of.

Use of buildings for private purpose. 33 L.R.A. 118.

Effect of language in grant specifying or restricting the use of property for school purposes. 19 L.R.A. 265.

Use of public school building or other school property for other than school purposes. 31 L.R.A.(N.S.) 588; 50 L.R.A.(N.S.) 1182.

Sale of books or other school supplies upon school property or by persons connected with schools. L.R.A.1915C, 624.

#### § 31. Liabilities.

Applicability to school districts of Work-men's Compensation Acts. L.R.A. 1918F, 190.

poration for tort. 49 L.R.A.(N.S.) 1026. Liability of school district or school cor-

Liability for negligence. 37 L.R.A. 301; 49 L.R.A. (N.S.) 1026.

#### § 32. Indebtedness.

Liability of district on paper executed by school district. 21 L.R.A.(N.S.) 1078. Liability of territory annexed to school district to pay proportionate share of existing debts. 27 L.R.A.(N.S.) 1147.

Holders as necessary parties to proceedings to invalidate moneyed obligations of school district. 3 L.R.A.(N.S.) 256. Begin with this book on every law question.

SCHOOLS, V.—cont'd

When limitations begin to run against action on obligations of school district payable out of particular fund. 10 L.R.A. (N.S.) 478.

§ 33. — limitation of.

Maintenance of school as necessity which will justify school district in exceeding debt limit. 27 L.R.A.(N.S.) 891.

Personal liability to public of school officers who pay out money in excess of debt limit. L.R.A.1917D, 519.

#### 34. - bonds.

Right of taxpayer, in absence of statute, to enjoin issuance or payment of school bonds. 36 L.R.A.(N.S.) 7. Liability of, for its bonds stolen from it. 39 L.R.A.(N.S.) 446.

35. Taxes.

Exemption of property of, from local assessments, see Purlio Improvements, §

Exemption from taxation, see Taxes, §§ 24-

Right to extend tax over territory added to school district after tax voted. L.R.A. (N.S.) 601.

## VI. Text-books; instruction; school money.

## § 36. Adoption of text-books for public schools.

Generally. 36 L.R.A. 277.

Right to select, generally. 36 L.R.A. Validity of selection. 36 L.R.A. 277. Enforcing use of book. 36 L.R.A. 277. Rights of parent. 36 L.R.A. 278. 36 L.R.A. 277.

Attack on action of school board. L.R.A. 278.

Period of designation. 36 L.R.A. 278. Effect of rules of school board. 36 L.R.A.

Interpretation of statutes. 36 L.R.A. 279. Power of school authorities to purchase text-books. 45 L.R.A.(N.S.) 972.

Who may complain of noncompliance with statute in adopting or changing textbooks in schools. 19 L.R.A. (N.S.) 1003.

# § 36a. Subjects of instruction gener-

Power of legislature to prescribe subjects to be taught in public schools. 47
L.R.A.(N.S.) 200.
Statutory power of local authorities to

maintain teachers' training department in school. 52 L.R.A. (N.S.) 163.

#### 87. Religious instruction.

Religious exercises or instruction in public schools. 16 L.R.A. (N.S.) 860; L.R.A. 1915D, 941.

Conducting public school in sectarian building. L.R.A.1917D, 462.

Consult also L.R.A. Digests of Cases.

SCHOOLS, VI.—cont'd

§ 38. School moneys.

Use of public money for schools. 14 L.R.A. 474.

Power to use public school moneys in support of other educational institutions. 15 L.R.A. 825.

Use of public money for support or education of children committed to sectarian

schools. L.R.A.1918B, 210.

Right to use school money for transportation of pupils. 38 L.R.A.(N.S.) 710;
50 L.R.A.(N.S.) 428.

Use of common school funds for normal school or teacher's training school. 20 L.R.A.(N.S.) 1033.

Appropriations for sectarian school. L.R.A. 418.

Right to recover back public money appropriated to sectarian institutions. L.R.A.(N.S.) 171.

#### SCHOOL SUPPLIES.

Sale of, upon school property or by persons connected with schools. L.R.A. 1915C, 624.

#### SCIENCE.

Power of court to disregard testimony because contrary to scientific principles. 7 L.R.A. (N.S.) 357; 15 I.R.A. (N.S.) 701; 28 L.R.A.(N.S.) 648; L.R.A. 1916D, 301.

## SCIENTER.

See Animals, II, d.

#### SCIENTIFIC BOOKS.

Admissibility in evidence, see EVIDENCE, § 146.

Use of, by counsel in arguing to jury. L.R.A. 1918D, 81.

#### SCIENTIFIC FACTS.

What knowledge of is imputed to servants. 44 L.R.A. 75.

What knowledge of imputed to employer. 41 L.R.A. 56.

## SCIRE FACIAS.

Of judgment, see JUDGMENT, VII. a.

Scire facias to fix amount of mechanics' lien after judicial sale of property under prior or contemporaneous lien. 47 L.R.A.(N.S.) 707.

#### SCIRE FACIAS—cont'd

When may local venue be disregarded upon the ground that the proceedings is ancillary or incidental, in case of scire facias against bail. L.R.A.1916D, 1135.

Right of garnishee on scire facias upon judgment against him to attack judgment against principal defendant for lack of jurisdiction. 51 L.R.A. (N.S.)

#### SCOPE OF EMPLOYMENT.

Master's liability for injuries received in performing duties outside of, see MAS-

TER AND SERVANT, § 69.
Servant's assumption of risks outside of, see MASTER AND SERVANT, § 116.

Contributory negligence of servant performing duties outside of, see MASTER AND

SERVANT, § 131.
Servants working outside of, as fellow servants, see MASTER AND SERVANT, § 140.

Master's liability for acts of servant outside of, see MASTER AND SERVANT, §§ 181-184.

When injury to servant arises out of and in the course of his employment within meaning of Workmen's Compensation Act, see Workmen's Compensation, §

#### SCREEN DOORS.

See SCREENS, § 2.

#### SCREENS.

§ 1. Generally. In barroom; ordinance as to. 24 L.R.A. 768.

As fixtures. 30 L.R.A.(N.S.) 1189.

Effect of temporary screening of bar during prohibited hours. 21 L.R.A. (N.S.) 136.

8 2. Screen doors. Burglary by forcing. 17 L.R.A.(N.S.) 1100; 38 L.R.A.(N.S.) 770.

## SCREWS.

Master's liability for injury to servant from projecting screws, see Master and SERVANT, § 89.

#### SCRIVENER.

Competency of, to testify to his own or testator's intention. 38 L.R.A. (N.S.) 91. Begin with this book on every law question.

#### SCRUPLES.

Disqualifying grand juror. 28 L.R.A. 202.

## SCURRILOUS MATTER.

Sending through the mail, see Postoffice,

## SCURVY.

Duty towards seamen to provide against. 28 L.R.A. 555.

#### SEA.

Jurisdiction over, see Waters, § 4.

Title to land under tidewater. 42 L.R.A. 161.

Provision exempting carrier from liability for accidents or damages of the sea, transportation, etc., as extending to loss caused by negligence. 6 B. R. C.

#### SEAL.

§ 1. Generally.

Effect of writ or process issued without, see WRIT AND PROCESS, § 4.

Relief from omission of seal. 28 L.R.A. . (N.S.) 839.

Situs of debts by specialty. 24 L.R.A. 687. Liability of heirs on specialty debt of an-

cestor. 21 L.R.A. 90. In assignment of lease. 15 L.R.A. 754.

On writ of venire for grand jury. 27 L.R.A. 779.

Action by third persons on contracts under. 25 L.R.A. 273.

Undelivered sealed instrument as a gift. 21 L.R.A. 694.

Right in action at law to attack release under seal for fraud. 20 L.R.A. (N.S.)

Effect of release under seal of one joint tort feasor on liability of other. 58 L.R.A. 293; L.R.A.1918F, 363. Necessity of, to make agreement to con-

tribute to cost of party wall enforceable by or against grantees or successors in title. 66 L.R.A. 693.

To certify copies of records for use in other state. 5 L.R.A.(N.S.) 969.

Effect of writ or process issued without seal of the court. 20 L.R.A. 424.

Failure of copy of writ or process delivered to person served to indicate that the original is sealed. L.R.A.1917C, 154.

Personal liability of one who signs sealed instrument by adding words indicating representative capacity to his signature.

41 L.R.A. (N.S.) 11.

SEAL—cont'd

Seal of will as a signing. L.R.A.1915D, 906. Necessity of seal on transfer of reversion of leased premises. L.R.A.1915C, 198.

Necessity for seal on lease to enable transferee of reversion to sue on covenants therein. L.R.A.1915C, 215.

Effect of affixing corporate seal to contract to estop public corporation to deny L.R.A.1915A, validity of contract. 1007.

Effect of seal on necessity of new consideration to bind third person who signs as surety, indorser, or guarantor after execution and delivery of original contract by principal. 44 L.R.A.(N.S.) 481; L.R.A.1918E, 579.

2. On commercial paper.

Note under seal as payment of indebtedness. 35 L.R.A.(N.S.) 109.

Bond or sealed note as subject of gift. 26 L.R.A. 308.

As affecting negotiability. 35 L.R.A. 605. Personal liability of officers on notes made under seal of corporation. 19 L.R.A.

679. Effect of reference to principal in seal on his liability on negotiable paper executed by agent. 21 L.R.A.(N.S.) 1046.

Power of one partner to bind firm by promissory note or bill of exchange under seal. 17 L.R.A.(N.S.) 969.

Effect of putting sealed note indorsed in blank into another's possession to estop owner as against purchaser in good faith. 29 L.R.A.(N.S.) 257.

## SEALS.

Forfeiture of personal property used in violation of regulations as to catching seals. L.R.A.1916F, 917.

## SEALED NOTE.

· See SEAL, § 2.

## SEALED VERDICT.

Correction of, see TRIAL, § 85.

#### SEAMEN.

§ 1. Generally.

Soldiers' and seamen's wills. 4 B. R. C.

Jurisdiction and powers of consul with respect to. 45 L.R.A. 486, 488, 493.

Admiralty jurisdiction of contracts for serv-

ices of. 66 L.R.A. 226. Maritime lien under contracts with.

L.R.A. 377

Consult also L.R.A. Digests of Cases.

SEAMEN—cont'd

Duty of obedience to master. 24 L.R.A. (N.S.) 821.

Presumption as to time of alteration in shipping articles. 39 L.R.A. (N.S.) 108. Rights of seamen as salvors. 64 L.R.A. 193.

Whose servants are the crew of a chartered

vessel. 37 L.R.A. 54. Effect on, of imprisonment of seaman. L.R.A.1917F, 628.

§ 2. Wages; compensation. Exemption of wages of. 18 L.R.A. 310. Assignment or mortgage of future earnings of. 14 L.R.A. 127.

Recovery of future wages after wrongful discharge. 5 L.R.A. (N.S.) 456.

Maritime lien for. 70 L.R.A. 364.

Admiralty jurisdiction of suit for wages of. 66 L.R.A. 201.

Partnership of, by sharing profits in place of other compensation. 18 L.R.A.(N.S.) 1031.

Compensation in nature of salvage, L.R.A. 200.

Effect of forfeiture of ship used in violation of law on liens of scamen. L.R.A. 1916E, 347.

§ 3. Injury to.

May substantive law of state be invoked in an action for personal injuries, not resulting in death, on waters within the maritime jurisdiction. L.R.A.1917F, 678.

Application to seamen of workmen's compensation acts. L.R.A.1916A, 103, pensation acts. L.R.A.19 111, 120; L.R.A.1918C, 474.

Applicability of Federal Employer's Liability Act to injuries to seamen. L.R.A. 1918C, 474.

Liability of owners of vessel for acts of master towards crew. 27 L.R.A. 183.

As fellow servants. 50 L.R.A. 438.

Who are fellow servants in ship crews, apart from statute, where no questions as to vice principalship arise. 50 L.R.A. 438.

Liability of shipper of goods to seamen and stevedore. 46 L.R.A. 104.

Liability of master for assault by officers on, in way of discipline. 8 L.R.A.(N.S.)

Reliance on orders as affecting contributory negligence of. 17 L.R.A. 606.

§ 4. Duty toward sick or injured seamen.

Duty to furnish medical aid to. 28 L.R.A. 549; 4 L.R.A.(N.S.) 49.

Duty and obligation of vessel on inland lake or river in respect of sick or injured member of crew. 35 L.R.A.(N.S.) 199.

## SEARCH AND SEIZURE.

As to search of title, see ABSTRACTS. 70 | Seizure under execution or attachment, see LEVY AND SEIZURE.

SEARCH AND SEIZURE—cont'd

Seizure of property as a condition of an accivil action. L.R.A.1918D, 550.

Damages recoverable for wrongful search. 50 L.R.A.(N.S.) 1151.

Seizure and production of papers. 29 L.R.A. 819.

To compel one to furnish evidence against | See EVIDENCE, IV. himself. 29 L.R.A. 818.

Gambling device as property within constitutional protection against. 12 L.R.A.(N.S.) 394.

Right of officer, in executing criminal process, to take possession of evidentiary articles. 18 L.R.A. (N.S.) 253; L.R.A. 1916C, 1017.

Right to seize for purposes of evidence property of one person under a warrant of arrest against another. L.R.A. 1915E, 399.

Admissibility in evidence against defendant of documents or articles taken from him. 59 L.R.A. 466; 8 L.R.A. (N.S.) 762; 34 L.R.A. (N.S.) 58; L.R.A.1915B, 834; L.R.A.1916E, 715.

Power to seize gambling devices in absence of charge of violation of laws against gambling. L.R.A.1915A, 233.

Search warrant without an affidavit or complaint. 28 L.R.A.(N.S.) 548.

To what extent may premises be damaged in executing search warrant. 22 L.R.A. (N.S.) 819.

Malicious prosecution for wrongful search of premises. 39 L.R.A.(N.S.) 205.

Right to compel public employee to submit to physical examination to determine fitness. 33 L.R.A.(N.S.) 259.

Constitutionality of statute authorizing seizure of animals by humane officers. 15 L.R.A.(N.S.) 554.

Trial of right to property in proceedings instituted by search warrant. 46 L.R.A.(N.S.) 970.

Liability of officer executing invalid search warrant. 49 L.R.A.(N.S.) 770.

#### SEASHORE.

See SHORE.

#### SEAT.

Right of passenger to, see CARRIERS, § 41. In exchange, see Exchanges, § 2.

#### SECESSION.

Admissibility in evidence of copies of records of seceding states. 5 L.R.A.(N.S.)

Right to property of local branch of benefit society in event of secession or attempted secession. 47 L.R.A. (N.S.) 927.

Begin with this book on every law question.

#### SECOND APPEAL.

tion for the malicious prosecution of a To Federal Supreme Court. 66 L.R.A. 870.

## SECONDARY EVIDENCE.

#### SECONDARY LIABILITY.

Liability over, of person secondarily liable, see Indemnity, §§ 2-4.

#### SECOND-HAND GOODS.

As to junk dealers, see Junk. License for dealing in, see LICENSE, § 31. Municipal regulation of dealings in, see MUNICIPAL CORPORATIONS, § 48.

Warranty upon sale of. L.R.A.1915B, 477. Constitutionality of statute making the receiving of certain kinds of property a criminal offense. L.R.A.1917F, 709.

#### SECOND MARRIAGE.

Effect of, on right to alimony, see DIVORCE AND SEPARATION, § 47.

#### SECOND OFFENSE.

Increased punishment for, see CRIMINAL LAW, § 83.

#### SECRECY.

Voluntariness of confession induced by promise of. 18 L.R.A.(N.S.) 821. Of ballot at primary election. 22 L.R.A. (N.S.) 1145; L.R.A.1917A, 264.

## SECRET ADVANTAGE.

Effect of giving to one creditor on composition with creditors, see Composition WITH CREDITORS, § 2.

Effect of secret advantage to one of several joint purchasers. 43 L.R.A.(N.S.) 934.

## SECRET AGREEMENT.

Secret agreement for reservation of surplus on assignment of chose in action as security as a fraud on other creditors. 36 L.R.A.(N.S.) 372.

#### SECRETARY.

Time for which contract of employment may be made for corporation by. 49 L.R.A.

Authority of, to contract for services of other persons. L.R.A.1918F, 59.

#### SECRETARY OF INTERIOR.

Conclusiveness of the decisions or findings of. L.R.A.1918D, 597.

Power of courts to enforce ministerial duties of. 52 L.R.A. (N.S.) 435.

Mandamus against, to compel restoration to office of one who has been illegally removed. 19 L.R.A.(N.S.) 52.

Rules of, as to cutting of timber on mineral lands. 70 L.R.A. 905.

Character and extent of relief by mandamus against. 7 L.R.A. (N.S.) 527.

#### SECRETARY OF NAVY.

Power of courts to enforce ministerial duties of. 52 L.R.A.(N.S.) 436.

Mandamus against to compel restoration to office of one who has been illegally removed. 19 L.R.A.(N.S.) 52.

## SECRETARY OF WAR.

Power of court to enforce ministerial duties of. 52 L.R.A.(N.S.) 435, 436.

Mandamus against, to compel restoration to office of one who has been illegally removed. 19 L.R.A.(N.S.) 52.

## SECRETARY OF TREASURY.

\*\*\*

Power of courts to enforce ministerial duties of. 52 L.R.A.(N.S.) 436, 441.

#### SECRETARY OF WAR.

Power of courts to enforce ministerial duties of. 52 L.R.A. (N.S.) 436.

## SECRET BONUS.

To officer of director of corporation as affecting right to enforce contract against corporation. 7 L.R.A. (N.S.) 467.

Liability of one party to a contract or transaction to the other because of bonus allowed by the former to the latter's agent. 49 L.R.A. (N.S.) 101.

Consult also L.R.A. Digests of Cases.

#### SECRET CRIME.

Homicide in attempting to prevent. 67 L.R.A. 536.

#### SECRET DEALINGS.

Of real estate broker as affecting commissions. 45 L.R.A. 33.

#### SECRETION.

Of property as ground for attachment. 30 L.R.A. 473.

#### SECRET PARTNERSHIP.

By agreement to share profits. 18 L.R.A. (N.S.) 1082.

#### SECRET PROCESS.

Restraint of trade in. 22 L.R.A. 674.
Validity of contract to control price of resale of goods produced by secret process. 27 L.R.A. (N.S.) 402; 51 L.R.A. (N.S.) 522.

## SECRET PROFITS.

Liability of corporate promoter for. 18 L.R.A.(N.S.) 1110.

Right of principal to retain property purchased through agent secretly interested therein and seek relief from agent. 24 I.R.A. (N.S.) 1210

34 L.R.A. (N.S.) 1210.

Duty of municipal officer to account for profits made in transaction with municipality. 48 L.R.A. (N.S.) 842.

Effect of secret advantage to one member of joint adventure. 50 L.R.A. (N.S.) 1046.

Liability of one party to a contract or transaction to the other because of a bonus or commission allowed by the former to the latter's agent. 49 L.R.A. (N.S.) 101.

Right of broker held to account for secret profit to retain commission. 5 B. R. C. 188.

## SECRET RETURN.

Sufficiency and effect of secret return to state by defendant to start limitations running. 23 L.R.A.(N.S.) 551.

#### SECRETS.

Injunction against violation of, see Injunc-TION, § 72.

Secret process, see SECRET PROCESS. Secret profits, see SECRET PROFITS.

Property in. 13 L.R.A. 652.

Validity of contracts relating to. 13 L.R.A. 65Ž.

Protection of trade secrets. 12 L.R.A.
(N.S.) 102; 20 L.R.A.(N.S.) 933; 44
L.R.A.(N.S.) 1160.
Restraint of trade in secret process. 22

L.R.A. 674.

#### SECRET SOCIETIES.

Forbidding students' affiliation with. 7 L.R.A. (N.S.) 352; L.R.A.1915D, 588. Right to prohibit wearing badge of society by nonmember. 24 L.R.A. (N.S.) 795. Liability of benevolent or fraternal society for injury to person during initiation or expulsion. 13 L.R.A. (N.S.) 314; L.R.A.1917C, 476.

## SECRET TRUST.

See TRUST, § 8.

#### SECTARIAN BUILDING.

Conducting public school in. L.R.A.1917D, 462.

## SECTARIAN INSTITUTIONS.

Public aid to. 14 L.R.A. 418. Right to recover back public money appropriated to. 19 L.R.A.(N.S.) 171. Use of public money for support or educa-

tion of children committed to sectarian schools. L.R.A.1918B, 210.

## SECTION.

Deficiency in quantity of property described as a section or fraction of a section as breach of a covenant. 36 L.R.A. (N.S.) 558.

## SECTION FOREMAN.

As fellow servant of members of crew with respect to operation of hand car. 20 L.R.A.(N.S.) 434.

#### SECTION GANG.

Work of, as connected "with use and opera-tion" of railroad within meaning of fellow-servant statute. 6 L.R.A.(N.S.) 452.

Members of, as fellow servants. 52 L.R.A. (N.S.) 1101.

## SECULAR BUSINESS.

Effect of use of property of charitable, edu-cational or religious institution in secular business on right to exemption from taxation, see Taxes, § 26.

#### SECURITIES.

Power and duty of public authorities to control the issuance of securities by public service corporations. 45 L.R.A. (N.S.) 629.

Constitutionality of L.R.A.1917F, 524. of Blue Sky

## SECURITY.

On appeal, see APPEAL AND ERROR, §§ 16, 17, 46.

As to bonds, see Bonns.

For costs, see Costs and Fees, § 5.

Loss of lien by giving, see Liens, § 20. Collateral security, see Plenge and Col-LATERAL SECURITY.

Specific performance of contract to give, see SPECIFIC PERFORMANCE, § 7.

Statements as to, as a fraud. 35 L.R.A.

Specific performance of contract to give. 6 L.R.A. (N.S.) 585.

Right to require legatee of life interest in money or its equivalent to give security for benefit of remaindermen. 23 L.R.A.

(N.S.) 716.

Waiver of attorney's lien by taking.

B. R. C. 58.

Permitting conveyance to attorney of sub-ject-matter of litigation or retainer to stand as security for his advances and fees. 23 L.R.A.(N.S.) 689.

Right of public service corporation to exact security of consumer. 31 L.R.A. (N.S.)

#### SEDITION.

Libel or slander by imputing sedition or dis-

loyalty. L.R.A.1917D, 861.
Exclusion of seditious matter from the mails under the Espionage Act. L.R.A.1918C, 89.

Begin with this book on every law question.

#### SEDUCTION.

I. In general, § 1.

II. Civil liability, \$\$ 2-5.

III. Criminal liability, §\$ 6, 7.

#### I. In general.

§ 1. Generally.

Presumption and burden of proof as to chastity, see EVIDENCE, § 25.

Right of action for, as asset in bankruptcy.
43 L.R.A.(N.S.) 942.

Assault to prevent seduction of wife in future. 18 L.R.A.(N.S.) 688.

Right to avoid marriage entered into to escape prosecution for seduction, upon ground of duress. 16 L.R.A. (N.S.) 938.

Admissibility of declarations of parents or putative parents as to paternity or maternity of child. 6 B. R. C. 858.

#### II. Civil liability.

🛊 2. Generally.

Measure of damages for, see DAMAGES, § 50a.

Judgment in action for seduction as bar to action for breach of promise. L.R.A. 1918A, 366.

Seduction of divorced woman or widow. 21 L.R.A.(N.S.) 265; L.R.A.1916D, 458.

Effect of fact that intercourse was accomplished by force to defeat action for seduction. 18 L.R.A.(N.S.) 587.

Promise of marriage conditioned on pregnancy. 51 L.R.A. (N.S.) 809.

3. Who may sue for.

Who is real party in interest by whom action must be brought. 64 L.R.A. 622. Right to maintain action for seduction of fiancée. 50 L.R.A. (N.S.) 142.

Evidence of plaintiff's character in action for. 14 L.R.A.(N.S.) 752.

4. — parent of female.

Right of one in loco parentis to maintain action for seduction of an illegitimate. 35 L.R.A.(N.S.) 1062.

Evidence of character of parent or child in parent's action for. 14 L.R.A. (N.S.) 750.

§ 5. Loss of service as element in action by father.

General rules. 14 L.R.A. 700.

Law as administered in England. 14 L.R.A. 700.

American rule of constructive service. 14 L.R.A. 701.
Actual service. 14 L.R.A. 702.
Relinquishment of right to service.

L.R.A. 702.

Necessity that relation exist at time of seduction. 14 L.R.A. 703.

Where child is of full age. 14 L.R.A. 704. What impairment of serving power must be shown. 14 L.R.A. 705.

Construction of statutes. 14 L.R.A. 707. Consult also L.R.A. Digests of Cases. SEDUCTION, II.—cont'd

Action for seduction independently of loss of services. L.R.A.1917E, 758.

#### III. Criminal liability.

§ 6. Generally.

Former jeopardy in case of. L.R.A.1915A, 256.

Effect of defendant's mistake as to age of

girl. 25 L.R.A.(N.S.) 661. Criminal liability of children for. L.R.A. 208.

Evidence of other crimes in prosecution for. 62 L.R.A. 329.

Evidence of specific instances to prove character for chastity in prosecution for. 14 L.R.A.(N.S.) 727; L.R.A.1916B, 967.

Right of one to testify as to his intent. 23 L.R.A.(N.S.) 391.

Impeachment of character of prosecutrix for chastity by proof of prior acts of intercourse with defendant. 30 L.R.A. (N.S.) 173.

Competency of wife as witness in prosecution of husband for her seduction prior to marriage. 45 L.R.A.(N.S.) 396.

Letters identified only by prosecutrix as corroboration of her testimony to prove seduction. 49 L.R.A.(N.S.) 1198.

Necessity and sufficiency of description of offense in bail bond or recognizance. 38 L.R.A.(N.S.) 313.

Promise of marriage conditioned on pregnancy. 51 L.R.A. (N.S.) 809.

§ 7. Offer of marriage as defense. In general. 29 L.R.A.(N.S.) 421.

Statutes specifically relating to offer of marriage as defense. 29 L.R.A. (N.S.) 422.

#### SEED GRAIN.

Validity of statute providing for supply of, by government. 7 L.R.A.(N.S.) 1196.

## SEEDING TIME.

Injunction to prevent interference with land during. L.R.A.1918B, 413.

#### SEEDS.

Warranty on sale of, see SALE, § 36. See also SEED GRAIN.

Liability of vendor of seeds. 37 L.R.A. (N.S.) 79.

## SEEPAGE.

See WATERS, § 71.

#### SEGREGATION.

As to race segregation, see RACE SEGREGA-TION.

#### SECTATN.

Covenant of, see Covenants, §§ 8, 9, 26,

Effect on easement of unity of seisin of dominant and servient estate. 1 B. R. O. 477.

#### SEIZURE.

Of property in custody of law, see Custody OF LAW, §§ 2, 3.
Of intoxicating liquors, see Intoxicating

LIQUORS, § 34.

See also LEVY AND SEIZURE; SEARCH AND SEIZURE.

#### SELECTION.

Of exempt property, see Exemptions, § 2a. Of jury, see JURY, III.

Master's duty as to selection of servants, see Master and Servant, §§ 104-106. Of officers, see Officers, II.

Of goods sold out of larger lot, see SALE, § 13.

Of child's right in parent's homestead. 56 L.R.A. 48.

Validity of provision in carrier's contract imposing responsibility for selecting cars on shipper. 36 L.R.A. (N.S.) 412.

Sufficiency of description in land contract which gives right to select particular tract to be conveyed. 34 L.R.A. (N.S.)

Of beneficiaries of charity by trustees. 14 L.R.A. (N.S.) 130; 37 L.R.A. (N.S.) 1017.

## SELECTIVE SERVICE ACT.

See COMPULSORY MILITARY SERVICE.

## SELECT SCHOOLS.

Use of public school building for. 31 L.R.A. (N.S.) 592.

#### SELF-CRIMINATION.

See Criminal Law, \$\$ 49-53.

## SELF-DEFENSE.

In general, see ASSAULT, § 4a; HOMICIDE, §§ 27-30.

Begin with this book on every law question,

SELF-DEFENSE-cont'd

Presumption and burden of proof as to selfdefense or justification in a civil action for intentional killing of another. L.R.A.1918A, 359.

## SELF-EXECUTING PROVISIONS.

In constitution, see Constitutional Law,

Self-executing provisions in insurance policies forbidding use of intoxicating liquor. 15 L.R.A.(N.S.) 211.

#### SELF-GOVERNMENT.

See Constitutional Law, § 21.

#### SELF-INCRIMINATION.

See CRIMINAL LAW, §§ 49-53.

#### SELF-INFLICTED INJURIES.

As accident within insurance policy. 30 L.R.A. 207.

#### SELLING PRICE.

False statement as to selling price of property. 35 L.R.A. (N.S.) 175; L.R.A. 1916F, 782.

#### SENATOR.

United States senator, see United States

## SENATORIAL DISTRICTS.

Effect of ordinance of 1787 upon apportionment of state into senatorial and assembly districts. 52 L.R.A.(N.S.) 311.

## SENILE DEMENTIA.

As affecting testamentary capacity. L.R.A. (N.S.) 89; L.R.A.1915A, 462.

## SENILITY.

As defense to prosecution for rape or assault with intent to commit rape. L.R.A.1915B, 131.

#### SENIOR.

Effect of use of term in connection with Of passengers, see CARRIERS, § 43. name. 14 L.R.A. 691.

## SENTENCE.

For crime, see CRIMINAL LAW, VI.

## SENTIMENTAL VALUE.

As measure of damages for loss of conversion of or injury to household goods or wearing apparel. L.R.A.1917D, 505.

## SEPARABLE CONTROVERSY.

Removal of, see REMOVAL OF CAUSES, § 9.

#### SEPARATE COACH LAW.

See CARRIERS, § 43.

#### SEPARATE COMPARTMENT.

On train, see CARRIERS, § 43.

#### SEPARATE ESTATE.

Of married woman, see HUSBAND AND WIFE, §§ 33-37.

#### SEPARATE MAINTENANCE.

See DIVORCE AND SEPARATION.

#### SEPARATE PROPERTY.

See HUSBAND AND WIFE, §§ 33-37.

## SEPARATE SCHOOLS.

For colored children, see Schools, § 7.

## SEPARATE TRIALS.

Constitutionality of provision for separate trial of different issues in same case. 40 L.R.A.(N.S.) 138. Consult also L.R.A. Digests of Cases.

Of jury in criminal case, see CRIMINAL .

SEPARATION.

LAW, § 37.
Between husband and wife, see DIVORCE AND SEPARATION.

Of jury, see TRIAL, § 73.
Of riparian rights from upland, see WATERS, § 36.

#### SEPTICAEMIA.

See Insurance, § 160.

## SEQUESTRATION.

Effect upon surety on sequestration bond of judgment against principal. 40 L.R.A. (N.S.) 745; L.R.A.1918E, 821.

Of provision in will renounced by widow.

18 L.R.A.(N.S.) 275; L.R.A.1918B, 65. Filing bond to secure release of property as an appearance. L.R.A.1916F, 587.

## SERIAL PUBLICATION.

Sale of, effect of discontinuance of series. 45 L.R.A.(N.S.) 203.

## SERVICE.

Injunction against discontinuance of, by corporation, see INJUNCTION, § 35.

Of notice, generally, see NOTICE, §§ 8, 9. Of notice in proceedings to revive judgment,

see JUDGMENT, § 80.

Of pleading, see PLEADINGS, §§ 9, 10. By mail, see POSTOFFICE, § 5. Of process, see WRIT AND PROCESS, II.

What constitutes personal service of papers. 16 L.R.A. 200.

Of citation from Federal Supreme Court.

66 L.R.A. 843.
Of writ of error from Federal Supreme
Court. 66 L.R.A. 840.

Of order for payment of alimony as pre-requisite to contempt proceedings for nonpayment. 24 L.R.A. 436.

Right of public service corporation to discontinue service after tender of amount due. L.R.A.1917C, 376.

## SERVICE MAINS.

See PIPES AND PIPE LINES.

## SERVICES.

See WORK AND LABOR.

#### SERVITUDE.

In land, see EASEMENTS.

Additional servitude on highway, see Emi-NENT DOMAIN, V.

Restraint of freedom of child as creating involuntary servitude. 18 L.R.A. (N.S.) 893.

#### SET HAMMER.

Master's liability for injury by defects in. 51 L.R.A.(N.S.) 338.

#### SET-OFF AND COUNTERCLAIM.

I. In general, §§ 1-3.

II. Of and against what demands, \$\$ 4-21.

a. In general, §§ 4-9.

b. Equitable set-offs, §§ 10-12.

c. Recoupment, § 13.

d. Of or against assigned claims, §§ 14, 15.
e. Effect of insolvency, §§ 16-

21.

III. After judgment; of or against judgment, §§ 22-24.

#### I. In general.

1. Generally.

Effect of assignment for creditors on right of set-off, see Assignment for CREDIT-ORS, § 9.

In action on note, see BILLS AND NOTES, § 68.

Right to, in action to enforce liability of stockholders, see Corporations.

Effect of counterclaim in amount in excess

of jurisdiction, see Courts, § 28.

Against distributive share of decedent's estate, see Executors and Adminis-TRATORS, § 49.

Based on fraud, see FRAUD AND DECEIT, § 41.

In action to enforce local improvement assessment, see Public Improvements.

In replevin suit, see REPLEVIN, § 16. In action by state, see STATES, § 9.

Effect of tender by defendant upon his right to avail himself of defenses or

counterclaim. 21 L.R.A.(N.S.) 354. Right of plaintiff to take a nonsuit where defendant has interposed a counterclaim entitling him to affirmative relief and the right to such dismissal is not defined or denied by statute. 15 L.R.A. (N.S.) · 340.

Right to open default judgment to let in defense of. L.R.A.1916F, 858.

Right of receiver to take property from possession of one claiming set-off. 47 L.R.A.(N.S.) 753.

3. Injunction in aid of. Injunction against judgment, see infra, § 24. I Begin with this book on every law question.

SET-OFF AND COUNTERCLAIM, I .-cont'd

Injunction in aid of, against negotiation of note. 28 L.R.A. 578.

Injunction against sale under power in mortgage in order to let in set-off. 35 L.R.A. (N.S.) 909.

As ground of injunction against tax. 22 L.R.A. 709.

§ 3. Effect of.

Set-off for debts as affecting taxation. 22 L.R.A. 477.

Counterclaim as affecting amount involved for purpose of appellate jurisdiction. L.R.A.1918F, 837.

Effect of counterclaim in amount in excess of jurisdiction. 37 L.R.A.(N.S.) 606.

Effect of interposing counterclaim or set-off which would in itself be a proper subject for compulsory reference where the cause of action declared upon by plain-tiff would not. 25 L.R.A. (N.S.) 264.

Effect of setting up defects in articles purchased, as a counterclaim in an action on one of a series of notes given for, or for an instalment of, the purchase price, upon the right to set up a like counterclaim in subsequent actions. 10 L.R.A. (N.S.) 734.

## II. Of and against what demands.

#### a. In general.

§ 4. Generally.

Setting off benefits in eminent domain proceedings, see Damages, § 93.
Of claim against decedent's estate, see Ex-

ECUTORS AND ADMINISTRATORS, § 38.

Against distributive share of decedent's estate, see EXECUTORS AND ADMINIS-TRATORS, § 49.

Mitigation of damages for wrongful attachment by offsetting the indebtedness or judgment in favor of the plaintiff in attachment on his subsequent seizure and sale of the attached property. L.R.A.

1918B, 801. Right of borrower when sued for sum loaned to set off amount of usurious interest paid. L.R.A.1918B, 593.

Set offs against weekly payments provided by workmen's compensation acts, L.R.A. 1916A, 174.

Set-off and counterclaim against an exempt claim. 19 L.R.A. 33; 42 L.R.A.(N.S.)

For defective work in action for local assessment. 56 L.R.A. 922.

Offsets and counterclaims in action by infant for services. 15 L.R.A. 213.

In garnishment of executor. 47 L.R.A. 363. Right of set-off, counterclaim, or recoup-ment in action by state. 33 L.R.A. (N.S.) 376.

Indebtedness of heir to estate as counter-claim or set-off against distributive share in proceeds of real estate. 4

L.R.A. (N.S.) 189.

cont'd

Right of one employing minor without parent's consent to allowance for expenditures for necessaries. 9 L.R.A. (N.S.) 411.

Claim based on wrongful discharge of servant as a set-off in action by servant for wrongful discharge. 6 L.R.A. (N.S.) 118.

Offset against damages for suffering from miscarriage, of suffering which would have resulted from natural parturi-

tion. 17 L.R.A.(N.S.) 598.
Right to set up by cross bill inequitable conduct of plaintiff in respect of subject-matter not involved in the original bill. 13 L.R.A.(N.S.) 408.

Necessity that counterclaim, when based on a contract arising out of an independent transaction, be such as to qualify or defeat the plaintiff's claim. 12 L.R.A.(N.S.) 126.

Federal courts following state decisions as to construction of statutes as to. 40 L.R.A.(N.S.) 453.

Constitutionality of retroactive statute crepast acts or transactions. 52 L.R.A. 934.

## # 5. Unliquidated claims.

Set-off or recoupment of unliquidated claims in garnishment. 59 L.R.A. 389.

## § 6. Mutuality of claims.

Availability of set-off to surety, see Prin-CIPAL AND SUBETY, § 26.

Right of set-off where third person gives note for goods sold. 35 L.R.A.(N.S.)

Right of one in reality, but not nominally, liable, to set off indebtedness against claimant. 18 L.R.A. (N.S.) 512.

Right of defendant in action by undisclosed principal to avail himself of set-off against agent. 28 L.R.A.(N.S.) 229; L.R.A.1916A, 1214.

Right of surety or principal to interpose an independent cause of action in favor of the latter against the plaintiff as a defense or counterclaim. 18 L.R.A. (N.S.) 600.

Right of surety or principal to avail himself of claim of latter against plaintiff as defense or counterclaim. 43 L.R.A. (N.S.) 977.

Right of one garnished in respect of property wrongfully taken from debtor to set off his own claim against latter. 30 L.R.A.(N.S.) 1185.

## § 7. Insurance cases.

Set-off in case of bankruptcy. 55 L.R.A. 49, 66, 72.

On settlement of claims against insolvent insurance company. 38 L.R.A. 105.

In case of assessments against members of mutual fire insurance company. L.R.A. 504.

Consult also L.R.A. Digests of Cases, 77

SET-OFF AND COUNTERCLAIM, II. a- | SET-OFF AND COUNTERCLAIM, II. acont'd

> Right of, as affected by fact that insurance broker is agent for insured. 38 L.R.A. (N.S.) 641.

> Does existence of indebtedness from insurer to insured in an amount sufficient to pay premium or assessment prevent forfeiture of policy for nonpayment of premium. 23 L.R.A.(N.S.) 304; premium. L.R.A.1918D, 1014.

## § 8. Claims by or against banks.

In case of insolvency of bank, see infra, § 19a.

In case of insolvency of depositor, see infra, § 19b.

Right to set off illegal interest paid to national bank. 56 L.R.A. 696.

Right to set off judgment for penalty against national bank taking usurious interest. 56 L.R.A. 700.

Right to set off claim for twice amount of interest paid to national bank. L.R.A. 700.

Acceptance of depositor's check by bank for obligation due it, as affecting bank's right to set off obligation against deposit. L.R.A.1916A, 685.

## 8a. — unmatured claims.

Right of bank to set off unmatured claim against deposit of debtor. 27 L.R.A. (N.S.) 811; 46 L.R.A.(N.S.) 1059.

## § 9. On mortgage foreclosure.

Generally. 21 L.R.A. 321. Estates. 21 L.R.A. 322.

Usury. 21 L.R.A. 323.

Coexisting demands. 21 L.R.A. 323.

Rents, waste, and injury. 21 L.R.A. 324. Fraud. 21 L.R.A. 324.

Breach of covenants; title and encumbrances. 21 L.R.A. 324.

Contract for credits. 21 L.R.A. 326. Special grounds for equitable interference, as insolvency, etc. 21 L.R.A. 326. Privity as to parties. 21 L.R.A. 326. Practice. 21 L.R.A. 327.

Sufficiency of evidence. 21 L.R.A. 327.

## b. Equitable set-offs.

## 10. Generally.

Nonresidence as ground of. 30 L.R.A. (N.S.) 21.

Nonresidence as ground of equitable setoff. 30 L.R.A. (N.S.) 21; L.R.A.1918B,

As ground for injunction against judgment. 31 L.R.A. 768.

Injunction against enforcement of judgment as aid to equitable set-off of claim against judgment creditor. 35 L.R.A. (N.S.) 142.

Right of surety or principal to avail himself in equity of claim of latter against plaintiff as a defense or counterclaim. 48 L.R.A. (N.S.) 979.

SET-OFF AND COUNTERCLAIM, II. b- | SET-OFF AND COUNTERCLAIM, II. dcont'd

§ 11. In case of assignment,

Equities which will justify set-off against assignee of commercial paper. L.R.A. 330.

Of debtor's demand against assignor as against assigned claim. 23 L.R.A. 309. Equitable set-offs as against holder of negotiable paper transferred after maturity. 46 L.R.A. 796.

Right of surety or indorser to equitable setoff of obligation as against assignee of a debt due from him to the principal. 46 L.R.A. (N.S.) 65.

§ 12. In case of insolvency.

Insolvency as special ground for set-off in equity on mortgage foreclosure. L.R.A. 326.

Insolvency as an equity in case of set-off against judgment in hands of assignee. 23 L.R.A. 338.

Insolvency as entitling surety to equitable set-off of obligation as against assignee of a debt due from him to principal. 46 L.R.A.(N.S.) 65.

Equities connected with assigned contract in hands of receiver or assignee for creditors. 23 L.R.A. 320.

## c. Recoupment.

§ 13. Generally.

In action by state, see STATE, § 9.

Of unliquidated claims in garnishment. 59 L.R.A. 389.

Master's right of recoupment for damages caused by servant's death or disability. 28 L.R.A. (N.S.) 326.

Right in replevin to recoup damages growing out of same transaction. 24 L.R.A. (N.S.) 748.

Right of tenant to counterclaim damages to his property by water in action by landlord for rent. L.R.A.1917B, 234,

## d. Of or against assigned claims.

14. Generally. Equitable set-off, see supra, § 11. In case of insolvency, see infra, §§ 20, 21. Judgments, see infra, § 23. In case of bankruptcy, see BANKRUPTCY,

§ 30.

Set-off, against assigned claim, of debtor's demand against assignor. L.R.A. 305.

Set-off against assignee of commercial paper, of claim against assignor. 23 L.R.A. 325.

When is an assignment by a stockholder of a claim against a corporation subject to the right to set off the stockholder's liability against such claim. 10 L.R.A. (N.S.) 472.

Right of surety or indorser to offset obligation as against assignee of a debt due from him to the principal. 46 L.R.A. (N.S.) 62. Begin with this book on every law question.

cont'd

14a. Claims arising out of same transaction or connected with same subject matter.

When may claim upon which counterclaim is based be deemed to have arisen out of the contract or transaction upon which plaintiff's claim is founded, or to be connected with the subject of plaintiff's action. L.R.A.1916C, 445.

§ 14b. Counterclaims in tort in actions on contract.

General rule. L.R.A.1916C, 497.

When claim may be deemed to have arisen out of the contract sued upon.
L.R.A.1916C, 498.

"Arising out of." L.R.A.1916C, 504.

"Transaction." L.R.A.1916C, 504.

When claim may be deemed to have arisen out of the transaction sued upon.

L.R.A.1916C, 504.
"Connected with." L.R.A.1916C, 509.
"Subject of the action." L.R.A.1916C, 509. When claim may be deemed to be connected with the subject of the action.

L.R.A.1916C, 510. Indiana cases. L.R.A.1916C, 512. Texas cases. L.R.A.1916C, 513.

English and Canadian cases. L.R.A.1916C, 514.

§ 15. Paper transferred after turity.

Against holder of negotiable paper transferred after maturity, 46 L.R.A. 790. Right to set off against transferee of ne-

gotiable paper after maturity, claim against original payee. 23 L.R.A. 326; 39 L.R.A.(N.S.) 658.

## e. Effect of insolvency.

§ 16. Generally.

Equitable set-off, see supra, § 12. In bankruptcy cases, see BANKRUPTCY, §§ 26-30.

On settlement of claims of insolvent insur-

ance company. 38 L.R.A. 105. Right of creditor, who is also a stockholder of an insolvent corporation, to offset against his statutory liability debt due from corporation or debt paid another creditor. 41 L.R.A.(N.S.) 989, 998.

Right of stockholder after insolvency to set off debt due him from corporation against his liability on unpaid stock subscription. L.R.A.1918E, 243.

Right of surety or person secondarily liable to set off his individual claim against insolvent creditor where the principal is solvent. 50 L.R.A.(N.S.) 167.

§ 17. Contingent claims. Set-off in case of bankruptcy. 55 L.R.A.

Right to set-off against claims in hands of receiver or assignee for creditors. 23 L.R.A. 319.

Right to set-off against assignee of commercial paper. 23 L.R.A. 330.

SET-OFF AND COUNTERCLAIM, II. - SET-OFF AND COUNTERCLAIM, II. cont'd

18. Of insolvent's obligation claim in hands of his receiver, or assignee or trustee for creditors.

Assignees for creditors. 23 L.R.A. 313. Receiver. 23 L.R.A. 313.

Claims purchased after insolvency. 21 L.R.A. 280.

Limitation upon the rule. 23 L.R.A. 314. Claims not due. 23 L.R.A. 315.

Set-off between corporation and stockholder. 23 L.R.A. 316.

The effect of the doctrine of mutual credits. 23 L.R.A. 317.

The English rule. 23 L.R.A. 318. Claims not owned. 23 L.R.A. 319.

Special circumstances which will defeat right. 23 L.R.A. 319.

Contingent claims. 23 L.R.A. 319. Commercial paper. 23 L.R.A. 319.

Equities connected with the assigned contract. 23 L.R.A. 320.

Character of demands which may be set-off. 23 L.R.A. 320.

Effect of agreement. 23 L.R.A. 320.

## § 19. Effect of immaturity of claim at time insolvency occurs.

In case of bankruptcy, see BANKRUPTCY, § 29.

Where the immature debt is owing to the insolvent. 17 L.R.A. 456.

Where the debt is owing by the insolvent. 17 L.R.A. 458.

Unmatured against matured claim. L.R.A.(N.S.) 393.

Under bankruptcy law of 1898 and amendments. 25 L.R.A.(N.S.) 396.

Matured against unmatured claim. L.R.A. (N.S.) 396.

Right to set off insolvent's obligations on claims not due in hands of his receiver or assignee or trustee for creditors. 23 L.R.A. 315.

Bank's right to set-off unmatured claim against deposit account of its insolvent debtor. 15 L.R.A. 710; 27 L.R.A. (N.S.) 811; 46 L.R.A.(N.S.) 1059.

§ 19a. By or against insolvent bank. By or against insolvent bank. 17 L.R.A. 456.

Depositor's right of set-off when bank becomes bankrupt. 55 L.R.A. 48, 52, 62,

Right to set off against insolvent bank claims purchased after insolvency. 21 L.R.A. 282.

## § 19b. Set-off in case of insolvency of depositor.

Bank's right of set-off when depositor becomes bankrupt. 55 L.R.A. 48, 53, 59,

Right of bank to set off unmatured claim against deposit account of its insolvent debtor. 15 L.R.A. 710; 27 L.R.A. (N.S.) 811; 46 L.R.A. (N.S.) 1059.

Consult also L.R.A. Digests of Cases.

cont'd

Right of bank to set off its own claim against a deposit which by an agreement invalid as against the trustee in bankruptcy it had undertaken to hold as a fund for creditors. 28 L.R.A. (N.S.) 484.

Set-off by bank against bankrupt's deposit as a preference within the bankruptcy law. 20 L.R.A.(N.S.) 863.

Acceptance of depositor's check by bank for obligation due it as affecting bank's right to set off obligation against depositor in case of insolvency. L.R.A. 1916A, 685.

## § 20. Assigned claims.

In case of bankruptcy, see BANKEUPTCY, § 30.

Effect of insolvency on right of surety or indorser to offset obligation as against assignee of a debt due from him to principal. 46 L.R.A. (N.S.) 64.

Set-off against assignee of commercial pa-per, of contingent claim against as-signor. 23 L.R.A. 330.

Insolvency as an equity for set-off against judgment in hands of assignee. 23 L.R.A. 338.

## \$ 21. - claims purchased after the insolvency.

Bankruptcy statutes. 21 L.R.A. 280. Insolvency. 21 L.R.A. 281. Receivership. 21 L.R.A. 281. Assignment for creditors. 21 L.R.A. 281. Claims against banks, 21 L.R.A. 282. Bank bills. 21 L.R.A. 282. Decedents' estates. 21 L.R.A. 282.

## III. After judgment; of or against judgment.

## 22. Right of set-off.

Right to set off judgment for panalty against national bank taking usurious interest. 56 L.R.A. 700. Right of, by judgment debtor against judg-

ment creditor as affecting fraudulent grantee of former. 67 L.R.A. 598.

Right to set off one judgment against another which is exempt or is based on a wrongful taking of exempt property. 16 L.R.A.(N.S.) 494; 42 L.R.A.(N.S.) 577.

## § 23. — assigned judgment.

Set-off against judgment in hands of assignee. 23 L.R.A. 335; L.R.A.1917F, 1010.

§ 24. As ground for injunction. As ground for injunction against judgment in garnishment. 30 L.R.A. 363.

As ground of injunction against judgment when it existed before its rendition. 31 L.R.A. 763.

Arising after judgment as ground of injunction. 30 L.R.A. 569.

SET-OFF AND COUNTERCLAIM, III.cont'd

as aid to equitable set-off of claim against judgment creditor. 35 L.R.A.(N.S.) 142.

#### SET SCREWS.

Master's liability for injury to servant by, see Master and Servant, § 89.

Liability for injury to servant by. L.R.A. 96.

Doctrine of "attractive nuisance" as applied to injury from. 19 L.R.A. (N.S.) 1130.

## SETTING APART.

Of child's right in parent's homestead. 56 L.R.A. 48.

## SETTING ASIDE.

Of judgment, see JUDGMENT, §§ 87-97.

Of judicial sale, see Judicial Sale, § 17. Of verdict, see New Trial.

Of release, see RELEASE, §§ 6, 7.

Of probate, see WILLS, § 55.

## SETTLED ACCOUNT.

See Accounts, § 2.

## SETTLED LAND ACT.

See LIFE TENANTS.

#### SETTLEMENT.

By way of compromise, see Compromise AND SETTLEMENT.

Of guardian's accounts, see GUARDIAN AND WARD, § 10a.

Between husband and wife, see Husband AND WIFE, §§ 55-61.

Of poor persons, see Poor and Poor Laws, § 3.

On public lands for cutting of timber. 70 L.R.A. 878.

Rights of adopted child under. 17 L.R.A. 438.

Marriage settlements under rule in Shelley's Case. 29 L.R.A.(N.S.) 1143.

Relief from mistake of law as to effect of settlement. 28 L.R.A.(N.S.) 822. Power to revoke or set aside. 15 L.R.A. 75.

Begin with this book on every law question.

## SEVEN YEARS' ABSENCE.

Injunction against enforcement of judgment | Presumption of death from, see EVIDENCE, § 30.

## SEVERABILITY.

Of contracts, see Contracts, § 62.
Of provisions of insurance policy, see Im-SUBANCE, \$\$ 61, 62.

#### SEVERAL OFFENSES.

Right to convict for several offenses growing out of same facts. 31 L.R.A.(N.S.) 693.

## SEVERANCE.

Creation of easement by severance of tract of land with apparent benefit existing see EASEMENTS, § 12.

#### SEWAGE.

Muncipal liability for injury by, see Mu-NICIPAL CORPORATIONS, §§ 86-89. Pollution of stream by, see MUNICIPAL COR-PORATIONS, § 89.

## SEWER CONNECTION.

See Drains and Sewers, § 5.

#### SEWERS.

In general, see DRAINS AND SEWERS.

#### SEX.

Who may raise objection that statute contains unconstitutional discrimination based on sex. 32 L.R.A.(N.S.) 960.

## SEXTON.

Right of woman to be. 38 L.R.A. 211.

## SEXUAL CRIMES.

Measure of damages for, see Damages, \$\$ 50-50b, 99.

Competency of husband and wife as witnesses, see WITNESSES, §§ 17-21.

SEXUAL CRIMES—cont'd

Gee also Adultery; Disorderly Houses; Fornication; Incest; Lewdness; Prostitution; Rape; Seduction; Sexual Intercourse; Sodomy.

Solicitation to. 25 L.R.A. 438.

Right to convict for several offenses growing out of same facts. 31 L.R.A. (N.S.)

Conviction or acquittal of a sexual offense as a bar to a prosecution for a similar offense with or against the same person at a different time. L.R.A.1917D, 731.

Does statute fixing age of consent render girl below that age incapable of. 27 L.R.A. (N.S.) 872.

Defendant's mistake as to age of girl as affecting guilt under statute denouncing sexual offenses against females below specified age. 25 L.R.A.(N.S.) 661.

May defendant charged with sexual offense against female of previous chaste character impeach her character for chastity by reason of his own intercourse with her prior to the acts charged. 30 L.R.A.(N.S.) 173.

Evidence of other crimes in prosecution for committing. 62 L.R.A. 228, 281, 314, 322; 329; 48 L.R.A.(N.S.) 236.

Evidence of specific instances to prove character for chastity of victim of sexual crime. 14 L.R.A. (N.S.) 714; L.R.A. 1916B, 965.

Former jeopardy in case of. L.R.A.1915A, 256.

Acquittal of one of the parties to, as a bar to prosecution of the other. 49 L.R.A. (N.S.) 479.

Right of court to exclude public from court room on prosecution for. 44 L.R.A. (N.S.) 583; L.R.A.1918C, 1168.

Presumptions and burden of proof as to chastity where it is an ingredient of the offense or a condition of conviction.

43 L.R.A.(N.S.) 476.

Age of alleged accomplice in sexual offense as affecting necessity of corroboration of testimony. L.R.A.1915E, 1222.

Illicit cohabitation as a criminal offense. L.R.A.1916C, 653.

## SEXUAL IMMORALITY.

Actionability of words charging, see LIBEL AND SLANDER, § 12.

## SEXUAL INTERCOURSE.

See also Adultery; Fornication; Illicit Cohapitation; Incest; Lascivious Cohapitation; Lewdness; Prostitution; Race; Seduction; Sexual Crimes; Sodomy.

Consult also L.R.A. Digests of Cases.

SEXUAL INTERCOURSE-cont'd

Extent of trespasser's liability for entering premises for purposes of. 53 L.R.A. 633.

Evidence of specific instances of, to impeach witness. 14 L.R.A.(N.S.) 697.

## SEXUAL OFFENSES.

See SEXUAL CRIMES.

#### SEXUAL RELATION.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 14.

#### SHADE TREES.

Measure of damages for injury to, see DAM-AGES, § 75.

Liability for injuring or destroying. 11 L.R.A.(N.S.) 930; 28 L.R.A.(N.S.)

#### SHADOWING.

Liability for "shadowing" person. 43 L.R.A.(N.S.) 520.

Liability of detective agency for wrongful shadowing of a person by its employees. L.R.A.1918D, 575.

## SHAFTS.

Elevator shafts, see ELEVATORS.

Contributory negligence of child falling down shaft. L.R.A.1917F, 105, 199.

## SHAKERS.

Public policy as related to communistic life or tenure of property by. 8 L.R.A. (N.S.) 910.

#### SHALLOW WATER.

As defect in dock or wharf. 61 L.R.A. 949.

## SHAM.

Competency of parol evidence to show that a writing was not intended to create legal relations, but was executed as a sham. L.R.A.1917B, 263.

## SHAM MARRIAGE.

secured through, as rape. Intercourse L.R.A.1916F, 796.

#### SHARES.

Of corporate stock, see Corporations, VIII. Levy on crops held on shares. 23 L.R.A.

Sale or mortgage of future crops raised on shares. 23 L.R.A. 468; L.R.A.1917C,

#### SHEDS.

Right to use railroad right of way for coal sheds. 36 L.R.A.(N.S.) 516. Municipal liability for injury by shed overhanging street. 20 L.R.A. (N.S.) 645.

#### SHEEP.

Right to kill sheep-killing dogs. 15 L.R.A. 251; 19 L.R.A.(N.S.) 837; L.R.A. 1915C, 361.

Constitutionality of tax on dogs for benefit of sheep owners. 17 L.R.A.(N.S.) 855.

## SHEET MUSIC.

Perforated rolls and wax cylinders as infringements of copyright of sheet music. 2 B. R. C. 91.

## SHELL.

Right to protection against use of rival design, shell or pattern not protected by patent. 19 L.R.A.(N.S.) 269; 87 L.R.A.(N.S.) 259.

## SHELLEY'S CASE.

Rule in, see DEEDS, § 30; WILLS, § 82.

### SHELL FISHERY.

See Fisheries, § 5.

#### SHELTER.

Innkeeper's duty as to, see INNKEEPERS,

## SHELVING.

As fixture. 43 L.R.A.(N.S.) 675.

#### SHERIFFS.

§ 1. Generally.

Bond of, see Bonds, §§ 12-15. Deputy sheriff, see DEPUTIES, § 2.

Applicability to sheriffs of Workmen's Compensation Acts. L.R.A.1918F, 191. Sheriffs as public officers. 17 L.R.A. 245. Right of woman to be. 38 L.R.A. 211.
Place at which official acts of, may be performed. 33 L.R.A. 92.

Right to attach or garnish fund in hands of, after direction to pay same to party. 30 L.R.A. (N.S.) 720.

Effect of misrepresentation by, to purchasers on judicial sale. 18 L.R.A. 88.
Right of receiver to take property from possession of. 47 L.R.A.(N.S.) 752. Right to garnish or attach proceeds of exe-

cution sale in the hands of the sheriff. 43 L.R.A.(N.S.) 571.

Liability of carrier for compelling sheriff in charge of negro prisoner to ride in car for colored persons. L.R.A.1916E, 280.

2. Rights and powers.

Power to grant immunity to a witness. L.R.A.1918A, 376.

Right of sheriff to make bids on sales conducted by them. 20 L.R.A. 503.

Right of former sheriff to maintain action in respect of a sale made by him while in office. 29 L.R.A.(N.S.) 792.

Right of sheriff to appoint nonresident deputy. L.R.A.1916B, 900.

Right to break and enter dwelling to serve civil writ of process. L.R.A.1916D, 281

§ 3. Duties and liabilities.

Liability on bond, see Bonds, §§ 12-15.

Duty and liability of sheriff making levy, see LEVY AND SEIZURE, § 12.

Mandamus to compel sheriff to enforce liquor law. 28 L.R.A.(N.S.) 246. Duty as to adverse claims in proceeds of

judgments in his hands. 47 L.R.A. 737.

Duty of sheriff to pursue property which escapes from his custody. 32 L.R.A. (N.S.) 132.

Relief of purchaser by action against sheriff upon annulling judicial or execution sale. 69 L.R.A. 58.

Liability of officer who uses criminal process to collect a debt. 24 L.R.A.(N.S.)

Liability of sheriff executing invalid search

warrant. 49 L.R.A.(N.S.) 770. Liability for making arrest. 42 (N.S.) 69; L.R.A.1915B, 505. 42 L.R.A.

For deputy's tort in making arrest. 12 L.R.A. (N.S.) 1019; L.R.A.1915E, 172. Liability of sheriff for shooting a person

while attempting to arrest him. 51 L.R.A.(N.S.) 1179.

SHERIFFS—cont'd

Civil liability of sheriff for injury inflicted by prisoner in his custody upon an-other prisoner. L.R.A.1918C, 1163.

Burden of proof in action against, for failure to execute process. 3 L.R.A.(N.S.) 420.

#### SHERMAN ANTI-TRUST ACT.

See also Monopoly and Combinations, II. Diversion of trade by labor union from one with whom it is in controversy, as violating Sherman act. 1 B. R. C. 281.

#### SHIFTING DESCENTS.

As affecting descent to kindred of the half-blood. 29 L.R.A. 567.

## \*\*\* SHIP BROKERS.

Admiralty jurisdiction over contracts of. 66 L.R.A. 236.

## SHIP BUILDING YARD.

What is, within meaning of workmen's compensation act. L.R.A.1916A, 202.

## SHIPMENT.

Of freight, see CARRIERS, IV.

#### SHIPPING.

I. In general, §§ 1-5.

II. Regulations, \$\$ 6, 7.

III. Duty and liability of vessel or owners, \$\$ 8-16.

IV. Charter party; loading and unload-

ing, \$\$ 17-19.

V. Limited liability, \$\$ 20, 21.

#### I. In general.

🖇 1. Generally. Admiralty, see ADMIRALTY. General average, see Average. Collision, see COLLISION. Embargo, see Embargo. Maritime lien, see MARITIME LIEN. Pilots, see PILOTS. Salvage, see Salvage. Seamen, see SEAMEN.

Transportation between points in same state over a route part of which is in L.R.A.1918A, 808.

Consult also L.R.A. Digests of Cases.

SHIPPING, I.—cont'd

Effect of war on contract of affreightment with alien enemies. L.R.A.1917C, 667.

Duty of steamer to avoid imperiling small boat by swells. 7 L.R.A.(N.S.) 920.

What constitutes delivery of freight to carrier by water. 32 L.R.A.(N.S.) 322.

Private action for violation of laws and water of water coveriges. 9.1 R.A.(N.S.)

rules of water carriage. 9 L.R.A.(N.S.)

Will action in rem lie against proceeds of private sale of property against which such an action would lie. 2 B. R. C.

Effect of deviation upon rights and liabilities of carriers. 2 B. R. C. 587.
Sufficiency of general allegations of negli-

gence in management of vessels. L.R.A. 274.

Imputing negligence of steamboat to passenger. 8 L.R.A. (N.S.) 622.

§ 2. Jurisdiction and powers of con-

With respect to disabled vessels. 45 L.R.A. 495.

With respect to deserting seamen. 45 L.R.A. 486.

As to controversies between seamen and masters of foreign vessels. 45 L.R.A. 488.

With respect to discharge of seamen abroad. 45 L.R.A. 493.

Power of consul to retain ship's papers. 45 L.R.A. 500.

§ 3. Loss or destruction of cargo. General average in case of, see AVERAGE.

Provision relieving carrier of goods from liability as extending to loss caused by negligence. 6 B. R. C. 124.

Duty to hasten shipment or take other precautions to prevent loss threatened without any antecedent fault on the carrier's part. 39 L.R.A.(N.S.) 640.

Vessel striking submerged object as act of God. L.R.A.1915C, 423.

§ 4. Ships, generally.

Specific performance of contract for sale of. L.R.A.1918E, 621.

Jurisdiction over ships at sea. 46 L.R.A.

Jurisdiction and determination of suits for adjustment of rights between part owners of ship. L.R.A.1917A, 1108.

Effect of war between countries of owners of vessel to terminate their relationship. L.R.A.1917C, 671.

Effect of bankruptcy or insolvency proceedings on ship on high seas. 23 L.R.A.

Ownership of derelict. 18 L.R.A. 695. Creation of partnership by provision for taking profits as compensation for use of ships. 18 L.R.A.(N.S.) 1045.

What articles will pass as appurtenances on sale of. 8 L.R.A.(N.S.) 793.

Right of mortgagee of ship as to freight. 4 B. R. C. 538.

another state as interstate commerce. Right of mortgagee of ship to take possession. 4 B. R. C. 529.

SHIPPING, I.—cont'd

Rights of lien holders as to captured property. 5 B. R. C. 1002.

Forfeiture of rights or interests of innocent persons in ships and cargoes used in violation of law. L.R.A.1916E, 346.

#### 8 5. Taxation.

Where ships taxable. 37 L.R.A. 518; 29 L.R.A. (N.S.) 105.

Situs of water craft for purposes of taxation. 69 L.R.A. 447.

Local license tax on vessels licensed by the United States. 27 L.R.A. 414.

What is home port of vessel for purpose of taxation. 2 L.R.A.(N.S.) 197, 1196. Taxation of receipts of steamship companies. 57 L.R.A. 64.

## II. Regulations.

#### 6. Generally.

As to limited liability, see infra, § 20.

Regulation of steam vessels. 2 L.R.A. 380.\*
Inspection of vessels. 2 L.R.A. 380.\* Examination of applicants for license as master, etc. 2 L.R.A. 380.\*

Quarantine of ships. 26 L.R.A. 484.

§ 7. For protection of passengers. Suit to recover penalty for overcrowding steamers. 4 L.R.A. 125.\*

Provisions against carrying excess of pas-2 L.R.A. 381.\* sengers.

Prohibition of petroleum on passenger vessels. 2 L.R.A. 382.\*

## III. Duty and liability of vessel or owners.

## 8. Generally.

Liability of vessel for compulsory pilot fees, see PILOT, § 2.

Presumption and burden of proof as to carrier's negligence in case of exception in contract as to perils of navigation. L.R.A.1915D, 665.

Effect of deviation upon rights and liabilities of carriers. 3 B. R. C. 285.

Liability for injuries caused by attempted exercise of right of navigation. L.R.A. 977.

Homicide resulting from negligent navigation or management of vessels. L.R.A. 283.

Liability for injury to wharf by vessel attached thereto during a storm. 27 L.R.A.(N.S.) 312.

Liability of vessel or owner for compulsory pilotage fees. 39 L.R.A. 177. Liability of owner for cost of removing ves-

sel sunk in harbor. 3 L.R.A.(N.S.)

Liability for failure to forward bonded merchandise. 4 L.R.A.(N.S.) 1060.

## 9. To passengers.

Duty of steamship company to passengers as to condition of decks. 33 L.R.A. (N.S.) 532.

SHIPPING, III.—cont'd

Liability of steamship company for loss of hand baggage or other effects in the custody or control of passenger. L.R.A. 1915B, 613.

Liability of steamship for malicious acts of servants towards passengers. L.R.A.(N.S.) 494.

Liability for failure to supply berth. 5 L.R.A.(N.S.) 1012; L.R.A.1915B, 1202. Duty of carrier to passenger on boat char-

tered to third person for excursion or similar purpose. 15 L.R.A.(N.S.) 425; 52 L.R.A.(N.S.) 260.

Duty of vessel to return to wharf to permit visitor to depart. 10 L.R.A.(N.S.)

10. To employees.

Duty to provide medical aid for seamen. 4 L.R.A. (N.S.) 68.

Implied power of officer of ship to employ physician to attend injured employee. 34 L.R.A.(N.S.) 355.

Liability of owner to servants of other persons working thereon. 46 L.R.A. 73.

## 11. — who are fellow servants.

Servants working on or about ship as fellow servants. 50 L.R.A. 460. Servants engaged in building or equipping

ship as fellow servants. 50 L.R.A. 437.

§ 11a. — who are vice principals.

Officers of ships as vice principals. L.R.A. 555.

Foreman of gangs loading or unloading ships as vice principal. 51 L.R.A. 533. Subordinate officers of ships as vice principals. 51 L.R.A. 537.

Commanding officers of ships as vice principals. 51 L.R.A. 539, 582.

Supervising employees concerned with loading of vessels as vice principals. 51 L.R.A. 582.

§ 12. For acts of master of vessel. Owners' liability for acts of master of vessel towards persons having no claim on owners by reason of contract, incipient or perfected. 27 L.R.A. 182.

## § 13. For acts of employees.

Liability for acts of servants in making out false bill of lading. 27 L.R.A. 172.

Master's liability for injury done by serv-ant to third person in use of water craft placed in his custody. 10 L.R.A. (N.S.) 389.

Liability of steamship company for malicious acts of employees towards passengers. 4 L.R.A.(N.S.) 494.

§ 14. For acts of vice principal. Master's liability for vice principal's negligence in navigating ships. 54 L.R.A. **133.** 

Master's liability for vice principal's negligence in handling ships in docks. 54 L.R.A. 133.

SHIPPING, III.—cont'd

§ 15. For acts of independent contractors.

Employer's nonliability for independent contractor's management of vessel. L.R.A. 644.

Employer's nonliability for acts of independent contractor in loading or unloading of ships. 65 L.R.A. 644, 654.

Employer's liability for work of independ-ent contractor which is dangerous to owners of vessels navigating rivers. 65 L.R.A. 855.

§ 16. - who are independent contrac-

Persons engaged in construction and repair of ships as. 65 L.R.A. 470.

Persons engaged in unloading ships as. 65 L.R.A. 494.

## IV. Charter party; loading and unloading.

§ 17. Charter party.

Effect of breaking out of war between countries of parties to charter party. L.R.A.1917C, 667.

Effect upon character of sum agreed upon for breach as penalty or liquidated damages of single or multiple stipulations in contract. L.R.A.1915E, 380.

Right to rescind or abandon charter party. 30 L.R.A. 37.

Admiralty jurisdiction of. 66 L.R.A. 200, 223.

Loss of profits as element of damages for breach of charter or rental of vessels. 53 L.R.A. 105.

Validity of agreement to pay commission for obtaining charter for steamship from United States. 3 L.R.A.(N.S.) 747.

§ 18. — provision as to demurrage. Demurrage generally, see CARRIERS, § 141.

Effect and construction of express provision in charter party against demurrage in case of strike. 5 L.R.A.(N.S.) 126.

19. Loading and unloading vessels. Effect of strikes on unloading. 35 L.R.A.

Employer's nonliability for acts of independent contractor in loading or unloading ship. 65 L.R.A. 644, 654.

Persons engaged in unloading ships as independent contractors. 65 L.R.A. 470.

## V. Limited liability.

§ 20. Generally.

Law covering limitation of liability. L.R.A. 1916B, 642.

Applicability to government of statutes limiting liability of shipowners. L.R.A.

1917C, 1110.

Lack of knowledge or privity on part of owner as a condition of limitation of liability under act of 1884. 22 L.R.A.

Liability of person maintaining, for safety of patrons. 1 L.R.A.(N.S.) 427; 3 L.R.A.(N.S.) 1132; L.R.A.1915F, 690.

Consult also L.R.A. Digests of Cases.

#### SHIPPING ARTICLES.

Presumption as to time of alteration in. 39 L.R.A. (N.S.) 108.

## SHIPPING FACILITIES.

Right to compensation for interference with. 52 L.R.A. (N.S.) 192.

## ----SHIPPING RECEIPTS.

To whom delivery may be made under. 38 L.R.A. 362.

## SHIPPING REGISTER.

Admissibility of, as proof of partnership. 20 L.R.A. 599.

#### SHIPS.

See SHIPPING, § 4; VESSELS.

#### SHIP'S HUSBAND.

Right of, to maritime lien for advances. 70 L.R.A. 416.

## SHIP'S PAPERS.

Power of consul to retain. 45 L.R.A. 500.

## SHIPWRECK.

See WRECKS.

## SHOOTING.

Negligence in. 14 L.R.A. 675. As an assault. 14 L.R.A. 226.

Master's liability for wrongful shooting by employee. 27 L.R.A. 197, 201.

Locality of crime committed by shooting across state boundary. 28 L.R.A. 59.

Assault with intent to murder or kill by shooting into crowd. 37 L.R.A. (N.S.) 173.

## SHOOTING GALLERY.

#### SHOPKEEPER,

See STOREKEEPER.

## SHOPS.

Requirement of license for. 24 L.R.A. 585.
Application to employees in, of statutes
abrogating fellow-servant rule. 47
L.R.A.(N.S.) 117, 119.
What passes under devise or bequest of.
L.R.A.1917D, 435.

#### SHORE.

Relative rights of public and individuals in, see WATERS, §§ 12-17.

What is. 45 L.R.A. 242. Liability for removal of lateral or subjacent support of shore property. 68 L.R.A. 682.

Riparian owner's right to protect from en-croachment of water. 6 L.R.A. (N.S.)

Right of way on. 4 L.R.A.(N.S.) 872. Right of public to bathe on. 8 L.R.A. (N.S.) 1047.

Effect of bounding land by "seashore." 4 B. R. C. 745.

## SHORE LANDS.

Of municipality, see MUNICIPAL CORPORA-TIONS, § 71.

Law of accretions to. 58 L.R.A. 193.

## SHORE LINE.

Does public easement in street terminating at shore line follow recession of shore line. 22 L.R.A.(N.S.) 593.

## SHORTHAND.

Instruction in, as a necessary for an infant. 42 L.R.A. (N.S.) 1115.

## SHORTHAND NOTES.

Impeachment of enrolled bill by. 40 L.R.A.

(N.S.) 32.

Right of jury to have reporter's shorthand | 1916D, 1276.

notes read to them. 21 L.R.A.(N.S.) | Of party as ground for continuance.
L.R.A.(N.S.) 660.

## SHOW.

In general, see AMUSEMENTS.

Carrier's liability for preventing, by breach of contract of carriage. 49 L.R.A. of contract of carriage. (N.S.) 491.

## SHOWCASES.

As fixtures. 43 L.R.A.(N.S.) 675. On sidewalk, as a nuisance; municipal power over. 39 L.R.A. 661.

## SHOWERS.

Appointment and duties of showers in taking view. 42 L.R.A. 376.

## SHRUBBERY.

Measure of damages for injury to or destruction of. 11 L.R.A.(N.S.) 930; 28 L.R.A.(N.S.) 757; 37 L.R.A.(N.S.) 1115.

Right to shrubs growing in highway. 33 L.R.A.(N.S.) 1053.

## SHUN PIKE.

Establishemnt of, as invasion of franchise of toll road. L.R.A.1917D, 341.

## SHUTTING OFF SUPPLY.

Of gas, see GAS, § 6. Of water, see WATERS, § 115.

## SICKNESS.

§ 1. Generally.

As excuse for nonperformance of concac. see Contracts, § 125.
Allowance for mental anguish from failure

to deliver telegram annuancing, see Damages, § 103.
As ground for injunction against judgment,

see Injunction, § 54.
Care due toward sick perton, see Negli-**GENCE, § 12.** 

Sick persons, see SICK PERSONS.

As act of God. 4 L.R.: (N.S.) 898. Effect to relieve from contract. 14 L.R.A.

217. As defense to action for breach of promise to marry. 7 L.R.A (N.S.) 582; L.R.A.

SICKNESS-cont'd

As ground for injunction against judgment. 30 L.R.A. 794.

Liability of municipal corporation for sickness caused by sewage or drainage. 22 L.R.A. (N.S.) 940.

Liability of landlord to tenant for sick-ness due to unsanitary condition of premises. L.R.A.1917A, 994.

What is "last sickness" permitting noncupative will. 13 L.R.A.(N.S.) 1092.

Admissibility of expressions or statements of present pain during sickness or sub-sequent to injuries. 24 L.R.A.(N.S.) 253.

Slander in charging woman with unchastity causing sickness. 24 L.R.A.(N.S.) 603. Right of teacher to salary during. 50 L.R.A. 371.

As element of damages for delaying person blocking railroad crossing. 44 L.R.A. (N.S.) 1070.

2. Bequest for relief of.

Validity of bequest for relief of. 14 L.R.A. (N.S.) 102; 37 L.R.A. (N.S.) 1008, 1013.

2a. Of attorney.

Sickness of attorney employed on a contingent fee, before final adjudication or settlement, as affecting compensation. 52 L.R.A. (N.S.) 381.

§ 3. Of judge. Personal liability of executor or administrator for interest where settlement of estate is delayed by illness of judge. 31 L.R.A.(N.S.) 359.

4. Of juror.

Agreement in verdict by remaining jurors. 43 L.R.A. 69.

## § 5. Of witness.

Right to have direct testimony stricken out where cross-examination is interrupted by illness of witness. 14 L.R.A.(N.S.) 493.

Of witness as ground for admission of testimony given upon preliminary examination in a criminal case. 25 L.R.A. (N.S.) 873.

6. Of passenger.

Carrier's duty towards sick or disabled passenger, see CARRIERS, §§ 39, 40.

As proximate result of discharging passenger at improper place or one not his destination. 7 L.R.A.(N.S.) 1180.

§ 7. Of copartner.

Right to compensation for extra services necessitated by copartner's illness. 17 L.R.A.(N.S.) 895.

As ground for dissolution of partnership. 47 L.R.A. (N.S.) 843.

§ 8. Of insured.

Insurance against generally, see INSURANCE. See SPUR TRACKS AND SIDINGS. Consult also L.R.A. Digests of Cases.

SICKNESS—cont'd

Effect of assured's ill-health at time of application for insurance. 17 L.R.A. (N.S.) 1144.

Effect of stipulation in application or policy of insurance, that it shall not become binding unless delivered to assured while in good health. 43 L.R.A. (N.S.) 725.

Effect of refusal to deliver policy containing stipulation that it shall not become binding unless delivered to assured while in good health because of illness of assured. 17 L.R.A.(N.S.) illness of assured. 17 1146; L.R.A.1916F, 174.

Effect of delivery while assured is ill of policy containing stipulation that it shall not become binding unless delivered while assured is in good health. 17 L.R.A.(N.S.) 1150.

Previous diseased condition as affecting liability on insurance policy for death or injury from accident. 34 L.R.A.(N.S.) 445; 52 L.R.A.(N.S.) 1203.

As total disability of insured. 38 L.R.A.

537; L.R.A.1917B, 108.
Validity of provision in policy requiring notice of sickness within specified time. 18 L.R.A.(N.S.) 106.

Effect of incapacitating illness on failure to pay insurance premium when due. 12 L.R.A.(N.S.) 319; 46 L.R.A.(N.S.) 537.

Effect of sickness of insured as excuse for failure to give notice or furnish proofs of loss as required by policy of fire insurance. L.R.A.1917A, 305.

§ 9. Of employee.

Servant's right to compensation on part performance due to, see MASTER AND SERVANT, § 26.

§ 10. Of member of crew of vessel. See SEAMEN, § 4.

§ 11. Of live stock. See Animals, § 17.

#### SICK PERSON.

Carrier's duty towards, see CARRIERS, §§

Duty towards sick seamen, see SEAMEN, § 4.

Care due to, when no contract relation exists. 69 L.R.A. 513.

Liability of property owner for compelling removal of sick person. 17 L.R.A. (N.S.) 510.

Settlement of, as affecting liability for support in time of epidemic. 26 L.R.A. 729.

## SIDE TRACKS.

#### SIDEWALKS.

In general, see HIGHWAYS; PUBLIC IM-PROVEMENTS.

Power to require railroad to construct sidewalk across its tracks or right of way. L.R.A.1918D, 1157.

## SIDE WALLS.

Party walls, see PARTY WALL. Landlord's duty as to. 14 L.R.A. 241.

#### SIDINGS.

See SPUR TRACKS AND SIDINGS.

#### SIGNALS.

To employee, see MASTER AND SERVANT, §§ 72-78, 165.

Of approach of railroad train, see RAIL-ROADS, §§ 57, 66-69.

Signal of traffic officer as affecting duty of travelers to exercise care. 1917B, 137.

Duty of operator of automobile as to. L.R.A. (N.S.) 489; 51 L.R.A. (N.S.)

Carrier's liability for injury resulting from negligent or meddlesome act of fellow passenger in giving. 37 L.R.A.(N.S.) 726; 49 L.R.A.(N.S.) 811; L.R.A.1918F, 819.

Effect of signalling car to make one a passenger. 13 L.R.A.(N.S.) 283; 25 L.R.A.(N.S.) 408; L.R.A.1916C, 1022.

#### SIGNAL TORPEDOES.

Injury to railroad employee by torpedoes on the track. 16 L.R.A.(N.S.) 1084.

As dangerous agency for injury by which, when used by servant, master is liable. 10 L.R.A.(N.S.) 378, 398.

Liability for injury to children from signal torpedo left accessible to them. 14 L.R.A.(N.S.) 586; L.R.A.1917A, 1296.

## SIGNATURE.

Duty of bank to know signature of depositor, see BANKS, § 24.

To commercial paper, see BILLS AND NOTES, §§ 8, 9.

Guaranty of, see BILLS AND NOTES, § 9; PRINCIPAL AND SURETY, § 7.

Forgery of, see Banks, §§ 24, 29; BILLS AND NOTES, § 16; FORGERY.

Ratification of forged signature, see RATI- Admissibility as dying declarations of FICATION, § 8.

SIGNATURE—cont'd

To instrument required by statute of frauds, see CONTRACTS, §§ 53, 54.

To deed, see DEEDS, § 5.

Proof of, see EVIDENCE, §§ 198-205.

By mark, see Mark, §§ 2, 3.

By proxy, see Proxy.

To bills, see STATUTES, § 6. Of testator, see WILLS, §§ 20-24.

Of witnesses to will, see WILLS, § 30.

Of writ and process by proxy, see WRIT AND PROCESS, § 2.

Effect of omission of, in copy of writ or process delivered to person served. L.R.A.1917C, 153.

Matter following, as part of contract. 5
L.R.A.(N.S.) 436.

Becoming surety for surety by adding words to signature. 21 L.R.A. 247.

Typewritten, printed, or stamped signature of legal process or other legal papers. L.R.A.1917B, 285.

Sufficiency of printed or stamped signature within statute of frauds. 37 L.R.A. (N.S.) 352.

Waiver of requirement of signature to railway ticket or coupon. 30 L.R.A.(N.S.) **432**.

Personal liability of one who signs contract by adding words indicating representative capacity to his signature. 42 L.R.A.(N.S.) 1.

To deed by attorney in fact or agent. 41 L.R.A.(N.S.) 805.

To initiative or referendum petition. 50 L.R.A. (N.S.) 221; L.R.A.1917B, 36. 50

Failure to sign application as avoiding accident, life, or mutual benefit insurance policy. 4 B. R. C. 468.

Duty of government official to know signature of drawer of draft. L.R.A.1915D, 797.

Signature made by hand of unconscious person. L.R.A.1915B, 678.

## SIGNBOARDS.

Allowance of, in street, see HIGHWAYS, § 19a.

Injury to traveler by, see Highways, §§ 68, 83.

See also BILLBOARD.

Compensation for making, as element of damages for laying out street across railway property. 24 L.R.A.(N.S.) 1235.

## SIGNS.

Signboards, see SIGNBOARDS. Injury to traveler by fall of, see HIGH-WAYS, § 68.

Giving of dying declaration by. 56 L.R.A. 427.

answers by. 2 B. R. C. 922. Begin with this book on every law question.

SIGNS-cont'd

Posting signs warning trespassers as affecting liability of railroad company for injury to person walking on track.

47 L.R.A.(N.S.) 506.

Necessity for, and compliance with, provisions as to placing of signs in acts regulating speed of automobiles. L.R.A. 1918D, 142.

## SILENCE.

Estoppel by, see Estoppel, §§ 18-26. As fraud, see Fraud and Deceit, § 6.

Silence of accused on statement in his presence as a confession. 25 L.R.A.(N.S.) 543.

Effect of mere silence between parties sustaining trust or confidential relations, to toll statute of limitations. 21 L.R.A. (N.S.) 963.

Ratification of the unauthorized act of an agent by silence. L.R.A.1918C, 222.

## SILVER.

----

Validity of contract to pay in, see Cox-TRACTS, § 89.

Form of judgment on obligation to pay in. 29 L.R.A. 593.

# SIMILAR ACTS.

Evidence of, see EVIDENCE, §§ 272-275.

## SIMPLE CONTRACT.

As assets giving jurisdiction to bind administrator. 24 L.R.A. 685.

## SIMULATED DEBTS.

Inclusion of, as participation by creditor in debtor's fraudulent intent. 31 L.R.A.

## SIMULATION.

See UNFAIR COMPETITION.

## SINGLENESS.

Of special verdict. 24 L.R.A.(N.S.) 48. Consult also L.R.A. Digests of Cases,

## SINGLE TRANSACTION,

By foreign corporation as doing business within state. 10 L.R.A.(N.S.) 693.

#### SINGULARITY.

As proof of incapacity of testator. 27 L.R.A. (N.S.) 56.

## SINKING FUND METHOD.

Of treatment of depreciation in estimating the return of a public service corporation for rate-making purposes. 52 L.R.A.(N.S.) 33.

## SINKS.

Landlord's duty as to. 14 L.R.A. 240.

## SISTER.

See BROTHERS AND SISTERS.

## SISTER-IN-LAW.

See Brothers-in-Law and Sisters-in-Law.

## SITUATION.

Right to rely on representations as to. 37 L.R.A. 610.

## SITUS.

Of debt, see Debt, § 4; Garnishment, § 12. For purpose of taxation, see Taxes, §§ 40-49, 100. See also Conflict of Laws.

Of corporate stock for purpose of transfer on books of corporation. L.R.A.1915C, 471.

#### SIZE.

Right of witness to express opinion as to. L.R.A.1918A, 692.

# SKATING.

Reciprocal duty of driver of automobile and child skating in street. L.R.A. 1918A, 257.

SKATING—cont'd

Contributory negligence of child injured while skating in street. L.R.A.1917F,

Liability of one who renders ice unsafe for skating. L.R.A.1918A, 408.

## SKATING RINK.

As a place of amusement within civil rights acts. 19 L.R.A.(N.S.) 907.

Power of municipality to declare, a nuisance per se. 31 L.R.A. (N.S.) 548.

#### SKETCHES.

Use of, by counsel in arguing to jury. L.R.A.1918D, 89.

#### SKIDDING.

Injury by automobile while skidding. 38 L.R.A. (N.S.) 495; 51 L.R.A. (N.S.) 1006.

Applicability of doctrine of res ipsa loquitur where accident to passenger is occasioned by skidding of vehicle. 3 B. R. C. 97.

Liability for injury by. skidding due to oiling street. L.R.A.1917F, 712.

## SKY LARKING.

Recovery under Workmen's Compensation Acts for injuries caused by. L.R.A. 1918E, 504.

## SLACK.

Burning slack, as a nuisance. 48 L.R.A. (N.S.) 244.

## SLANDER.

See LIBEL AND SLANDER.

#### SLANDER OF TITLE.

See LIBEL AND SLANDER, § 31.

## SLAUGHTER HOUSES.

Municipal power over, as nuisances. L.R.A. 646.

Power of city to prohibit slaughtering ex-

cept at certain places. 24 L.R.A. 586.

Power to make use of property for, conditional on consent of neighbors. 8
L.R.A.(N.S.) 978.

Begin with this book on every law question.

#### SLAVES.

§ 1. Generally.

Specific performance of contract as to. L.R.A.1918E, 619.

Instigation to steal. 25 L.R.A. 344.

Instigation to trade with. 25 L.R.A. 344. Adverse possession of, under parol gift. 35 L.R.A. 839.

Part performance of contracts for services of. 24 L.R.A. 231.

Criminal liability for dealing of partner, agent, or servant with. 41 L.R.A. 658.

Voluntariness of confession to master. 18 L.R.A. (N.S.) 854.

Admissibility of dying declarations of. 56 L.R.A. 360.

Admissibility of declarations of slave as affeeted by incompetency as a witness. L.R.A.1915E, 205.

Rights as between life tenant and remainderman to increase of. L.R.A. 1915C, 849.

Right to recover for hire of slaves, between time of judgment in detinue for their recovery and affirmance of judgment on appeal. 52 L.R.A.(N.S.) 1199. Effect of admission of state into the Union

upon provisions of ordinance of 1787 as to slavery. 52 L.R.A.(N.S.) 307.

Presumption and burden of proof as to negligence in case of injury to, or escape of. 43 L.R.A.(N.S.) 1191.

Liability of hirer of slaves under special terms of contract for their care or return. L.R.A.1915B, 297, 305.

Excessiveness of verdicts in action by master for injury to slave. L.R.A.1915F,

Question relating to slavery as Federal question. 62 L.R.A. 539.

§ 2. Duty and liability to.

Duty to furnish medical aid to. 28 L.R.A. 555.

Master's duty to provide medical assistance for. 4 L.R.A.(N.S.) 49. Master's liability for act of overseer in

striking or whipping slave. 27 L.R.A.

Homicide by excessive chastisement of slave. 60 L.R.A. 804.

§ 3. Escape of.

Master's liability for acts of servant in permitting slave to escape. 27 L.R.A. 171.

Presumption and burden of proof as to negligence in case of escape of. 43 L.Ř.Ă. (N.S.) 1191.

§ 4. Sale of.

Specific performance of contract. L.R.A. 1918E, 619.

Validity of sale of, in violation of law. 12 L.R.A.(N.S.) 598.

Injunction against sale of, under execution. 30 L.R.A. 117.

Does warranty extend to obvious defects in. 12 L.R.A.(N.S.) 82.

Does express warranty as to soundness of slave exclude implied warranty in regard thereto. 33 L.R.A.(N.S.) 504.

#### SLEDGE HAMMER.

Master's liability for injury ty defect in. 13 L.R.A.(N.S.) 671; 51 L.R.A.(N.S.) 339; L.R.A.1918D, 1141.

#### SLEEPING CAR COMPANIES.

See CARRIERS, §§ 96, 97.

#### SLIDING.

In streets as nuisance. 39 L.R.A. 679.

## SLOT MACHINE.

Operation of, as gambling. 20 L.R.A. (N.S.) 239: 34 L.R.A. (N.S.) 573; 42 L.R.A. (N.S.) 720.

Slot machine as violating statute against Sunday trading. 7 B. R. C. 294.

## SLOUGHS.

As part of boundary between states. 25 L.R.A.(N.S.) 649.

## SLUT.

Slander in charging woman with being, see LIBEL AND SLANDER, § 12.

## SMALLPOX.

Hospital for, see Hospitals. Vaccination for, see HEALTH. \$ 10.

## SMELLS.

See Opors.

## SMELTING WORKS.

Supervising employees in, as vice principals. 51 L.R.A. 534, 581.

#### SMOKE.

§ 1. Generally.

As element of damages, see Damages, § 87a.

Duty of traveler approaching railroad crossing where view near track is obstructed by smoke from another train. 37 L.R.A. (N.S.) 144.

Consult also L.R.A. Digests of Cases.

## SMOKE—cont'd

§ 2. Liability as to. Liability of landlord to third persons as to. 26 L.R.A. 201.

Loss of insured property by smoke from heating apparatus without actual ignition. 25 L.R.A.(N.S.) 501.

# § 3. Regulation and control of. As nuisance, see NUISANCES, § 5.

Presumption as to statutory authority to commit nuisance of. 70 L.R.A. 594. Liability of railroad for creating nuisance. 32 L.R.A.(N.S.) 371.

#### SMOKING.

Power to prohibit or restrict use of tobacco.
51 L.R.A.(N.S.) 562.

#### SMUGGLERS.

See DUTIES.

#### SNATCHING.

As force constituting robbery. 57 L.R.A. 432; 46 L.R.A. (N.S.) 1150.

#### SNOW.

On street or sidewalk, see HIGHWAYS, §§ 56, 71, 84, 86, 91.

Res ipsa loquitur in action for injury on highway by fall of snow from roof. 43 L.R.A. (N.S.) 597.

Right to discharge from roof upon premises of adjoining owner. L.R.A.1016A, 693. Duty of railroad company as to snow on cattle guards. 36 L.R.A.(N.S.) 997; L.R.A.1915B, 134.

Effect of, on question of negligence in running train at speed preventing stoppage within distance disclosed by headlight. 39 L.R.A.(N.S.) 980.

Snow storm as act of God relieving carrier

from liability. 24 L.R.A.(N.S.) 1209.

Duty of carrier of passengers to keep steps of cars free from. 15 L.R.A.(N.S.) 523; 35 L.R.A.(N.S.) 592.

Servant's assumption of risk of injury from snow on working place. 19 L.R.A. (N.S.) 365.

Forgetfulness of, as contributory negligence. 39 L.R.A.(N.S.) 898.

## SNOW STORM.

As act of God relieving carrier from liability. 24 L.R.A.(N.S.) 1209.

#### SOCIAL CLUBS.

See CLUBS.

## SOCIALISM.

Validity of bequest for education in. 37 L.Ř.A. (N.S.) 1007.

Validity of statutory or other regulation forbidding display of red flag or other symbol tending to incite disorder. L.R.A.1915B, 706.

#### SOCIAL MEETING.

Character of essential to offense of disturbing meeting. 30 L.R.A.(N.S.) 832.

## SOCIAL TREATING.

See TREATING.

## SOCIETY.

Various kinds of societies, see Associa-TIONS; CLUBS; BENEVOLENT SOCIETIES; RELIGIOUS SOCIETIES.

Constitutionality of discrimination against women in restrictions of. 49 L.R.A. 115.

## SODA FOUNTAIN.

As place of public accommodation within meaning of the civil rights act. 9 L.R.A.(N.S.) 601.

As place of amusement within civil rights acts. 19 L.R.A.(N.S.) 907.

## SODDING.

Mechanic's lien for. L.R.A.1917D, 353.

## SODOMY.

May sodomy be committed by penetration of mouth. 27 L.R.A.(N.S.) 478; 45 L.R.A. (N.S.) 473.

Threat to charge with, as constructive force sufficient for robbery. 57 L.R.A. 440.

Truth of charge as to, as defense to civil action for libel or slander. 31 L.R.A.

(N.S.) 146. Evidence of other crimes in prosecution for. 46 L.R.A.(N.S.) 266.

Age of alleged accomplice as affecting necessity of corroboration of testimony. L.R.A.1915E, 1224.

#### SOFT COAL.

Use of, as a nuisance. 13 L.R.A.(N.S.) 465.

## SOFT DRINKS.

Regulation of sale of, see Intoxicating LIQUORS, § 4. What liquors are intoxicating, see Intoxi-CATING LIQUORS, § 30.

#### SOIL.

Right to soil in highway, see HIGHWAYS, §

Right of municipality to take soil from highway to injury of fee. 12 L.R.A. (N.S.) 1164.

## SOLAR TIME.

See TIME, § 13.

## SOLDIERS.

Pensions to, see PENSIONS.

Soldiers' and seamen's wills. 4 B. R. C.

Appropriations for public aid in furnishing.

14 L.R.A. 476.
Constitutional protection of right to vote. 25 L.R.A.482.

## SOLDIERS' HOME.

Liability of, to process of garnishment in state courts. 46 L.R.A.(N.S.) 301.

Acquiring residence as a voter while an inmate of. 23 L.R.A. 215; 40 L.R.A. (N.S.) 168.

Jurisdiction of estate of inmate of. L.R.A. (N.S.) 586.

## SOLE AGENCY.

By real estate broker for sale of land. 44 L.R.A. 350.

## SOLE AND UNCONDITIONAL OWNERSHIP.

See Insurance, § 68.

#### SOLE BENEFICIARY.

Admissibility of declarations of, to show lack of testamentary capacity or undue influence. 38 L.R.A.(N.S.) 741.

#### SOLE DEBTOR.

Effect of death of sole judgment debtor on remedy by execution. 61 L.R.A. 362.

#### SOLICITATION.

To commit crime, see Chiminal Law, § 18. Of patronage at railway station, see Car-BIERS, § 152.

To violate injunction as justification for so doing. 9 L.R.A.(N.S.) 304.

Right of attorney at law to solicit business.
9 L.R.A. (N.S.) 282; 33 L.R.A. (N.S.)
941; L.R.A.1917B, 1128.
Right of vendor of business and good will

Right of vendor of business and good will to solicit customers from patrons of business sold. 19 L.R.A.(N.S.) 767. Right in absence of negative covenant to

Right in absence of negative covenant to enjoin employee from soliciting business from customers of employer. 31 L.R.A.(N.S.) 260.

License or occupation tax on persons engaged in soliciting orders by sample or otherwise as a violation of the commerce clause. 19 L.R.A. (N.S.) 297; 28 L.R.A. (N.S.) 265.

Soliciting trade as doing business within state. 9 L.R.A.(N.S.) 1214; L.R.A. 1916E, 236.

Power of state to prohibit solicitation of orders for intoxicating liquors by mail sent from another state. 36 L.R.A. (N.S.) 443.

#### SOLICITOR.

See also ATTORNEYS.

Measure of damages to solicitor for breach of advertising contract. 22 L.R.A. (N.S.) 273.

## SOLVENCY.

Insolvency, see Insolvency.

Implied warranty of, on transfer without indorsement of check or note of third person. 10 L.R.A.(N.S.) 547.

## SON.

See Parent and Child.
Consult also L.R.A. Digests of Cases. 78

## SON-IN-LAW.

See FATHER-IN-LAW AND SON-IN-LAW.

#### SOOT.

Loss of insured property by soot from heating apparatus without actual ignition. 25 L.R.A.(N.S.) 501.

Right to compensation for consequential damages to property from. 17 L.R.A. (N.S.) 1054.

## SORORITIES.

Forbidding student's affiliation with secret society. L.R.A.1915D, 588.

#### SORBOW.

As element of damages, see DAMAGES, §§ 96-106.

#### SOUND.

Right of witness to express opinion as to. L.R.A.1918A, 728.

## SOUNDNESS.

What amounts to breach of warranty of soundness of horse. 32 L.R.A.(N.S.) 182.

## SOVEREIGN.

As a person. 19 L.R.A. 223.

Jurisdiction of suit against foreign sovereign. 16 L.R.A. (N.S.) 276.

Extent of right to obstruct or destroy rights of navigation. 59 L.R.A. 33.

## SPANISH GRANT.

Location of mining claim on. 7 L.R.A. (N.S.) 786.

## SPARK ARRESTER.

Private action for violation of statutes requiring. L.R.A.1915E, 539.

Negligence as to, on threshing or similar stationary engines. 1 L.R.A.(N.S.) 530.

#### SPARKS.

Fires set by sparks from locomotives, see | See Banks, § 11. RAILBOADS, §§ 77, 78, 86.

Liability of railroad company for personal injuries to passenger struck by sparks or cinders escaping from locomotive. 18 L.R.A.(N.S.) 241.

Liability of railroad for personal injuries from sparks thrown on adjoining property or highway. 31 L.R.A.(N.S.) 983. Liability of elevated railway company for personal injury by spark to person on surface of street. 42 L.R.A.(N.S.) 92. Liability for fires set by sparks from chimney. 32 L.R.A.(N.S.) 1003.

## SPECIAL ASSESSMENTS.

See Drains and Sewers, §§ 12-14; Public IMPROVEMENTS, IV.

## SPECIAL ATTORNEY.

Appearance of, before grand jury. L.R.A. (N.S.) 568.

## SPECIAL BARGAINS.

Loss of profits from loss of, as damages. 53 L.R.A. 45.

## SPECIAL BENEFIT.

Setting off, against damages in eminent domain proceedings, see DAMAGES, § 93. As basis for assessment for public improvement, see Public IMPROVEMENTS, § 26.

## SPECIAL CARS.

Railroad companies as private carriers in drawing. 30 L.R.A. 161; 48 L.R.A. (N.S.) 990.

#### SPECIAL DAMAGE,

In libel or slander, see Damages, § 56. By nuisance, see NUISANCES, § 25.

Unlawful obstruction preventing one from using a highway as a special damage which will sustain an action against the wrongdoer. 28 L.R.A.(N.S.) 1053.

Interference with one's use of highway by unlawful obstruction as a special damage which will sustain an action by him against the wrongdoer. L.R.A.1915D,

Begin with this book on every law question.

## SPECIAL DEPOSIT.

#### SPECIAL DEPUTY.

In whose name acts by should be performed. 42 L.R.A. (N.S.) 880.

## SPECIAL FUND.

Claim against state for salary payable out of. 42 L.R.A. 54. When obligation payable out of, is indebtedness within debt limit provision. 37

L.R.A. (N.S.) 1070; L.R.A.1917E, 442.

## \*\*\* SPECIAL GRAND JURY.

Generally. 27 L.R.A. 787.

## SPECIAL INJURY.

By nuisance, see Nuisances, § 25.

## SPECIALISTS.

Degree of care and skill required of. 20 L.R.A.(N.S.) 1030.

## SPECIAL JUDGE.

Authority of, as to bills of exceptions and cases made. 42 L.R.A.(N.S.) 616.

Power of legislature to provide for method of selecting. L.R.A.1916E, 836.

#### SPECIAL LEGISLATION.

See STATUTES, §§ 15-18.

## SPECIAL ORDERS.

When within statute of frauds. 14 L.R.A. 231; 43 L.R.A. (N.S.) 97. Sufficiency of rules as to operation of trains by. 43 L.R.A. 332.

## SPECIAL PARTNER.

See PARTNERSHIP, \$ 58.

## SPECIAL POLICE.

#### See POLICE, § 6.

#### SPECIAL PURPOSE.

Implied warranty of fitness of property bought for, see SALE, § 32.

#### SPECIAL RATES.

Carrier's power to make, see CARRIERS, § 155.

## SPECIAL SESSION.

Conclusiveness of enrolled bill passed at special session of legislature. 40 L.R.A. (N.S.) 27.

## SPECIAL STOCK.

Generally. 27 L.R.A. 151.

## SPECIAL TAXATION.

Assessment for public improvements, see DRAINS AND SEWERS, §§ 12-14; PUBLIC IMPROVEMENTS, IV.

## SPECIAL TERM.

Of grand jury. 27 L.R.A. 787.

## SPECIAL TRAINS.

Railroad companies as private carriers in drawing. 30 L.R.A. 161; 48 L.R.A. (N.S.) 990.

## SPECIALTY.

As to deeds, see DEEDS. As to mortgages, see MORTGAGE.

Undelivered specialty as gift. 21 L.R.A. 694.

Liability of heirs on specialty debt of ancestor. 21 L.R.A. 90.

As asset giving jurisdiction to bind administrator. 24 L.R.A. 687. Action by third persons on. 25 L.R.A. 273.
As subject of gift. 26 L.R.A. 308.

Succession to, by surety paying judgment. 68 L.R.A. 556.

Consult also L.R.A. Digests of Cases.

## SPECIAL USE.

Recovery for, in eminent domain, see DAM: AGES, § 83.

## SPECIAL VERDICT.

See TRIAL, §§ 80-82, 84.

## SPECIFICATIONS.

For public contracts, see CONTRACTS, § 161. For establishment of drains and sewers. 60 L.R.A. 176.

Cost of conforming work to, as measure of damages for defect or omission in performance of building contract. L.R.A.(N.S.) 592.

## SPECIFIC LEGACIES.

See WILLS, §§ 122, 127, 128.

#### SPECIFIC PERFORMANCE.

I. In general, §§ 1-3.

II. Contracts enforceable, \$\$ 4-26.

a. In general, \$\$ 4-10a.

b. Oral contracts, \$\$ 11-18.
1. In general, \$ 11.
2. As to real property, \$\$

12, 18. c. Contracts relating to personal property, §§ 18a, 14.

d. Contracts for real property, **\$\$** 15-19.

e. Effect of defendant's in-ability to specifically per-form, \$ 20. f. Mutuality of obligation; op-tion, \$ \$ 21, 22.

g. Certainty and definiteness, \$ 23.

h. Mistake; fraud; consideration, \$\$ 24-26.
III. Decree; relief granted, \$\$ 27-29.

#### I. In general.

Generally. Plaintiff's pleadings in action for, see PLEADINGS, § 22.

Right of infant to enforce specific performance of contract. L.R.A.1918A, 787.

Effect of statute of frauds upon right to reform contract when it is sought to specifically enforce the contract as reformed. L.R.A.1917A, 586.

May a contract by an agent who exceeded his authority be enforced against the principal to the extent to which it was authorized. 52 L.R.A.(N.S.) 510.

SPECIFIC PERFORMANCE, I.—cont'd Right of private persons to contest power of corporation to take or hold property in action for. 32 L.R.A. 296; 46 L.R.A.

(N.S.) 73.

Distinction between indirectly securing specific performance and preventing injury to business, as affecting necessity that services be unique, to warrant injunction against breach of covenant not to enter another's employment. 35 L.R.A.(N.S.) 119.

Anticipatory breach of contract as basis of suit for specific performance.

L.R.A. (N.S.) 408.

Suit for specific performance of contract in relation to real property as lis pendens. 36 L.R.A.(N.S.) 552.

Suit for, not prosecuted to judgment as a conclusive election of remedies. 34 L.R.A. (N.S.) 309.

#### **2.** Time.

Uncertainty as to time, as affecting right to specific performance. 2 L.R.A. (N.S.)

Laches or delay of party seeking specific performance of contract for sale of corporate stock. 50 L.R.A. 508; 31 L.R.A. (N.S.) 500.

Delay of infant or feme covert in paying purchase price or bringing suit as bar to action for specific performance of contract for sale of land of which time is not of the essence. 25 L.R.A.(N.S.) 639.

## 8 3. Conditions; tender.

Tender or payment of consideration as condition precedent to suit to enforce contract to convey realty consummated by vender's exercise of option. 24 L.R.A. (N.S.) 91.

## II. Contracts enforceable.

## a. In general,

4. Miscellaneous contracts.

Of contract for indemnity, see INDEMNITY, § 5.

Specific performance of provisions for appraisal of property preliminary to exercise of option. L.R.A.1917C, 813.

Building construction, and repair contracts.
6 B. R. C. 912.

Contract to supply city with water. 61 L.R.A. 74.

Arbitration agreements. 47 L.R.A.(N.S.) 364.

Of stock pooling agreement. 51 L.R.A. (N.S.) 785.

Of contract for municipal water supply. 61 L.R.A. 92.

Of agreement to submit to arbitration. 15 Ľ.R.A. 142.

Enforceability of promise by beneficiary to third person. 40 L.R.A. (N.S.) 692.

SPECIFIC PERFORMANCE, II. a-cont'd Jurisdiction to compel performance of agreement for assumption of debts on dissolution of partnership. 9 L.R.A. (N.S.) 116.

Stipulation for liquidated damages in contract not to engage in business, as affecting equitable jurisdiction to enjoin breach thereof. 10 L.R.A.(N.S) 204; L.R.A.1917E, 886.

Of contract between husband and wife to compromise pending or contemplated divorce suit. 60 L.R.A. 412.

To prevent revocation of license. 49 L.R.A. 507.

When purchaser at judicial sale compelled

to complete purchase. 21 L.R.A. 45.

Of contract signed by beneficiary but not by holder of legal title. 2 L.R.A. (N.S.)

Agreements between promoters of corporations. L.R.A.1918E, 846.

5. Illegal contracts.

Illegality of contract for sale of corporate stock. 50 L.R.A. 508; 31 L.R.A.(N.S.) 500.

Equitable enforcement for limited time to prevent public inconvenience, of contract which is against public policy. 1 L.R.A. (N.S.) 1032.

Right to damages for breach of option contract which is not specifically enforceable because it contravenes the rule against perpetuities. 4 B. R. C. 292.

§ 6. Contracts of service.

Agreement as to disposition of property. at death, see infra, § 9.

Subject considered with reference to the general principles which define the limits of equitable jurisdiction. 6 L.R.A.(N.S.) 1115.

General rule that equity will not specifically enforce contracts of service. L.R.A.(N.S.) 1123.

Rationale of this rule. 6 L.R.A. (N.S.) 1125.

Qualification of the general rule where the applicant for relief is in the employment of a body of trustees. 6 L.R.A. (N.S.) 1128.

Enforcement of stipulations by employees not to perform services for any other persons than their employers. 6 L.R.A.(N.S.) 1130.

Absence of express negative stipulation, to what extent a bar to exercise of equitable jurisdiction. 6 L.R.A. (N.S.) 1134.

Quality of the services, how far a material element. 6 L.R.A.(N.S.) 1138.

Mandatory infunction to compel specific performance of contract for services. 20 L.R.A. 167.

7. Contract to give security Real-estate mortgages. 6 L.R.A.(N.S.) 585. Chattel mortgages. 6 L.R.A.(N.S.) 588. pay proceeds of life insurance policy to Annuities. 6 L.R.A.(N.S.) 590.

Partnership. 6 L.R.A.(N.S.) 591.

SPECIFIC PERFORMANCE, II. a—cont'd | SPECIFIC PERFORMANCE, II. b—cont'd Security or indemnity in other cases. 6 L.R.A.(N.S.) 592.

Remedy at law. 6 L.R.A.(N.S.) 594. Indefinite agreement. 6 L.R.A.(N.S.) 595. Party in default. 6 L.R.A.(N.S.) 596.

Pleading, practice, and parties. 6 L.R.A. (N.S.) 597.

Impossible relief. 6 L.R.A.(N.S.) 597.

\$ 8. Contract to provide for party to marriage.

As to marriage settlements, generally, see HUSBAND AND WIFE, § 59.

Specific performance of contract to provide for intended husband or wife. L.R.A.(N.S.) 232.

Specific performance of agreement on part of third person to make provision for parties to contemplated marriage. 7 L.R.A.(N.S.) 734.

## 9. As to disposition of property at death.

Enforcement against estate of decedent of contract to pay money or give property. 14 L.R.A. 862.

Specific performance of contract to leave property in consideration of services or support. 44 L.R.A.(N.S.)

As affected by brevity of period elapsing before promisor's death. 9
L.R.A.(N.S.) 157.
Specific performance of contract to leave

property to child in consideration of his living with promisor. 44 L.R.A.(N.S.) 756.

As affected by noncompliance with statute prescribing mode of adoption. 8 L.R.A. (N.S.) 1130; 46 L.R.A. (N.S.) 1134.

Right to specific performance or injunction during lifetime of one who has conveved, or is about to convey, property in violation of his agreement to leave the same, at his death, to the complainant. 18 L.R.A.(N.S.) 218.

Specific performance of oral contract to devise or convey land in consideration of performing services or furnishing support, where no possession taken, or improvements made. 15 L.R.A. (N.S.) 466; 38 L.R.A.(N.S.) 752.

## 10. Railroad station.

Specific performance of contract to establish or maintain railroad station. 16 L.R.A. (N.S.) 307.

## 10a. Continuing contracts.

Of contract for performance of continuous

acts. 3 L.R.A.(N.S.) 828.

Mutuality of obligation as a condition of the right to specific performance of a continuing contract. 6 L.R.A.(N.S.) 391; 38 L.R.A.(N.S.) 452.

## b. Oral contracts.

## 1. In general,

## # 11. Generally.

Of parol agreement to contribute to cost of Relief. party wall. 66 L.R.A. 699. Consult also L.R.A. Digests of Cases.

Effect of defendant's denial of oral contract. 4 L.R.A.(N.S.) 410.

Specific performance of oral contract to leave property in consideration of services or support. 44 L.R.A.(N.S.) 748.

## 2. As to real property.

## § 12. Generally.

Statute of frauds with reference to contracts, relating to realty, generally, see CONTRACTS, §§ 40-49.

Of agreement by agent purchasing for executor or administrator at the latter's own sale, to reconvey. L.R.A. 1918B, 42.

Of oral contract to convey real estate in consideration of making improvements, where possession not taken. 33 L.R.A. (N.S.) 534.

Specific performance of oral contract to leave property in consideration of services or support. 44 L.R.A.(N.S.) 748. Specific performance of oral contract to

devise or convey land in consideration of performing services or furnishing support, where no possession taken or improvements made. 15 L.R.A. (N.S.) 466; 38 L.R.A. (N.S.) 752.

Acts by vendee lessening value of property as affecting right of vendor to a specific performance of contract in relation to land, that does not comply with the Statute of Frauds. L.R.A.1918F, 386.

## § 13. Part performance; taking possession.

Effect of, generally, see Contracts, §§ 58,

Sufficiency of possession alone as ground for granting specific performance of parol gift of, or contract to convey, real property. 8 L.R.A.(N.S.) 870.

Specific performance of oral lease void un-der statute of frauds after lessee's entry into possession and making improvements. 3 L.R.A.(N.S.) 852

Effect of, to take out of statute of frauds, contract to leave property to child in consideration of his living with promisor. 44 L.R.A.(N.S.) 770.

Effect of part performance under parol lease on right to specific performance. 49 L.R.A.(N.S.) 116.

## c. Contracts relating to personal property.

#### 13a. Generally.

Specific performance of contracts in relation to personal property. L.R.A. 1918E, 597.

14. Contracts for sale of corporate stock.

Jurisdiction. 50 L.R.A. 501; 31 L.R.A. (N.S.) 491; L.R.A.1915D, 300.

50 L.R.A. 507: 31 L.R.A.(N.S.) Defenses. 497; L.R.A.1915D, 303.

Parties. 50 L.R.A. 512; 31 L.R.A. (N.S.) 502.

50 L.R.A. 512; 81 L.R.A.(N.S.) 502.

SPECIFIC PERFORMANCE, II.—cont'd

d. Contracts for real property.

§ 15. Generally.

Oral contracts, see supra, §§ 12, 13,

Right of infant to enforce. L.R.A.1918A. 787.

Sufficiency of description of land in contract by reference to street number. L.R.A.1918C, 520.

Specific performance of land contract as affected by provision for liquidated damages. 45 L.R.A.(N.S.) 52.

Right of private person to contest power of corporation to take or hold property, in action for specific performance of contract relating to property. 46 L.R.A.(N.S.) 84.

To compel railroad company to perform agreement as to crossing stipulated for in deed to railroad of right of way.
48 L.R.A.(N.S.) 387.

Right to, as affected by vendor's ignorance of race or character of purchaser. 32

L.R.A.(N.S.) 125. Vendee's right to specific performance with abatement from purchase price for deficiency in quantity. 10 L.R.A. (N.S.) 117; 38 L.R.A. (N.S.) 1195; L.R.A. 1917F, 597.

Vendee's right to specific performance with allowance for buildings destroyed after making of executory contract. L.R.A.(N.S.) 125.

Right to specific performance of contract to convey real estate as affected by at-tempted reservation of cemetery or burial plot. 41 L.R.A. (N.S.) 384.

May jurisdiction of suit for specific performance of a contract for conveyance of land within the territorial jurisdiction rest upon constructive service of process against a nonresident. L.R.A.(N.S.) 1135.

Delay of infant or feme covert in paying purchase price or bringing suit as bar to action for specific performance of contract for sale of land of which time is not of the essence. 25 L.R.A.(N.S.) 639.

Tender or payment of consideration as condition precedent to suit for specific performance of contract to convey realty consummated by vendee's exercise of an option. 24 L.R.A.(N.S.) 91.

§ 16. Outside of jurisdiction.

Jurisdiction of equity to decree specific performance of contract affecting real estate in other state or country. L.R.A. 681.

Jurisdiction of equity over suits for, in relation to real property in another state or country. 23 L.R.A. (N.S.) 924.

## 17. Doubtful titles.

Sufficiency of title by adverse possession as basis for specific performance. L.R.A. (N.S.) 515.

SPECIFIC PERFORMANCE, II. d-cont'd Allowing vendor reasonable time to perfect title by decree for specific performance. 30 L.R.A.(N.S.) 25.

Right of vendee to specific performance with abatement from purchase price, where vendor is unable to convey good and unencumbered title. 24 L.R.A. 765; 10 L.R.A.(N.S.) 117; 38 L.R.A.(N.S.) 1195; L.R.A.1917F, 597.
Right of vendor whose title is defective to

specific performance upon condition of a compensation or indemnity. 52 L.R.A.(N.S.) 959.

#### § 18. Effect of fraud.

In case of misrepresentation as to location of property. 38 L.R.A.(N.S.) 306.

Effect of concealment or misrepresentation of fact affecting value of real estate by purchaser who seeks specific performance. 30 L.R.A.(N.S.) 755.

## § 19. Where wife refuses to unite in conveyance.

Generally: 24 L.R.A. 763.

Specific performance against wife on contract of husband. 24 L.R.A. 763.

Specific performance against wife by contract of wife. 24 L.R.A. 763.

Contracts that are enforceable against her and her husband. 24 L.R.A. 764.

Specific performance against husband where wife refuses to unite in conveyance. 24 L.R.A. 764.

Specific performance by hurband with abatement for deficiency in title. 24 L.R.A. 765.

Requiring husband to obtain his wife's signature. 24 L.R.A. 766.

Mutuality; enforcing contracts against vendee. 24 L.R.A. 766.

Effect of nonjoinder of husband in wife's executory contract to convey, where his joinder is essential to a conveyance. 30 L.R.A.(N.S.) 353.

## e. Effect of defendant's inability to specifically perform.

## § 20. Generally.

Generally. 16 L.R.A. 614.

When plaintiff knows that performance cannot be enforced. 16 L.R.A. 614.

Where defendant disables himself pending action. 16 L.R.A. 615.

When defendant has at any time rendered himself incapable of performing. L.R.A. 615.

General jurisdiction over damages. L.R.A. 615.

The effect of modern legislation. 16 L.R.A.

The effect of the Code provision. 16 L.R.A.

Agreement by carrier to issue passes which is impossible of performance because of subsequent legislation. 49 L.R.A. (X.S.) 848.

## SPECIFIC PERFORMANCE, II.—cont'd

## f. Mutuality of obligation; option.

§ 21. Generally.

Contract for conveyance not signed by wife. 24 L.R.A. 766.

Of remedy as affecting jurisdiction of action for specific performance of contract for sale of stock. 50 L.R.A. 506; 31 L.R.A.(N.S.) 496; L.R.A.1915D, 301.

Lack of, as defense to action for specific performance of contract for sale of corporate stock. 50 L.R.A. 507; 31 L.R.A. (N.S.) 499.

Mutuality of obligation as a condition of right to specific performance of a continuing contract. 6 L.R.A. (N.S.) 391; 38 L.R.A.(N.S.) 452.

Mutuality of contract to leave property in consideration of services or support. 44 L.R.A.(N.S.) 738.

Mutuality of contract to leave property to child in consideration of his living with promisor. 44 L.R.A.(N.S.) 766.

Right of party not bound because he did not sign the contract, to enforce specific performance against a party who did sign. 6 L.R.A.(N.S.) 397; 28 L.R.A. (N.S.) 680; 43 L.R.A.(N.S.) 411.

22. Option contracts.

Enforcement of contract not to withdraw. 21 L.R.A. 131.

Enforcement of completed contract. 21 L.R.A. 131.

Necessity for consideration. 21 L.R.A. 131. Enforcement against third person. 21 L.R.A. 132.

Right to relief before acceptance. 21 L.R.A. 132.

Necessity that contract be specific. L.R.A. 132.

Right to specific performance of option to purchase as affected by lack of mutuality of obligation. 6 L.R.A.(N.S.) 403.

Tender or payment of consideration as a condition precedent to a suit for the specific performance of a contract to convey realty consummated by the vendee's exercise of an option. 24 L.R.A. (N.S.) 91.

Right to damages for breach of option contract which is not specifically enforceable because it contravenes the rule against perpetuities. 4 B. R. C. 292.

## g. Certainty and definiteness.

3 23. Generally.

Contract some of the terms of which are to be agreed upon by the parties. L.R.A. 1917D, 1079.

Necessity that option contract be specific. 21 L.R.A. 132.

Uncertainty as to time as affecting right to. 2 L.R.A.(N.S.) 221.

Right as affected by provision for liquidated damages. 2 L.R.A.(N.S.) 210.

Uncertainty and incompleteness of contract for sale of corporate stock. 50 L.R.A. Specific performance by husband, with 507; 31 L.R.A.(N.S.) 497; L.R.A. abatement for deficiency in title where 1915D, 303.

Consult also L.R.A. Digests of Cases.

SPECIFIC PERFORMANCE, II. g-cont'd Definiteness and certainty of contract to leave property to child in considera-tion of his living with promisor. 44 L.R.A.(N.S.) 767.

Specific performance of land contract as affected by provision for liquidated damages. 45 L.R.A. (N.S.) 52.

Sufficiency of description of land by reference to street number. L.R.A.1918C,

## h. Mistake; fraud; consideration.

24. Mistake.

Effect of mistake of fact by defendant on right to the specific performance of a contract induced thereby. 15 L.R.A. (N.S.) 81.

contract for sale of corporate stock. L.R.A.1915D, 303.

25. Fraud.

In contract as to real property, see supra, § 18.

Fraudulent expression of opinion as a defense. 35 L.R.A. 433.

In contract for sale of corporate stock. 50 L.R.A. 508; 31 L.R.A. (N.S.) 500.

§ 26. Consideration.

Necessity for consideration for option contract. 21 L.R.A. 131.

Lack of consideration as defense to action for specific performance of contract for sale of corporate stock. 50 L.R.A. 507; 31 L.R.A. (N.S.) 498.

Refusal of specific performance of contract to convey property because of inade-quacy of consideration. 14 L.R.A. (N.S.) 317.

Necessity in a complaint for specific performance of alleging facts showing adequacy of consideration for contract sought to be enforced. 19 L.R.A. (N.S.) 178.

Contract to leave property to child in con-sideration of his living with promisor. 44 L.R.A.(N.S.) 764.

## III. Decree; relief granted.

§ 27. Generally.

Contract to give security; impossible relief. Relief granted in action for specific performance of contract for sale of corporate stock. 50 L.R.A. 512; 31 L.R.A. (N.S.) 502.

Allowing vendor reasonable time to perfect title by decree for specific performance. 30 L.R.A.(N.S.) 25.

Right to accept favorable part of decree and appeal from the rest. 29 L.R.A. (N.S.)

wife refuses to join. 24 L.R.A. 765.

SPECIFIC PERFORMANCE, III.—cont'd Right of vendee to specific performance with abatement from purchase price, where vendor is unable to convey a good and unencumbered title. 10 L.R.A.(N.S.) 117; 38 L.R.A.(N.S.) 1195; L.R.A.1917F, 597.

Right of vendee to specific performance with allowance for buildings destroyed after making of executory contract. 10 L.R.A. (N.S.) 125.

§ 29. Damages in lieu of. Damages in lieu of specific performance. 20 L.R.A. 752.

## SPECTACLES.

Application of statute regulating practice of medicine to persons giving special kinds of treatment. 3 L.R.A. (N.S.) 762; 24 L.R.A. (N.S.) 103; 25 L.R.A. (N.S.) 1297.

## SPECTATOR.

Misconduct of, at criminal prosecution, see CRIMINAL LAW, § 44.

Liability for injury to bystander watching progress of work. L.R.A.1916F, 117. Effect of misconduct of, during criminal trial. L.R.A.1918E, 959.

## SPECULATION.

Legislation forbidding speculation in theater tickets. 5 L.R.A.(N.S.) 183; L.R.A. 1918D, 388.

Creation of partnership by speculative purchases of property for sale. 18 L.R.A. (N.S.) 1089.

Speculation in commodities as within ostensible or implied authority of member of partnership operating warehouse. 27 L.R.A.(N.S.) 1015.

## SPECULATIVE BELIEF.

As proof of testamentary incapacity. 27 L.R.A.(N.S.) 74; L.R.A.1915A, 458.

## SPECULATIVE POLICIES.

Right to take out. 25 L.R.A. 628.

## SPECULATIVE USES.

Of property as element of compensation in a element of damages for negligent in-eminent domain, L.R.A.1917A, 409. | As element of damages for negligent in-jury. 48 L.R.A.(N.S.) 102. eminent domain. L.R.A.1917A, 409. Begin with this book on every law question.

## SPEECH.

Freedom of, see Constitutional Law, § Injunction against, see INJUNCTION, § 73. Copyright in report of public speech. 2 B. R. C. 335.

#### SPEED.

Of automobile, see AUTOMOBILES, § 5. On highway, see NEGLIGENCE, § 26. Of railroad train, see RAILBOADS, §§ 71, 72. Of street car, see STREET RAILWAYS, §§ 12, 13. Opinion evidence as to, see EVIDENCE, § 195. Regulation of speed of vehicles in street, see Highways, § 46. Right of witness to express opinion as to. L.R.A.1918A, 701. Express warranty as to. as excluding implied warranty. 33 L.R.A.(N.S.) 507. Constitutionality of statute fixing minimum rate of speed at which carrier may transport special kinds of freight. 26 LR.A. (N.S.) 1018; L.R.A.1917C, 142. Liability for injury by excessive speed in exercise of rights of navigation. 64

## SPEEDY TRIAL.

See CRIMINAL LAW, § 45.

L.R.A. 979.

## SPELLING.

Comparison of, in disputed instrument. 65 L.R.A. 97. Effect of mistakes in, on question of forgery

in issuing false instrument. L.R.A. 1918B, 1193.

## SPENDTHRIFT TRUST.

See TRUSTS, § 34.

## SPILES.

As defects in dock or wharf. 61 L.R.A. 949.

## SPINAL AFFLICTION.

jury. 48 L.R.A. (N.S.) 102.

## SPIRITUALISM.

As insane delusion. 37 L.R.A. 270. Effect of belief in, on testamentary capacity.
16 L.R.A. 677; 15 L.R.A. (N.S.) 674.
Prohibition of obtaining money by spirit mediumship. 43 L.R.A. (N.S.) 203. Application to spiritual mediums, of stat-ute regulating practice of medicine. L.R.A.1917C, 828.

## SPIRITUOUS LIQUORS.

Intoxicating liquors, generally, see INTOX-ICATING LIQUORS.

As intoxicating liquors. 20 L.R.A. 645.

## SPITE FENCES.

See FENCES, § 6.

## SPITTING BLOOD.

What constitutes within meaning of insurance policy. 23 L.R.A.(N.S.) 917.

### SPLINTERS.

Master's liability for injury by flying splinters, see MASTER AND SERVANT, §

Servant's assumption of risk of being injured by, during progress of work. 25 L.R.A. (N.S.) 364.

## SPLITTING ACTION.

Splitting causes of action, see ACTION OB SUIT, § 17.

## SPOLIATION.

Liability for mutilation or spoliation of will. L.R.A.1917B, 558.

## SPOLIATOR.

Presumption against spoliator of evidence, see EVIDENCE, § 56.

## SPONGE.

Liability of physician or surgeon where | Criminal responsibility for death caused by, sponge is left in incision. 46 L.R.A. (N.S.) 611.

Consult also L.R.A. Digests of Cases.

## SPONTANEOUSNESS.

Of confession. 18 L.R.A.(N.S.) 794; 50 L.R.A. (N.S.) 1077.

## SPORADIC DANGERS.

Duty to warn servant against, see MASTER AND SEBVANT, § 74.

#### SPORT.

Sportive act of servant, see MASTER AND SERVANT, § 175.

Homicide while engaged in. 63 L.R.A. 383. Prohibition of, on Sunday. 17 L.R.A. 830. Right of public authorities to preserve ice for. 3 L.R.A. (N.S.) 1103.

## SPORTIVE ACT.

Of servant, see Master and Servant, § 175.

#### SPOTTING CARS.

Right of carrier having line haul to make extra charge for switching or spotting cars at terminals or sidetracks. L.R.A. 1918A, 164.

## SPOUSE.

See HUSBAND AND WIFE.

## SPREADING DISEASE.

Municipal liability for, see MUNICIPAL COR-POBATIONS, § 76.

#### SPRING.

See WATERS, § 78.

## SPRING GUN.

Civil liability for injury by, see NEGLI-GENCE, § 21.

upon one's own property. 14 L.R.A. (N.S.) 346.

#### SPRINKLING STREETS.

Assessments for, see Public Improvements. § 15.

## SPRINKLING TRACKS.

Power to compel street railway to sprinkle tracks. 36 L.R.A.(N.S.) 235.

#### SPUR.

See SPUB TRACKS AND SIDINGS.

## SPURIOUS CLAIM.

Liability for procuring judgment on, and enforcing same against judgment debtor's property. 36 L.R.A.(N.S.) 1112.

## SPURIOUS INDORSEMENT.

Who must bear loss where check or draft is purchased or paid on spurious indorsement of one bearing same name as payee or indorsee. 34 L.R.A.(N.S.) 1101.

## SPUR TRACKS AND SIDINGS.

1. Generally.

Compulsory connection with side tracks, see CARRIERS, § 149.

Right of way for, see RAILBOADS, § 36. Maintenance of, by railroad, see RAILROADS,

Maintenance of private siding, tap line, connecting tracks or other switching facilities as carrying on the business of a common carrier. L.R.A.1918B, 683.

Loading car on side track as delivery to carrier. 32 L.R.A.(N.S.) 318.

Right of carrier having line haul to make extra charge for switching or spotting cars at terminals or sidetracks. L.R.A. 1918A, 164.

Power of municipality to compel removal of, from street and highway. L.R.A. 1918B, 481.

Power to compel railroad to build, maintain, or connect with side tracks for accommodation of shippers. 28 L.R.A. (N.S.) 1013; L.R.A.1915E, 682; L.R.A. 1918B, 795.

Liability of railroad company to servants of persons on whose premises it operates a spur track. 46 L.R.A. 100.

§ 2. Condemnation of land for. See EMINENT DOMAIN, § 22. Begin with this book on every law question.

SPUR TRACKS AND SIDINGS-cont'd

§ 3. Contract to maintain.

Validity, as affected by public policy, of contract by railroad company to maintain private siding. 17 L.R.A. (N.S.) 130.

§ 4. As nuisance.

Presumption of statutory authority of railroad to commit nuisance by maintaining. 70 L.R.A. 589. Use of, as a nuisance. 375. 32 L.R.A.(N.S.)

\$ 5. Fences at.

What are sidings, within meaning of fence laws. 7 L.R.A.(N.S.) 207.

## SPYING.

Admissibility, in criminal case, of testimony as to facts learned while spying. 17 L.R.A.(N.S.) 451.

## SQUARES.

See Parks and Squares.

#### STABLES.

Livery stable, see LIVERY STABLE.

Sanitary regulations as to. 45 L.R.A. (N.S.) 575.

Liability of landlord to third persons as to condition of. 26 L.R.A. 202.

As nuisances. 17 L.R.A.(N.S.) 1025; 49

L.R.A. (N.S.) 958.

As within restrictive covenants in convey-ances of real estate. 34 L.R.A.(N.S.) 730.

As a violation of covenant against offensive building. 9 L.R.A. (N.S.) 1039.

## STAGE COACHES.

Authority of local agent of person operating, to contract for services of other

persons. L.R.A.1918F, 69.

Applicability of doctrine of res ipsa loquitur where accident to passenger is occasioned by skidding of vehicle. B. R. C. 97.

Negligence in starting, before passenger is seated. 42 L.R.A. 296.

Sufficiency of general allegations of negligence. 59 L.R.A. 247.

Imputing negligence of driver to passenger. 8 L.R.A.(N.S.) 621; L.R.A.1915A, 761.

Servants working on, as fellow servants. 50 L.R.A. 436.

Validity of restrictive agreement ancillary to sale of stage and coach lines. L.R.A. (N.S.) 932; L.R.A.1916C, 632.

## STAGINGS.

Master's liability for injury to servant on, see Master and Servant, § 84.

## STAIRWAY.

§ 1. Easement in.

Implied grant of easement for, in partition deed. 3 L.R.A.(N.S.) 1082.

Destruction of building as terminating easement in stairway. L.R.A.1918D, 413.

Right to, as way of necessity where other possible modes of access exist. 17 L.R.A. (N.S.) 1023.

§ 2. Duty and liability as to condition of.

Municipal liability for injury by stairway in street, see Highways, § 62.

Duty of storekeeper toward customer as to condition of. 21 L.R.A.(N.S.) 461; L.R.A.1915F, 572.

Municipal liability for injury by stairway on street sides. 20 L.R.A. (N.S.) 622.

🖁 3. — of landlord.

Liability of landlord as to condition of stairway not controlled by tenant. 14 L.R.A. 239; 23 L.R.A. 157; 3 L.R.A. (N.S.) 316.

Landlord's duty to light common stairway.

1 B. R. C. 107.

Liability of landlord for personal injuries to wife of lessee. L.R.A.1916F, 1152. Liability of landlord for personal injury by

Liability of landlord for personal injury by defect in, to member of lessee's family other than wife. L.R.A.1916F, 1161.

Landlord's liability for injury to servant of tenant on common stairway. L.R.A. 1916F, 1145.

## STAKEHOLDER.

Liability of stakeholder or depositary of funds to be held in connection with an illegal transaction. L.R.A.1918F, 972.

## STALLED TRAIN.

Liability of carrier for personal injuries to passenger who attempts to reach his destination by other means because of stalling of car or train. L.R.A.1917F, 367.

## STALLIONS.

§ 1. Generally.

Right of municipality to prohibit the keeping, standing, or exhibiting of. 11 L.R.A. (N.S.) 736.

§ 2. License for keeping of.

Effect of failure to procure license on right to recover for services of. 1 L.R.A. (N.S.) 1159.

Consult also L.R.A. Digests of Cases.

STALLIONS-cont'd

Validity of contract by unlicensed owner of. 12 L.R.A.(N.S.) 617.

§ 3. Warranty of.

Implied warranty of fitness of. 15 L.R.A. (N.S.) 868; 31 L.R.A. (N.S.) 783.

Express warranty as to, as excluding implied warranty. 33 L.R.A.(N.S.) 505.

#### STALLS.

On sidewalk, as a nuisance under municipal control. 39 L.R.A. 661.

## STAMPED SIGNATURE.

Sufficiency of, within statute of frauds. 37 L.R.A.(N.S.) 352.

On legal process or other legal papers. L.R.A.1917B, 285.

#### STAMPS.

Effect of omitting revenue stamp from instrument, see INTERNAL REVENUE, §

Trading stamps, see TRADING STAMPS.

Signature to instrument by. 22 L.R.A. 301. Sufficiency of signature to will by stamp. L.R.A.1915D, 906.

## STAMP TAX.

See Internal Revenue.

## STANDARD.

For comparison of handwriting, see EVI-DENCE.

## STANDARD TIME.

See TIME, § 13.

#### STANDING.

Standing on driven vehicle as negligence. 19 L.R.A.(N.S.) 223.

Standing on moving vehicle by fireman as negligence. 19 L.R.A.(N.S.) 630.

## STANDING TIMBER.

See TIMBER.

## STANDING WATER.

Rights in. 19 L.R.A. 92.

## STARE DECISIS.

See COURTS, § 59.

## STARVATION.

Of cattle during transportation, carrier's duty to prevent. 39 L.R.A.(N.S.) 643.

## STATE.

I. In general, \$\$ 1-8.
II. Rights and powers of, \$\$ 4-7.
III. Suit by, \$\$ 8, 9.

IV. Liabilities of, §§ 10-12.

V. Claims against; indebtedness of, \$\$ 13-15.

## I. In general.

1. Generally.

Officers of, see AUDITOR; ATTORNEY GEN-ERAL; COMPTROLLER; ENGINEER: GOV-ERNOB; LEGISLATURE; SECRETARY OF STATE; SURVEYOR GENERAL; TREAS-URER.

Bonds of, see Bonds, III.

Boundary of, see BOUNDARIES, §§ 1-3.

Interference with local self-government by, see Constitutional Law, § 20a.

Municipal power as to crimes under state law, see CRIMINAL LAW, § 70.

Estoppel of, see ESTOPPEL, I.

Injunction against waste or unlawful use of state funds, see Injunction, § 61b. Validity of ordinance on matters covered by state laws, see MUNICIPAL CORPORA-

TIONS, § 25. Priority of claims by or against, see Insol-VENCY, § 8; PRIORITY, § 3.

State institutions, see STATE INSTITUTIONS. Statutes of, see STATUTES.

Subordination or suspension of state law during war. L.R.A.1918F, 561.

Giving of free service or reduced rates by public service corporation to state agencies as an unlawful discrimination. L.R.A.1918D, 906.

Power at suit of state to appoint receiver for foreign corporation for which no domiciliary receiver has been appointed. L.R.A.1917D, 302.

Governor's power to employ counsel for. 55 L.R.A. 493.

Removal of separable controversy in which state is a party. 5 L.R.A. (N.S.) 56.

Duty of, to advance fees of witnesses summoned on its behalf. 31 L.R.A.(N.S.) 781.

Confiscation by, of fish nets found in illegal use. 3 L.R.A. (N.S.) 997.

Prevention of illegal removal of state capital. 34 L.R.A. (N.S.) 380.

STATE, I.—cont'd

Exemptions as against fines and penalties when state is the plaintiff. L.R.A. 1915A, 1216.

Nullification or breach of state contract as impairment of obligation of contract 45 L.R.A.(N.S.) 721.

Revival of judgment in favor of state. 47 L.R.A.(N.S.) 905.

Validity of statute fixing minimum wage for employees of state. 51 L.R.A. (N.S.) 687.

Claims of state as within statute or ordinance requiring notice or presentation as a condition of municipality liability. 50 L.R.A.(N.S.) 184.

## § 2. Admission of.

Generally. 12 L.R.A. 673.

Effect of admission of state into the Union upon ordinance of 1787. 52 L.R.A. (N.S.) 305.

## § 3. Taxation of property of.

Municipal assessment of property of. L.R.A. 807.

Property leased by state as subject to taxation. 35 L.R.A. (N.S.) 167; 52 L.R.A. (N.S.) 991.

Taxation of property located in one state but belonging to another. 50 L.R.A. (N.S.) 243.

## II. Rights and powers of.

4. Generally.

Right to appeal in criminal case, see APPEAL AND ERBOR, § 7a.

Power to regulate commerce, see COMMERCE. Priority of claim of state, see INSOLVENCY, § 8; PRIORITY, § 3.
As to the right to engage in works of in-

ternal improvement, see INTERNAL IM-PROVEMENTS.

Power' to restrict or regulate sale or enjoyment of patent right, see PATENTS, § 13.

Right to require services of witness without compensation, see WITNESSES, § 49.

Applicability as against state of presumption of payment from lapse of time. L.R.A.1916B, 739.

Power to regulate inheritance by alien. 31 L.R.A. 179.

Power of state, under 14th Amendment, to deny to aliens the right to engage in a lawful occupation. 11 L.R.A.(N.S.) 799.

Power of state to engage in enterprises generally conducted by private person or corporation. 42 L.R.A.(N.S.) 221.

State guardianship of children. 15 L.R.A. 593.

Power of state to regulate burials and cemeteries. 27 L.R.A.(N.S.) 262.

Power of state to make estate of person committed to insane asylum, or his relatives, liable for cost of his maintenance therein. 24 L.R.A. (N.S.) 295.

Power to restrict and regulate sale or enjoyment of patent rights. 29 L.R.A. 786.

STATE, II.—cont'd

Power of state under Federal Constitution to legislate with respect to Army and Navy. L.R.A.1918C, 307.

Power of state as to international or interstate ferries. 52 L.R.A.(N.S.) 574.

Right of state to authorize or direct diversion of county funds to purpose other than that for which collected. L.R.A.1915D, 274.

Power of state to make binding contract as to rates of public service corporation. L.R.A.1915C, 262

Power to control private charity. LR.A. 1916D, 912.

Right of state to contest will so as to escheat the property. 2 L.R.A.(N.S.) 643; L.R.A.1918A, 475.

Right to require railroad company to equip its road. 13 L.R.A.(N.S.) 320.

Right of state to control municipal fire department. 15 L.R.A. (N.S.) 575. Effect of laches on state's right to oust a

corporation of its rights and franchise. 14 L.R.A. (N.S.) 336.

Extent and limit of state authority over interstate consolidated transaction. 24 L.R.A.(N.S.) 769.

Right to appeal in criminal case. 19 L.R.A. 342.

§ 5. As to taxes.

Taxation by, generally, see Taxes.

Power to tax Federal agencies, instrumentalities, or property, see Taxes, §§ 6,

Power and jurisdiction of, to tax corporate franchises. 57 L.R.A. 34.

Taxation of property located in one state but belonging to another. 50 L.R.A. (N.S.) 243.

§ 6. Property rights.

State ownership of waters, see WATERS,

As trustee in charitable bequest. 14 L.R.A. (N.S.) 113.

Ownership of waters by. 50 L.R.A. 737. Title to islands as between state and subject. 58 L.R.A. 673.

Rights in literary work done in connection with official duties. 5 L.R.A. (N.S.) 1193.

Power of state to secure title to private property by adverse possession. L.R.A.(N.S.) 1120.

Right to erect wharves. 40 L.R.A. 647.

7. Conveyance or grant by. Right of, to grant tide land. 22 L.R.A. (N.S.) 337.

Conveyance by state of land held adversely. 35 L.R.A.(N.S.) 747.

## III. Suit by.

§ 8. Generally.

Applicability in cases where the state is the complainant of doctrine that a corporation may be estopped from pleading ultra vires in an action against it. L.R.A.1917A, 856.

Consult also L.R.A. Digests of Cases.

STATE, III.—cont'd

Right of state to maintain action to recover excess rates or charges exacted of individuals by public service corporations. L.R.A 1916C, 336.

As proper party to maintain bill to abate or enjoin public nuisance in city street.

19 L.R.A.(N.S.) 1173.

Right of state to maintain action to abate or enjoin bawdyhouse. L.R.A.1918D, 821.

Injunction at suit of, against public nuisance which is also a crime. 15 L.R.A. (N.S.) 747; 23 L.R.A.(N.S.) 691.

Injunction at suit of state against public nuisance which is also a crime. L.R.A.(N.S.) 325; 47 L.R.A.(N.S.) 673.

Applicability of statute of limitations to actions by agencies of state. 3 L.R.A. (N.S.) 746; 22 L.R.A. (N.S.) 921; L.R.A.1916E, 96.

§ 9. Right of set-off, counterclaim, or recoupment in.

In general. 33 L.R.A.(N.S.) 877. By statute. 33 L.R.A.(N.S.) 379.

Right to affirmative relief. 33 L.R.A.(N.S.). 381.

Miscellaneous. 33 L.R.A. (N.S.) 382 Taxation cases. 33 L.R.A.(N.S.) 382 Public improvement cases. 33 L.R.A. (N.S.) 385.

## IV. Liabilities of.

§ 10. Generally.

Liability for interest, see INTEREST, § 16. Liability for public improvement, see Pub-LIC IMPROVEMENTS, §§ 17, 18.

Applicability to states of Workmen's Compensation Acts. L.R.A.1918F, 190.

Circumstances under which employee of state may recover remuneration for extra work. 30 L.R.A.(N.S.) 660.

§ 11. For torts or negligence.

Claim against state for damages from. 42 L.R.A. 64.

Liability of state for injury in state building. 42 L.R.A.(N.S.) 251.

Liability of eleemosynary institution maintained by, for personal tort of agent or servant. 4 L.R.A.(N.S.) 269.

School district as agency of state not liable for tort. 49 L.R.A.(N.S.) 1026.

Conducting state fair or exposition as exercise of governmental or private function respecting liability for injury to patron. L.R.A.1915E, 469.

§ 12. Liability to suit.

When action against officers is deemed to be action against the state. L.R.A.(N.S.) 189.

When claim against state deemed based on contract within statute permitting action against state. 42 L.R.A. (N.S.)

Immunity from suit of state institution not of a political or governmental character. 35 L.R.A.(N.S.) 243.

STATE, -cont'd

## V. Claims against; indebtedness of.

3 13. Claims against.

Running of limitations on, see LIMITATION OF ACTIONS, § 16.

Priority of claims by or against, see PRIOR-1TY, § 3.

When claim against state deemed based on contract within statute permitting action against state. 42 L.R.A.(N.S.) 256.

Acceptance of partial allowance of claim as an accord and satisfaction. L.R.A. (N.S.) 117.

§ 13a. — what claims are valid demands against state.

Generally. 42 L.R.A. 33.

Summary of cases in regard to claims. 42 L.R.A. 37.

For per diem. 42 L.R.A. 40. For costs. 42 L.R.A. 41. For fees. 42 L.R.A. 44. For services. 42 L.R.A. 47. For expenses. 42 L.R.A. 49. For attorneys' fees. 42 L.R.A. 51.

For salary. 42 L.R.A. 53.

On contracts. 42 L.R.A. 54.

By public institutions. 42 L.R.A. 63. For bounty and reward. 42 L.R.A. 63. For damages from negligence and torts. 42

L.R.A. 64. Under public health laws. 42 L.R.A. 65.

For injuries arising on canals and water-courses. 42 L.R.A. 65. For refunding money paid to the state. 42

L.R.A. 69. 4. Indebtedness of.

Implied exemption of state bonds. 7 L.R.A. (N.S.) 663.

§ 15. — limitation of.

As to what time is assessed valuation to be taken for purpose of determining debt limit of state. 28 L.R.A.(N.S.)

Rule for determining the indebtedness within the meaning of debt limit provisions, where boundaries of different political units are wholly or partly coincident. L.R.A.1917E, 468.

## STATE BANKS.

See BANKS, § 49.

STATE COURTS.

See COURTS, §§ 33, 34.

STATED ACCOUNT.

#### STATE INSTITUTIONS.

1. Generally.

Commitment of infants to, see INFANTS.

Officers of, as public officers. 17 L.R.A.

Taxes by county for. 17 L.R.A. 795.

Claim by, against state. 42 L.R.A. 63. Liability of state for injury in any state building. 42 L.R.A.(N.S.) 251.

Residence at, for purpose of voting. 23

L.R.A. 215.

State university as quasi corporation. 29 L.R.A. 381.

Immunity from suit of state institutions not of a political or governmental character. 35 L.R.A.(N.S.) 243.

Conducting state fair or exposition as exercise of governmental or private func-tion respecting liability for injury to patron L.R.A.1915E, 469.

Right of county or municipality to use public funds to secure the retention or location of a state institution within its limits. L.R.A.1917E, 845.

§ 2. Nature of incorporated institutions belonging to state.

Nature of incorporated institutions belonging to the state. 29 L.R.A..378.

## STATE LAW.

Subordination or suspension of, during war. L.R.A.1918F, 561.

#### STATEMENT.

Of mechanics' lien, see MECHANICS' LIENS, §§ 26, 27.

Right of court to instruct jury as to statutory statement by accused. 19 L.R.A. (N.S.) 827.

## STATE MILITIA.

See MILITIA.

## STATE'S EVIDENCE.

Effect of agreement for immunity of accomplice testifying for prosecution, see CRIMINAL LAW, § 34.

Admissibility of promise to obtain compromise after repudiation of agreement to turn state's evidence. 18 L.R.A. (N.S.) 823.

## STATE UNIVERSITIES.

As quasi corporations. 29 L.R.A. 381. Free tuition in. L.R.A.1918F, 681.

See ACCOUNTS, § 2. Begin with this book on every law question.

#### STATION.

Duty of carrier to passengers in relation to, | See LIMITATION OF ACTIONS. see CARRIERS, §§ 70, 72.

Governmental regulations concerning, see CARRIERS, §§ 161, 162.

Contract in relation to, see RAILBOADS, § 27.

## STATION AGENT.

As fellow servants. 52 L.R.A.(N.S.) 1105. Authority of station agent of initial carrier to extend its undertaking beyond its own line. 31 L.R.A.(N.S.) 33.

#### STATION MASTER.

Authority of, to contract for services of III. Construction; operation; effect, \$\$ other persons. L.R.A.1918F, 60.

## ----STATIONARY ENGINES.

Negligence as to spark arresters on, 1 L.R.A.(N.S.) 530.

## STATIONERY.

Right of taxpayer, in absence of statute, to enjoin unlawful expenditures by municipality for stationery. 36 L.R.A. (N.S.) 22.

## STATION GROUNDS.

Power to lay out streets or highways over. 24 L.R.A. (N.S.) 1213.

## \*\*\* STATIONS.

Duty of carrier to passengers in relation to, see CARRIERS, §§ 45, 46, 70-72,

Governmental regulations concerning, see CARRIERS, §§ 161, 162.

Contracts in relation to, see RAILBOADS, § 27.

## STATISTICS.

Constitutionality of statutes in relation to vital statistics. 39 L.R.A. (N.S.) 1015.

## STATUS.

Presumptions and burden of proof as to, see EVIDENCE. §§ 22-24.

Of adopted child, see PARENT AND CHILD. §§ 17, 18.

## STATUTE OF FRAUDS.

See CONTRACTS, §§ 25-59. Consult also L.R.A. Digests of Cases.

#### STATUTE OF LIMITATIONS.

#### STATUTES.

I. In general, §§ 1, 2.

II. Enactment; validity, §§ 3-18.

a. Enactment; adoption; taking effect, §§ 3-7.

b. Validity generally, \$\$ 8-10.

c. Proof of, legislative journals; conclusiveness of enrolled bill, \$\$ 11, 12.

d. Entitling; plurality of sub-ject, §§ 13, 14.

e. General and special; classification, §§ 15-18.

*19-28*.

a. In general, §§ 19-22.b. Meaning of words; mandatory or directory, §§ 23, 24.

c. Construction of penal stat-utes; strict or liberal construction, §§ 25, 26.

d. Adopted or re-enucted statutes, § 27.

e. Prospective or retrospective, \$ 28.

IV. Amendment; re-enactment; repeal, **§§** 29-35.

a. Amendment; re-enactment, \$\$ 29, 30.

b. Repeal, \$\$ 31-35.

## 1. In general,

§ 1. Generally.

Extraterritorial enforcement of, see Con-FLICT OF LAWS.

Validity of contract for services to procure legislation, see CONTRACTS, § 102.

Presumption as to, see EVIDENCE, §§ 19, 20. Presumption as to statutes of other state, see EVIDENCE, § 20.

Pure food statute, see FOOD.

Validity of ordinance on matters covered by statute, see MUNICIPAL CORPORA-TIONS, § 25.

Violation of, as negligence, see Negligence, § 10.

Duties imposed on railroad by, see RAIL-ROADS, § 50.

Regulation of speed of railroad train by, see RAILBOADS, § 72.

Removal of officer for failure to enforce criminal or penal law. L.R.A.1918F,

Mandamus to compel delivery of copy or to require promulgation of an act passed by the legislature. 22 L.R.A. (N.S.) 1089.

Power of municipal corporation or governmental body to use public funds to promote the passage or to secure the defeat of a law. L.R.A.1917B, 358.

2. Violation of.

Validity of contract in violation of, see Con-TRACTS, §§ 75, 76.

STATUTES, I.—cont'd Violation of statute by master as basis of of action, see MASTER AND SERVANT, §§ 54-57a.

Violation of, as negligence, see NEGLIGENCE, § 10.

Private action for violation of, see PRIVATE

ACTION, § 3. Negligence of street railway company in violation of, see STREET RAILWAYS, §

Suit for statutory penalty as a civil or criminal prosecution. 27 L.R.A.(N.S.) 739.

Criminal responsibility for violation of statute after judicial ruling that it was unconstitutional and before such ruling had been changed. 33 L.R.A. (N.S.)

Violation of statute or ordinance by plain-tiff as precluding recovery for negli-gence in action by or against driver or owner of automobile. L.R.A.1915E, 959.

Violation of law by operator of automobile as affecting defense of contributory negligence. L.R.A.1915D, 968.

## II. Enactment; validity.

## a. Enactment; adoption; taking effect.

3. Generally.

Conclusiveness of enrolled bill as to, see infra, § 12.

Making statute contingent on approval by the people, see CONSTITUTIONAL LAW, § 12.

Passage of, as excuse for nonperformance of contract, see Contracts, § 124a.

Initiative and referendum, see Initiative, REFERENDUM, AND RECALL, § 1.

Enactment of ordinance, see MUNICIPAL COR-PORATIONS, § 21.

Validity of Workmen's Compensation Act as affected by failure to observe formalities in passing the act. L.R.A. 1917D, 63.

Adoption of English statutes as part of common law. 22 L.R.A. 508.

Power of legislature to enact a Code or compilation of laws, or amend many or undesignated sections thereof, by a single statute. 55 L.R.A. 833.

\$ 3a. Necessity of enacting clause. In absence of constitutional provision requiring an enacting clause. 1915B, 1060. L.R.A.

Under Constitution requiring an enacting clause. L.R.A.1915B, 1060.

## § 4. Revenue bills.

What are acts for raising revenue which must originate in the lower branch of the legislature. 35 L.R.A. 188. Attack on enrolled bill for improper origin

of. 40 L.R.A.(N.S.) 13.

§ 5. Governor's part in enactment, Withdrawal of bill from governor. 14 L.R.A. 251.

STATUTES, II. a-cont'd

Power of governor to veto part only of statute. 55 L.R.A. 882.

Attack on enrolled bill for nonpresentation to governor within time prescribed by Constitution. 40 L.R.A.(N.S.) 23.

Attack on enrolled bill for nonapproval by governor. 40 L.R.A.(N.S.) 23.

Resort to legislative journals to show passage of bill over governor's veto. L.R.A.(N.S.) 34.

Attack on enrolled bill passed at special session not within scope of governor's message or proclamation. 40 L.R.A. (N.S.) 27.

#### § 6. - signing after adjournment of legislature.

Right of the executive to sign a bill after the adjournment of the legislative bodies. 37 L.R.A. 391.

#### § 7. Time of passage of, and taking effect.

What is the time of "passage" of. 15 L.R.A. 243.

First and last days in computing time of

enactment. 49 L.R.A. 243.
Construction of constitutional limitations as to time for introduction of bills in legislative assemblies. L.R.A. 965.

Impeachment of bill by showing introduction of it after time limited by constitution. 40 L.R.A.(N.S.) 12. Time when initiated measure takes effect.

50 L.R.A.(N.S.) 209; L.R.A.1917B, 25. Time when statute which is subject to referendum takes effect. 50 L.R.A.(N.S.) 210; L.R.A.1917B, 25.

## b. Validity, generally.

8. Generally.

Necessity of enacting clause, see supra, § 3a.

Power to cure unconstitutional act by amendment, see infra, § 30.

Constitutionality of statute, generally, see CONSTITUTIONAL LAW.

Constitutional provisions protecting private rights, see Constitutional Law.

Curative acts, see Constitutional Law, §§ 9, 10.

Presumption and burden of proof as to, see EVIDENCE, §§ 19, 20.

Unconstitutionality of statute as defense against mandamus to compel its enforcement, see Mandamus, § 20.

Right in a collateral proceeding to raise the question of the validity of a statute upon which a proceeding in a criminal case is based. L.R.A.1918D, 1007.

Consideration of extrinsic evidence to show unconstitutionality of. 14 L.R.A. 459; L.R.A.1915D, 458.

Unconstitutionality of statute as defense against mandamus to compel its enforcement. 47 L.R.A. 512; 24 L.R.A. (N.S.) 1260.

STATUTES, II. b-cont'd

Prohibition against proceeding under unconstitutional statute. 1 L.R.A. (N.S.) 843.

Effect of removal of constitutional objections to a statute. 48 L.R.A.(N.S.) 349.

Definiteness of statute establishing juvenile courts. 45 L.R.A.(N.S.) 908.

9. Who may question validity. Of anti-trust law, see Monopoly and Com-BINATIONS, § 15.

Who may raise objection that a statute contains an unconstitutional discrimination. 32 L.R.A. (N.S.) 954.

Right of relator in mandamus proceedings to attack constitutionality of statute relied upon by respondent. 16 L.R.A. (N.S.) 266.

Who may question validity of workmen's compensation act. L.R.A.1916A, 412; L.R.A.1917D, 63.

Who may question validity of the Torrens Law. L.R.A.1916D, 42.

\$ 10. Partial invalidity. Of civil service laws. 34 L.R.A.(N.S.) 484.

## c. Proof of, legislative journals; conclusiveness of enrolled bill.

§ 11. Generally.

Judicial notice of legislative journals, see EVIDENCE, § 5.

Legislative journals as evidence. 23 L.R.A. 340; 40 L.R.A.(N.S.) 1.

Judicial notice of existence and contents of. 40 L.R.A.(N.S.) 38.

§ 12. Conclusiveness of enrolled bill. Generally. 23 L.R.A. 340; 40 L.R.A. (N.S.)

Conflicting rules. 2 L.R.A. 348; 40 L.R.A. (N.S.) 4.

Particular grounds of attack. 40 L.R.A. (N.S.) 12.

Impeachment of bills of evidence other than legislative journals. 40 L.R.A. (N.S.) 30.

Resort to legislative journals in aid of bill. 40 L.R.A. (N.S.) 33.

Resort to evidence other than journals in aid of bill. 40 L.R.A.(N.S.) 34.

Resort to journals to determine which of two inconsistent bills is in force. 40 L.R.A. (N.S.) 35.

Conclusiveness of journal recitals. L.R.A.(N.S.) 35. 40

Effect of inconsistent journal entries. L.R.A. (N.S.) 36.

Presumption of regular enactment of bills. 40 I.R.A.(N.S.) 36.

Legality of enactment of bill as question of law. 40 L.R.A. (N.S.) 37.

Necessity of pleading illegal enactment of bill. 40 L.R.A. (N.S.) 37.

40 L.R.A.(N.S.) 38. Consult also L.R.A. Digests of Cases. 79

STATUTES, II.-cont'd

d. Entitling; plurality of subjects.

§ 13. Generally.

Necessity and sufficiency of reference in title of statute to appropriations to put its purpose into effect. L.R.A.1917B, 812.

Sufficiency of title of statute embodying a Code or compilation of laws. L.R.A. 836.

Single statute embodying Code or compilation of laws as affected by prohibition against plurality of subjects. LR.A. 840.

Provision in act against giving away of intoxicating liquors where title only prohibits or regulates its sale as contravening the constitutional provision that the subject of every bill be expressed in its title. 15 L.R.A.(N.S.) 430.

Validity of statute or ordinance authorizing a levying of taxes, incurring of indebtedness, or the appropriation of money, for two or more purposes. 14 L.R.A.(N.S.) 519.

Sufficiency of title of civil service laws. 34 L.R.A. (N.S.) 483.
Sufficiency of title of primary election laws.

22 L.R.A. (N.S.) 1137; 41 L.R.A. (N.S.) 133; L.R.A.1917A, 260.

Sufficiency of title of act as to licensing automobiles. 52 L.R.A. (N.S.) 956.

Sufficiency of title of statutes in relation to vinegar. 49 L.R.A.(N.S.) 1206. Title of the Torrens Act. L.R.A.1916D, 20.

Validity of statute providing for attorney's fee as affected by title to act. L.R.A. 1915E, 949.

Validity of Workmen's Compensation Statute as affected by title. L.R.A.1917D, 62.

Title as aid to construction. 2 L.R.A. 610.

§ 14. Amendatory or revisory laws. Sufficiency of title of statute amending many or undesignated sections of Code or compilation of laws. 55 L.R.A. 842.

Single statute amending many sections of Code or compilation of laws as affected by prohibition against plurality of subjects. 55 L.R.A. 850.

## e. General and special; classification.

§ 15. Generally.

As to equal protection and privileges, see CONSTITUTIONAL LAW, IX. b.

General laws must be enacted where applicable; legislative discretion. 14 L.R.A. 566.

Validity of classification in Sunday law. 14 L.R.A.(N.S.) 1259; 32 L.R.A. (N.S.) 1190.

Primary election law as special or local law. 22 L.R.A.(N.S.) 1139; 41 L.R.A. (N.S.) 135.

Proof of existence and contents of journals. Local and special civil service legislation.

34 L.R.A. (N.S.) 483.

STATUTES, II. e—cont'd Statute providing for commission form of Statutory authority as defense to liability government as special and local legislation. 41 L.R.A. (N.S.) 112.

Constitutionality of private statutes to authorize disposal of property. LR.A. 251.

Curative act as special legislation. 5 L.R.A.(N.S.) 327; 22 L.R.A.(N.S.) 534; 42 L.R.A.(N.S.) 465.

Consideration of extrinsic evidence to show unconstitutionality of statute attacked as local. 14 L.R.A. 459.

Attack on enrolled bill for failure to give notice of application for passage of. 40 L.R.A.(N.S.) 28.

Statute establishing juvenile court as a special or local law. 45 L.R.A. (N.S.) 911.

Statute licensing automobiles as local or specific act. 52 L.R.A.(N.S.) 957.

The Torrens Law as special or local. L.R.A. 1916D, 20.

Statute requiring license to keep inn, hotel, boarding or lodging house or restaurant as a special or local law. L.R.A. 1915B, 1101.

Acts regulating spe L.R.A.1918D, 134. speed of automobiles.

§ 16. Municipal matters.

Annexation of territory to municipality by. 27 L.R.A. 743.

Discrimination with respect to occupation tax based on classification of municipalities. 15 L.R.A.(N.S.) 195.

Constitutionality of commission form of government. 35 L.R.A.(N.S.) 802; 51 L.R.A.(N.S.) 632; L.R.A.1917A, 1260.

17. Taxes.

Classification for purposes of corporate taxation. 60 L.R.A. 339.

Discrimination with respect to occupation tax based on classification of municipalities. 15 L.R.A.(N.S.) 195.

18. — succession taxes.

Local or special succession tax law. L.R.A. (N.S.) 600.

Classification of inheritances or gifts for purposes of succession tax on basis of amount. 6 L.R.A.(N.S.) 732.

## III. Construction, operation, effect.

## a. In general.

§ 19. Generally.

Effect of repeal, see infra, §§ 33-35.

Construction and effect of statute relating to particular subjects, see particular titles, e. g., LIMITATION OF ACTIONS; MUNICIPAL CORPORATIONS.

Extraterritorial effect of statute, see Con-FLICT OF LAWS.

Construction of constitution, see Constitu-TIONAL LAW, §§ 5, 6.

Construction of initiative and referendum statutes, see Initiative, Referendum AND RECALL, § 1.

for maintaining nuisance, see NUI-**BANCES, §§ 28, 29.** 

Implied sanction of evil by. 14 L.R.A. 846. Construction of statutes legalizing invalid municipal contracts. 27 L.R.A. 704.

Construction of statutes as to exemption from inheritance or succession taxes. 23 L.R.A. (N.S.) 1209; 48 L.R.A. (N.S.) 373.

Effect of passage, before expiration of time for performance of contract, of statute rendering performance impossible. 10 L.R.A.(N.S.) 415; 41 L.R.A.(N.S.) 554, 559.

Effect of, to defeat or preserve pending civil actions. 14 L.R.A. 721.

Legislative requirements as defense to carrier for delay in transportation of passengers or freight. 31 L.R.A.(N.S.) 1184.

Effect on pending action of expiration of statutory period permitting litigation by corporation after dissolution. 32 L.R.A.(N.S.) 452.

Effect on pre-existing judgments of statute. permitting release of one joint judgment debtor without affecting the others. 9 L.R.A.(N.S.) 1066,

Statute as to effect of intent not to pay for goods purchased. 44 L.R.A.(N.S.) 25. Scope and effect of statutes making compe-

tent entries, memoranda, and declarations of a deceased person. 44 L.R.A. (N.S.) 28.

Violation of statute in relation to blocking railroad crossing as affecting liability for injury. 47 L.R.A. (N.S.) 820.

Federal courts following state decisions as to construction and effect of. L.R.A. (N.S.) 393.

§ 20. Legislative intent.

Implication from penalty that legislature intended that contract in violation of statute should be invalid. 12 L.R.A. (N.S.) 588.

§ 21. Construing statutes together.

§ 22. Effect to abrogate maxim that one cannot profit by his own wrong. Divorce statutes. 25 L.R.A. 565.

Statutes of limitation. 25 L.R.A. 566.

Statutes against foreign corporations. L.R.A. 569.

Statute compelling railroad company to carry baggage free. 25 L.R.A. 569. Statute avoiding auction sales when duty unpaid. 25 L.R.A. 569.

Statute of frauds. 25 L.R.A. 569. Statutes providing for discharge in bankruptey. 25 L.R.A. 571.

Statutes imposing liability for negligence 25 L.R.A. 572.

Statutes giving dower. 25 L.R.A. 573. Estoppel generally. 25 L.R.A. 573. Nebraska decisions. 25 L.R.A. 573.

## STATUTES, III.—cont'd

## b. Meaning of words; mandatory or directory.

\$ 28. Generally.

Corporations as persons within statutes, see Corporations, § 9.

Do terms "child," "children," "issue," etc. in statutes governing distribution of decedent's estate include adopted children. 30 L.R.A. (N.S.) 914; L.R.A. 1918F, 1082.

Does widow come within the term "heirs." L.R.A.1918A, 1108. Meaning of words "unmarried" and "with-

out having been married" in statute. 15 L.R.A. 292.

Who is a peddler or hawker within statutory regulations. L.R.A.1916B, 1293. Hand car as a car within statute. L.R.A. 1915A, 817.

Who is a negro, mulatto, or a person of color within statute not specifically de-

fining the same. L.R.A.1015A, 828.

Meaning of term "waterproof." L.R.
1918B, 826. L.R.A.

§ 24. Mandatory or directory. When word "may" in statute is to be deemed mandatory. 5 L.R.A.(N.S.) 340.

## c. Construction of penal statutes; strict or liberal construction.

3 25. Generally.

Statutes enhancing penalty for crime committed by habitual criminals or prior offenders. 34 L.R.A. 400.

Statutory provision for penalty as affecting validity of contract made by foreign corporation without complying with statutory conditions of doing business. 4 L.R.A.(N.S.) 688.

Hours of service laws as penal statutes. L.R.A.1915D, 408; L.R.A.1917A, 1202.

§ 26. Strict or liberal construction. Strict or liberal construction of statute fixing penalty for taking of usury by national bank. 56 L.R.A. 674.

Liberal or strict construction of Federal employers' liability act. 47 L.R.A. (N.S.) 45; L.R.A.1915C, 48.

Strict or liberal construction of workmen's compensation acts. L.R.A.1913A, 215; L.R.A.1917D, 89.

## d. Adopted or re-enacted statutes.

## 🖁 27. Generally.

e. Prospective or retrospective.

28. Generally.

Constitutionality of retrospective act, see CONSTITUTIONAL LAW, §§ 8-10.

Retroactive effect of statute as to effect of conviction on marriage relation. L.R.A. 520.

Retractive effect of statutes relative to employers' liability for injuries to employers' liability for injuries to of ordinance, see MUNICIPAL CORPORATIONS, servants. 44 L.R.A.(N.S.) 841.

Consult also L.R.A. Digests of Cases.

STATUTES, III. e-cont'd

Retroactive operation of Federal employers' liability act. 47 L.R.A.(N.S.) 45; L.R.A.1915C, 48.

Retroactive effect of workmen's compensa-L.R.A.1916A, 216; L.R.A. tion acts. 1917D, 89.

Retrospective operation of succession tax. 44 L.R.A.(N.S.) 419.

Retrospective effect of statute prescribing grounds of divorce. L.R.A.1917C, 160. Effect of subsequent statute on executory judgment. L.R.A.1918D, 253.

Effect of Webb-Kenyon Act on statutes en-acted before its passage. L.R.A.1916C,

309; L.R.A.1918B, 461.

Applicability to existing purchaser, of changes in law relating to redemption from judicial sales. L.R.A,1915C, 414.

Statute changing time allowed for appeal or writ of error as affecting pend-

ing action. 51 L.R.A.(N.S.) 760.

Applicability to existing judgments of statute abolishing or diminishing exemptions. 25 L.R.A.(N.S.) 189.

Applicability to existing contracts, of statute avoiding contractual stipulations limiting time for action. 38 L.R.A. (N.S.) 1016,

Applicability to past sales of statute eliminating notice of expiration of redemption period required by previous statute, or requiring such notice when none was before required. 10 L.R.A. (N.S.) 818.

## IV. Amendment; re-enactment; repeal.

#### a. Amendment: re-enactment.

**§§ 29, 30.** Generally.

Sufficiency of title of amendatory act, see supra, § 14.

Construction of re-enacted statute, see supra, § 27.

Amendment of constitution, see CONSTITU-TIONAL LAW, § 4.

Power to cure unconstitutional act by amendment, see Constitutional Law, § 9.

Necessity of re-enacting statute after removal of constitutional objections thereto. 48 L.R.A.(N.S.) 349.

Necessity of re-enacting and publishing at full length Code or compilation of laws sought to be amended. 55 L.R.A. 853.

Amendment and substitution of bills after expiration of constitutional limitation. 67 L.R.A. 967.

Amendment of initiative and referendum

legislation. 50 L.R.A. (N.S.) 208; L.R.A.1917B, 24.

Primary election law as amendment to prior act. 22 L.R.A. (N.S.) 1139; L.R.A. 1917A, 260.

## b. Repeal.

STATUTES, IV. b-cont'd

Repeal of municipal exemption of rural lands within corporate limits. L.R.A. (N.S.) 696.

Repeal of initiative and referendum legislation. 50 L.R.A. (N.S.) 208; L.R.A. 1917B, 24.

Power to repeal act on which a referendum has been filed. L.R.A.1917B, 26.

§ 32. Implied repeal.

Implied repeal of statute exempting corporation from taxation. 60 L.R.A. 93.

Repeal of statute excluding evidence discovered or obtained by judicial proceedings against accused. 37 L.R.A. (N.S.) 96.

Statutory removal of disability of coverture as repealing exception in Statute of Limitations in favor of married women. L.R.A.1918C, 193.

33. Effect of repeal,

Effect of repeal or alteration of statute allowing claim against state. 42 L.R.A.

Effect of repeal on existing right of action.
4 L.R.A. 555;\* 14 L.R.A. 721.

Effect of repeal of prohibitory statute on validity of contract. 12 L.R.A.(N.S.)

Repeal of statute imposing succession tax, as affecting estate of one who died before the repealing act took effect. 8 L.R.A.(N.S.) 1210.

Effect of repeal of statute on condition as de facto officer. 15 L.R.A.(N.S.) 98.

34. — on pending actions.

Pending appeal, see APPEAL AND ERBOR, \$ 11.

Effect of repeal to defeat or preserve pend-

ing civil actions. 14 L.R.A. 722.

Effect of repeal of civil statute pending motion for new trial from judgment based thereon. 37 L.R.A.(N.S.) 934.

35. — on criminal liability.

Effect of repeal without saving clause or penal statute or ordinance upon prior conviction under it. 23 L.R.A. (N.S.) 243.

Effect of repeal for repugnancy of criminal statute on prior offense. 9 L.R.A. (N.S.) 165.

## STATUTORY NEW TRIAL.

In ejectment, see EJECTMENT, § 13.

## STATUTORY REMEDY.

Exclusiveness of, see Election of Reme-DDES, § 12. Begin with this book on every law question.

## STATUTORY STATEMENT.

Right of court to instruct jury as to statutory statement by accused. 19 L.R.A. (N.S.) 827.

## STAY.

Of action, see ACTION OR SUIT, § 20. On appeal, see Appeal and Error, §§ 9-10a, 15-17, 46.

Liability on appeal bond, see APPEAL AND ERROR, § 46.

Of execution, see EXECUTION, § 12.
Of execution of sentence for crime, see CRIMINAL LAW, § 84.

## STEALING.

See LARCENY.

#### STEAM.

Municipal regulation of, as nuisance. 38 L.R.A. 306; 39 L.R.A. 621.

Liability for turning into sewer. 15 L.R.A. (N.S.) 957.

Duty to prevent escape of steam from engine in highway so as to frighten horses. 31 L.R.A.(N.S.) 1209.

Private action for injury by violation of police ordinance against blowing off steam. 5 L.R.A.(N.S.) 244.

Frightening of horse by blowing off of steam by railroad company operating trains longitudinally along public street. 49 L.R.A.(N.S.) 677.

#### STEAMBOATS.

See SHIPPING.

#### STEAM BOILER.

Master's duty to inspect. 41 L.R.A. 87. Res ipsa loquitur in case of explosion of, injuring servant. L.R.A.1917E, 187.

STEAMER.

See SHIPPING.

## STEAM HEATING PLANT.

As part of realty. 1 B. R. C. 972.

#### STEAM POWER.

As dangerous agency for injury by which, when used by servant master is liable. 10 L.R.A.(N.S.) 382.

#### STEAM ROLLER.

Liability for fires set by, see FIRES, § 8.

#### STEAMSHIP.

See SHIPPING.

#### STEAMSHIP COMPANY.

State tax on receipts and income of. 57 L.R.A. 64.

Service of process on, by delivery to ticket agent. L.R.A.1916F, 453.

#### STEAMSHIP TICKETS.

Notice to passenger of conditions on. 23 L.R.A. 846.

#### STENOGRAPHER.

å 1. Generally.

Unauthorized presence of stenographer in grand jury room as affecting indictment. L.R.A.1916D, 1123.

Improper influence or interference with grand jury by. 28 L.R.A. 371.

Communication to, as publication of libel. 1 B. R. C. 455; L.R.A.1918F, 568. Stockholder's right to assistance of, in in-

specting corporate books. 20 L.R.A. (N.S.) 197.

§ 2. Official stenographer.

Improper influence or interference with grand jury by. 28 L.R.A. 371.

Attorney's implied power to bind client for fees of. 23 L.R.A. (N.S.) 703.

Disposition of appeal on death or default of official stenographer. 25 L.R.A. (N.S.) 867.

3. — minutes of.

Right of jury to have reporter's shorthand notes read to them. 21 L.R.A.(N.S.)

Impeachment of enrolled bill by. 40 L.R.A. (N.S.) 32.

#### STEPCHILDREN AND STEP-PARENTS.

Stepchildren as members of the family of Character of occupancy by steward of club. insured. 3 L.R.A.(N.S.) 334. 4 L.R.A.(N.S.) 718. Consult also L.R.A. Digests of Cases.

STEPCHILDREN AND STEPPARENTScont'd

Stepchild as beneficiary under contract of benefit associaton. 2 L.R.A. (N.S.) 653; 36 L.R.A.(N.S.) 208; L.R.A.1916B, 905. Statutory right of action for death of step-parents. L.R.A.1916E, 130.

Abandonment of homestead by stepparent, effect on rights of children. 56 L.R.A. 84.

Liability for necessaries furnished step-child. 42 L.R.A.(N.S.) 535. Presumption and burden of proof as to un-due influence respecting gifts inter-vives to stepchildren. 35 L.R.A.(N.S.)

Implied agreement to pay for services rendered to stepparents. 11 L.R.A. (N.S.)

Authority of stepchild to bind parent by contracts other than those for necessaries. 39 L.R.A.(N.S.) 885.

Voluntariness of confession to stepfather. 18 L.R.A. (N.S.) 854.

## STEPPING BLOCKS.

In highway, see Highways, § 36.

As unlawful obstructions or nuisances. 31 L.R.A. (N.S.) 853.

#### STEPS.

Municipal liability for injury by steps in street. 20 L.R.A. (N.S.) 637; 43 L.R.A. (N.S.) 1158.

Right of abutting owner to extend steps into street. 24 L.R.A.(N.S.) 193.

Steps extending beyond line as violation of building restriction. 52 L.R.A. (N.S.) 1050.

## STERILIZATION.

Of criminals or defectives. 41 L.R.A. (N.S.) 419; L.R.A.1918D, 236.

#### STEVEDORE.

Contracts of; jurisdiction of admiralty as to. 66 L.R.A. 229.

Jurisdiction of admiralty over suit for injury to. 51 L.R.A.(N.S.) 1157.

Liability of shippers of goods for injuries to. 46 L.R.A. 104.

Maritime lien for services of. 70 L.R.A. 384.

As independent contractor. 65 L.R.A. 470; 17 L.R.A.(N.S.) 375.

#### STEWARDS.

4 L.R.A. (N.S.) 718.

#### STICKS.

As deadly weapons. 21 L.R.A.(N.S.) 504. Master's liability for injury by defects in. 51 L.R.A.(N.S.) 338.

#### STIFLING COMPETITION.

See Monopoly and Combinations.

## STIPULATED DAMAGES.

See Damages, §§ 38-40.

#### STIPULATION.

Limiting liability of common carrier, see CARRIERS, §§ 91, 128-135. In telegraph blank, see TELEGRAPHS, §§ 20, During trial, see TRIAL, § 7.

Fraud or perjury as ground of attack upon a judgment entered upon stipulation or compromise. 45 L.R.A.(N.S.) 1159. Collateral attack on judgment by, for fraud not affecting the jurisdiction. 36 L.R.A.(N.S.) 987.

#### STOCK.

Livestock, see ANIMALS; RAILROADS, §§ 73-76, 85. Of building and loan association, see Build-ING AND LOAN ASSOCIATION, § 3. Corporate stock generally, see CORPORA-TIONS, VIII.

## STOCK AND PRODUCE EXCHANGE.

See BOARD OF TRADE; EXCHANGES.

## STOCK BREEDERS.

Validity of contract with unlicensed breeder. 12 L.R.A.(N.S.) 617.

## STOCK BROKERS.

See BROKERS.

## STOCK CARS.

In general, see CARRIERS, §§ 124-127.

Risk assumed by passenger on. 19 L.R.A. See Corporations, §§ 100-102; Life Ten-

#### STOCK CERTIFICATE.

See CORPORATIONS, VIII.

#### STOCK DIVIDENDS.

Right to, as between life tenant and remaindermen, see LIFE TENANTS, § 6. In general, see Corporations, § 100.

#### STOCK DROVER.

See DROVERS.

#### STOCK EXCHANGE.

See EXCHANGES.

#### STOCKHOLDERS.

Of corporation, see Corporations, VIII.

#### STOCKHOLDERS' LIABILITIES.

See Corporations, §§ 104–121.

## STOCKMEN.

See DROVERS.

## STOCK NOTE.

When limitations begin to run against action on stock note of mutual insurance company. 1 L.R.A.(N.S.) 914.

#### STOCK PENS.

See CARRIERS, § 125.

#### STOCK RAISERS.

Combination among, as a monopoly. 44 L.R.A.(N.S.) 1104.

#### STOCK RIGHTS.

ANTS, § 6. Begin with this book on every law question.

#### STOCK TRANSFER TAX.

See TAXES, § 107.

#### STOCK YARDS.

# 1. Generally.

Maintenance by stock yards companies of private siding, tap line, connecting tracks or other switching facilities as carrying on the business of a common carrier. L.R.A.1918B, 684.

Use of railroad right of way for purposes of, as against owner of fee. 36 L.R.A.

(N.S.) 518.

On railroad right of way as separate subjects of taxation. L.R.A.1916E, 416.

Duty of carrier of live stock to provide. L.R.A.1918C, 539. Duty of carrier to deliver car at. 41 L.R.A.

(N.S.) 682.

Discrimination by carrier in delivering live stock to stock yards. 12 L.R.A. (N.S.)

3. As nuisance.

Municipal power over, as a nuisance. 38 L.R.A. 655.

Duty of carriers of live stock as to, at stations. 44 L.R.A. 289.

Power of municipal corporation to prevent stock yards within corporate limits. 28 L.R.A.(N.S.) 122.

Presumption of statutory authority of railroad to commit nuisance by maintaining. 70 L.R.A. 589.

#### STOLEN NOTES.

See STOLEN PROPERTY, § 2.

## STOLEN PROPERTY.

Generally.

Stolen stock certificates, see Componations, § 75.

Receiving stolen property, see RECEIVING STOLEN PROPERTY.

As to larceny generally, see LARCENY.

Validity and enforceability of contract to compensate the owner of property stolen in absence of duress or agreement, express or implied, to stifle prosecution. L.R.A.1915E, 139.

Running of limitations against action to recover. 29 L.R.A. (N.S.) 120; 34 L.R.A. (N.S.) 621.

\$ 2. Commercial paper. Lost or stolen check. 26 L.R.A. 571. Circumstances sufficient to put purchaser of, on inquiry. 29 L.R.A. (N.S.) 385.

Maker's right to defend against transferee after maturity on ground that com-mercial paper had been stolen. 46 L.R.A. 775.

Consult also L.R.A. Digests of Cases.

STOLEN PROPERTY—cont'd

Right to recover on a bill or note stolen before delivery. L.R.A.1915E, 351.

#### STONES.

Municipal liability for injury by stones in street. 20 L.R.A.(N.S.) 615.

Right to stone upon railroad right of way as between company and fee owner. 45 L.R.A.(N.S.) 800.

#### STOOL.

Master's liability for injury by defects in. 51 L.R.A.(N.S.) 339.

## STOP, LOOK, AND LISTEN.

Duty to, before crossing railroad track, see RAILBOADS, §§ 83, 84. Before crossing street car tracks, see STREET RAILWAYS, § 21.

## STOPOVER,

See CARRIERS, § 47.

## STOPPAGE IN TRANSITU.

See SALE, § 61.

#### STOPPING.

At railroad track to listen, see RAILBOADS, §§ 83, 84.

At street car track to listen, see STREET RAILWAYS, § 21.

## STOPPING PAYMENT.

Of check, see BANKS, § 25a.

## STOPPING TRAINS.

Right to require, see CARRIERS, § 162. Failure to stop train as proximate cause of injury to passenger, see Proximate Cause, § 9.

## STORAGE.

Charge for, by carrier, see Carriers, § 141. 46 | Cold storage, see Cold Storage. In warehouse, see WAREHOUSES.

STORAGE—cont'd

Effect of breaking continuity of shipment by storage of goods for reshipment in the course of trade, on its interstate character. L.R.A.1917D, 1190.

Contract for; jurisdiction of admiralty. 66 L.R.A. 233.

Right to store appropriated water. L.R.A. 322; 17 L.R.A.(N.S.) 229.

Right of one not in the storage business to a common law lien for storage charge. 39 L.R.A.(N.S.) 1164.

Lien upon automobile for. L.R.A.1918D, 330.

Right to use railroad right of way as against owner of fee for storage purposes. 36 L.R.A.(N.S.) 518.

Loss of profits as element of damages in case of storage contracts. 53 L.R.A. **R**5.

Negligence in storage of explosives. L.R.A. 724.

Of explosives as nuisance. 16 L.R.A.(N.S.) 691; L.R.A.1915A, 615.

Municipal liability for injury by storage of vehicles, lumber, etc., in street. 20 L.R.A. (N.S.) 612.

Liability for damages by escape of dangerous substance stored on premises. 15 L.R.A.(N.S.) 535.

Water. 15 L.R.A.(N.S.) 541; 33 L.R.A. (N.S.) 1061.

Encroachment on public street or alley by occupier of abutting property for purpose of, as basis of adverse possession or estoppel. 36 L.R.A. (N.S.) 1056.

Business of storing grain in warehouses as affected with a public interest authorizing regulation of rates and prices. 6 L.R.A. (N.S.) 836.

## STORAGE RESERVOIR.

Passing of, to grantee of mill. 58 LR.A. 490. Right to consider value of property as part of natural water power in fixing compensation for taking land for. 3 L.R.A. (N.S.) 912.

#### STOREKEEPER.

§ 1. Duty and liability towards cus-

Liability for injury by elevator to customer in store, see ELEVATORS, § 6.

Liability for malicious act of servants towards customers. 4 L.R.A.(N.S.) 485. Liability of, for property stolen from customers. 10 L.R.A.(N.S.) 314.

Applicability of rule res ipsa loquitur as

between storekeeper and customer. 16 L.R.A. (N.S.) 931.

Duty of store or shopkeeper toward customer as to condition of premises. 21 L.R.A.(N.S.) 456; L.R.A.1915F, 572. Begin with this book on every law question.

#### STORE ORDERS.

Usury in. 42 L.R.A.(N.S.) 1058.

#### STORES.

Department stores, see DEPARTMENT STORES.

What passes under devise or bequest of store. L.R.A.1917D, 435.

Constitutionality of statutes against "company stores." 21 L.R.A. 797.

Insurable interest in fluctuating property

in. 52 L.R.A. 340. Servants in, as fellow servants. 50 L.R.A. 436.

Operator of elevator or other hoisting apparatus as fellow servant of other employees in. 41 L.R.A.(N.S.) 158.

Validity of classification in Sunday law as to keeping open. 14 L.R.A.(N.S.) 1259; 32 L.R.A.(N.S.) 1190.

Validity of statute or ordinance requiring closing of, at certain hours. L.R.A. 1916A, 654.

#### STORM.

Municipal liability for injury by surface water during unusual storms. L.R.A. 277.

Liability for injury on wharf by vessel attached thereto during storm. 27 L.R.A. (N.S.) 312.

Snowstorm as act of God relieving carrier from liability. 24 L.R.A.(N.S.) 1209. Effect of, on duty as to electric wires over highway. 22 L.R.A.(N.S.) 1174.

Duty to protect traveler from personal injury or death from electricity carried from wires strung along highway as affected by storms. 1 B. R. C. 808.

Liability of railroad company to employees for injuries caused by defects in roadbed caused or accompanied by rainfall. 49 L.R.A.(N.S.) 198.

#### STORM DOORS.

As fixtures. 30 L.R.A.(N.S.) 1189.

#### STORM WINDOWS.

As fixtures. 30 L.R.A. (N.S.) 1189.

## STOVES.

Gas stoves as fixtures. 17 L.R.A.(N.S.) 699.

As part of realty. 1 B. R. C. 972.

#### STOWAGE.

Provision relieving carrier from liability for loss by stowage as extending to loss caused by negligence. 6 B. R. C. 128.

#### STRAIGHT LINE METHOD.

Of treatment of depreciation in estimating return of a public service corporation for rate-making purposes. 52 L.R.A. (N.S.) 33.

#### STRAIN.

Right to recover on insurance policy for injury from, see Insurance, § 163.

Recovery under Workmen's Compensation
Act for incapacity resulting from.
L.R.A.1917D, 108, 111; L.R.A.1918F, 873.

#### STRAITS.

Jurisdiction over. 46 L.R.A. 266.

## STRANDING.

Voluntary, effect of, upon liability on marine insurance policy. 1 L.R.A. (N.S.) 1097.

## STRANGULATION.

Of horse during transportation. 39 L.R.A. (N.S.) 643.

#### STRAW.

Tenant's rights as to, see LANDLORD AND TENANT, § 51.

Regulation of storage of, for purpose of fire protection. 41 L.R.A.(N.S.) 457.

#### STREAMS.

See WATERS.

## STREET CARS.

Injury by, see STREET RAILWAYS, §§ 10-24. As dangerous agency for injury by which, when used by servant, master is liable. 10 L.R.A.(N.S.) 390. Consult also L.R.A. Digests of Cases.

STREET CARS-cont'd Negligence of servant in sending out unsafe cars causing injury to other servants. 1 L.R.A.(N.S.) 670.

#### STREET CAR TRANSFER.

See CARRIERS, § 27.

## STREET CLEANING.

As a governmental function. L.R.A.1915C, 741.

## STREET COMMISSIONERS.

See HIGHWAYS, § 114.

#### STREET FRANCHISE.

See Highways, §§ 21-32.

#### STREET INTERSECTIONS.

Liability of street railway for assessment for pavements at. 46 L.R.A. 196.

## STREET LIGHTING.

See HIGHWAYS, V. d.

#### STREET NUMBER.

Description of land in deed or contract by reference to street number. L.R.A. 1918C, 520.

## STREET PARADES.

See PARADES.

#### STREET RAILWAYS.

I. In general, §§ 1, 2.
II. Franchises; construction; municipal control over, §§ 3-6.

a. In general, \$\$ 3, 4.
b. Municipal control over, \$\$ 5, 6.

III. Motive power, \$ 7. IV. Operation, \$\$ 8-24.

a. In general, § 8, 9. b. Duty and care of company, \$\$ 10-19.

STREET RAILWAYS, IV.—cont'd

- c. Contributory negligence, \$\$ 20-23.
- d. Notice of defect or injury, \$ 24.

#### I. In general.

§ 1. Generally.

As carriers, see CARRIERS.

Regulation of rates, see CARRIERS, V. c. Constitutionality of statutes as to, see Con-

STITUTIONAL LAW, § 150. Validity of agreement with, see CONTRACTS,

§ **96**.

Compensation to be paid to, upon taking its plant, see DAMAGES, § 82.

Municipal liability for injury by acts or omissions of street railway company, see Highways, § 64.

Injunction against, see Injunction, §§ 66-68.

Assessment against, for local improvement, see Public Improvements, § 22.

Valuation of property of, see Public Serv-

ICE CORPORATIONS, § 5.
Return of, see Public Service Corporations, § 6.

Appointment of receiver for, see RECEIVERS. See also Electric Railways; Elevated RAILBOADS; INTERUBBAN RAILBOADS; SUBWAY RAILBOADS.

Authority of inspector on street railway to contract for services of other persons. L.R.A.1918F, 66.

Power of municipality to assume part or all of burden of adapting street or bridges for street railways. 50 L.R.A.(N.S.) 143.

Right of street railway corporation to challenge powers or privileges of rival. L.R.A.1916B, 1087.

Liability of street railway company for damages in removing obstructions from its tracks. 43 L.R.A.(N.S.) 126.

Applicability of commerce clause or statutes thereunder to. 46 L.R.A.(N.S.) 385.

Right of common carrier to contract for the use of its cars for advertising purposes. 24 L.R.A.(N.S.) 1010.

§ 2. Crossing railroad track. See RAILROADS, § 29.

II. Franchises; construction; municipal control over.

#### a. In general,

\$ 3. Generally.

As additional servitude in street, see EMI-NENT DOMAIN, V.

Treatment of franchises in valuation of property of. 48 L.R.A.(N.S.) 1063.

Privilege of using street as a contract within provision against impairing obligation. 50 L.R.A. 143; L.R.A.1918E, 902,

Incorporation of territory into municipality as affecting prior rights to use high-way. 47 L.R.A.(N.S.) 608.

Begin with this book on every law question.

STREET RAILWAYS, II. a-cont'd

Power of legislature to authorize counties or other political subdivisions to build. purchase, or operate street railway asaffected by restrictions on power to aid private enterprise. 28 L.R.A.(N.S.) 412.

Power to compel street railway to complete its road. L.R.A.1918E, 321.

Employer's liability for negligence of independent contractor, in construction of-65 L.R.A. 845.

Right of railroad company to compensation for the crossing of its tracks, where it intersects a street or highway, by an electric road. L.R.A.1915D, 843.

§ 4. Rights of abutting owner.

Amount allowed to abutting owner on permitting street railway in street, see-DAMAGES, § 90.

Abutting owner's right to compensation, on construction of, see EMINENT DOMAIN, § 51.

As additional burden in street, see EMINENT DOMAIN, § 57.

Taking of land for, as a public use. L.R.A.(N.S.) 134.

Injury to abutting owner by laying track near side of street. 43 L.R.A. 554.

Rights of abutting owner as affected by track close to sidewalk. 1 L.R.A. (N.S.)

Remedy of abutting owner as affected by his consent to the construction of, in street. 7 L.R.A.(N.S.) 991; 23 L.R.A. (N.S.) 433.

Preventive remedy of nonconsenting abutting owner where use of highway for street railway is authorized by public. 28 L.R.A.(N.S.) 1082.

#### b. Municipal control over.

§ 5. Generally.

Power of municipality, in absence of express legislative authority, to grant franchise for street railway. 22 L.R.A.(N.S.) 925, 930, 935.

Municipal control over, as nuisances. 39 L.R.A. 609.

Power of municipality to compel change of grade of railway in street. 70 L.R.A. 850.

Duty and right of municipality to reimburse street railway company for expenses incurred in changing or relaying track. 6 L.R.A.(N.S.) 1028.

Power to compel street railway to sprinkle tracks. 36 L.R.A. (N.S.) 235.

Power of municipality to prevent laying an additional track under a franchise originally granting the right to lay double tracks. 36 L.RA.(N.S.) 850.

Power to compel removal of spur track, turnout, or switch from street or highway. L.R.A.1918B, 481.

Power to prohibit or restrict smoking in street cars. 51 L.R.A.(N.S.) 562.

Right of municipal corporation to resist by force unauthorized use of street. 15 L.R.A.(N.S.) 1269.

STREET RAILWAYS, II. b—cont'd Retoppel of town or municipality to object to street railway in street by acquiescence or consent to its construction or use. 7 L.R.A.(N.S.) 1187.

Validity of ordinance requiring conductor on street car. 15 L.R.A. 604.

Municipal regulation of carriage of passengers by street railroads. 19 L.R.A. 570. Liability of municipality in damages for repeal, or interference with enjoyment, of street franchise. 36 L.R.A. (N.S.) 861.

§ 6. Municipal power to impose conditions when giving consent to.

Power to assent involves power to impose conditions. 36 L.R.A. 33.

Agreement by railroad. 36 L.R.A. 34. Conditions enforced. 36 L.R.A. 35.

Express power to impose conditions. 36
L.R.A. 35.

No power over subject where consent not necessary. 36 L.R.A. 36.
Conflict with other authority. 36 L.R.A. 36.

Conflict with other authority. 36 L.R.A. 36. Conditions after completion of contract. 36 L.R.A. 36.

Right to control street. 36 L.R.A. 36.
Effect of municipal direction or sanction on
liability of street railroad company for
defect in track or street. 15 L.R.A.(N.
S.) 845.

#### III. Motive power.

§ 7. Generally.

What motive power may be used. 2 L.R.A. (N.S.) 138.

#### IV. Operation.

## a. In general.

§ 8. Generally.

Duty to avoid interference with extinguishment of fires. 12 L.R.A.(N.S.) 382; 20 L.R.A.(N.S.) 1110; 39 L.R.A.(N.S.) 20.

9. Compelling operation.

Compelling operation of. 15 L.R.A. 21; 24 L.R.A. 564.

Duty of street railway to run car through to end of route indicated by sign thereon. 1 B. R. C. 442.

Right of street railway company to discontinue line in absence of statutory or contractual provision to the contrary.

19 L.R.A.(N.S.) 866.

## b. Duty and care of company.

§ 10. Generally.

Duty to passenger, see Carriers, III. Liability for negligence as to dangerous electric currents on wires, see Electricity, III. a.

Liability for injury due to defects in highway, see Highways, §§ 89-91.
Liability for injury due to defect in street

or track, see Highways, § 90.

Consult also L.R.A. Digests of Cases.

STREET RAILWAYS, IV. b—cont'd Liability for injury by frightening horse, see Horses, § 11.

Injury to employee of, see MASTER AND SERVANT, III.

Question for jury as to negligence of street railway company, see TRIAL, § 44.

Criminal homicide in operation of street railway. L.R.A.1917C, 536.

Violation by servant of rule adopted by company as evidence of negligence toward one other than servant. L.R.A. 1917C, 807.

Res ipsa loquitur in action for injury to person on highway, otherwise than by collision. 43 L.R.A.(N.S.) 599.

Necessity of headlights on street cars. 26 L.R.A. 300.

Duty owed to others by motorman blinded by light on highway. L.R.A.1917E, 1045.

Duty as to equipping cars so as to avoid or minimize injury to persons or animals on or near track. L.R.A.1915A, 746.

Injuries to bicyclists caused by street cara. 47 L.R.A. 302.

Validity of ordinance requiring conductor on street car. 15 L.R.A. 604.

Injury to street car passenger who, upon alighting, passes around car and is struck by car on another track. 4 L.R.A.(N.S.) 729; 21 L.R.A.(N.S.) 887.

Master's liability for injury to third person due to negligence of servants in charge of street cars. 10 L.R.A.(N.S.) 390.

Liability of street railway for injury to one other than passenger struck by object hurled by car. L.R.A.1915B, 1111.

Liability for injury to person other than passenger or employee by derailment of street car. 23 L.R.A.(N.S.) 751; L.R.A.1917D, 815.

Duty of motorman upon perceiving vehicle standing near track unattended. 24 L.R.A. (N.S.) 560.

Duty before starting car to see that no one is in dangerous proximity to side or rear of car. 31 L.R.A.(N.S.) 1153.

Liability of street railway company to one hit by swing of car on curve. 16 L.R.A. (N.S.) 890; 40 L.R.A. (N.S.) 133; L.R.A.1915C, 604.

Right of motorman to assume that person on track will get out of way. 21 L.R.A. (N.S.) 880.

Right of motorman to assume that no one will attempt to cross track so close in front of car as to render a collision probable. 5 L.R.A.(N.S.) 1059.

Rule of the road as affecting street cars and vehicles meeting or passing. 42 L.R.A.(N.S.) 1188.

Duty to avoid interference with extinguishment of fire. 12 L.R.A.(N.S.) 382; 20 L.R.A.(N.S.) 1110; 39 L.R.A.(N.S.) 20.

STREET RAILWAYS, IV. b—cont'd Liability of company operating railroad along highway for injury to live stock. L.R.A.1917E, 770.

Sufficiency of general allegations of negligence of. 59 L.R.A. 238.

§ 11. Violation of statute or ordinance. As to speed, see infra, § 13.

Violating ordinance as to operation of, as ground for private action. 5 L.R.A. (N.S.) 247.

Duty to comply with statute or ordinance as to equipping cars so as to minimize danger of injury to persons on or near track. L.R.A.1915A, 749.

Liability for injury to pedestrian or person waiting for car in consequence of carrying passengers on platform or running board. 45 L.R.A.(N.S.) 269.

## § 12. Speed.

Right of witness to express opinion as to. L.R.A.1918A, 702.

Violation by servant of rule of company as to speed as evidence of negligence towards traveler. 8 L.R.A.(N.S.) 1063; L.R.A.1917C, 808.

Speed of street car as affecting negligence of passenger in getting on or off while in motion. 30 L.R.A.(N.S.) 274.

Frightening of horse by excessive speed of street car. 21 L.R.A.(N.S.) 286.

Injury to children by speed of street car. 25 L.R.A. 664.

Evidence as to speed of street cars. 34 L.R.A.(N.S.) 784.

§ 13. — violation of ordinance as to. Violation of ordinance as to speed of street cars as ground for private action. 5 L.R.A.(N.S.) 250.

Operating street car at speed in excess of that prescribed by ordinance as negligence or evidence of negligence. 8 L.R.A.(N.S.) 1093.

#### § 14. Lookout.

Lookout on railroad train, see RAILROADS, §§ 56, 65, 74.

Lookout to prevent collisions with horses or vehicles. 25 L.R.A. 512.

Duty of employee on street car to keep lookout for children. 25 L.R.A. 663.

## § 15. Injury to dogs.

Liability for injury to dogs. 40 L.R.A. 509.

Duty with respect to dogs on track. 6 L.R.A.(N.S.) 911.

# § 16. Injury to helpless persons on track.

Duty towards sick, infirm, disabled, or otherwise helpless person on street car track. 69 L.R.A. 513.

Duty of person in charge of street car upon perceiving an object the character of which is unknown, but which is in fact a person helpless, on or near the track. 20 L.R.A. (N.S.) 987.

STREET RAILWAYS, IV. b—cont'd § 17. Duty to avoid injuring children on track.

Care required of employees. 25 L.R.A. 663. Negligence defined. 25 L.R.A. 664.

Negligence a question for jury. 25 L.R.A. 665.

Right of motorman to assume that child on track will get out of way. 21 L.R.A. (N.S.) 880.

Duty of motorman to anticipate that child may leave place of safety. 18 L.R.A. (N.S.) 371.

# § 18. Injuries by street car collisions with vehicles or horses.

Horses or vehicles caught in dangerous places. 25 L.R.A. 508.

Injuries at street crossings. 25 L.R.A. 508. Crossing the track at place other than streets. 25 L.R.A. 509.

Injury received in turning out. 25 L.R.A. 510.

"Look out." 25 L.R.A. 512.

Right of way. 25 L.R.A. 512.

Right of way as between street car and vehicle at point where streets bisect or intersect. 49 L.R.A.(N.S.) 505.

Duty of motorman on perceiving vehicle standing near track unattended or occupied only by child. 24 L.R.A. (N.S.) 560.

## § 19. Collision with fire apparatus.

Liability of street railway company for injuries caused by collision with fire apparatus. 19 L.R.A.(N.S.) 623; L.R.A.1917E, 415.

#### c. Contributory negligence.

## 3 20. Generally.

In case of collision with fire apparatus, see supra, § 19.

Rule of the road as affecting street cars and vehicles meeting and passing. 42 L.R.A.(N.S.) 1188.

Right of way as between street car and vehicle at point where streets bisect or intersect. 49 L.R.A.(N.S.) 505.

Liability for injuries to one blinded by headlight. 48 L.R.A.(N.S.) 827.

Defective hearing of person injured as bearing upon contributory negligence. 41 L.R.A.(N.S.) 202.

Construction and effect of statute making it an offense to get on a moving car or train. 23 L.R.A.(N.S.) 513.

Violation of statute or ordinance by plaintiff as precluding recovery for negligence in action by driver or owner of automobile. L.R.A.1915E, 960.

Contributory negligence of one other than passenger struck by object hurled by car. L.R.A.1915B, 1114.

Contributory negligence of person struck by street car while waiting for a car. 22 L.R.A.(N.S.) 228.

Attempting to cross in front of observed street car as contributory negligence. L.R.A.1917C, 692.

Begin with this book on every law question,

STREET RAILWAYS, IV. c-cont'd

Duty of person working near street car tracks to look out for his own safety. 15 L.R.A.(N.S.) 282.

Is one guilty of contributory negligence, as matter of law, in walking with due care upon a street railway track laid in a public street. 9 L.R.A.(N.S.)

244. Right of driver of vehicle to assume that motorman will give him time to cross track. 5 L.R.A.(N.S.) 1081.

Driving across street railway where view of approaching car is obstructed as contributory negligence. 32 L.R.A. (N.S.)

Duty of operator of automobile when near street cars. 38 L.R.A.(N.S.) 493.

Effect of, on liability for violation of police ordinance relating to street railroads. 5 L.R.A.(N.S.) 249.

In case of frightening of horse by street car. 34 L.R.A. 486; 21 L.R.A.(N.S.) 288; 48 L.R.A.(N.S.) 823.

In case of injury to live stock. L.R.A. .1917E, 770.

§ 21. Duty to look and listen.

At railroad crossing, see RAILROADS, §§ 83,

Duty to look and listen before crossing tracks of an electric road. 15 L.R.A. (N.S.) 254; 23 L.R.A. (N.S.) 1224.

Duty of driver who has traveled some distance parallel with track after looking for car, to look again before crossing track. 21 L.R.A. (N.S.) 309.

\$ 22. Of children.

Contributory negligence of children. L.R.A.1917F, 112.

Circumstances under which child crossing street car track is guilty of negligence either as matter of law or fact. 11 L.R.A. (N.S.) 166; L.R.A1917F, 172.

Recovery for injury to child in attempting to cross street car tracks notwithstanding his contributory negligence. 11 L.R.A. (N.S.) 174.

Duty of motorman on perceiving vehicle near track occupied by child only. 24 L.R.A. (N.S.) 560.

§ 23. Wantonness or wilfulness precluding defense of.

May wantonness or wilfulness, precluding defense of contributory negligence, be predicated of the omission of a duty before the discovery of a person in peril on a railroad or street railway track. 21 L.R.A.(N.S.) 427.

## d. Notice of defect or injury.

24. Generally.

Notice of injury due to defect in street car track or street. 52 L.R.A. 463.

Constitutionality of requirement of notice to, of defect or injuries, as condition of liability for personal injuries. 15 What passes under bequest of contents of. L.R.A.(N.S.) 203. L.R.A.1915C, 661.

Consult also L.R.A. Digests of Cases.

#### STREETS.

See HIGHWAYS.

#### STREET SPRINKLING.

Assessment for, see Public Improvements, 8 15.

#### STREET SWEEPING.

Special assessment for, see Public IMPROVE-MENTS, § 15.

#### STRENGTH.

Right of witness to express opinion as to. L.R.A.1918A, 707.

#### STRICT CONSTRUCTION.

Of statute, see STATUTES, § 26.

## STRICT FORECLOSURE.

See MORTGAGE, §§ 75-77.

## STRIKE.

In general, see Conspiracy, §§ 6, 8.

Constitutionality of statute requiring one advertising for help during strike to mention its existence. 49 L.R.A. (N.S.)

Liability of master for the intentional killing or injury of servant by strikers. L.R.A.1917F, 753.

Contract by employer to protect employees from personal violence by strikers. L.R.A.1918C, 929.

Strike as within provision in mining lease excusing payment of minimum royalty under certain circumstances. 1917E, 1079. L.R.A.

Insurance against loss of profits by strikes. L.R.A.1917C, 729.

## STRIKING OUT.

Of pleadings, see Pleading, § 14. Of evidence, see TRIAL, § 14.

#### STRONG BOX.

#### STRONG PASSIONS.

As proof of incapacity of testator. L.R.A.(N.S.) 61.

#### STRUCTURES.

Restrictive covenants as to, see COVENANTS | Rights of, under subcontractors' bonds, see AND CONDITIONS.

What are within statute relating to safety of. 30 L.R.A.(N.S.) 30,

#### STRUMPET.

Slander in charging woman with being, see LIBEL AND SLANDER, § 12.

#### STUBS.

Admissibility of memoranda on check stubs. 42 L.R.A. (N.S.) 727.

#### STUDENT.

Residence of, for purpose of voting. 23 L.R.A. 215.

Acquiring residence as voters while attending school. 40 L.R.A.(N.S.) 170.

#### STUD HORSE.

See STALLIONS.

#### STUMPS.

Municipal liability for injury by stumps in street. 20 L.R.A. (N.S.) 607.

## STUPOR.

As affecting testamentary capacity. L.R.A.(N.S.) 31; L.R.A.1915A, 452.

## SUBAGENT.

Power of real estate broker to employ. 43 L.R.A.(N.S.) 796.

Liability of principal in respect of the remuneration due for the services of. L.R.A.1918F, 720.

Trust in proceeds of collection by insolvent bank as against claims of subagent. 32 L.R.A. 720.

(N.S.) 1161.

Begin with this book on every law question.

#### SUBCONTRACT.

27 Loss of profits from loss of, as damages. 53 L.R.A. 45.

#### SUBCONTRACTORS.

Bonds, § 10.

Lien of, see Mechanics' Liens, §§ 19-21. As proper party to bring suit, see PARTIES, § 14.

As "employees" within meaning of Workmen's Compensation Acts. L.R.A.1918F,

Liability to servants of. 46 L.R.A. 75. Negligence of, causing injury to property owner. 2 L.R.A.(N.S.) 799.

Language used by owner or other person in-terested in construction of building importing a promise to pay a subcontractor as a promise to answer for the debt or default of another. 5 B. R. C.

#### SUBFREIGHT.

Maritime, lien for. 70 L.R.A. 371.

#### SUBJACENT SUPPORT.

Measure of damages for removing, see DAM-AGES, § 72.

Right passing by deed, see DEEDS, § 23.

Removal of, as a taking of property, see EMINENT DOMAIN, § 43.

Of mine, see MINES, § 29.

Lateral support, see LATERAL SUPPORT.

Express agreements or covenants for. 48 L.R.A. (N.S.) 474.

Liability for removal of subjacent support of land in its natural condition. 68 L.R.A. 673.

Condemnation or grant of land for railroad right of way as carrying right to subjacent support. 32 L.R.A. (N.S.) 155.

#### SUBLEASE.

See LANDLORD AND TENANT, § 38.

## SUBMERGENCE.

See WATERS, § 43.

## SUBMISSION.

Right of subagents to purchase real estate To arbitration, see Arbitration, §§ 2, 3. listed with broker for sale. 20 L.R.A. | Of case under New York Code. 4 L.R.A.

#### SUBORDINATE.

Privileged character of complaints to public officer against subordinates. 27 L.R.A.

(N.S.) 1041. Change of salary of subordinate as violation of constitutional provision against change of salary of public officer during term of office. 37 L.R.A.(N.S.)

## SUBORDINATE LODGE.

Forfeiture of benefit certificate by default of. 50 L.R.A. 111.

Waiver by officers of, of forfeiture for nonpayment of assessments.

(N.S.) 421; L.R.A.1915E, 152. Waiver by, of right of benefit association to insist upon forfeiture because of violation of laws of association. L.R.A. (N.S.) 136.

#### SUBORNATION.

Of perjury, see PERJURY.

## SUBPARTNERSHIP.

·Creation of; by agreement for sharing profits. 10 L.R.A.(N.S.) 1099.

#### SUBPŒNA.

See WITNESSES, §§ 4, 5.

## SUBPCENA DUCES TECUM.

See WITNESSES, § 5.

## SUBROGATION.

Generally.

Of insurer, or to rights against insurer, see

INSURANCE, § 195.
Of partner who pays firm debt, see Partnership, § 26.

Obligation as the equivalent of payment for

the purposes of. 2 L.R.A.(N.S.) 263.
Right of creditors to subrogation to personal representative's right of indemnity for debts contracted in carrying on business. 40 L.R.A.(N.S.) 233.

Right of one whose securities have been pledged to bank, to secure a loan to another, to be subrogated to the bank's lien on latter's deposit and collateral. 43 L.R.A.(N.S.) 197.

3. Of one discharging debt, lien or encumbrance generally.

On payment of another's debt. 23 L.R.A. 124.

Consult also L.R.A. Digests of Cases.

SUBROGATION—cont'd
Right of one paying stranger's debt to be
subrogated to the rights of the creditor. 16 L.R.A.(N.S.) 233.

Right of one advancing money to pay off lien or encumbrance upon defective security to be subrogated to such lien or encumbrance. 5 L.R.A.(N.S.) 838; 46 L.R.A.(N.S.) 1049; 50 L.R.A.(N.S.) 489.

Right of life tenant who pays off liens or encumbrances as against remainderman. 29 L.R.A.(N.S.) 153.

Subrogation to remedies of legatee on payment of legacy charged upon devise. 30 L.R.A.(N.S.) 822.

§ 8. Of purchaser at judicial sale.

Of purchaser on void execution sale. 21 L.R.A. 48.

Of purchaser on annulling judicial sale. 69 L.R.A. 39.

§ 4. As to mortgages... Subrogation of insurer to rights of mortgagee, see Insurance, § 197.

To rights of mortgagee, generally. 5 L.R.A. 289;\* 23 L.R.A. 131.

Of holder of junior mortgage to rights of prior mortgagee. 5 L.R.A. 290;\* 23 L.R.A. 131.

Right to subrogation to lien of mortgage for money advanced to pay off the same on defective security. 5 L.R.A. (N.S.) 838; 46 L.R.A. (N.S.) 1049; 50 L.R.A. (N.S.) 489.

Right of one cotenant who pays mortgage to be subrogated to the rights of mortgagee as against other cotenant or his privies. 8 L.R.A.(N.S.) 559.

Right of one who adavnces money to another for purpose of redeeming from a sale under a mortgage to be subrogated to the lien of the mortgage. 23 L.R.A. (N.S.) 190.

Right of one advancing money for purchase price of property to be subrogated to vendor's lien where mortgage is taken as security. 37 L.R.A.(N.S.) 1209. Subrogation to discharged mortgage in

favor of assignee of equity of redemption, who pays it as against junior lien.

16 L.R.A.(N.S.) 470; 47 L.R.A.(N.S.) 1190.

## § 5. Of surety.

Of surety who pays judgment against principal. 68 L.R.A. 520, 523, 528, 534, 572, 581.

Rights, as against principal debtor, of one who becomes surety or guarantor without his knowledge or consent. L.R.A. 1918F, 709.

Right of surety to be subrogated to priority of state or United States in payment from assets of debtor. 29 L.R.A. 240,

Right of surety advancing money for purchase price of property to be subrogated to vendor's lien. 37 L.R.A.(N.S.) 1204. SUBROGATION—cont'd

Right of sureties of public officer, who have made good a loss occasioned by their principal's default or misconduct, to be subrogated to the rights of the obligee or beneficiary of the bond against a third person. 14 L.R.A. (N.S.) 155; 46 L.R.A. (N.S.) 557.

Right of sureties on appeal bond or supersedeas to look to sureties on prior bond of same principal. 6 L.R.A.(N.S.) 1021; L.R.A.1918D, 1192.

6. To rights of surety. · Right of obligee to be subrogated to security held by surety. L.R.A.1916C,

1062.

7. To vendor's lien. See VENDOR AND PURCHASER, § 7.

§ 8. To tax lien.

Of person paying tax. 29 L.R.A. 282.
Right of purchaser of property to recover the amount he has paid to relieve land from tax lien from one who should have paid the same but with whom he had no contractual relationship. 22 L.R.A. (N.S.) 562.

Right of one who voluntarily advances money to pay the taxes on property of another to be subrogated to the rights of the public. L.R.A.1915D, 697.

🖁 🤋. As to judgments.

Subrogation upon payment of judgment as extending to lien on after-acquired property. 43 L.R.A.(N.S.) 614. lien on after-acquired

#### SUBSCRIBING WITNESSES.

See ATTESTING WITNESS.

#### SUBSCRIPTION.

Construction of subscription contract, see CONTRACTS, § 69.
For stock, see CORPORATIONS, §§ 77-81a.

To will, see WILLS, §§ 20-24.

Forfeiture of, for breach of condition. 13 L.R.A. 698.

Effect of receipt of, to mitigate damages for wrongful death. 67 L.R.A. 94: By municipality to internal improvements,

statutes legalizing. 27 L.R.A. 701. Gift of note for. 26 L.R.A. 305.

Validity and enforceability of subscription for charity. 48 L.R.A. (N.S.) 783.
Validity of subscription induced by false

statements that certain other persons were to invest in the enterprise. 29 L.R.A. (N.S.) 477.

Right of subscriber to lottery scheme to recover his subscription thereto. L.R.A. (N.S.) 571.

Procuring subscriptions on Sunday. L.R.A. 194.

Begin with this book on every law question.

SUBSCRIPTION—cont'd For salary of pastor. 38 L.R.A. 687; 52 L.R.A. (N.S.) 172.

## SUBSEQUENT CREDITORS.

Validity of conveyance as against, see FRAUDULENT CONVEYANCES, § 23.

#### SUBSEQUENT PURCHASERS.

Injunction against execution sale of property of. 38 L.R.A. 114.

#### SUBSEQUENT WILL.

Revocation of prior will by, see WILLS, § 38.

#### SUBSIDIARY CONTRACTS.

Conflict of laws as to subsidiary contracts with insurance company. 52 L.R.A. (N.S.) 281.

## SUBSIDY.

Power of chamber of commerce or board of trade to subsidize enterprises. L.R.A. 1916B, 1009. .

## SUBSIDY LANDS.

Location of mining claim on railroad subsidy lands. 7 L.R.A. (N.S.) 802.

## SUBSTANTIAL PERFORMANCE.

Of contracts, see CONTRACTS, §§ 129, 136, 138.

#### SUBSTITUTE.

Admissibility as affecting damages for personal injuries of amount paid for services of substitute. 30 L.R.A.(N.S.) 737.

Delay by purchaser in securing substitute as affecting his damages for vendor's failure to deliver. 32 L.R.A.(N.S.) 192.

Validity of agreement made after divorce as substitute for award of alimony. 35-L.R.A.(N.S.) 1167.

#### SUBSTITUTE CONVEYANCES.

See DEEDS, § 1a; TAXES, § 81.

#### SUBSTITUTED SERVICE.

See WRIT AND PROCESS, §§ 15-19.

#### SUBSTITUTION.

Effect of void substitution on liability on original contract, see Contracts, § 72. Substitute conveyances, see DEEDS, § 1a; TAXES, § 81.

Of parties, see Parties, § 40.

Of parties on appeal or error to or from Federal Supreme Court. 66 L.R.A. 856. Of juror in criminal case. 25 L.R.A. (N.S.) 36.

Of tonnage at transit point where transit privilege has been given. L.R.A.1918A, 188.

Abandonment or loss of private way by use of substituted way. 22 L.R.A.(N.S.) 883.

## SUBTERRANEAN WATERS.

See WATERS, §§ 72-77.

#### SUBURBAN PROPERTY.

Constitutionality of frontage rule of assessment of, for public improvements. 17 L.R.A. 332.

#### SUBWAY.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 151.

Subway railroad, see SUBWAY RAILBOAD.

Tax or assessment for public improvement on subway forming part of highway. 44 L.R.A.(N.S.) 837. Franchise of electrical company for. 34

L.R.A. 369.

Requiring electric wires to be put under ground. 31 L.R.A. 806.

Privilege of subway in street as contract

within provision against impairing ob-

ligation. 50 L.R.A. 147.

Municipal liability for injury to abutting owner from, under constitutional provision against "damaging" private property for public use without com-pensation. 36 L.R.A.(N.S.) 1198.

Consult also L.R.A. Digests of Cases. 80

#### SUBWAY RAILROAD.

Injury by crush in entering car at subway station. 7 L.R.A.(N.S.) 729; 51 L.R.A. (N.S.) 1152.

As additional servitude in street. 36 L.R.A. (N.S.) 727; L.R.A.1915F, 1005.

#### SUCCESS.

Validity of agreement by which compensation is dependent on success in procuring contract with public officer or board. 39 L.R.A. (N.S.) 747; L.R.A. 1915C, 823.

## \*\*\* SUCCESSION TAX.

See TAXES, §§ 90-105.

#### SUCCESSIVE ASSESSMENTS.

Against stockholders, see Corporations, 8 110.

#### SUCCESSIVE FINES.

In loan association. 35 L.R.A. 219.

#### SUCCESSIVE GARNISHMENTS.

Amount of wages exempted upon. L.R.A. 1917D, 899.

## SUCCESSIVE GRANTS.

Of water power. 67 L.R.A. 372.

## SUCCESSOR.

Right of vendor of business and good will to hold himself out as successor of business sold. 19 L.R.A.(N.S.) 766.

Does guaranty of credit extended for price of goods sold cover sales to. 19 L.R.A. (N.S.) 901.

Liability of successor of railroad company for damages to abutting property from construction of road in street. L.R.A. 1915D, 397.

#### SUCTION.

Liability for injuries to person near track in consequence of suction from passing train. L.R.A.1917B, 1163.

SUCTION-cont'd Contributory negligence of child beside track drawn under train. L.R.A.1917F,

#### SUDDEN EMERGENCY.

See EMERGENCY.

## SUE AND LABOR CLAUSE.

Right to recover under "sue and labor" clause in policy of marine insurance for moving cargo over-land. 14 L.R.A. (N.S.) 1161.

#### SUFFERING.

Admissibility of complaints of, see Evi-DENCE, § 238. Mental, see MENTAL ANGUISH. Physical, see PHYSICAL SUFFERING.

#### SUFFIX.

To name, see NAME. § 5.

#### SUFFOCATION.

Duty of carrier to protect live stock from injury by. 39 L.R.A. (N.S.) 642.

#### SUFFRAGE.

Right of, see Elections, I.

## SUGAR.

Sufficiency of delivery of sugar sold out of larger lot. 26 L.R.A. (N.S.) 35.

## SUICIDE.

Presumption and burden of proof as to, see EVIDENCE, § 32.

Of insured, see INSURANCE, §§ 170, 171.

As evidence of testamentary incapacity. 24 L.R.A. 577; 27 L.R.A. (N.S.) 94; L.R.A. 1915A, 468.
Attempt of intoxicated person to commit.

36 L.R.A. 479. Attempt to commit suicide as a crime. 7

L.R.A. (N.S.) 286. 66 L.R.A. 304; 22

Inciting or abetting. 66 L.R.A. (N.S.) 243.

Begin with this book on every law question.

## SUICIDE—cont'd

Effect of statutory enactments as to suicide. 66 L.R.A. 306.

Sufficiency of proof. 66 L.R.A. 307.

Evidence of declarations of intent to commit. L.R.A.1916B, 819.

Civil liability for causing. 47 L.R.A. (N.S.) 1009.

As affecting abatement of action or cause of action. L.R.A.1916A, 1141.

Recovery for death by suicide under Workmen's Compensation Act. L.R.A.1916A, 339; L.R.A.1917D, 103, 112.

Effect of suicide of person wounded, on criminal responsibility for death. 51 L.R.A.(N.S.) 881.

#### SUITABILITY.

See SALE, §§ 31, 32.

#### SUIT CLUB.

Distribution of suits by tailor among members of club as lottery. 21 L.R.A. (N.S.) 876.

#### SUIT MONEY.

In divorce case, see DIVORCE AND SEPARA-TION, §§ 39-40a.

## SUITOR.

As grand juror. 28 L.R.A. 202.

#### SULPHUR.

Keeping of, on insured premises. L.R.A. 1917C, 278.

#### SUMMARY JUDGMENT.

Failure of consideration as ground for injunction against. 31 L.R.A. 755.

## SUMMARY PROCEEDINGS.

Against tenant, see Landlord and Tenant,

To remove obstructions in highway. L.R.A. 149.

Conclusiveness of foreign decree in. L.R.A. 680.

Right of receiver to take property from possession of stranger through summary proceedings. 47 L.R.A.(N.S.) 744.

SUMMARY PROCEEDINGS-cont'd Determination of disputed questions in sum-

mary proceedings to compel attorney to surrender money or property. L.R.A. 1918D, 830.

#### SUMMONS.

See WRIT AND PROCESS.

## SUNDAY.

§ 1. Generally.

Amusements on, see Amusements, 🖇 9.

Constitutionality of Sunday laws, see Con-STITUTIONAL LAW, § 152.

Sale of liquor on, see Intoxicating Liquor,

§ 25.

Rule as to, in computing time, see TIME, § 19.

Execution of will on, see WILLS, § 19.

Special penalty for violation of Sunday closing act. 15 L.R.A.(N.S.) 646.

Violation of Sunday law as a continuing offense. 20 L.R.A.(N.S.) 783.

Criminal liability for Sabbath breaking by agent or servant. 41 L.R.A. 658, 670.
Criminal liability of children for Sabbath desecration. 36 L.R.A. 208.
Right of alleged fraudulent grantee to show that independ against grantee was

that judgment against grantor was based on a transaction in violation of Sunday law. 67 L.R.A. 602. Duty of innkeeper as to furnishing liquor

to traveler on Sunday. 2 B. R. C.

687.

§ 2. Holiday falling on. Transfer of holiday from Sunday to Monday. 19 L.R.A. 320.

3. Judicial proceedings on. Sunday. 7 L.R.A. Receiving verdict on Sunday. 327; 39 L.R.A. (N.S.) 844.

Charging jury on Sunday. L.R.A.1915D,

§ 4. Contracts.

Conflict of laws as to, see CONFLICT OF LAWS, § 3.

Conflict of laws as to Sunday contract. 34 L.R.A.(N.S.) 67.

Validity and enforceability of subscription for charity made on Sunday. 48 L.R.A.(N.S.) 802.

Validity of sale partially made on Sun-day and perfected on secular day. 4 L.R.A.(N.S.) 1151.

Delivery on week day pursuant to contract made on Sunday. 20 L.R.A. (N.S.) 86. Signing or delivering replevin bond on Sunday as a defense. 29 L.R.A.(N.S.) 750.

Effect of payment of debt on Sunday. 15
L.R.A.(N.S.) 243.

Consult also L.R.A. Digests of Cases.

SUNDAY-cont'd

Effect of appointing agent on Sunday. 43 L.R.A.(N.S.) 140. Judgment entered upon warrant of attorney

in contract made on Sunday. L.R.A. (N.S.) 727.

Question as to legality of contract for trans-mission of death message on Sunday where recovery for mental anguish because of negligence in transmission is sought. 49 L.R.A.(N.S.) 266.

Liability for damage to, or conversion of, property leased or hired in violation of Sunday law. L.R.A.1915F, 644.

Effect, upon validity of contract, of ignorance of one party that it was executed by the other on Sunday. 18 L.R.A. (N.S.) 1176.

Remedy of party as to rescission of Sunday contract. 17 L.R.A. 779; L.R.A.1917D,

Retention of consideration as defeating defense that contract was made on Sun-5 L.R.A.(N.S.) 295; 44 L.R.A. day. 5 L.I (N.S.) 289.

Invalidity of Sunday contract as affecting right of innocent third person to enforce it. L.R.A.1917C, 586.

§ 5. Labor or business on.

Violation of Sunday law by barbers, see BARBERS, § 2.

Sunday labor. 14 L.R.A. 192.

Publication and sale of newspaper on Sunday. L.R.A.1916C, 1151.

Duty of carrier to give regular train service on Sunday. 30 L.R.A. (N.S.) 401.

Prohibition of running of freight trains on Sunday as excuse for delay in trans-portation. 31 L.R.A.(N.S.) 1184.

Right of servant to recover for extra work done on Sunday. 30 L.R.A.(N.S.) 659. Servant's duty to obey master's orders as to working on. 24 L.R.A.(N.S.) 833. Slot machine as violating statute against Sunday trading. 7 B. R. C. 294.

§ 6. - work of necessity.

Sale and delivery of food and refreshments on Sunday as. 18 L.R.A. (N.S.) 617; L.R.A.1917C, 381.

Agricultural operations on Sunday as. 5 L.R.A.(N.S.) 320.

Publication and sale of newspaper. L.R.A. 1916C, 1151. Barbering. L.R.A.1917B, 97.

§ 7. Personal injuries.

Violation of Sunday law as defense to action for personal injuries. 36 L.R.A. (N.S.) 547; L.R.A.1917A, 547.

From defects in highway. 13 L.R.A. (N.S.) 1271; 21 L.R.A. (N.S.) 660; 36 L.R.A. (N.S.) 547; L.R.A. 1917A, 547.

§ 8. State and municipal offense.

Municipal ordinance regulating observance of Sunday, which is also regulated by state law. 17 L.R.A.(N.S.) 51.

SUNDAY-cont'd

Right of both state and municipality to convict of violation of Sunday closing laws. 31 L.R.A.(N.S.) 708.

#### SUNDAY SCHOOLS.

Validity of bequest for. 37 L.R.A.(N.S.) 1004.

Enforcement of bequest for. 14 L.R.A. (N.S.) 96.

As a meeting within purview of offense of disturbing a meeting. 30 L.R.A.(N.S.) 830.

#### SUN STROKE.

Risks covered by insurance against. 6 L.R.A.(N.S.) 609; L.R.A.1916E, 957. Recovery under Workmen's Compensation Act for injuries caused by. L.R.A. 1918F, 936.

#### SUN TIME.

See TIME, § 13.

#### SUPERINTENDENCE.

Master's duty as to, see Master and Servant, § 103.

Treatment of expense of, in public service property valuations. 48 L.R.A.(N.S.) 1040.

#### SUPERINTENDENT.

Injury to servant through negligence of, see MASTER AND SERVANT, III. d. 3.

Right to mechanics' lien. 16 L.R.A. 601. Of hospital, right of woman to be. 38 L.R.A. 211.

Report by, as privileged communication. 5 L.R.A. (N.S.) 163.

Authority of, to contract for services of other persons. L.R.A.1918F, 50.
Grounds or justification for discharge of one

Grounds or justification for discharge of one employed in executive or supervisory capacity. L.R.A.1918C, 1030.

# SUPERINTENDENT OF PUBLIC INSTRUCTION.

Right of woman to be. 38 L.R.A. 212.

## SUPERINTENDENT OF SCHOOLS.

Privilege of, in reporting to school authorities on character of teacher. 30 L.R.A. (N.S.) 200.

SUPERINTENDENT OF SCHOOLS—cont'd

Power of board to employ superintendent for term extending beyond its own term-29 L.R.A.(N.S.) 657.

SUPERINTENDING CONTROL,

See Courts, §§ 30, 31.

SUPERIOR EMPLOYEES.

See MASTER AND SERVANT, III. d. 3.

# SUPERNATURAL INFLUENCES.

Effect of belief, on capacity to make will or deed. 16 L.R.A. 677.

#### SUPERSEDEAS.

On appeal, see Appeal and Error, §§ 9-10a, 15-17, 46.

#### SUPERSTITIOUS USES.

Bequest for masses as. 25 L.R.A. 360.

## SUPERVISING EMPLOYEES.

As fellow servants, see Master and Servant, III. d, 3.

Character of occupancy of premises by. 4. L.R.A.(N.S.) 712.

## SUPERVISION.

Employer's duty as to, see MASTER AND SERVANT, § 103.

## SUPERVISORY JURISDICTION.

On appeal, see APPEAL AND ERBOR, § 5. Of superior over inferior or subordinate tribunal, see COURTS, §§ 30, 31.

SUPPLEMENTARY PLEADING.

See Pleading, § 12.

SUPPLEMENTARY PROCEEDINGS.

See EXECUTION, §§ 15, 16.

Begin with this book on every law question.

#### SUPPLIES.

1. Generally.

Purchase of supplies by foreign mining or manufacturing corporation as doing business within the state. L.R.A. 1917E, 1157.

Claim against state for. 42 L.R.A. 61. Priority of claims against property in hands of receiver for. 2 L.R.A.(N.S.) 1058.

What supplies to jurors are proper subjects of county charge. 21 L.R.A. (N.S.) 200.

Right of taxpayer in absence of statute to enjoin unlawful expenditures by municipality for. 36 L.R.A.(N.S.) 22.

3 2. Lien for.

Mechanics' lien for, see MECHANICS' LIENS.

Maritime lien for. 70 L.R.A. 365, 381, 391, 407, 439.

Priority of claim for supplies against property in hands of receiver over recorded liens. 41 L.R.A.(N.S.) 696, 701, 708.

Acceptance of commercial paper as waiver of lien for. 35 L.R.A.(N.S.) 94.

#### SUPPORT.

I. In general, §§ 1, 2. II. Contract for, §§ 3-5. III. Of building or land, § 6.

## I. In general.

§ 1. Generally.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, §§ 106a, 153. Of child, see CONTRACTS, § 87; DIVORCE AND

SEPARATION, § 57; INPANTS, §§ 11-13.

Of relative, see RELATIVES, § 3.

Of parent or adult child, see PARENT AND CHILD, § 9.

Of wife, generally, see Divorce and Sepa-BATION, §§ 34-49; HUSBAND AND WIFE, §§ 7-10, 21, 22, 70, 71.

Allowance for widow's support, see EXECU-TORS AND ADMINISTRATORS, §§ 55, 55a.

Of incompetent person, see Incompetent Persons, § 17.

Of parent or adult child, see PARENT AND CHILD, § 9.

Of pauper, see Poor and Poor Laws, §§ 4, 5.

Failure to furnish support as ground of divorce or separation. 43 L.R.A.(N.S.)

Municipal power to provide during epidemic. 26 L.R.A. 729

Garnishment of claims for. 59 L.R.A. 374. Equitable relief against forfeiture of devise on condition of support. 69 L.R.A. 841. Using lunatic's property in support of his family. 34 L.R.A. 297.

2. Provision in will for. See WILLS, § 95. Consult also L.R.A. Digests of Cases.

#### SUPPORT—cont'd

#### II. Contract for.

§ 3. Generally.

Undue influence in conveyance or transfer of property in consideration of support of third person. 52 L.R.A.(N.S.) 476. Moral obligation as consideration for prom-

ise to pay for past support of relative. 53 L.R.A. 355; 26 L.R.A. (N.S.) 520.

Right of one who breaks contract to support another for life, to recover on Aquantum meruit. 14 L.R.A.(N.S.) 537.

Effect of statute of frauds upon parol contracts to support for life. 15 L.R.A. (N.S.) 330; L.R.A.1915E, 563.

Liability of lessee for rent during part of term remaining after death of person whom he agreed to support. 33 L.R.A. (N.S.) 347.

Specific performance of contract to provide for intended husband or wife. 12 L.R.A.

(N.S.) 232.

Specific performance of, or injunction during lifetime of promisor, against breach of contract to leave property at death to complainant. 18 L.R.A. (N.S.) 218.

Validity of antenuptial contract by husband or wife to support the other. 15 L.R.A. (N.S.) 491.

Apportionment of annuity created for. 63 L.R.A. 621.

§ 4. Of grantor.

Applicability of succession tax to property conveyed, or agreed to be conveyed, in support of grantor during his life. 52 L.R.A.(N.S.) 211.

Undue influence in conveyance or transfer of property in consideration of support of the grantor. 52 L.R.A.(N.S.) 476.

Validity of agreement to transfer futureacquired property in consideration of maintenance. 70 L.R.A. 485.

Agreement for support in consideration of conveyance as basis for equitable lien. 13 L.R.A.(N.S.) 725; 28 L.R.A.(N.S.) 607.

Right to subject debtor's interest under contract for his support to claims of creditors. 42 L.R.A.(N.S.) 1213.

Relief of grantor in conveyance in consideration of agreement to support, which is broken by grantee. 43 L.R.A. (N.S.) 916; L.R.A.1917D, 627.

Specific performance of contract to leave property in consideration of. 44 L.R.A. (N.S.) 733.

Specific performance of oral contract to devise or convey land in consideration of performing services or furnishing support where no possession is taken or improvements made. 15 L.R.A. (N.S.) 466; 38 L.R.A. (N.S.) 752.

Does grantor's right to rescind for breach of condition as to support descend to his heirs or representatives. 23 L.R.A. (N.S.) 232.

SUPPORT, II .- cont'd

May grantor rescind a deed executed in consideration of future support where performance by grantee is without fault on his part prevented by the grantor. 25 L.R.A.(N.S.) 932.

Excuse for failure of grantee to perform agreement to support. L.R.A.1917E, 6**5**8.

Parol evidence that consideration for deed was support of grantor. 20 L.R.A. 104. Parol evidence of agreement to support grantor in addition to consideration

named in deed. 25 L.R.A.(N.S.) 1199. Applicability of succession tax to property conveyed or agreed to be conveyed in consideration of grantor's support during his life. 18 L.R.A.(N.S.) 226.

5. Of mortgagee.

Effect of unaccepted tender on lien of mortgage for support of mortgagee. L.R.A. 235.

#### III. Of building or land.

6. Generally.

Lateral support, see LATERAL SUPPORT. Subjacent support, see MINES, § 29; SUB-JACENT SUPPORT.

Right of owner of upper floor to compel maintenance of walls. 3 L.R.A. (N.S.)

Effect of destruction of building to terminate adjoining owner's easement of support. 19 L.R.A.(N.S.) 883; 46 L.R.A. (N.S.) 1021.

## SUPPRESSION OF COMPETITION.

See COMPETITION.

#### SUPREME COURT OF THE UNITED STATES.

Appellate jurisdiction of, see APPEAL AND See SUBJACENT SUPPORT. ERROR, § 4.

Subsequent proceedings below pending error or appeal to, see APPEAL AND ERROR, § 10a.

Time for transfer of cause to, see APPEAL AND ERROR, § 15.

Security on error or appeal to, see APPEAL AND ERROR, § 17.

What should be shown by record in, sec APPEAL AND ERROR, § 20.

Questions reviewable in, see APPEAL AND ER-

ROB, § 28. Review of facts in, see APPEAL AND ERROR, § 34.

Jurisdiction of civil actions against consuls. 45 L.R.A. 580.

Jurisdiction of criminal actions against consuls. 45 L.R.A. 584.

Superintending control and supervisory jurisdiction of. 51 L.R.A. 33.

SUPREME COURT OF THE UNITED STATES-cont'd

Review in, on certiorari of decision of Federal court. 50 L.R.A. 801.

Jurisdiction of action against national bank to recover penalty for taking usurious interest. 56 L.R.A. 680.

#### SURCHARGE.

Right of court to surcharge account of executor, administrator, guardian or receiver in absence of objection of the account. or on objection by amicus ouriæ. 18-L.R.A. (N.S.) 284.

#### SURETY COMPANIES.

Do companies guarantying performance of contracts constitute insurance companies. 47 L.R.A.(N.S.) 295.

Legal powers and privileges of surety and trust companies. 48 L.R.A. 587.

Character of and rules governing contracts by corporations engaged for profit in business of guarantying fidelity or contracts of other persons, 33 L.R.A. (N.S.) 513.

#### SURETYSHIP.

See PRINCIPAL AND SURETY.

## SURFACE.

Right of owner or lessee of mineral in place as to use of. 48 L.R.A. (N.S.) 883.

#### SURFACE SUPPORT.

#### SURFACE WATERS.

See WATERS, §§ 59-67.

#### SURF BATHING.

As violation of Sunday Laws. 30 L.R.A. (N.S.) 470.

## SURGEONS.

See Physicians and Surgions.

Begin with this book on every law question,

#### SUBGICAL OPERATIONS.

See Physicians and Surgeons, §§ 12-16.

#### SURNAME.

See NAME.

#### SURPLUS.

On foreclosure, see MORTGAGE, § 83.

Garnishment of. 59 L.R.A. 368.

Taxation of, as part of capital stock of corporation. 58 L.R.A. 569.

Distribution of, upon dissolution of mutual insurance company. 3 L.R.A. (N.S.)

Of insolvent insurance company, distribution of. 38 L.R.A. 110.

Representation or estimate of insurance company as to. L.R.A.1918F, 343.

Reservation of surplus upon assignment of chose in action as security, as a fraud upon other creditors. 36 L.R.A. (N.S.) 370.

#### SURPLUSAGE.

In indictment, see Indictment, etc., § 8a.

Correction of special verdict by rejection of.

24 L.R.A. (N.S.) 72.

Rejecting as surplusage unauthorized provisions in statutory bonds. L.R.A. 1917B, 991.

## SURPLUS PRODUCTS.

Power of Public Service Commission to regulate disposition of. L.R.A.1918C, 680.

## SURPLUS WATER.

Use of, in improving navigability of stream. 67 L.R.A. 848.

## SURPRISE.

Parol evidence as to, see EVIDENCE, § 176. As ground of injunction against judgment,

see Injunction, § 56.
As ground for relief from judgment, see JUDGMENT, § 94.

Right to impeach own witness in case of. 21 L.R.A. 424. Consult also L.R.A. Digests of Cases.

#### SURRENDER.

§ 1. Generally.

Of fugitive from justice, see EXTRADITION. Of insurance policy, see INSURANCE, §§ 53, 54.

Of tenancy, see Landlord and Tenant, §§ 29, 30.

Of office, see Officers, § 20.

Loss or waiver of right by pledgee's surrender of property, see Pledge and Col-LATERAL SECURITY, § 9.

Power of corporate president to surrender claims. 14 L.R.A. 359.
Of bonus stock. 38 L.R.A. 494.

Applicability of statute of frauds to surrender of purchaser's interest under land contract. 19 L.R.A.(N.S.) 879.

Estoppel of possessor of land to assert claim by surrender. 13 L.R.A.(N.S.) 137.

§ 2. By accused.

Of fugitive from justice, 26 L.R.A. 34. Right to habeas corpus in case of voluntary surrender. 35 L.R.A.(N.S.) 885.

Admissibility of evidence of defendant's voluntary surrender. 20 L.R.A.(N.S.) 400.

#### SURRENDER CLAUSE.

Surrender clause in oil or gas lease as rendering it unilateral. L.R.A.1917B. 1206.

#### SURRENDER VALUE.

Of policy, see INSURANCE, § 57.

## SURROGATE.

Jurisdiction of, see COURTS, § 34.

Conclusiveness of surrogate's decree on right of personal representative to interplead claimants. 37 L.R.A.(N.S.) 987.

## SURVEY.

Conclusiveness of decisions or findings of the Land Department as to. L.R.A. 1918D, 630.

#### SURVEYOR.

Place at which official acts of, may be performed. 33 L.R.A. 92.
Liability of, for errors or mistakes.
L.R.A.(N.S.) 1043.

#### SURVEYOR GENERAL.

Power of courts to enforce ministerial duties of state surveyor general. 52 L.R.A.(N.S.) 443.

#### SURVIVAL.

Of action or cause of action, see ABATE-MENT AND REVIVAL, §§ 2-4. Of contract, see CONTRACTS, § 146.

Of primary obligation on payment by surety. 68 L.R.A. 548.

## SURVIVING PARTNER.

See Partnership, §§ 41-45.

#### SURVIVORSHIP.

Presumption of, see EVIDENCE, \$ 31.

Admissibility of finding of coroner to prove that one spouse predeceased the other. 45 L.R.A. (N.S.) 408.

Rights acquired by, under homestead and exemption laws. 4 L.R.A. (N.S.) 390; L.R.A.1917C, 370.

Constructive trust in deed of homestead by husband to wife with proviso attempting to derogate from her right of. 1 L.R.A.(N.S.) 312.

Character of remainder created by devise thereof to certain persons "or as many of them as may be living;" "such of [a class or group] as may be living;" or with other forms of expression im-Ĺ.R.A.1917D, porting survivorship. 601.

#### SUSPENSION.

Of attorney, see ATTORNEYS, §§ 4, 5.

Of member of benefit society, see BENEVO-LENT SOCIETY, § 3 a; INSURANCE, § 105.

Of sentence, see CRIMINAL LAW, § 84.
Of writ of habeas corpus, see HABEAS COR-PUS, § 8.

Of business in insured property, effect, see INSURANCE, § 76.
Of member of labor union, see LABOR OR-

GANIZATIONS. From office, see MUNICIPAL CORPORATIONS, § 117; OFFICERS, §§ 22-24.

Of alienation, see PERPETUITIES.

Of pupil, see Schools, §§ 9-11.

## SUSPICION.

1077.

#### SUSPICIOUS STATEMENTS.

Right to rely on. 37 L.R.A. 596.

#### SWALES.

As water courses. 15 L.R.A. 630. Municipal liability for obstruction of. 65 L.R.A. 209.

#### SWAMPS.

Power to fill low lands at expense of owner. 30 L.R.A.(N.S.) 709.

Conclusiveness of decisions or findings of the Land Department as to. L.R.A. 1918D, 623.

Organization of swamp lands into municipal corporation. L.R.A.1918B, 1091.

#### SWAYING.

Liability of carrier for injury to passenger by swaying of car. L.R.A.1918A, 117L

#### SWEATING.

Provision relieving carrier from liability for loss by sweating as extending to loss caused by negligence. 6 B. R. C. 130.

## SWEEPING STREETS.

Assessment for, see Public IMPROVEMENTS, § 15.

## SWELLS.

Duty of steamer to avoid imperiling small boat by. 7 L.R.A.(N.S.) 920.

## SWINDLING.

Truth of charge as to, as defense to civil action for libel or slander. 31 L.R.A. (N.S.) 146; 50 L.R.A.(N.S.) 1040. Necessity of instruction as to law on cir-

cumstantial evidence from possession of stolen property. 69 L.R.A. 204.

## SWINGING DOORS.

Voluntariness of confession made under. 18 Duty of storekeeper toward customer as to L.R.A.(N.S.) 796; 50 L.R.A.(N.S.) condition of 21 L.R.A.(N.S.) 463; L.R.A.1915F, 572.

Begin with this book on every law question,

#### SWITCH.

Master's liability for injury to employee due to defect in, see MASTER AND SERVANT, §§ 94, 95.

Unblocked switches, UNBLOCKED 866 SWITCHES.

In general, see SPUR TRACKS AND SIDINGS.

#### SWITCH CONNECTION.

Right to compensation for interference with. 52 L.R.A.(N.S.) 192.

#### SWITCHING SERVICE.

What constitutes. L.R.A.1916D, 455.

#### SWITCH LIMITS.

As depot grounds within meaning of fence laws. 7 L.R.A. (N.S.) 209.

## SWITCHMEN.

As fellow servants. 50 L.R.A. 434, 456, 457; 52 L.R.A.(N.S.) 1104.

#### SWITCH TRACKS.

See SPUR TRACKS AND SIDINGS.

#### SYNDICATES.

As to corporate promoters, see CORPORA-TIONS, §§ 62-65.

Relations and rights of syndicate members. 40 L.R.A. 216,

Unincorporated syndicate as a partnership. 18 L.R.A.(N.S.) 1094.

#### SYPHILIS.

Condonation of, as defense to action for divorce or annulment of marriage. 5 L.R.A.(N.S.) 729.

Misrepresentations or concealment as to, as ground for annulment of marriage. 13 L.R.A.(N.S.) 996.

## Т

#### TACKING.

Of adverse possession, see ADVERSE Posses-SION, § 20.

Effect of addition of new items to extend time for filing mechanics' lien. 35 L.R.A.(N.S.) 901.

Right to tack different contracts to perform labor or furnish material for purpose of extending time to file lien. 15 L.R.A. (N.S.) 299.

## TAILORS.

Validity of agreement in restraint of trade ancillary to sale of tailoring business as affected by its territorial scope. L.R.A. 1916C, 631.

#### TAKING.

What constitutes, see EMINENT DOMAIN, §§ 41-44.

#### TALESMEN.

20 L.R.A.(N.S.) 1013. Consult also L.R.A. Digests of Cases.

## TALLOW.

Municipal power over, as nuisance. L.R.A. 654.

## TAN BARK.

Sufficiency of delivery of, on sale out of larger lot. 26 L.R.A.(N.S.) 40.

#### TANGIBLE PROPERTY.

Taxation of, see Taxes.

Corporate bonds as subject of attachment as. 36 L.R.A. (N.S.) 421.

#### TAPPING WIRES.

Iflegal intent of prosecutor as affecting guilt of obtaining property by scheme for. 17 L.R.A.(N.S.) 276.

#### TAR.

Summoning biased talesman as a contempt. Keeping of, on insured premises. L.R.A. 1917C, 278.

#### TARDINESS.

Of attorney as contempt of court. 15 L.R.A.

Right to exclude pupil from school for. 41 L.R.A. 597.

#### TAVERN.

See INNKEEPERS.

#### TAXATION.

See TAXES.

#### TAX CERTIFICATE.

As color of title, see Adverse Possession, § 16.

In general, see Taxes, § 80.

#### TAX COLLECTOR.

See TAXES, § 61.

#### TAX DEED.

As color of title, see ADVERSE Possession, § 17. In general, see Taxes, §§ 80, 81.

## TAXES.

I. In general, §§ 1-8.

II. Power of taxation; what taxable, \$\$ 4-39.

a. Power generally, §§ 4, 5.

- b. Power of state or munici-pality to tax Federal agencies, instrumentalities, and
- property, \$\$ 6, 7.
  c. Equality; uniformity; discrimination; double taxation, §\$ 8-12.
- d. For what purpose or use, § 13.
- e. What taxable; exemptions, \$\$ 14-39.
  - 1. In general, §§ 14-29.
  - 2. Public property, 👫 80-
  - 8. Corporations and corporate property, §§ 88-39.
- III. Where taxable; situs of property, \$\$ 40-49.
- IV. Assessment and levy; enforcement; collection, \$\$ 50-87. a. In general, \$\$ 50-52.

Begin with this book on every law question.

TAXES, IV.—cont'd

b. Assessment, \$\$ 58-58. 1. In general, \$\$ 58-55.

2. Valuation, § \$ 56-58.

o. Reassessment, § 59.

- cc. Review; correction; equalization; appeal, §\$ 59a-59c.
- d. Tax officers, \$\$ 60, 61.
- e. Who liable for tax; to whom
- taxable, §§ 62, 63.

  f. Payment; tender, §§ 64, 65.

  g. Relief from, §§ 66, 67.

  h. Enforcement and collection
- generally, \$\$ 68-71.
- i. Sale for nonpayment; certificate or deed; tax title, \$\$ 72-81a.
- j. Redemption, \$\$ 82-85.
- k. Recovering back taxes paid, \$\$ 86, 87.
- V. Lien; priorities, \$\$ 88, 89.
- VI. Succession tax, §§ 90-105. a. In general, §§ 90-95.
  - b. Property and transfers subject to, or exempt from, \$\$ 96-98a.
  - c. Persons subject to, or exempt from, \$\$ 99, 100.
  - Assessment; valuation, §§ 101-108.
  - e. Payment; classification, §§

104, 105. VII. Income tax, § 106. VIII. Stock transfer tax, \$ 107.

## I. In general.

§ 1. Generally.

As affecting commerce, see COMMERCE, §§ 20, 21.

Impairment of obligation of contracts as to, see Constitutional Law, § 32.

Constitutionality of statutes as to generally, see Constitutional Law, §§ 154-157. As taking of property, see EMINENT Do-

MAIN, § 42. Estoppel as to, see ESTOPPEL, § 7.

Internal revenue tax, see INTERNAL REV-ENTIE.

Rights of parties to mortgage as to taxes, see MORTGAGE, § 32.

By municipality generally, see MUNICIPAL CORPORATIONS, §§ 109-111.

Assessment for public improvements, see PUBLIC IMPROVEMENTS, IV.

General and special legislation as to, see STATUTES, §§ 17, 18.

Sufficiency of tender of payment of, see TENDER, § 3.

Taxation by or against United States, see

UNITED STATES, §§ 7, 8. Allowance for taxes during construction of

public utility plants in estimating the value thereof. 48 L.R.A.(N.S.) 1043. Treatment of expense of, in estimating the return of a public service corporation for rate-making purposes. 52 L.R.A.

(N.S.) 58.

TAXES, I.—cont'd

Suits relating to taxation, as actions against the state. 44 L.R.A.(N.S.) 212.

Workmen's compensation act as illegal use of taxing power. L.R.A.1917D, 57. L.R.A.1916A, 427;

Possessory action for tax receipts. L.R.A.(N.S.) 785.

Right to recover back tax voluntarily refunded. 45 L.R.A. (N.S.) 753.

Increase in proportion of tax or assessment imposed on property as impairment of vested rights. 8 L.R.A.(N.S.) 546.

Nature of occcupation of servant with respect to matters of taxation. 4 L.R.A. (N.S.) 698.

Requiring mortgagor to pay mortgage or recording tax as usury. L.R.A.1918F, 383.

Effect of failure to pay registration tax. 42 L.R.A.(N.S.) 146.

Denial upon information and belief of matters concerning taxes. 30 L.R.A.(N.S.)

Federal courts following state decisions on questions relating to. 40 L.R.A.(N.S.) **444.** 

Right to consider accruing taxes in assigning dower or fixing its cash value. 40 L.R.A. (N.S.) 609.

2. What constitutes a tax.

Special assessment as tax. 3 L.R.A.(N.S.) 837.

Water rates as taxes. 21 L.R.A. 519.

Fees as taxes, within constitutional provisions relating to taxation. 1 L.R.A. (N.S.) 153.

Conscription of labor for working highway, as a tax. 5 L.R.A.(N.S.) 1139. What are poll taxes. 29 L.R.A. 404.

3. Taxing districts.

Rig't to extend tax over territory added to taxing district after tax voted. 39 L.R.A.(N.S.) 601.

Power of legislature to make special taxing district of territory annexed to municipality. 27 L.R.A. 738.

Right to interplead different taxing districts claiming right to claim same property. 35 L.R.A. (N.S.) 330.

Right of creditor of taxing district to invoke aid of court to obtain satisfaction of debt, where ordinary remedies not available. 32 L.R.A. (N.S.) 1020.

## II. Power of taxation; what taxable.

## a. Power, generally.

4. Generally.

Power to impose succession tax, see infra, § 92.

Power to impose poll tax. 29 L.R.A. 406. Taxation without representation. 15 L.R.A. (N.S.) 67.

Estoppel of taxing power to tax land, by wrongful claim of ownership of. L.R.A.(N.S.) 1074.

Right to extend tax over territory added to taxing district after tax voted. L.R.A. (N.S.) 601.

Consult also L.R.A. Digests of Cases.

TAXES, II. a—cont'd
"Emergency" which will authorize an extra
tax. 52 L.R.A.(N.S.) 676.

§ 5. Delegation of power.

To what boards or bodies power of taxation may be delegated. 15 L.R.A.(N.S.) 61; 32 L.R.A.(N.S.) 1078.

b. Power of state or municipality to tax Federal agencies, instrumentalities, and property.

6. Generally.

Effect of admission of state into the Union upon provision of ordinance of 1787 as to taxation of United States lands. 52 L.R.A.(N.S.) 312.

Power of state to tax salary of Federal officer, or of Federal government to tax salary of state officer. 34 L.R.A. (N.S.) 1215.

Exemption from state taxation of paper given for interest on obligations of the Federal government. 5 L.R.A. (N.S.)

Property leased by United States as subject to taxation. 35 L.R.A.(N.S.) 167.

Local license tax on vessels licensed by. 27 L.R.A. 414.

Municipal assessment of property of United States. 23 L.R.A. 810.

Applicability of general tax exemptions to inheritance or succession tax on bequest to United States. (N.S.) 1209. 23 L.R.A.

§ 7. State taxation of national banks. Decisions prior to establishment of national banks. 45 L.R.A. 737.

Acts establishing national banks. 45 L.R.A. 738.

Taxation of property franchises or processes of banking. 45 L.R.A. 739.

Taxation of shares of stock. 45 L.R.A. 743;

3 L.R.A. (N.S.) 584.
Discrimination. 45 L.R.A. 748; 10
L.R.A. (N.S.) 947.

Bank officers to assist. 45 L.R.A. 762. Provisions of state Constitutions. 45 L.R.A. 763.

Remedies. 45 L.R.A. 763. Contracts for special rates. 45 L.R.A. 764.

Tax on bank officers. 45 L.R.A. 764. Taxation of property of national bank in hands of receiver. L.R.A.1915E, 223.

c. Equality; uniformity; discrimination; double taxation.

§ 8. Generally.

Constitutional equality in taxation of corporations, see infra, § 39.

Of succession tax, see infra, § 93. In license tax, see LICENSE, §§ 46, 46a.

Equal privileges as to. 14 L.R.A. 583. Self-executing effect of provision as to uniformity. 16 L.R.A. 284.

Constitutionality of poll tax as affected by exemptions therefrom. 13 L.R.A. (N.S.) 901.

Who may raise objection that taxation statute contains an unconstitutional discrimination. 32 L.R.A.(N.S.) 957.

TAXES, II. c-cont'd

Validity of discrimination in rate of taxation on rural lands within limits of municipality. 34 L.R.A. 193.

Want of uniformity in mortgage registration tax. L.R.A.1916A, 866.

Constitutionality of classification of minerals for purpose of taxation. 1916F, 164.

Discrimination between credits secured by lien and those not so secured. L.R.A. 1915A, 185.

Statute requiring particular locality to bear part of judge's salary as violating constitutional requirement of uniformity in taxation. L.R.A.1917D, 797.

Privilege or occupation tax on rights issuing out of or connected with real property as a property tax within the constitutional provision. L.R.A.1918C, 898.

#### § 9. Double taxation.

In succession tax, see infra, § 94.

Double taxation; what constitutes; validity. 16 L.R.A. 59.

Avoidance of double domestic taxation in case of property brought into tax district after tax day. 38 L.R.A. (N.S.) 860.

## § 10. — tax on mortgage.

Taxation of mortgage as double taxation.
2 L.R.A. 350; 16 L.R.A. 60.

Taxation of mortgage and real estate at full value as double taxation. L.R.A.(N.S.) 152.

#### 11. — of corporations.

In taxation of corporations. 60 L.R.A. 366. Tax on corporate franchise as double taxation. 57 L.R.A. 97.

Double taxation in taxing capital stock of corporation. 58 L.R.A. 589.

Taxation of shares of stock and corporate assets as double taxation. 15 L.R.A. (N.S.) 952.

Taxation of business or occupation of a public-service corporation, and of its franchise or right to occupy the streets, as double taxation. 28 L.R.A.(N.S.) 22.

12. — tax in two or more states.

Exacting succession tax in two or more states as double taxation. 15 L.R.A. (N.S.) 150.

Taxation of property in different states as double taxation. 15 L.R.A.(N.S.) 142. [See also 36 L.R.A.(N.S.) 295.]

#### d. For what purpose or use.

## § 13. Generally.

What constitutes a tax, see supra, § 2. Uses for which public money may be employed, see Public Money, § 4. For school purposes, see School, s, § 35.

Begin with this book on every law question.

TAXES, II. d-cont'd

Contract to levy taxes for particular pur-pose as affecting power or right to levy taxes for other purposes. L.R.A.1918B,

Public purposes for which money may be raised by taxation. 14 L.R.A. 474. For levees. 58 L.R.A. 758.

For salary of pastor. 38 L.R.A. 687.

To defray cost of municipal waterworks. 61 L.R.A. 50.

By county for state institution. 17 L.R.A. 795.

To defray cost of municipal waterworks. 61 L.R.A. 50.

Right of municipal corporation to requireuse of water meters and impose expense of same on consumers. 23 L.R.A.(N.S.) 410; L.R.A.1915A, 320.

Constitutionality of tax on dogs for benefit of sheep owners. 17 L.R.A. (N.S.) 855.

Validity of law imposing tax on insurance companies for the benefit of firemen. 13 L.R.A.(N.S.) 1147.

Validity of statute providing for governmental assistance of individual members of certain classes of unfortunate or afflicted persons. 7 L.R.A.(N.S.) or afflicted persons. 1196.

Validity of statute or ordinance authorizing levy of tax for two or more purposes. 14 L.R.A. (N.S.) 519.

Workmen's compensation scheme as illegal use of taxing powers. L.R.A.1916A, 427; L.R.A.1917D, 57.

## e. What taxable; exemptions.

#### 1. In general.

§ 14. Generally; miscellaneous subjects of taxation.

Power of state to tax Federal agency, iustrumentality, or property, see supra, §§ 6, 7.

Property subject to inheritance tax, see infra, §§ 96-98.

Income, see infra, § 106.

Exemption from succession tax, see infra, 88 95-100.

Tax on dogs, see ANIMALS, § 19. Of banks, see BANKS, § 50.

Of commercial bonds, see BONDS, § 26.

Taxation of bridge, see BRIDGES, § 13. On cemetery, see CEMETERIES, § 3.

On copyrighted article, see COPYRIGHT, § 10. On land held by the curtesy, see CURTESY,

Taxation of property of gas company, see

GAS, § 4.

Tax on leasehold interest, see LANDLORD AND TENANT, § 8.

Tax on improvements on leased premises, see Landlord and Tenant, § 41.

Tax or license on occupation, see LICENSE, II.

What property subject to municipal tax, see MUNICIPAL CORPORATIONS, § 110. Poll tax, see Poll Taxes.

Of vessels, see Shipping, § 5.

TAXES, II. e, 1—cont'd Membership in board of trade or exchange as subject of taxation. 50 L.R.A. (N.S.) 255.

Effect of dissolution on taxation of partnership property. 22 L.R.A. 478.

Property of joint-stock association. L.R.A. 478.

Exemption of copyrights. 57 L.R.A. 57; 58 L.R.A. 564.

Trademark as a subject of taxation. L.R.A.(N.S.) 30.

Goodwill of business. 58 L.R.A. 566.

Property right in intellectual productions. 51 L.R.A. 381.

Bicycles as subjects of taxation by municipalities. 47 L.R.A. 304.

Assessment and taxation of pew. 22 L.R.A. 215.

Privilege or license to sell intoxicating liquors as subject of taxation. 37 L.R.A. (N.S.) 455.

Tax on gross receipts of interstate telegraph and telephone companies. 24 L.R.A. 162.

Deposit by insurance company as subject of taxation. 36 L.R.A.(N.S.) 226.

Taxation of toll bridge. 58 L.R.A. 168; 30 L.R.A. (N.S.) 364.

Is property for which no method of taxation is prescribed subject to taxation under a statute declaring that all property not exempt shall be taxed "in the manner provided by this act." L.R.A. (N.S.) 251.

Interest of one other than the owner of the soil in growing trees or timber, or their products, as separate subject of taxation. 17 L.R.A.(N.S.) 693.

Interest of one other than the owner of the soil in mineral in situ as independent subject of taxation. 17 L.R.A.(N.S.) 688; L.R.A.1916D, 307.

Elevators, warehouses, etc., and their sites, on railroad right of way, as separate subjects of taxation. L.R.A.1916E, 413.

Taxation of property in hands of receiver. L.R.A.1915E, 211.

\$ 15. Exemptions generally.

In succession tax, see infra, § 95. From local assessment, see Public IMPROVE-MENTS, § 23.

Exemption of consuls. 45 L.R.A. 587. Deducting exempt property in taxation of shares of corporate stock in hands of

shareholders. L.R.A.1915C, 389. Deduction of exempt property in taxation of capital stock of corporation. L.R.A. 1915C, 385.

Acquisition of exempt character after tax day. L.R.A.1915C, 125.

Real property given to trustees to sell and pay proceeds to certain institution as within exemption from taxation extended to real property of such institution. 42 L.R.A. (N.S.) 530.

Question as to exemption from taxation as Federal question. 62 L.R.A. 537. Extent of exemption. 9 L.R.A. 629.

Consult also L.R.A. Digests of Cases.

TAXES, II. e, 1—cont'd

Constitutionality of poll tax as affected by therefrom. 13 exemptions (N.S.) 901.

Liability to local assessments for benefits, of property exempt from general taxation. 18 L.R.A. (N.S.) 451; 32 L.R.A. (N.S.) 303; 44 L.R.A. (N.S.) 57; L.R.A.1916F, 864.

Effect of exemption of property in state in taxing shares of national bank stock. 45 L.R.A. 746.

Making clothing to measure as manufacturing for purposes of tax laws. 44 L.R.A.(N.S.) 303.

§ 16. Power to exempt.

Power of municipality to exempt from taxation, see MUNICIPAL CORPORATIONS, § 111.

Constitutional limitation of the power to exempt property from taxation as affecting public obligations or property. L.R.A.1917B, 308.

Power of state legislature to exempt from taxation. 19 L.R.A. 77.

Municipal power to exempt. 15 L.R.A. 860; 29 L.R.A. (N.S.) 183.

Power of municipality to exempt rural lands within corporate limits from taxation. 34 L.R.A. 200.

§ 17. Property of nonresident.

Where property of, or debts due to, nonresident are taxable, see infra, § 42.

Transfer tax on estate of nonresident, see infra, § 100.

17a. Property becoming subject to tax after tax day.

Assessability of property brought into tax district after tax day. 38 L.R.A. (N.S.) 856.

Personal property acquiring a taxable nature after tax day. 38 L.R.A. (N.S.) 1157.

§ 18. Credits.

Option as taxable credit. 10 L.R.A. (N.S.)

Option to purchase, or contract for sale of, real property, as a taxable credit. 34 L.R.A.(N.S.) 1221.

Outstanding accounts as "property" or "credits" subject to taxation. 29 L.R.A. (N.S.) 60.

Shares of stock in building and loan association as "credits" within taxing statute. 38 L.R.A.(N.S.) 137.

Amount due under contract for the purchase of land, not evidenced by note or purchase-money mortgage, as a credit subject to taxation. 17 L.R.A. (N.S.) 1220.

Constitutionality of provision for deducting debts from credits to be taxed. 23 L.Ř.A. 278.

§ 19. Judgments.

Tax on judgment. L.R.A.1918F, 823. Constitutionality of specific tax upon judgments. 32 L.R.A.(N.S.) 179.

TAXES, II. e, 1—cont'd § 20. Mortgages.

As double taxation, see supra, § 10. Situs for taxation of property secured by mortgage, see infra, § 47.

Power to tax mortgages. 16 L.R.A. 59.

§ 21. What constitutes real estate for purposes of.

Coal. 15 L.R.A. 297.

Public land claims, and improvements thereon. 15 L.R.A. 297.

Leasehold interests. 15 L.R.A. 297. Wharves, piers, and bridges. 15 L.R.A 298. Railway property. 15 L.R.A. 298.

Pipe line. 15 L.R.A. 299.

Telegraph line. 15 L.R.A. 299.

Water and gas companies' property. L.R.A. 299.

§ 22. Municipal taxation of rural lands within corporate limits.

In general. 34 L.R.A. 193; 27 L.R.A. (N.S.)

Validity of exemption or discrimination in rates. 34 L.R.A. 193; 27 L.R.A.(N.S.)

Construction of statutory exemption or discrimination. 34 L.R.A. 194; 27 L.R.A. (N.S.) 698.

Right to repeal exemptions. 195; 27 L.R.A. (N.S.) 696. 34 L.R.A.

Validity of taxation of farm lands. L.R.A. 195.

Power of courts. 34 L.R.A. 196. What property is taxable. 34 L.R.A. 198. Power of municipality to exempt. L.R.A. 200.

Original incorporation. 34 L.R.A. 200. Assessments. 34 L.R.A. 200.

Method of raising question. 34 L.R.A. 200.

#### § 23. State, United States, or municipal bonds.

Liability of municipal bonds to taxation. 12 L.Ř.A. (N.S.) 1159.

Implied exemption of state or municipal bonds. 7 L.R.A.(N.S.) 663.

Taxation of United States bonds as part of

capital stock of corporation. 57 L.R.A.

57; 58 L.R.A. 568. Exemption from state taxation of paper given for interest on obligations of Fed-

eral government. 5 L.R.A. (N.S.) 608. Deduction of amount invested in national securities in taxing capital stock of corporation. L.R.A.1915C, 385.

Constitutional limitation of the power to exempt property from taxes as affecting. L.R.A.1917B, 308.

## § 24. Charitable, educational, and roligious institutions.

Taxation of colleges, see Colleges, § 2. Exemption from improvement assessment, see Public Improvements, § 23.

TAXES, II. e, 1—cont'd

Right of charitable, educational, or religious institution to exemption from taxation as affected by the geographical field of operation. 17 L.R.A.(N.S.) 733; 51 L.R.A.(N.S.) 817.

Liability of property of religious society to local assessment. 35 L.R.A. 36.

Exemption of parish house from taxation. 27 L.R.A.(N.S.) 910.

Exemption of parsonage from taxation. 39 L.R.A.(N.S.) 437.

Exemption from property taxation of property of Young Men's Christian As-

sociation or Young Women's Christian
Association. L.R.A.1916D, 275.
Exemption of property used for private
school. 21 L.R.A.(N.S.) 164; L.R.A. 1917E, 1097.

Is school which is also used for residential purposes by proprietor and family, or other persons connected with the school "exclusively" used for school purposes, within statutory exemption. 21 L.R.A. (N.S.) 171.

Exemption of property of patriotic societies. 26 L.R.A. (N.S.) 707.

Fraternal benefit society as a benevolent or charitable association within exemption

statutes. 7 L.R.A.(N.S.) 380.

Exemption of library from taxation when not expressly included in the exemption statute. 24 L.R.A.(N.S.) 1205.

Requiring payment from inmates as affecting right of charitable institution to public aid or exemption from taxation. 29 L.R.A.(N.S.) 10; L.R.A.117B, 782. Use of lodge or club building for entertain-

ment or social purposes as affecting right of exemption from taxation. L.R.A.1915C, 694.

§ 25. - property devoted to purposes of particular society.

Effect of fact that property otherwise ex-empt from taxation is devoted to purposes of a particular society. 16 L.R.A. (N.S.) 829; 26 L.R.A. (N.S.) 696.

Exemption of college fraternity house. 52. L.R.A. (N.S.) 995.

§ 26. — effect of using in secular busi-

Effect of using property of a religious, charitable, or educational institution in secular business or for revenue, upon its right to exemption from taxation. 19 L.R.A. 289; 50 L.R.A.(N.S.) 1197.

§ 27. Railroad property,

Upon passenger traffic, see CARBIERS, § 100. On freight, see CARRIERS, § 146.

Nature of railroad property for purpose of 15 L.R.A. 298; 66 L.R.A. 51.

§ 28. Patent rights.

Exemption of patent rights. 29 L.R.A. 792; 57 L.R.A. 57; 58 L.R.A. 564.

Begin with this book on every law question.

TAXES, II. e, 1-cont'd § 29. Municipal waterworks.

Belonging to municipality, see infra, § 32.

Property of water company as real estate for purposes of taxation. 15 L.R.A. 299.

Property of private companies. 60 L.R.A. 850.

Property outside limits of municipality. 60 L.R.A. 852.

Exemptions. 60 L.R.A. 853. Construction of statutes. 60 L.R.A. 854.

Where taxable. 60 L.R.A. 854. Amount. 60 L.R.A. 854.

Character of property. 60 L.R.A. 855. Enforcement. 60 L.R.A. 855.

#### 2. Public property.

🖇 30. Generally.

Tax on property of state, see STATES, § 3.

Constitutional limitation of the power to exempt property from taxes as affecting. L.R.A.1917B, 308.

Property leased by public as subject of taxation. 35 L.R.A. (N.S.) 167; 52 L.R.A. (N.S.) 991.

Effect of provision in lease of public property as to payment of taxes. L.R.A. 1915C, 698.

Property granted or sold with reservation of title or lien in favor of public, as subject of taxation. 35 L.R.A. (N.S.) 669.

Acquisition of property by the public as affecting tax proceedings previously instituted, or previously existent tax lien. 48 L.R.A.(N.S.) 707.

Property located in one state or municipality, but belonging to another. 50 L.R.A.(N.S.) 243.

## § 30a. Property from which an income is derived.

Exemption in terms. L.R.A.1915A, 1118. Exemption by implication. L.R.A.1915A, 1119.

"Public uses" or purposes under constitutions and statutes. L.R.A.1915A, 1122. Particular statutes. L.R.A.1915A, 1125. Miscellaneous. L.R.A.1915A, 1125.

## § 31. Property of municipality. Liability to local improvement assessment, see Public Improvement, § 23.

Property held by municipal corporation in trust as subject of taxation. 34 L.R.A. (N.S.) 143.

Property leased by, as subject of taxation. 35 L.R.A.(N.S.) 167; 52 L.R.A.(N.S.)

Tax on highway. 44 L.R.A.(N.S.) 836. Taxation of property of municipality lo-cated in another municipality or an-

other state. 50 L.R.A. (N.S.) 243. Property from which income is derived. L.R.A.1915A, 1118.

Exemption of municipal light plant from taxation. 16 L.R.A. (N.S.) 867. Consult also L.R.A. Digests of Cases.

TAXES, II. e, 2-cont'd

§ 32. — municipal waterworks.

Constitutional limitation of the power to exempt property from taxation as affecting. L.R.A.1917B, 308.

Taxation of waterworks owned by munic-

ipality. 60 L.R.A. 851.

Taxation of water company belonging to municipality. 1 L.R.A.(N.S.) 766.

Taxation of waterworks property located in one state or municipality but belonging to another. 50 L.R.A. (N.S.) 243.

Effect of fact that income is derived from waterworks. L.R.A.1915A, 1118.

#### 3. Corporations and corporate property.

§ 33. Generally.

Double taxation of, see supra, § 11.

Where taxable, see infra, §§ 45, 46.

Tax on transfers of corporate stock, see infra, § 107.

Corporate taxation and the commerce clause, see COMMERCE, § 21.

Taxation of express companies, see Express COMPANIES, § 3.

Taxation of insurance companies and

policies, see INSURANCE, § 4. Tax on telegraph company, see TELEGRAPHS,

§ 8. Corporations as persons under laws relat-

ing to taxation. 19 L.R.A. 224.

Taxation of easements of corporation in streets as real estate. 1 L.R.A.(N.S.)

Withdrawal or attempted withdrawal of foreign corporation as affecting power of state to effect a privilege tax. L.R.A. 1916C, 577.

Structure or improvement in street or highway used in connection with special franchise as taxable element. L.R.A. 1916B, 1228.

#### § 34. Consolidated corporations.

Taxability of capital stock. 58 L.R.A. 523. Taxation of consolidated corporations. 60 L.R.A. 101, 676.

Taxation of consolidated interstate corporation. 15 L.R.A. 85.

Liability for incorporation tax upon extension, reorganization, consolidation, or merger of existing corporations. 47 L.R.A.(N.S.) 1066.

#### § 85. Taxation of corporate franchise. In general. 57 L.R.A. 34.

Power and jurisdiction of a state to tax. 57 L.R.A. 34.

What are franchises. 57 L.R.A. 35.

Taxability of franchises. 57 L.R.A. 88. Franchise taxes. 57 L.R.A. 48.

Organizations subject to franchise taxes. 57 L.R.A. 73.

Limitations on franchise taxation. 57 L.R.A. 93.

Valuation of franchises for the purposes of taxation. 57 L.R.A. 98.

Administration and relief. 57 L.R.A. 104.

TAXES, II. e, 3—cont'd

What property is part of the franchise of a corporation for purposes of taxation. 17 L.R.A. 92.

Tax on franchise of interstate telegraph and telephone companies. 24 L.R.A. 162. State taxation of property, franchises, or processes of national bank. 45 L.R.A. 739.

Right to be a corporation as a franchise within constitutional or statutory provisions subjecting franchises to taxation as property. 28 L.R.A.(N.S.) 255.

Franchise tax upon corporation in the hands of receivers. L.R.A.1915E, 220.

Structure or improvement in street or highway used in connection with special franchise as taxable element. L.R.A. 1916B, 1228.

Lease of its property as affecting liability of foreign corporation to franchise tax or tax upon privilege of doing business within the state. L.R.A.1917D, 1073.

36. Taxation of capital stock. In general. 58 L.R.A. 513.

What capital stock is, as a subject of taxation. 58 L.R.A. 514.

Concerns taxable on capital stock. 58 L.R.A. 522.

Taxable elements and determining factors in the taxation of capital stock. 58 L.R.A. 527.

Stockholders. 58 L.R.A. 577.

Deductions in taxation of shares of corporate stock in hands of shareholders. L.R.A.1915C, 386. Dividends. 58 L.R.A. 585.

Duty of corporations to collect taxes upon their share stock. 58 L.R.A. 588.

Double taxation. 58 L.R.A. 589.

Capital stock and corporate property. 58 L.R.A. 593; 15 L.R.A. (N.S.) 952. Valuation. 58 L.R.A. 594.

Deduction. 58 L.R.A. 599; L.R.A.1915C, 380.

Exemption. 58 L.R.A. 603. Limitations. 58 L.R.A. 605.

Statutory constructions. 58 L.R.A. 609. Administration and relief. 58 L.R.A. 612. Tax on capital stock of interstate telegraph and telephone companies. 24 L.R.A. 162.

State taxation of shares of stock of national bank. 45 L.R.A. 743.

When is capital of corporation invested in real estate deemed "employed" within statute taxing amount of capital stock employed within state. 28 L.R.A. (N.S.) **37**1.

Taxation of stock returned to treasury of corporation. 9 L.R.A.(N.S.) 885.

Shares of stock in building and loan association as "credits" within taxing statute. 38 L.R.A.(N.S.) 137.

§ 37. Corporate taxation as affected by contract clause in Federal Constitution.

In general. 60 L.R.A. 33. Controlling principles. 60 L.R.A. 37.

Begin with this book on every law question.

TAXES, II. e, 3-cont'd Legislative and governmental powers. L.R.A. 43.

Constitutional changes. 60 L.R.A. 49.

Incorporation and exemption acts. 60 L.R.A.

Reserved right to alter, amend, and repeal. 60 L.R.A. 69.

Interpretations. 60 L.R.A. 75. Transfers and survivals. 60 L.R.A. 99.

§ 38. Taxation of manufacturing corporations.

Generally. 58 L.R.A. 603; 64 L.R.A. 33.

Definitions. 64 L.R.A. 34.

Evolution of manufactured products. 64 L.R.A. 41.

Organization. 64 L.R.A. 52. Operation. 64 L.R.A. 54.

Special industries. 64 L.R.A. 58.

Interpretation of laws. 64 L.R.A. 66.

Extension of exemption to addition to, or enlargement of, manufacturing plant. L.R.A.1916D, 112.

Electric company as manufacturing company for purposes of tax laws. 38 L.R.A.(N.S.) 907.

Modification of food products as manufacturing. L.R.A.1917A, 53.

§ 39. Constitutional equality in relation to.

Generally. 60 L.R.A. 321.

Natural justice. 60 L.R.A. 321.

Need of constitutional guards against inequality. 60 L.R.A. 323.

Absolute equality unattainable. 60 L.R.A. 324.

Constitutional provisions. 60 L.R.A. 325. Inclusiveness of equal rights, privileges, immunities, and protection of the laws. 60 L.R.A. 329.

Status of corporations. 60 L.R.A. 330.

Excises upon franchises, privileges, and occupations. 60 L.R.A. 333. Classification. 60 L.R.A. 339.

Exposition and interpretation. 60 L.R.A. 351.

The conflict in Wisconsin. 60 L.R.A. 361. Commutations and exemptions. 60 L.R.A.

Double taxation. 60 L.R.A. 366.

ssessments at full value when valuations generally are less. 60 L.R.A. 368.

Different methods of assessment and procedure. 60 L.R.A. 372.

Miscellaneous. 60 L.R.A. 374.

Requirement of equality and uniformity in assessments for public improvements by front-foot rule. 28 L.R.A. (N.S.) 1135; L.R.A.1917D, 375.

Requirement as to equality in state taxation of shares of stock of national banks. 45 L.R.A. 744.

Discrimination against shareholders in national banks, in assessing their shares. 10 L.R.A.(N.S.) 947.

#### TAXES—cont'd

## III. Where taxable; situs of property.

40. Generally.

Place of taxation of partnership property. 22 L.R.A. 477; 3 B. R. C. 793.

Place of taxation of property of estate. 20 L.R.A. 153.

Situs of mill site or water power for purposes of taxation. L.R.A.1917F, 591.

Taxation of water power on interstate stream. 18 L.R.A.(N.S.) 755.

Location of street franchise for purposes of taxation. 5 L.R.A.(N.S.) 174.

Situs, as between different states or countries, of personal property for purposes of property taxation. L.R.A.1915C, 903.

Personal property held by testamentary trustees or by executor or administrator. L.R.A.1915C, 949.

Personal property having a situs for taxation elsewhere, as subject of taxation in the state of the owner's domicil. 36 L.R.A. (N.S.) 295.

Poll taxes. 29 L.R.A. 410.

Domicil or residence for taxation as affected by purpose to obtain school facilities. L.R.A.1917A, 290.

§ 41. Debts generally.

Debts evidenced by notes and mortgages, see infra, § 47.

When debt may have situs for the purpose of taxation apart from domicil of creditor. 2 L.R.A. (N.S.) 637; 14 L.R.A. (N.S.) 493.

§ 42. Property of, or debts due, nonresidents.

Tax on property of nonresident, see supra, § 17.

Succession tax on estate of nonresident, see infra, § 100.

Taxation of mortgage given to nonresident. 16 L.R.A. 60.

Taxation of shares of stock owned by. 58 L.R.A. 580.

Local situs within the state of tangible personal property of nonresident for the purposes of local taxation. (N.S.) 704. 7 L.R.A.

Bank deposit to credit of nonresident of the state as subject of local property taxation. 26 L.R.A.(N.S.) 1120.

Situs as between different states or countries of personal property of nonresidents. L.R.A.1915C, 903.

Property held by testamentary trustees or by executor or administrator. L.R.A.1915C, 949.

48. Property in transit.

When transit commencing in another state deemed terminated or definitely interrupted so as to render goods liable to local taxation. 2 L.R.A. (N.S.) 662. Consult also L.R.A. Digests of Cases, 81

TAXES, III.—cont'd

When do logs intended for exportation pass beyond state's power of taxation. L.R.A. (N.S.) 800.

§ 44. Bridge over boundary river, Jurisdiction as to taxation of bridge over river forming boundary of a state

or its divisions. 29 L.R.A. 69. Taxation of franchise of bridge company whose structure spans a navigable stream between two states. 57 L.R.A.

§ 45. Corporate property.

Taxation of capital stock of corporation, whose property is out of state bounds. 58 L.R.A. 529.

Taxation of shares of stock owned by nonresidents. 58 L.R.A. 586.

Situs as between different states of shares of corporate stock for purpose of property taxation. L.R.A.1915C, 942.

Where state tax on national bank is to be assessed. 45 L.R.A. 759.

Situs of railroad rolling-stock for purpose of taxation. 69 L.R.A. 445.

Designation of home office by corporation as fixing situs for purposes of taxation. L.R.A.1917A, 469.

§ 46. Situs, for taxation, of tangible personal property of domestic corporation.

In general. 69 L.R.A. 431.

Essentials of jurisdiction. 69 L.R.A. 432. Localization of corporations. 69 L.R.A. 433. Principal office as domicil. 69 L.R.A. 433. Effect of certificate of incorporation on the question of domicil. 69 L.R.A. 437.

Legislative power to fix the situs of property for taxation. 69 L.R.A. 441.

Personal property physically present in the taxing jurisdiction. 69 L.R.A. 442.

Tangible property outside the state. L.R.A. 443.

Particular classes of property. 69 L.R.A. 445.

§ 47. Situs for taxation of debts evidenced by notes and mortgages. In general. 16 L.R.A. 729. Mortgages. 16 L.R.A. 60, 730. Notes. 2 L.R.A. 801; \* 16 L.R.A. 730.

When held by agent residing in different state from principal. 16 L.R.A. 731.

Situs as between different states or countries of debt secured by mortgage for purposes of property taxation. L.R.A. 1915C, 939.

§ 48. Place of taxation of trust property.

Generally. 20 L.R.A. 151.

Who are trustees within the rule. 20 L.R.A.

In case of several trustees. 20 L.R.A. 152. Executors and administrators. 20 L.R.A. 153.

TAXES, III.—cont'd

Taxes on infant's property. 20 L.R.A. 155. Lunatics' property. 20 L.R.A. 155. Situs as between different states or coun-

tries of personal property held by testamentary trustees for purposes of property taxation. L.R.A.1915C, 949.

§ 49. Where ships and boats are taxable.

Generally. 37 L.R.A. 518; 69 L.R.A. 447; 29 L.R.A. (N.S.) 105.

Different jurisdictions within the same state. 37 L.R.A. 518.

Vessels away merely on a voyage. 37 L.R.A. 519.

Vessels away indefinitely. 37 L.R.A. 519. What is home port. 37 L.R.A. 520; 2 L.R.A. (N.S.) 197, 1196.

IV. Assessment and levy; enforcement; collection.

## a. In general,

§ 50. Generally.

Poll taxes. 29 L.R.A. 412. Implied right to interest on taxes or assessment. 6 L.R.A.(N.S.) 694.

Presumption as to time of alteration in tax bill. 39 L.R.A.(N.S.) 114.

52. Failure to file list.

Validity of statute subjecting to the doom of the assessor a taxpayer who fails to furnish a list of his property. 24 L.R.A.(N.S.) 388.

## b. Assessment.

#### 1. In general.

§ 58. Generally.

Of succession tax, see infra, § 101.

Assessment or nonassessment of property as affecting its dedication or acceptance for public use. L.R.A.1916B, 1175.

What notice is necessary to due process of law in tax proceedings. L.R.A.1916E, 5. Delegation of power of taxation to board of equalization. 15 L.R.A. (N.S.) 66.

Method of assessing state tax on national bank. 45 L.R.A. 758.

Practice and procedure of assessors in taxing capital stock of corporation. 58 L.R.A. 612.

Different methods of assessment and procedure in taxation of corporations. 60 L.R.A. 372.

Power to compel production of corporate books to aid in assessing holder of stock or his estate. 8 L.R.A. (N.S.) 788.

Computation of taxes upon insurance premi-

ums. L.R.A.1918D, 958. Begin with this book on every law question.

TAXES, IV. b, 1-cont'd

§ 53a. Assessment of land owned by cotenants in undivided interests.

Form of assessment where land is owned by cotenants in undivided interests. 50 L.R.A. (N.S.) 402.

§ 54. Assessment of property of decedent's estate.

In general. 56 L.R.A. 634; 50 L.R.A. (N.S.) 407.

Assessment to decedent. 56 L.R.A. 634; 50-L.R.A. (N.S.) 407.
Assessment to "estate of" decedent.

L.R.A. 636; 50 L.R.A.(N.S.) 409.

Assessment to heirs or devisees, next of kin or legatees. 56 L.R.A. 645; 50 L.R.A. (N.S.) 410.

Assessment to executors or administrators. 56 L.R.A. 647; 50 L.R.A.(N.S.) 411. What notice is necessary to due process of

law. L.R.A.1916E, 56.

§ 54a. — omitted property.

Assessment after death of owner, of taxesomitted during his lifetime. 40 L.R.A. (N.S.) 927.

§ 55. Time for.

First and last days in computing time for assessment. 49 L.R.A. 236; 15 L.R.A. (N.S.) 691.

#### 2. Valuation.

§ 56. Generally.

For purpose of succession tax, see infra, § 102.

Mandamus at instance of creditor to compel. raising of tax assessment to the full value of the property. L.R.A.1918B, 1107.

Valuation of capital stock for purpose of taxation. 58 L.R.A. 594.

Method of fixing values of national bank shares, 45 L.R.A. 756.

Valuation of corporate franchise for purpose of taxation. 57 L.R.A. 98.

Assessments of corporations at full value when valuations generally are less. 60 L.R.A. 368.

Consideration of earnings or income in determining the value of property for purposes of taxation. L.R.A.1916C, 529.

§ 57. — deductions.

In computing succession tax, see infra, § 103.

Set-off for debts in assessment of partnership property. 22 L.R.A. 477

Corporate indebtedness as element in fixing value of capital stock for taxation. 58 L.R.A. 577.

In valuation of capital stock for purpose of taxation. 58 L.R.A. 594; L.R.A.1915C,

Deductions in taxation of shares of corporate stock in hands of shareholders. L.R.A.1915C, 386,

TAXES, IV. b, 2—cont'd

Deduction of indebtedness in state taxation of shares of national bank stock. 45 L.R.A. 751.

Deduction for investment in real estate and other property in state taxation of shares of national bank stock. 45 L.R.A. 757.

Constitutionality of provision for deduction of debts from credits or other property.

23 L.R.A. 278.

Constitutionality of statute which allows a deduction of only the assessed value of the real estate in assessing the capital stock of a corporation. 30 L.R.A.(N. S.) 704.

§ 58. - as of what time.

As of what time is the assessed valuation to be taken for purposes of determining the debt limit of a state or municipality. 28 L.R.A. (N.S.) 149.

#### c. Reassessment,

§ 59. Generally. Reassessment. 6 L.R.A. 802.

c. Review, correction; equalization; appeal.

59b. Board of equalization.

Parol evidence to vary or supplement min-utes of. 50 L.R.A. (N.S.) 99.

Delegation of power of taxation to board of equalization or revision. 15 L.R.A. (N.S.) 66.

§ 59c. Appeal.

Effect of right to appeal to supply defects in notice in tax proceedings. L.R.A. 1916E, 21.

Power of legislature to permit appeal to court for purpose of reviewing the amount of tax assessment. L.R.A. 1915B, 875.

## d. Tax officers.

§ 60. Generally.

Board of equalization, see supra, § 59b.

Effect of officer's acts and negligence on right of redemption, see infra, § 83.

Parol evidence to vary or supplement rec-

ords of. 50 L.R.A.(N.S.) 99. Liability of tax officers or their bond for failure of tax purchaser's title on account of irregularities in procedure. 41 L.R.A.(N.S.) 967.

Liability of taxing officer to individual for nonfeasance, misfeasance, or malfeasance. 51 L.R.A.(N.S.) 137.

Liability of municipality for wrongful proceedings instituted by its officers to collect taxes. 32 L.R.A.(N.S.) 37.

61. Tax collectors.

Effect of insertion of unauthorized provisions in bond of. L.R.A.1917B, 990.

Tax collectors as public officers. 17 L.R.A.

247.

Consult also L.R.A. Digests of Cases.

TAXES, IV. d-cont'd

Priority of claim for taxes against assets of collectors. 29 L.R.A. 279.

Equity jurisdiction of suit against tax collector who is in default. 43 L.R.A. (N.S.) 604.

Liability of tax collector to individual for nonfeasance, misfeasance, or malfeasance. 51 L.R.A.(N.S.) 146.

Right of sureties of tax collector who have made good a loss occasioned by their principal's misconduct or default to be subrogated to rights of obligee or beneficiary of the bond against a third per-14 L.R.A. (N.S.) 155; 46 L.R.A. son. (N.S.) 557.

e. Who liable for tax; to whom taxable.

62. Generally.

Who subject to succession tax, see infra, §§ 99, 100.

Liability of life tenant, see Dower, § 21; LIFE TENANTS, § 10.

As between mortgagor and mortgagee, see MORTGAGE, § 32.

Name in which partnership property should be assessed. 22 L.R.A. 478.

To whom are improvements removable by tenant at expiration of term taxable. 37 L.R.A.(N.S.) 1166.

Right to enforce tax against nonresident stockholder of corporation. 33 L.R.A. (N.S.) 907.

Is purchaser of real property under executory contract the owner thereof for purposes of taxation. 24 L.R.A.(N.S.) 1300.

Who is responsible for taxes on improvements removable by tenant at end of term. 32 L.R.A.(N.S.) 368.

Reservation of right of re-entry as affecting liability on covenant to pay taxes. 42 L.R.A. (N.S.) 1088.

Liability of liquor dealer's bond for taxes and returns. L.R.A.1916E, 277.

Who responsible as between vendor and vendee for taxes accruing after sale but before title perfected in purchaser. 43 L.R.A. (N.S.) 51.

Taxation of land under perpetual lease or ground rent. 46 L.R.A.(N.S.) 284.

§ 63. Poll taxes.

Upon whom poll tax imposed. 29 L.R.A. 409.

Legislative power to compel employer to pay employee's poll tax. 9 L.R.A.(N. S.) 306.

## f. Payment; tender.

§ 64. Generally.

Right to recover back taxes, paid, see infra, §§ 86, 87.

Payment of succession tax, see infra, § 104. Covenant in lease as to payment of, see LANDLORD AND TENANT, § 18a.
Foreclosure of mortgage on default in pay-

ment of, see MORTGAGE, § 65.

TAXES, IV. f-cont'd

Subrogation of person paying, to rights of public, see SUBROGATION, § 8.

Mandatory injunction to compel reception of coupons for taxes. 20 L.R.A. 167. Necessity of immediate payment on a tax sale. 33 L.R.A. 481,

Payment of, as a qualification of grand juror. 28 L.R.A. 198.

Payment of poll taxes as qualification of electors. 29 L.R.A. 414.

Payment of, by mortgagee, tacking to mortgage debt, 5 L.R.A. 293.

Tender of tax prevented by officer. 20 L.R.A. 489.

Effect of tender of. 20 L.R.A. 491.

Payment of tax due as condition of injunction against collection of illegal taxes. 22 L.R.A. 703.

Provision in lease of public property as to

payment of taxes. L.R.A.1915C, 698. Repudiating cotenancy as affecting cotenant's right to contribution or indemnity for taxes paid. L.R.A.1915B, 971.

Right of mortgagor or owner of equity of redemption to contest validity of tax paid by mortgagee. L.R.A. 1915D, 432.

Presumption of payment from lapse of time. L.R.A.1916B, 739. Presumption as to time of alteration in tax

receipt. 39 L.R.A.(N.S.) 110.

65. By life tenant. See LIFE TENANT, § 10.

#### g. Relief from.

§ 66. Generally.

Injunction against, see Injunction, § 63. Remedies with respect to state taxation of

national banks. 45 L.R.A. 763. Power of legislature to permit appeal to court for purpose of reviewing the amount of a tax assessment. 13 L.R.A. (N.S.) 716; L.R.A.1915B, 875.

Equitable relief against forfeiture of estate for nonpayment of taxes. 69 L.R.A. 848.

§ 67. In case of taxation of capital stock.

.Administration and relief in case of taxation of capital stock. 58 L.R.A. 612.

## h. Enforcement and collection generally.

§ 68. Generally.

Injunction against, see Injunction, § 63.

What notice is necessary to due process of law in tax proceedings. L.R.A.1916E, 5. Enforcement of tax on municipal water works. 60 L.R.A. 855.

Duty of corporations to collect taxes upon their share stock. 58 L.R.A. 588.

First and last days in computing time for. 49 L.R.A. 236.

Imprisonment for nonpayment. 34 L.R.A. 654; L.R.A.1915B, 648.

TAXES, IV. h—cont'd

Effect of property being in custodia legis on right to enforce payment of delinquent taxes. 17 L.R.A.(N.S.) 465.

Authority of county to employ tax ferret.
4 L.R.A.(N.S.) 339; 38 L.R.A.(N.S.) 261.

Liability of municipality for wrongful proceedings instituted by its officers to collect taxes. 32 L.R.A. (N.S.) 37.
Right of set-off or counterclaim in taxation

cases. 33 L.R.A.(N.S.) 382.

Unconstitutionality of statute as defense against mandamus to compel enforcement of tax. 47 L.R.A. 514.

Presumption as to time of alteration in tax

execution. 39 L.R.A. (N.S.) 114.

69. Enforcement by action.

Who is real party in interest by whom action for enforcement must be brought. 64 L.R.A. 619.

Personal action to recover tax on property.

41 L.R.A.(N.S.) 730. Validity and effect of judgment against parties designated as unknown. L.R.A. 1918F, 609.

§ 70. Effect of omission of statement that owner is unknown in proceeding in rem to enforce.

Omission in assessment roll. 36 L.R.A.(N. 8.) 1060.

Omission in petition for tax foreclosure proceedings. 36 L.R.A.(N.S.) 1064.

Omission of affidavit for service by publication. 36 L.R.A. (N.S.) 1064.

Omission in notice of sale. 36 L.R.A. (N.S.) 1065.

Variance between deed and certificate of sale as to statement that owners are unknown. 36 L.R.A. (N.S.) 1066.

§ 71. Attorneys' fees. Validity of statutory provision for attor-neys' fees in proceedings involving collections of taxes or special assessments. 28 L.R.A. (N.S.) 1062.

i. Sale for nonpayment; tax certificate or deed; tax titles.

72. Generally.

Effect of, on dower right, see Dower, § 13. Injunction against, see Injunction, § 63. Limitation of action as to tax sale, see LIM-ITATION OF ACTIONS, §§ 43, 57.

Where tax sales to be made. 33 L.R.A. 96. Necessity of immediate payment on tax sale.
33 L.R.A. 481.

Remedy of remainderman when sale af-

fects his estate. 33 L.R.A. 695.

Tax sale of land held adversely. 35 L.R.A. (N.S.) 743.

Effect of omission of statement that owner is unknown in petition for tax fore-closure proceedings. 36 L.R.A.(N.S.) 1064.

§ 73. Notice of sale.

Effect of omission of statement that owner is unknown in notice of sale. 36 L.R.A. (N.S.) 1065.

Begin with this book on every law question.

TAXES, IV. i-cont'd

§ 74. Who may purchase. Validity and effect of purchase of tax title by mortgagee. L.R.A.1917D, 522.

Right of cotenant to purchase in his own right at a sale for taxes assessed against the person from whom the cotenants derived title. 19 L.R.A. (N.S.)

Right of vendee to acquire tax title adversely to vendor. 46 L.R.A. (N.S.)

Right of tenant to acquire tax title. 53 L.R.A. 939; L.R.A. 1916F, 206.

Lessee as purchaser at sale for nonpayment of taxes or assessments which he has covenanted to pay. L.R.A.1915A, 353.

Right of wife to secure husband's property at tax sale. 9 L.R.A. (N.S.) 674.

Effect of purchase of tax title by remainderman in expectancy. L.R.A.1015E, 344.

Effect of purchase at tax sale by or in the interest of mortgagor, guarantor of mortgage indebtedness, or purchaser of equity of redemption. 16.L.R.A.(N.S.) 121; 52 L.R.A.(N.S.) 877.

## 75. Validity of sale.

Validity of tax sales where nonpayment is due to mistake or negligence of the tax officers. 20 L.R.A. 487; L.R.A.1915C,

Statute limiting time for attack on tax sale, or creating a conclusive presumption as to its validity as applied to a sale under proceedings, void for jurisdictional defects, under which possession has not been taken. 8 L.R.A. (N.S.) 157.

## § 76. Effect of sale.

Tax sale as cutting off easement. L.R.A. 1915D, 1115.

Effect of tax sale upon inchoate right of dower. 24 L.R.A.(N.S.) 1294.

Effect of tax sale to create relation of landlord and tenant between purchaser and prior lessee. 6 L.R.A. (N.S.) 260.

Effect of void proceedings under which real estate is sold to start limitations running in favor of purchaser in possession. 8 L.R.A.(N.S.) 356.

## § 77. - during existence of life es-

Effect of tax sale on land held by life tenant. 32 L.R.A. 805.

The effect on estates in reversion or remainder of a tax sale during the existence of a life estate. L.R.A. 688.

#### § 78. Rights and remedies of purchaser.

License tax on purchasers of tax titles. 47 L.R.A.(N.S.) 1078.

Right of purchaser at tax sale to compel issuance of new deed where original deed is defective or invalid. 50 L.R.A. (N.S.) 316.

Consult also L.R.A. Digests of Cases.

TAXES, IV. i-cont'd

79. - right to reimbursement.

Right of purchaser at invalid tax sale, in absence of statute, to be reimbursed by taxing authority for the purchase price, or for taxes subsequently paid by him. 31 L.R.A. (N.S.) 1141.

Right of one holding under invalid tax deed to be reimbursed for improvements. 34 L.R.A. (N.S.) 549.

Reimbursement of taxes paid by purchaser, as condition of equitable relief against invalid tax title. L.R.A. 1915C, 492.

#### § 80. Tax certificate.

As color of title, see ADVERSE POSSESSION, § 16.

Change of law as to effect of tax certificates as evidence of title. 4 L.R.A. (N.S.) 1074.

Is possession under tax certificate during redemption period adverse. 13 L.R.A. (N. 8.) 627.

Liability of public body for tax certificates stolen from it. 39 L.R.A.(N.S.) 444.

#### § 81. Tax deed.

As color of title, see ADVERSE POSSESSION. § 17.

Improvements by one holding under, see IM-PROVEMENTS, § 14.

Substitute conveyances. 44 L.R.A. (N.S.) 852

Execution of tax deed in name of deputy. 19 L.R.A. 179.

Right of holder of tax deed to take possession. 28 L.R.A. (N.S.) 398.

Judgment dismissing bill to set aside tax deed as a cloud on title as res judicata in action under tax deed to recover possession of property. 25 L.R.A. (N.S.) 1011.

Statutory limitation of time for relief against tax deed as affecting right to set up invalidity of tax title as defense. 46 L.R.A.(N.S.) 1065.

Right of purchaser at tax sale to compel issuance of new deed where original deed is defective or invalid. 50 L.R.A.(N.S.) 316.

Does a void tax deed set in motion special statutes of limitation governing actions to recover lands sold for taxes. 27 L.R.A.(N.S.) 339.

Effect upon special statute of limitations which begins to run from time actual possession is taken under tax deed of fact that such deed was void or irregular. 23 L.R.A.(N.S.) 1102.

Presumption as to time of alteration in tax deed. 39 L.R.A.(N.S.) 100, 115.

#### § 81a. Tax titles.

Statutory limitation of time for relief against tax deed as affecting right to set up invalidity of tax title as defense. 46 L.R.A.(N.S.) 1065. TAXES, IV. i-cont'd

Reimbursement of taxes paid by purchaser as condition of equitable relief against invalid tax title. L.R.A.1915C, 492.

Marketability of tax title. 38 L.R.A. (N.S.) 26.

Right of one in possession under invalid foreclosure sale to acquire a tax title. 38 L.R.A.(N.S.) 333.

#### j. Redemption.

82. Generally.

Effect of tender of redemption money. 20 L.R.A. 491.

§ 83. Effect of officer's acts or negligence.

Tender of redemption money prevented by officer. 20 L.R.A. 489.

§ 84. Time for.

First and last days in computing time for. 49 L.R.A. 237.

85. Notice of.

Who entitled to notice to redeem from tax sale. 44 L.R.A.(N.S.) 666.

Applicability to past sales of statute eliminating notice of expiration of redemption period required by previous statute, or requiring such notice when none was before required. 10 L.R.A. (N.S.) 818.

#### k. Recovering taxes paid.

86. Generally.

Right of purchaser at tax sale to reimbursement for taxes paid, see supra, § 79.

Right to recover back tax voluntarily refunded. 45 L.R.A.(N.S.) 753.

What notice is necessary to due process of

law. L.R.A.1916E, 5.
Recovery back of taxes paid on capital stock of corporation. 58 L.R.A. 616. Claim against state for illegal taxes paid.

42 L.R.A. 69.

Right of one who pays invalid tax for purpose of obtaining discount to recover amount paid. 28 L.R.A.(N.S.) 1045; 41 L.R.A. (N.S.) 175.

Right to resort to court to recover taxes paid on erroneous or excessive assessments without previous resort to statutory remedies. 16 L.R.A. (N.S.) 685.

Right of purchaser of property to recover the amount he has paid to relieve land from tax lien, from one who should have paid the same, but with whom he had no contractual relationship. L.R.A.(N.S.) 562.

Right to recover money paid for illegal taxes after it has been disbursed, paid over, or distributed. 11 L.R.A. (N.S.)

1104. Necessity and sufficiency of statement of grounds in notice of protest required as condition of recovering back payment | § 91. Nature of.
of an unlawful tax. 36 L.R.A. (N.S.) | Nature of inheritance tax. 2 L.R.A. 825;\* 476.

TAXES, IV. k-cont'd

§ 87. Prerequisites to. Claim for refund of taxes as within statute or ordinance requiring notice or presentation of claim as a condition of municipal liability. 50 L.R.A.(N.S.) 181.

Necessity and sufficiency of statement of grounds in notice of protest required as condition of recovering back payment of an unlawful tax. 36 L.R.A.(N.S.) 476.

#### V. Lien; priorities.

§ 88. Generally.

Subrogation to tax lien, see SUBBOGATION,

Acquisition of property by the public as affecting previously existent tax lien. 48 L.R.A. (N.S.) 710.

When taxes become a lien on land.

L.R.A. 236.

Constitutionality of statute making a license, occupation, or privilege tax a lien on real property owned by one other than the person assessed. L.R.A.(N.S.) 42.

Effect of lien on marketability of title. 38 L.R.A. (N.S.) 32.

§ 89. Priority.

Superiority of lien for special assessments over lien for taxes. 30 L.R.A. (N.S.) 768.

Effect of acquisition of title by eminent domain to cut off tax liens. 21 L.R.A. (N.S.) 68.

Priority of claim for, against property in hands of receiver. 2 L.R.A.(N.S.) 1052, 1060, 1069.

Preference of, in distribution of assets of insolvent insurance company. L.R.A. 107.

Priority of claims for taxes against the assets of a debtor. 29 L.R.A. 249, 278.

Priority as between taxes and costs and fees in bankruptcy. 31 L.R.A.(N.S.) 988.

Priority of lien for personal taxes over preexisting liens on property of the taxpayer. L.R.A.1915D, 886.

#### VI. Succession tax.

#### a. In general,

90. Generally.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 155.

General and special legislation as to, see STATUTES, § 18.

Repeal of statute imposing succession tax, as affecting estate of one who died before the repealing act took effect. 8 L.R.A. (N.S.) 1210.

33 L.R.A. (N.S.) 606.

Begin with this book on every law question.

TAXES, VI. a-cont'd

§ 92. Power to impose.

Power to impose succession tax retrospectively. 8 L.R.A.(N.S.) 1180.

Is the right to take property by will or inheritance a natural or statutory right. 9 L.R.A.(N.S.) 121.

# § 93. Uniformity; equality; discrimination.

Uniformity of tax or fee as condition of probate. 50 L.R.A.(N.S.) 997.

Uniformity and equality of succession taxes. 33 L.R.A.(N.S.) 592; 50 L.R.A.(N.S.) 992.

Validity of discrimination against aliens by inheritance tax law as affected by treaty with foreign government. 33 L.R.A.(N.S.) 632; L.R.A.1916A, 474.

## § 94. — double taxation.

Exacting succession tax in two or more states as double taxation. 15 L.R.A. (N.S.) 150.

Effect of statutes designed to prevent lapsing of testamentary provisions upon death of beneficiary in testator's lifetime to render the property bequeathed twice liable to legacy or inheritance tax. 5 B. R. C. 857.

tax. 5 B. R. C. 857.

Effect of statute to make provision preserved from lapse a part of the deceased beneficiary's estate. 5 B. R. C. 857.

## § 95. Exemptions, generally.

Exemption from liability to succession tax. 33 L.R.A.(N.S.) 595; 50 L.R.A.(N.S.) 992.

Applicability of general tax exemptions to inheritance or succession taxes. 23 L.R.A.(N.S.) 1208; 48 L.R.A.(N.S.) 373; 1 B. R. C. 877.

Must property out of state be included in fixing exemptions under inheritance tax. 39 L.R.A. (N.S.) 1024.

Effect on transfer tax of apportioning property of nonresident decedent within the state to payment of debts or legacies which are exempt or subject to a reduced rate. 18 L.R.A.(N.S.) 946.

Right of charitable, educational or religious institutions to exemption from taxation as affected by the geographical field of operation. 51 L.R.A.(N.S.) 817.

# b. Property and transfers subject to, or exempt from.

#### § 96. Generally.

Succession tax on dower, see Dower, § 22. Succession tax on mortgage, see MORTGAGE, § 3.

Retrospective operation. 44 L.R.A.(N.S.) 419.

Doctrine of equitable conversion in relation to succession tax. 1 L.R.A.(N.S.) 400; 19 L.R.A.(N.S.) 290.

Consult also L.R.A. Digests of Cases.

TAXES, VI. b-cont'd

Succession tax on gift in contemplation of death. 18 L.R.A. (N.S.) 458; 46 L.R.A. (N.S.) 790.

Applicability of succession tax to property conveyed, or agreed to be conveyed, in consideration of support of grantor during his life. 18 L.R.A.(N.S.) 226; 52 L.R.A.(N.S.) 211.

Succession tax on dower, curtesy, statutory homestead, or allowances. 29 L.R.A. (N.S.) 428.

Succession tax upon provision in lieu of dower. 33 L.R.A.(N.S.) 230; 45 L.R.A. (N.S.) 228.

Succession tax upon property received by a surviving spouse. L.R.A.1916C, 675.

Succession tax upon death of one tenant of estate held by entireties. L.R.A.1916C, 678.

Liability of community property to succession tax. 20 L.R.A.(N.S.) 208; 39 L.R.A.(N.S.) 1107.

Succession tax upon death of one joint tenant. L.R.A.1916C, 682.

Bequest or devise in payment for services, etc., rendered testator, as subject to succession tax. L.R.A.1916C, 555.

Is money set aside under will, or otherwise, for purposes of caring for grave, erection of tomb or monument, subject to inheritance tax. 23 L.R.A.(N.S.) 474; L.R.A.1918A, 767.

Inheritance or succession tax on money or property of estate, which has been lost or misappropriated since decedent's death. 32 L.R.A.(N.S.) 1167.

Succession or inheritance tax on interest of pledgeor or pledgee. L.R.A.1917F, 278. Inheritance tax on proceeds of life insur-

# § 97. Applicability of general tax exemptions to succession taxes.

ance. L.R.A.1917D, 636.

Applicability of general tax exemptions to inheritance or succession taxes. 23 L.R.A.(N.S.) 1208; 48 L.R.A.(N.S.) 373; 1 B. R. C. 877.

# § 98. On property covered by power of appointment.

Taxability under donee's will. 33 L.R.A. (N.S.) 236; L.R.A.1918D, 339.

Present taxability under donor's will. 33 L.R.A.(N.S.) 248; L.R.A.1918D, 343.

Power of appointment reserved by grantor. 33 L.R.A.(N.S.) 250; L.R.A.1918D, 343. Miscellaneous cases. 33 L.R.A.(N.S.) 250; L.R.A.1918D, 343.

# § 98a. On conveyance to take effect

after grantor's death.
Succession tax upon gift in contemplation
of death. 46 L.R.A. (N.S.) 790.

Relative dates of statute and transfer. 38 L.R.A.(N.S.) 1141.

Manner of postponement of possession or enjoyment. 38 L.R.A.(N.S.) 1141. TAXES, VI.—cont'd

c. Persons subject to, or exempt from.

§ 99. Generally.

Adopted child as a "child" within inheritance tax law. 30 L.R.A.(N.S.) 919; L.R.A.1918F, 1084.

Exemption of bequest to government from. 23 L.R.A.(N.S.) 1209.

Right of charitable, educational or religious institutions to exemption from taxation as affected by the geographical field of operation. 51 L.R.A.(N.S.) 817.

100. Nonresidents.

Liability of debt due from resident to nonresident to succession tax. 4 L.R.A. (N.S.) 953; L.R.A.1916A, 894.

Debt due to nonresident secured by mortgage upon land within the state as subject of inheritance tax. 9 L.R.A.(N.S.) 1104; 35 L.R.A.(N.S.) 784.

Liability of insurance policy issued by a domestic corporation upon the life of a nonresident to a local transfer tax. 10

L.R.A.(N.S.) 1089.

Stock in a domestic corporation belonging to the estate of a nonresident. 19 L.R.A.(N.S.) 887; 25 L.R.A.(N.S.) 384; L.R.A.1917F, 270.

Application to foreign corporation of exemption in favor of charitable, educational or religious institutions. 51 L.R.A. (N.S.) 817.

Inheritance or succession tax on property covered by power of appointment in cases of nonresidents. 33 L.R.A.(N.S.) 239, 248; L.R.A.1918D, 339.

Effect on transfer tax of apportioning property of nonresident decedent within the state to payment of debts or legacies which are exempt or subject to a reduced tax. 18 L.R.A.(N.S.) 946.

Physical presence or absence of personal property, or evidence thereof, as affecting liability to tax. 46 L.R.A. (N.S.) 1167.

#### d. Assessment: valuation.

§ 101. Assessment of. Assessment of tax. 12 L.R.A. 406.\*

§ 102. Appraisement and valuation. Basis and method of computing value of life estate or annuity for purposes of succession tax. 46 L.R.A.(N.S.) 714.

103. — deduction.

Deduction of mortgage in computing succession tax. 16 L.R.A.(N.S.) 329.

Is exempt portion of estate to be included or excluded in determining amount for purpose of fixing rates. 51 L.R.A. (N.S.) 1075.

## e. Payment; classification.

§ 104. Payment of.

Inheritance tax as within covenant in lease, sublease, or assignment of lease as to

payment of taxes. L.R.A.1915A, 334. Begin with this book on every law question.

TAXES, VI. e--cont'd

Personal liability of executor or adminis-trator. L.R.A.1915C, 615.

Effect of discharging executor or administrator before inheritance tax is paid. L.R.A.1917E, 1162.

105. Classification.

Classification of inheritances or gifts for purposes of succession tax on basis of amount. 6 L.R.A.(N.S.) 732.

## VII. Income tax.

§ 106. Generally.

Constitutionality of statutes as to, see Constitutional Law, § 156.

Income tax on sales of property. L.R.A. 1917E, 566.

Determining income from timber lands. L.R.A.1917E, 573.

Income tax on dividends declared after but paid from earnings accrued before act-went into effect. L.R.A.1917F, 814.

On commission on renewal premiums on in-

surance. L.R.A.1918A, 501.

Provision of contract for payment without deduction for taxes as applicable to income tax. L.R.A.1917F, 205.

#### VIII. Stock transfer tax.

107. Generally.

Validity of statute imposing special tax on transfer of corporate stock. 8 L.R.A. (N.S.) 314.

Liability to pay transfer tax, in respect of stock in domestic corporation belonging to estate of nonresident. 19 L.R.A. (N.S.) 887; 25 L.R.A.(N.S.) 384; L.R.A.1917F, 270.

What constitutes a transfer of stock within statutes taxing stock transfers. 46-

L.R.A. (N.S.) 585.

#### TAX FERRET.

Authority of county to employ. 4 L.R.A. (N.S.) 339; 38 L.R.A. (N.S.) 261.

#### TAXICABS.

See AUTOMOBILES; HACKS AND TAXICARS.

## TAXING DISTRICT.

See TAXES, § 3.

## TAX LIST.

Failure to file, see TAXES, § 52.

#### TAX OFFICERS.

See TAXES, §§ 60, 61.

#### TAXPAYER.

Right to enjoin unlawful expenditure by municipality, see Injunction, § 61a. As plaintiff in action, see PARTIES, § 20.

Right of taxpayer to contest will. L.R.A. 1918A, 476.

Necessity that grand juror be. 28 L.R.A. 198.

Constitutionality of statute requiring jurors to be taxpayers. 32 L.R.A.(N.S.) 414.

Right to inspect public records relating to public contracts. 41 L.R.A.(N.S.) 280. Decree in taxpayer's suit restraining district from performing contract as binding on contractor. 37 L.R.A.(N.S.) 383.

Removal for separable controversy of action by. 5 L.R.A.(N.S.) 90.

Right of, over proceedings for procuring water supply for municipality. 61 L.R.A. 75.

Judgment in a suit by one taxpayer as res judicata in a suit by another. L.R.A.(N.S.) 108.

Effect of interest of taxpayer to disqualify him to serve as commissioner or juror in eminent domain proceedings. 47 L.R.A. (N.S.) 160.

#### TAX TITLE.

See TAXES, § 81a.

#### TEA.

Misrepresentation as to, as affecting validity of trademark. 19 L.R.A. 54. Use of coloring matter in, as adulteration. 25 L.R.A. (N.S.) 1234.

## \*\*\* TEACHERS.

See Schools, §§ 12-22.

#### TEACHERS' TRAINING SCHOOL.

Statutory power of local authority to maintain teachers' training department in school. 52 L.R.A.(N.S.) 163.

#### TEAM.

STERS, § 2.

Consult also L.R.A. Digests of Cases.

#### TEAM-cont'd

Purpose for which team is used as affecting exemption. 3 L.R.A.(N.S.) 693.

#### TEAMING.

Forbidding or restricting teaming on certain public ways. 51 L.R.A.(N.S.) 1203.

#### TEAMSTERS.

See CARTMEN AND TEAMSTERS.

#### TECHNICAL BOOKS.

Use of, by counsel in arguing to jury. L.R.A.1918D, 81.

#### TECHNICAL WORDS.

Necessity for, in exception and reservation of easements. 20 L.R.A. 633.

#### TELEGRAMS.

See Telegraphs, §§ 9-24.

#### TELEGRAPH OPERATOR.

As fellow servant of trainmen, see MASTER AND SERVANT, § 149.

### TELEGRAPHS.

- I. Rights; franchises; construction; control, §§ 1-7. II. Taxation, § 8.
- III. Messages, §§ 9-24.

  - a. In general, §§ 9, 10. b. Duty and liability with respect to, §§ 11-24.
    - 1. In general, §§ 11-16.
    - 2. To whom liable, §§ 17, 18.
    - 8. Sufficiency of notice of contents, \$ 19.
      4. Stipulations and condi-
    - tions; limitation of liability, §§ 20, 21. 5. Penalties, § 22.

    - 6. As libel, §§ 23, 24.

Lien for use of, see CARTMEN AND TRAM- Liability for personal injuries, see Elec-TRICITY, §§ 10-18.

TELEGRAPHS-cont'd

construction; I. Rights; franchises; control.

1. Generally.

Measure of compensation for taking land for right of way for, see DAMAGES, § 86.

Matters as to electric wires and poles, generally, see ELECTRICITY.

As additional burden on highway, see EMI-NENT DOMAIN, § 56.

Telegraph wires in streets, see HIGHWAYS, § 24.

Valuation of property of, see Public Serv-ICE CORPORATIONS, § 5.

Estimating return of company, see Public SERVICE CORPORATIONS, § 6.

Liability for personal injury caused by district messenger. L.R.A.1918D, 360.

Doctrine of attractive nuisance as applied to telegraph poles. L.R.A.1915D, 168. Duty of railroad company to install in its station. 47 L.R.A.(N.S.) 974.

Statutes prohibiting interference with telegraph lines. 50 L.R.A.(N.S.) 1216.

Right to carry wires across railroad. L.R.A.1915B, 823.

Discrimination by carrier as to telegraph companies. 12 L.R.A. (N.S.) 507.

Taking of property for telegraph line as a public purpose. 22 L.R.A.(N.S.) 136. Measure of damages for right of way for

telegraph line. 26 L.R.A.(N.S.) 189. Delay in applying for injunction against maintenance of, in highway. 8 L.R.A.

(N.S.) 1091. Liability of user of electricity for interference with the business or injury to the property of another resulting from induction or from use of earth as a return electric circuit. 2 B. R. C. 129.

2. Along railroad right of way.

Telegraph line along railroad right of way; nature of property in poles and wires. 66 L.R.A. 56.

Condemnation of right of way for telegraph along railroad. 42 L.R.A. (N.S.) 225.

Right to use railroad right of way for purposes of, as against owner of fee. 36 L.R.A.(N.S.) 519.

Power to authorize construction of telegraph or telephone line along railroad right of way without compensation to railroad company. 29 L.R.A. (N.S.) 703.

Measure of damages for condemning right of way on railroad right of way. L.R.A.1916E, 582.

#### § 3. Construction.

Injury to trees in construction of line, see HIGHWAYS, § 42.

Employer's liability for negligence of independent contractor in construction of line, 65 L.R.A. 847.

Employer's nonliability for torts of inde-pendent contractor in construction of line. 65 L.R.A. 648.

Begin with this book on every law question.

TELEGRAPHS, I.-cont'd

§ 4. Foreign companies. Right of foreign telegraph company to enter

state. 24 L.R.A. 311.

Right of foreign telegraph company to own-property in state. 24 L.R.A. 327.

§ 5. Control; regulation.

Regulation of rates, see infra, § 7. State regulation as interference with com-

merce, see Commerce, § 11. License of, see LICENSE, § 41.

Municipal control over, see MUNICIPAL COR-POBATIONS, § 49.

Requiring connection or joint use of properties of telegraph companies as a taking for which compensation must be made. 50 L.R.A.(N.S.) 652; L.R.A. 1916E, 759; L.R.A.1917E, 1083.

§ 6. Compulsory service by.

Compulsory service in case of. 15 L.R.A.

7. Rates.

Valuation of property for purpose of fixing rates, see PUBLIC SERVICE CORPORA-TIONS, § 5.

Estimating return of company for ratemaking purposes, see Public Service CORPORATIONS, § 6.

Legislative regulation of rates of. 33 L.R.A.

Business of, affected with a public interest subjecting them to regulation and control as to rates and prices. 6 L.R.A. (N.S.) 835.

Right to reduce rates fixed by franchise or charter. L.R.A.1915C, 261.

#### II. Taxation.

§ 8. Generally.

Telegraph line as real estate for purposes-of taxation. 15 L.R.A. 299.

Taxation of telegraph messages as affected by commerce clause. 60 L.R.A. 669.

Excise taxes against telegraph companies as affected by commerce clause. 60 L.R.A.-687.

Taxation of franchise of company. L.R.A. 56.

Taxation of receipts of telegraph companies. 57 L.R.A. 64.

State statutes imposing license fees on telegraph companies. 31 L.R.A. 808.

#### III. Messages,

### a. In general.

§ 9. Generally. Transmission of messages, as interstate commerce, see COMMERCE, § 11.

Conflict of laws as to, see CONFLICT OF Laws, § 11.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 158.

Admissibility in evidence, see EVIDENCE, &

TELEGRAPHS, III. a-cont'd

Pleadings of plaintiff in action against company, see PLEADING, § 17.

Validity of notice sent by telegraph. 61 L.R.A. 933.

Property rights in market quotations by. 7 L.R.A.(N.S.) 889.

Liability for failure properly to transmit or deliver a message pertaining to the negotiation for, or offer of, a contract. 42 L.R.A.(N.S.) 419.

Mandamus to compel delivery of market quotations to bucket shop by. 3 L.R.A. (N.S.) 153.

Telegrams given by telephone. 56 L.R.A. 745.

Routing of telegram. 50 L.R.A.(N.S.) 94.

§ 10. Contracts by means of.

Telegram as preliminary step in negotiation of contract. 4 L.R.A.(N.S.) 177.

Telegrams as writings to make contract within statute of frauds. 50 L.R.A. 240.

Time and place of consummation of contract when offer by letter is accepted by telegram, or vice versa. 6 L.R.A.(N.S.) 1016; L.R.A.1916A, 1302.

### b. Duty and liability with respect to.

### 1. In general,

§ 11. Generally.

Measure of damages for default or mistake in messages, see Damages, §§ 41, 102, 103, 117.

Law governing liability, see Conflict of Laws, § 11.

As to routing of telegram. 50 L.R.A.(N.S.)

Duty of company to ascertain identity or authority of sender of message. 4 L.R.A.(N.S.) 181.

Right to refuse telegraph message because of its character. 17 L.R.A.(N.S.) 836. Duty and liability for conduct of messengers furnished. 2 L.R.A.(N.S.) 1091.

Liability for personal injury caused by district messenger. L.R.A.1918D, 360.

Liability of telegraph company for delay in transmitting or delivering message, due to strike of its employees. 22 L.R.A.(N.S.) 1214.

Criminal liability for agent's failure to transmit telegram. 41 L.R.A. 660.

Duty of telegraph company to deliver message by telephone. 29 L.R.A.(N.S.) 836.

Sufficiency of general allegations of negligence. 59 L.R.A. 247.

Federal courts following state decisions as to. 40 L.R.A.(N.S.) 414.

Negligence of telegraph company causing discontinuance of contract, terminable at pleasure of other party thereto, as a ground of liability. 29 L.R.A.(N.S.)

Consult also L.R.A. Digests of Cases.

TELEGRAPHS, III. b, 1-cont'd

Contingency of possible action of sendee, or of some third person, as affecting liability for failure properly to transmit and deliver a telegram. 12 L.R.A. (N.S.) 748.

Limits for delivery of telegrams. 34 L.R.A. 431.

Liability of telegraph company for disclosing contents of message. L.R.A. 1915C, 487.

§ 12. Telegrams not written on company's blanks.

Telegrams on blanks of another company. 56 L.R.A. 741; L.R.A.1917F, 848.

Written on blank paper. 56 L.R.A. 742; L.R.A.1917F, 849.

Telegrams given by telephone or orally. 56 L.R.A. 745; L.R.A.1917F, 849.

§ 13. Liability of company sending message to office after closing hour.

In general. 53 L.R.A. 732; 24 L.R.A. (N.S.) 1286.

Nature of subject. 53 L.R.A. 732.

Rules as to office hours; reasonableness. 53 L.R.A. 732.

Notice to patrons. 53 L.R.A. 733.

Special contracts as to delivery. 53 L.R.A. 734.

Damages. 53 L.R.A. 738.

The rule under statutes imposing penalty for delay. 53 L.R.A. 738.

§ 14. Duty to notify sender of nondelivery.

Duty of telegraph company to notify sender of message if it cannot be promptly transmitted or delivered. 67 L.R.A. 153; 16 L.R.A. (N.S.) 870.

§ 15. Duty to find addressee.

Duty of telegraph company to find person addressed. 15 L.R.A. 129.

Telegraph company's duty as to discovering unknown sendee. 22 L.R.A. (N.S.) 761.

Duty to inform sender of telegram that terminal office is closed. 24 L.R.A. (N.S.) 1283.

§ 16. Liability for transmission or delivery of forged message.

Liability of company when its agent is deceived. 65 L.R.A. 806; L.R.A.1915A, 121.

Liability of company when its agent perpetrates the fraud. 65 L.R.A. 807; L.R.A. 1915A, 123.

#### 2. To whom liable.

§ 17. Generally.

Who may maintain action for damages for mental anguish in telegraph case. 49 L.R.A.(N.S.) 275, 277.

Liability of telegraph company to undisclosed principal of sender. 24 L.R.A. (N.S.) 1045; 4 L.R.A. (N.S.) 678.

TELEGRAPHS, III. b, 2-cont'd

Right of person not mentioned in the telegram and whose interest is not communicated to the company to recover for mental anguish. 8 L.R.A.(N.S.) 249; 19 L.R.A. (N.S.) 475.

Right of sender or addressee to recover from telegraph company damages resulting from latter acting upon message changed during transmission. 51 L.R.A.(N.S.) 439.

Liability of telegraph company to undis-closed principal of sendee. 4 L.R.A. closed principal of sendee. 4 L. (N.S.) 678; 24 L.R.A.(N.S.) 1045.

#### 18. Addressee.

The right of addressee of telegram to sue for delay in delivery. 30 L.R.A. (N.S.) 1116.

Right of addressee of telegram to sue for damages for mental anguish resulting from negligence in delivery of telegram. 49 L.R.A. (N.S.) 275.

Right of addressee to recover from telegraph company damages resulting from latter's acting on message changed during transmission. 51 L.R.A.(N.S.) 442.

### 3. Sufficiency of notice of contents,

19. Generally.

When telegraph company charged with notice of importance of commercial message. 41 L.R.A.(N.S.) 1188.

Necessity and sufficiency of notice to tele-graph company that negligence in respect to the telegram might cause mental anguish. 49 L.R.A. (N.S.) 308.

Duty with respect to cipher and unintelligible telegrams. 43 L.R.A. (N.S.) 502.

### 4. Stipulations and conditions; limitation of liability.

§ 20. Generally.

Contracts restricting liability of telegraph company as to message sent after clos-

ing hours. 53 L.R.A. 736. Validity of limitation of liability of telegraph company for unrepeated messages. 11 L.R.A.(N.S.) 561; 30 L.R.A. (N.S.) 409; L.R.A.1915B, 685.

Applicability of stipulation as to repeating messages to failure or delay in transmission or delivery. 28 L.R.A.(N.S.) 566.

Effect of stipulations requiring notice of loss to be given in specified time in action to recover damages for mental anguish caused by negligence in transmission of message. 49 L.R.A.(N.S.) 265.

#### 21. Presentation of claim.

Right to compute minimum statutory period for presentation of claims from date of filing message. 34 L.R.A.(N.S.) 185.

Begin with this book on every law question.

TELEGRAPHS, III. b-cout'd

5. Penalties.

\$ 22. Generally. See PENALTIES, § 7.

#### 6. As libel.

§ 23. Liability of company. Liability of a telegraph company for handling libelous message. 9 L.R.A. (N.S.) 140; 37 L.R.A.(N.S.) 861.

§ 24. Liability of sender.

Privilege of communications to telegraph

companies. 35 L.R.A. (N.S.) 586.

Transmission of libelous matter by postcard or telegraph as publication. 1 B. R. C. 464.

#### TELEPHONES.

I. In general, §§ 1, 2. II. Construction of line; right of way for, § 3. III. Control and regulation of, \$\$ 4-

IV. Messages, § 10.

#### I. In general.

§ 1. Generally.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 158.

Matters as to electric wires and poles generally, see ELECTRICITY.

Liability for personal injuries, see Elec-TRICITY, §§ 10-18.

Unlawful combination of telephone companies, see Monopoly and Combinations. § 10.

Valuation of property of, see Public SERV-ICE CORPORATIONS, § 5.

Estimating return of company, see Public SERVICE CORPORATIONS, § 6.

As to matters in relation to public service corporations generally, see Public SERV-ICE CORPORATIONS.

Service of writ or process by telephone. L.R.A.1915D, 427.

Mutual telephone companies as public utilities. L.R.A.1918C, 827.

Right of telephone company to challenge powers or privileges of rival. L.R.A. 1916B, 1087.

Statutes prohibiting interference with tele-phone lines. 50 L.R.A.(N.S.) 1216.

Duty of telephone companies to make physical connection. 43 I.R.A. (N.S.) 550.

Duty of railroad company to install in its station. 47 L.R.A.(N.S.) 974.

Discrimination by carrier as to telephone companies. 12 L.R.A. (N.S.) 507.

Liability for personal injury to one using a telephone. 36 L.R.A. (N.S.) 279.

Conveyance of real property as carrying right to telephone service. 42 L.R.A. (N.S.) 1021.

TELEPHONES, I.—cont'd § 2. Contract for exclusive service. Validity of contract for exclusive right to

furnish telephone service. 32 L.R.A. (N.S.) 494.

Validity of contracts between telephone companies for exclusive connection. 36 L.R.A. (N.S.) 124; 45 L.R.A. (N.S.) 465.

# 'II. Construction of line; right of way

§ 8. Generally.

Measure of compensation for taking land for right of way for, see DAMAGES, § 86. As additional burden on highway, see EMI-NENT DOMAIN, § 56.

Telephone wires in streets, see HIGHWAYS, § 24.

Injury to trees in construction of line, see HIGHWAYS, § 42.

Right to carry wires across railroad. L.R.A. 1915B, 823.

Condemnation of right of way for telephone line along railroad right of way. L.R.A.(N.S.) 225.

Right to use railroad right of way for purpose of, as against owner of fee. 36 L.R.A.(N.S.) 519.

Power to authorize construction of telephone line along railroad right of way without compensation to railroad company. 29 L.R.A.(N.S.) 703.

Employer's nonliability for torts of inde-pendent contractor in construction of line. 65 L.R.A. 648.

#### III. Control and regulation of.

å 4. Generally.

Regulations of, as interference with commerce, see COMMERCE, § 11. License of, see LICENSE, § 41.

As to public regulation of public service corporations generally, see Public SERVICE CORPORATIONS.

Power of state to control or impose burdens upon interstate telephone company. 24 L.R.A. 161.

Requiring connection or joint use of properties of telephone companies as a taking for which compensation must be mede. 50 L.R.A. (N.S.) 652; L.R.A. 1916E, 759; L.R.A.1917E, 1083.

🖁 5. Rates; charges.

Valuation of property for purpose of fixing rates, see Public Service Corpora-TIONS, § 5.

Estimating return of company for rate-making purposes, see Public Service Cor-PORATIONS, § 6.

Legislative regulation of rates of. L.R.A. 181.

State statutes regulating rates. 31 L.R.A. Measure of damages for removal of. 39 807. L.R.A.(N.S.) 651.

Consult also L.R.A. Digests of Cases.

TELEPHONES, III.—cont'd Power of judiciary to fix rates to be charged by telephone company. 8 L.R.A.(N.S.)

529.

Power of municipality apart from contract to regulate rates to be charged by telephone company. 33 L.R.A. (N.S.) 759; 43 L.R.A. (N.S.) 994.

Business of, affected with a public interest subjecting them to regulation and control as to rates and prices. 6 L.R.A.

(N.S.) 835.

Allowance for depreciation in plant in fixing rates. 38 L.R.A.(N.S.) 1209.

Right to raise rates of public service corporation fixed by franchise. 1915C, 287.

Right to reduce rates fixed by franchise or charter. L.R.A.1915C, 261.

Effect of contract with patron to preclude regulation of rates. L.R.A.1915C, 282. Incorporation of territory into munici-pality as affecting existing contract as

to telephone rates in that territory. L.R.A.1916A, 1071.

Right of telephone company to require patron to pay for installing or transfer-ring instruments. 30 L.R.A. (N.S.) 1088.

§ 6. — discrimination as to.

By requiring payment of rental in advance. 31 L.R.A.(N.S.) 315.

Right of telephone company to discriminate

as to rates. 36 L.R.A.(N.S.) 561. Giving of free service or reduced rates to governmental agencies, cities, schools, charities, etc., as an unlawful discrimination. L.R.A.1918D, 904.

§ 7. - prepayment or prompt payment of.

Right to refuse telephone service to coerce payment of bill. 30 L.R.A. (N.S.) 1027.

Reasonableness of regulation requiring payment of rentals in advance. 19 L.R.A. (N.S.) 693; 31 L.R.A.(N.S.) 319.

Discrimination by telephone company by requiring payment of rental in advance. 31 L.R.A.(N.S.) 315.

Right of telephone company to exact security of consumer or require payment of rentals in advance. 31 L.R.A. (N.S.) 319.

§ 8. Compulsory service by. Withdrawal of service, see infra, § 9.

Compulsory service in case of. 15 L.R.A. 321.

State statutes regulating telephone prices and requiring service on equal terms to all. 31 L.R.A. 807.

§ 9. Withdrawal of service.

Right to withdraw telephone service because of abuse of privilege. 23 L.R.A.(N.S.) 1010.

Right to refuse telephone service to compel payment of bill. 30 L.R.A.(N.S.) 1027.

### TELEPHONES-cont'd

### IV. Messages.

§ 10. Generally.

Evidence of conversations by telephone, see EVIDENCE, § 240.

Telegrams given by telephone. 56 L.R.A. 745.

Validity of acknowledgment taken over telephone. 30 L.R.A.(N.S.) 358.

Duty of telegraph company to deliver message by telephone. 29 L.R.A.(N.S.) 836.

Right of addressee to recover damages for failure to summon him to receive a long-distance telephone message. 15 L.R.A. (N.S.) 810.

Validity of presentment of bill or note by telephone. 34 L.R.A.(N.S.) 417.

Use of subscriber's telephone by nonsub-scriber. 45 L.R.A. (N.S.) 990. Reasonableness of rule of telephone com-

pany requiring subscriber to pay for all long-distance messages originating from his telephone. L.R.A.1915E, 323.

Liability of telephone company for failure to make connections for subscriber. 21 L.R.A. (N.S.) 115; 28 L.R.A. (N.S.) 554; 39 L.R.A. (N.S.) 402; L.R.A. 1915C, 450.

#### TELLTALES.

On overhead railroad bridges or other structures. 47 L.R.A.(N.S.) 486.

### TEMPERANCE MEETING.

Temperance meeting as a meeting within purview of offense of disturbing meetings. 30 L.R.A.(N.S.) 831.

#### TEMPERATURE.

Duty of carrier as to temperature of car, see CARRIERS, § 42.

Right of witness to express opinion as to.

L.R.A.1918A, 707.

Validity of regulation as to temperature at which milk shall be transported. L.R.A.1917C, 253.

#### TEMPORARY ALIMONY.

See DIVORCE AND SEPARATION, §§ 39, 40.

### TEMPORARY ABSENCE.

Effect of temporary absence of insured prop erty from location stated in policy. 22 L.R.A. (N.S.) 848.

Begin with this book on every law question.

#### TEMPORARY ADMINISTRATOR.

Effect of appointment of, on running of limitations. 38 L.R.A.(N.S.) 824.

#### TEMPORARY CHANGE.

Of conditions of insured property, see In-SUBANCE, §§ 84-89.
Of occupation by insured, effect, see INSUB-ANCE, § 95.

### TEMPORARY DAMAGES.

Abutter's right to temporary damages for railroad in street. 36 L.R.A. (N.S.)

#### TEMPORARY INJUNCTION.

See Injunction, § 80.

#### TEMPORARY INSANITY.

Presumption of continuance of. 85 L.R.A. 119.

#### TEMPORARY MARRIAGE.

Conflict of laws as to validity of. 57 L.R.A. 159.

#### TEMPORARY OCCUPATION.

Extent of recovery in condemnation proceedings for. 26 L.R.A. 753.

#### TEMPORARY SUBMERGENCE.

Title to islands temporarily submerged. 35 L.R.A.(N.S.) 230.

### TEMPORARY WEAKNESS.

As proof of testamentary incapacity. L.R.A.(N.S.) 94; L.R.A.1915A, 463.

### TENANCY.

See LANDLORD AND TENANT.

### TENANCY BY ENTIRETY.

See HUSBAND AND WIFE, § 27.

#### TENANCY IN COMMON.

See COTENANCY.

### TENANTS.

In general, see Landlord and Tenant. Life tenant, see LIFE TENANTS. Cotenants, see COTENANCY. Tenant by the entirety, see Husband and Wife, § 27.

#### TENANTS IN COMMON.

See COTENANCY.

#### TENDER.

§ 1. Generally.

Of goods sold, see SALE, § 14. Of tax, see TAXES, §§ 64, 65.

Of purchase money by partner. 28 L.R.A. 105. Of tax or redemption money prevented by

officer. 20 L.R.A. 489.

Of fees to witnesses. 39 L.R.A. 121.

Of property to buyer who is in default in fixing date for delivery and is not present at the agreed place. 2 L.R.A.(N.S.) 529.

To pledgee before action for conversion against him. 43 L.R.A. 759.

§ 2. Necessity for.

As condition precedent to bringing of suit, see Action or Suit, § 11.

As condition of specific performance, see SPECIFIC PERFORMANCE, § 3.

As condition of maintaining trover, see TROVER, § 8.

Of deed as prerequisite to action for pur-chase money of land, see VENDOR AND PURCHASER, § 13.

Necessity for tender of performance by purchaser to entitle real estate broker to commissions. 43 L.R.A. 604.

Necessity of tender of performance by vendor to entitle him to retain purchase money on default by vendee. L.R.A. 1918B, 557.

Necessity of tender of payment to discharge lien of automobile for repairs or storage. L.R.A.1918D, 336.

Necessity of tender by seller in order to recover purchase price where purchaser wrongfully repudiates his contract. 51 L.R.A. (N.S.) 740.

Consult also L.R.A. Digests of Cases.

TENDER—cont'd

Of freight charges as condition of trover against carriers. 21 L.R.A. 117.

When tender of freight money not condition of conversion by carrier's refusal to sur-render goods. 6 L.R.A.(N.S.) 1058.

Effect of unauthorized sale or disposal of pledge by pledgee to dispense with tender as a condition of trover against him. 6 L.R.A.(N.S.) 298; 24 L.R.A. (N.S.) 511.

Of consideration paid for release of claim for personal injuries as a condition of setting the same aside on a ground of fraud. 35 1918F, 1073. 35 L.R.A.(N.S.) 660; L.R.A.

Of share of expense as condition of right to share in benefit of cotenant's purchase of outstanding interest. 10 L.R.A. (N.S.) 863.

Tender or payment of consideration as a condition precedent to a suit for the specific performance of a contract to convey realty consummated by the vendee's exercise of an option. 24 L.R.A.(N.S.) 91.

Of amount due as condition of injunction against sale under power in mortgage on the ground of overstatement of amount due. 36 L.R.A.(N.S.) 909.

Of balance as a condition of injunction in aid of equitable set-off of claim against a judgment of a larger amount. 35 L.Ř.A. (N.S.) 144.

Of deed or abstract of title as condition of enforcing forfeiture for failure of vendee to pay last instalment of purchase money. 28 L.R.A.(N.S.) 956.

§ 3. Sufficiency of.

Sufficiency of tender of fare to prevent ejection of passenger, see CARRIERS, § 33.

To divest lien of mortgage. 33 L.R.A. 231. Necessity that tender, as a condition of rescission for breach of warranty, shall cover all the property sold. 8 L.R.A. (N.S.) 727.

Sufficiency of tender of fare to prevent ejection. 31 L.R.A.(N.S.) 991.

Sufficiency of tender of payment to prevent acceleration of maturity of entire debt. 47 L.R.A.(N.S.) 980.

Place and requisites of tender of interest which will prevent acceleration of maturity of mortgage under interest clause. 36 L.R.A.(N.S.) 308.

§ 4. — defective money.

Condition of money tendered as fare, see CARRIERS, § 19.

Sufficiency of coin tendered, see Coin, § 2.

Of old, worn, or mutilated coin. 33 L.R.A.

Character and condition of coin and currency that may be tendered in payment of fare. 35 L.R.A.(N.S.) 1030.

§ 5. - check. Tender by check. 36 L.R.A. (N.S.) 232. TENDER—cont'd

§ 6. — excessive amount with demand for change.

Of amount in excess of fare, see CARRIERS, § 20.

Tender of a sum in excess of that due with demand for change. 13 L.R.A.(N.S.) 624.

§ 7. Keeping tender good. Right to withdraw money paid into court after tender. 5 L.R.A.(N.S.) 561.

### § 8. Effect.

Effect of tender of taxes or redemption money. 20 L.R.A. 491.

Effect of tender by vendes of purchase price before due, to put other party in default. 20 L.R.A.(N.S.) 338.

Effect of tender by vendee of real property after default on his right to recover payments made. L.R.A.1918B, 551.

Effect of tender on deposit of money on right to interest on damages allowed in eminent domain. 28 L.R.A.(N.S.) 63.

Effect of tender by defendant upon his right to avail himself of defenses or counterclaims. 21 L.R.A. (N.S.) 354.

Tender of debt due from estate as affecting creditor's right to letters of administration. 45 L.R.A. (N.S.) 237.

Right of public service corporation to discontinue service after tender of amount

due. L.R.A.1917C, 376.

§ 9. Of amount due on mortgage or pledge.

Effect of unaccepted tender on lien of chattel mortgage, see Chattel Mortgage, § 31.

Effect of an accepted tender of amount due on mortgage, see MORTGAGE, § 57.

Effect of unaccepted tender on lien of pledge. 33 L.R.A. 231.

Who may make a tender which will discharge the lien of a mortgage. L.R.A. 1918C, 186.

### TENEMENT HOUSES.

In general, see Buildings.

Constitutionality of statutory regulations as to safety and sanitary conditions of. 17 L.R.A.(N.S.) 486.

Constitutionality of laws prohibiting carrying on of employments or occupations upon certain premises. 44 L.R.A. (N.S.) 46.

Validity of statute or ordinance requiring the lighting of. L.R.A.1918D, 688.

Tenement house as violation of restrictive covenants. 45 L.R.A. (N.S.) 726; L.R.A.1918C, 873.

### TENURE.

Of office, see MUNICIPAL CORPORATIONS, § Of li 116; OFFICERS, § 16.

Begin with this book on every law question.

#### TERM.

Of court, see COURTS, § 46.

Of tenant, see Landlord and Tenant, § 23. Of office, see Municipal Corporations, § 116; Officers, § 16.

Of contract to supply city with water. 61 L.R.A. 69.

### TERMINAL.

Railroad terminal as nuisance. 32 L.R.A. (N.S.) 374.

Presumption of statutory authority of railroad to commit nuisance by maintaining. 70 L.R.A. 589.

Delegation by legislature to railroad commission of power as to entrance intoterminals. 32 L.R.A.(N.S.) 654. Right of carrier having line haul to make

Right of carrier having line haul to make extra charge for switching or spotting cars at terminals or sidetracks. L.R.A. 1918A, 164.

#### TERMINAL RAILWAY COMPANY.

As a common carrier. L.R.A.1918B, 683. Exercise of power of eminent domain by. 10 L.R.A.(N.S.) 909.

Is terminal railway company, in moving interstate traffic, within Federal safety appliance act. 22 L.R.A.(N.S.) 582.

#### TERMINATION.

Of attachment, see ATTACHMENT, § 18.
Of relation of carrier and passenger, see
Carriers, § 9.

Of contract generally, see CONTRACTS, § 146. Of carrier's liability, see CARRIERS, § 118.

Of appointment of personal representative, see EXECUTORS AND ADMINISTRATORS, §§ 3-7.

Of franchise, see FRANCHISES, § 5. Of insurance, see INSURANCE, §§ 104, 105.

Of prosecution, giving right to bring action for malicious prosecution, see Ma-LICIOUS PROSECUTION.

Of agency, see Principal and Agent, §§ 6, 7.

Of lease, see LANDLORD AND TENANT, III. d. Of contract of employment, see MASTER AND SERVANT, II. i.

Of agency, see PRINCIPAL AND AGENT, §§ 6,

Of contract of sale, see SALE, § 3.

Of trust, see TRUSTS, III.

Of franchise for toll bridge. 30 L.R.A. (N.S.) 364.

Of liability of members of mutual fire insurance companies. 32 L.R.A. 492.

#### TERRACING.

Mechanic's lien for. L.R.A.1917D, 353.

#### TERRITORIAL COURTS.

See COURTS, §§ 35, 35a.

#### TERRITORIAL LIMITS.

Jurisdiction as affected by, see Courts, IV. Territorial extent of lien of execution. 45 L.R.A.(N.S.) 267.

Investments by trustees in foreign jurisdictions. 45 L.R.A.(N.S.) 411.

#### TERRITORIES.

Adoption of common law in. 22 L.R.A. 506. Right of territories to tax shares of stock in national bank, 45 L.R.A. 762.

Right of Congress to prohibit or delegate power to prohibit sales of intoxicating liquors in. 15 L.R.A. (N.S.) 922.

#### TEST.

Implied warranty in addition to stipulated test. L.R.A.1915B, 1131.

Particular test of milk prescribed by police

regulations. 1 L.R.A.(N.S.) 926.

Right to regulate time of payment as inci-dent to authority to make rules and regulations as to testing food. 39 L.R.A.(N.S.) 686.

#### TESTAMENTARY CAPACITY.

See WILLS, III. e.

#### TESTAMENTARY CHARACTER.

Of will, see WILLS, § 7.

### TESTAMENTARY GUARDIAN.

Effect of invalid attempt to appoint. 45 L.R.A. (N.S.) 446.

# \*\*\* TESTAMENTARY LIBEL.

Law as to. 49 L.R.A.(N.S.) 897. Consult also L.R.A. Digests of Cases.

#### TESTAMENTARY TRUSTEES.

See TBUSTS, IV.

#### TESTIMONY.

See EVIDENCE.

### TEST OATH.

As qualification of right to vote. 25 L.R.A.

#### TEXAS CATTLE.

Validity and construction of statutory regulations as to diseased cattle. 26 L.R.A. 638; 43 L.R.A. (N.S.) 1066.

Liability of carrier for loss of livestock by Texas fever. 26 L.R.A.(N.S.) 712.

#### TEXT-BOOKS.

See Schools, § 36.

#### TEXTILE FABRICS.

Sufficiency of delivery of on sale out of larger lot. 26 L.R.A.(N.S.) 42.

### THEATERS.

In general, see AMUSEMENTS. As to moving picture shows, see Moving PICTURES.

### THEATRICAL AGENT.

Authority of, to contract for services of other persons. L.R.A.1918F, 69.

### THEFT.

In general, see LARCENY. Insurance against, see Insurance, XI.

### THEORY.

Trial under erroneous theory as to crime charged, as former jeopardy. 24 L.R.A. (N.S.) 481.

#### THEORY OF CASE.

Necessity of, in pleading, see PLEADING, §

#### THERAPY.

Application of statute regulating practice of medicine to persons giving special kinds of treatment. 3 L.R.A. (N.S.) 762; 24 L.R.A. (N.S.) 103: 25 L.R.A. (N.S.) 1297; L.R.A.1917C, 822.

#### THIEF.

See LARCENY.

#### THINGS.

Construction of word "things" as used in devise or legacy. L.R.A.1918A, 222.

#### THIRD DEGREE.

See EVIDENCE, § 209.

### THIRD PERSON.

Delivery of deed to, see DEEDS, § 8; Es-

Pending of suit by, as suspending the running of the statute of limitations. 52 L.R.A.(N.S.) 1165.

### THIRD RAIL.

Liability of electric railway for injury to trespasser or licensee from exposed third rail. 28 L.R.A.(N.S.) 98.

#### THREATS.

1. Generally.

Validity of contract procured by threat of prosecution, see CONTRACTS, § 91. Evidence of, see EVIDENCE, § 239. Obtaining property or money by, see Ex-TORTION, § 2.

Carrier's liability for threats by employees | See CARRIERS, § 22. to passengers. 14 L.R.A. 739.

Liability for wrongfully threatening passenger with expulsion. L.R.A.1918D, 87**6**.

Voluntariness of payment of license fee under threats of judicial proceedings. 22 L.R.A.(N.S.) 875.

Forcing one to do an act under threat to kill, as assault with intent to kill. 39 L.R.A.(N.S.) 143.

Voluntariness of confession induced by. 18

### THREATS—cont'd

Contracts procured by threats of prosecution of relative. 26 L.R.A. 48; 37 L.R.A. (N.S.) 539; L.R.A.1915D, 1118.

Effect of duress by, to avoid marriage. 43

L.R.A. 815.

Threat of prosecution as force sufficient to constitute robbery. 46 L.R.A.(N.S.) 1153; L.R.A.1918E, 938.

To charge person with crime, as constructive force for purposes of robbery. L.R.A. 439.

Threat of imprisonment by public officer as duress. L.R.A.1916B, 670.

Liability for damages to landlord for driving tenant away by threats. L.R.A. 1918D, 393.

§ 2. Effect of, on liability for homi-

As provocation for homicide. 4 L.R.A. (N.S.) 154.

As affecting self-defense in homicide. 45 L.R.A. 702.

Effect of, on degree of homicide in heat of passion. 5 L.R.A.(N.S.) 820.

#### THREE-MILE LIMIT.

Jurisdiction beyond. 46 L.R.A. 264.

#### THRESHING ENGINES.

Liability for fires set by, see FIRES, \$ 7.

### THRESHING MACHINE.

Validity of chattel mortgage of future earnings of. 20 L.R.A. (N.S.) 505.

Recovery under Workmen's Compensation
Act for injury to employee operating. L.R.A.1918F, 202.

#### THROUGH SHIPMENT.

Duty of initial or first contracting carrier to undertake. 31 L.R.A.(N.S.) 3.

### THROUGH TICKETS.

#### TICKER.

Property rights in market quotations by. 7 L.R.A.(N.S.) 889.

### TICKET AGENTS.

L.R.A. (N.S.) 833; 50 L.R.A. (N.S.) Confining sale of tickets to, see CARRIERS, 1077. §§ 21, 148.

Begin with this book on every law question.

TICKET AGENTS-cont'd

Service of process on railroad or steam-ship company by delivery to. L.R.A. Decision of, see Electrons, § 16. 1916F, 453.

#### TICKET BROKERS.

See CARRIERS, §§ 21, 148.

#### TICKET OFFICE.

Duty of carrier to keep ticket office open. 1 L.R.A.(N.S.) 851.

#### TICKETS.

See also Amusements, § 4; Carriers, §§ 16-29; Constitutional Law, § 141.

When vacancy in party ticket occurs within statute authorizing filling of vacancies. 41 L.R.A.(N.S.) 1088.

#### TIDAL WATERS.

Land under, see TIDE LAND.

Navigability of. 42 L.R.A. 303.

Boundary of municipality on. 23 L.R.A. 523.

Effect of bounding grant on. 42 L.R.A. 462.

#### TIDE LAND.

§ 1. Generally.

Rights in, see WATERS, §§ 14, 15.

Acquisition of, by eminent domain. L.R.A. 897.

Location of mining claim on. 7 L.R.A. (N.S.) 790.

§ 2. Title to.

Of municipality, see MUNICIPAL CORPORA-TIONS, § 71.

Title to. 42 L.R.A. 162.

Title to land at high and low water marks. 45 L.R.A. 227.

3. Grant of.

Right of state to grant. 22 L.R.A. (N.S.) 337.

Right of state to grant tide land so as to destroy wharfage right of shore owner. 63 L.Ř.A. 264.

Grant of, to municipal corporation.

L.R.A.(N.S.) 822.

Federal grant of lands under navigable water in territory. 1 L.R.A. (N.S.) 745.

How far within protection of covenants in deed. 62 L.R.A. 763.

Consult also L.R.A. Digests of Cases.

#### TIE VOTE.

#### TIGER.

Liability for injury by. 52 L.R.A. (N.S.) 378.

#### TIMBER.

§ 1. Generally.

Measure of damages for wrongful cutting or destruction of, see DAMAGES, § 75. Rights of life tenant as to, see LIFE TEN-

ANTS, § 5.
See also Logs AND Logging; LUMBER; TREES.

Determining income from timber lands for purpose of income tax. L.R.A.1917E,

Organization of timber lands into municipal corporation. L.R.A.1918B, 1090.

Title to, when wrongfully severed. L.R.A. 422.

Jurisdiction of action for conversion of, from land in another state or country. 26 L.R.A.(N.S.) 940; 34 L.R.A.(N.S.) 994.

Interest of one other than owner of soil in timber as separate subject of taxation. 17 L.R.A.(N.S.) 693.

Timber rights of life tenant. 37 L.R.A. (N.S.) 763.

Liability of one setting fire to timber causing spread to property of others. 21 L.R.A. 262.

Right as between owner of land and owner of timber thereon to annual product of the trees. L.R.A.1915E, 307.

Title and right to stranded timber. L.R.A.(N.S.) 460.

Right to timber on railroad right of way as between company and fee owner. 45 L.R.A.(N.S.) 801.

Jurisdiction of action for conversion of from land in another state or country. 44 L.R.A.(N.S.) 268.

Specific performance of timber contracts. L.R.A.1918E, 621.

§ 2. Conveyance of title to standing timber without title to land.

Oral contract for sale of timber, see Con-TRACTS, § 43.

In general. 55 L.R.A. 513.

Nature of purchaser's estate; effect to pass title. 55 L.R.A. 514; 6 L.R.A. (N.S.) 469; 47 L.R.A. (N.S.) 870.

As realty or personalty. 13 L.R.A. (N.S.) 278.

Incidental rights of purchaser. 55 L.R.A. 517.

Prerequisites to passing of title; selection of trees. 55 L.R.A. 519.

Selection or designation of part sold out of a larger lot. 26 L.R.A.(N.S.) 37. Payment of purchase price. 55 L.R.A. 520. TIMBER-cont'd

For what purpose timber may be used. 55 L.R.A. 525.

Effect of purchaser's knowledge of third person's timber rights in action for breach of covenant against encumbrances. 4 L.R.A. (N.S.) 319.

### § 3. - what timber included in conveyance.

In general. 55 L.R.A. 522. Size of timber, generally. 55 L.R.A. 523. Mode of determining size. 55 L.R.A. 523. Time of determining size and suitability. 55 L.R.A. 524.

#### § 4. — time for removal generally; forfeiture of rights.

Rights under conveyance or reservation of timber not specifying time for removal. 3 B. R. C. 873.

Must timber sold or reserved without specifying time be removed within reasonable time. 46 L.R.A. (N.S.) 672.

Effect of expiration of time for removal of timber. 47 L.R.A.(N.S.) 882.

When title to timber is in vendee. 29 L.R.A. (N.S.) 547.

#### § 5. - extension of time to remove. Construction and effect of provision for extension of time for removal of standing timber. 34 L.R.A.(N.S.) 615.

Interference by owner of soil with removal of timber during term fixed by lease or sale as extending time for removal. 34 L.R.A. (N.S.) 120.

### § 6. Right to cut.

Custom as to cutting, see Custom and USAGE, §§ 5, 6.

Injunction against trespass to cut, see In-JUNCTION, § 23.
Tenant's right to cut, see LANDLORD AND

TENANT, § 54.
Cutting of trees, see TREES, § 2.

On public land, see Public Lands, § 3.

Injunction against trespass to cut. L.R.A. 1917C, 236.

Right of tenant to cut wood for fires or fences. 68 L.R.A. 641.

Constitutionality of legislation restricting or regulating the right to cut timber on private land. 19 L.R.A. (N.S.) 422.

Right of owner or lessee of mineral in place to cut timber upon the surface of the 48 L.R.A. (N.S.) 892. land.

Responsibility of one who assumes to sell land or the timber thereon for trespass by another claiming under or through him in cutting the timber. L.R.A.1918D, 220.

### § 7. Liability for acts of independent contractors as to.

Liability for torts of independent contractor in cutting. 16 L.R.A.(N.S.)

Employer's nonliability for torts of independent contractor in hauling of. 65 Of passage and taking effect of act, see L.R.A. 654.

TIMBER—cont'd

Persons undertaking operations connected with handling of, as independent contractors. 65 L.R.A. 469; 17 L.R.A. (N.S.) 375.

### TIMBER CULTURE ACTS.

Right to cut timber on public lands under-70 L.R.A. 904.

#### TIME.

I. In general, §§ 1-12.

II. Standard or solar time, § 18.

III. Fractions of day; month, §§ 14, 15. IV. Computation of time, \$\$ 16-19.

### I. In general.

§ 1. Generally.

Of accrual of cause of action, see ACTION OR SUIT, § 7.

For taking appeal, see APPEAL AND ERROR, IV. e.

Of filing or recording chattel mortgage, see CHATTEL MORTGAGE, § 19.

For presenting check for payment, see Снескв, § 11.

To present claim generally, see CLAIMS, § 2. To present claim against decedent's estate, see EXECUTORS AND ADMINISTRATORS, §§ 40, 41.

Condition for construction of railroad within specified time, see CONDITIONS, § 9. Date, see DATE.

For voting, see Elections, § 13.
For eminent domain proceedings, see EMI-NENT DOMAIN, § 28.

Judicial notice as to, see EVIDENCE, § 13. Presumption as to time of alteration of in-

strument, see EVIDENCE, § 91a. Extension of, see Extension, § 2.

Allegations as to time, in indictment, see INDICTMENT, etc., § 5.

During which sale of liquor is prohibited, see INTOXICATING LIQUORS, §§ 24, 25.

Of judicial sale, see JUDICIAL SALE, §§ 3, 4. Time within which suit must be commenced, see LIMITATION OF ACTIONS.

Statutory regulation as to time of payment of wages, see MASTER AND SERVANT, § 31.

file mechanics' lien, see MECHANICS' LIENS, §§ 28, 29.
Of redemption from foreclosure sale, see

MORTGAGE, § 90. Of notice, see Notice, § 11.

Of payment, see PAYMENT, § 17.

For recording instrument, see RECORDS AND RECORDING LAWS, § 23.

Of suing for purchase money of goods sold, ree SALE, § 46.

As affecting right to specific performance, see Specific Performance, § 2.

Begin with this book on every law question.

TIME, I.—cont'd

For assessment of property, see TAXES, § 55.

As of what time property valued for taxation purposes, see TAXES, § 58.

For redemption from tax sale, see TAXES, § 84.

At which testamentary capacity exists, see Wills, § 13.

For determination of persons taking under will, see Wills, § 97.

To which contingency is referable, see Wills, § 100.

Of vesting of remainder, see WILLS, § 102. At what time equitable conversion occurs, see WILLS, § 118.

Right of witness to express opinion as to. L.R.A.1918A, 708.

As to what time question of dependency within meaning of Workmen's Compensation Statutes must be determined. L.R.A.1918F, 492.

Of what time rights are to be determined in estimating compensation to be paid public utility company upon taking its plant. 47 L.R.A. (N.S.) 790.

Time as of which valuation of public service property is to be made. L.R.A.1916F, 663.

Time as of which valuation of decedent's estate is to be taken for assignment of share of surviving spouse. 3 B. R. C. 973.

For ascertaining value of land for purpose of assigning dower. 3 B. R. C. 951.

Of filing petition for initiative or referendum. L.R.A.1917B, 34.

Of affixing revenue stamp to instrument. 48 L.R.A. 315.

Of making entries in books of account as affecting their admissibility in evidence. 52 L.R.A. 583.

Of inspection of corporate books. 45 L.R.A. 450.

Time allowed tenant for removal of crop. 35 L.R.A. (N.S.) 707.

Lapse of, as curing defect in title. 38 L.R.A. (N.S.) 36.

For repair of defects in street car track. 52 L.R.A. 456.

As of what time conversion takes place under direction to sell real property which postpones sale to definitely ascertainable time subsequent to testator's death. 20 L.R.A.(N.S.) 65.

For determining eligibility of officer. 23 L.R.A.(N.S.) 1228; 41 L.R.A.(N.S.) 1119.

Is competency of attesting witness to a will to be determined as of time of attestation or of probate. 35 L.R.A. (N.S.) 686.

For making arrest as affecting officer's liability. 51 L.R.A. 214.

As of what time assessed valuation is to be

As of what time assessed valuation is to be taken for purpose of determining the debt limit of a state or municipality. 28 L.R.A.(N.S.) 149.

Time to which bad character or reputation of plaintiff in libel or slander has reference for purpose of mitigating damages. 38 I.R.A.(N.S.) 1184.

Consult also L.R.A. Digests of Cases.

TIME, I.—cont'd

Of statements made some time after accident as affecting admissibility as res gestæ. 42 L.R.A. 921.

Of offer of marriage as affecting defense to prosecution for seduction. 29 L.R.A (N.S.) 422.

Time at which a partial payment by check or draft arrests running of limitations. 1 B. R. C. 494.

Presumption as to time of alteration in written instrument. 39 L.R.A.(N.S.) 100.

Presumption as to receipt of communication sent through mail in due course of mail. 49 L.R.A.(N.S.) 465.

Time as of which residence is fixed in determining what is nonresidence for the purpose of debtor's exemption. L.R.A. 1915A, 424.

Necessity of and time for acceptance of resignation by employee of a private employer. L.R.A.1915D. 477.

employer. L.R.A.1915D, 477.

Necessity and sufficiency of allegation or proof as to time of injury to persons or property on railroad track. L.R.A. 1915A 781

1915A, 781.
Time covered by recognizance or bail bond in criminal case. L.R.A.1916F, 363.

Allowing reasonable time to purchaser at judicial sale to examine title. 52 L.R.A. (N.S.) 751.

Power of judge pro tem on rendition of judgment to allow time for preparing or filing bill of exceptions or case made. 42 L.R.A.(N.S.) 623.

Proximate cause of damage from fire, as affected by. 42 L.R.A.(N.S.) 759.

Variance between allegation and proof as to time in action against railroad company for setting out fires. 41 L.R.A. (N.S.) 635.

§ 2. Juridical matters.

Matters as to judgments, see infra, § 8. For taking appeal, see APPEAL AND ERBOR, §§ 14, 15.

For executing appeal bond, see APPEAL AND ERROR, § 16.

For objections and exceptions, see APPEAL AND ERROR, § 24a.

Of issuing execution, see EXECUTION, §§ 5, 6.

Of rendition of judgment, see JUDGMENT, §§ 17, 18.

Of serving pleading, see PLEADING, §§ 8, 9. Of amendment of pleading, see PLEADING, § 11.

For application to remove action to Federal court, see REMOVAL OF CAUSES, § 14.

Limiting time of counsel's argument, see TRIAL, § 17.

Of receiving verdict, see TRIAL, § 77.

Of issuing writ, see WRIT AND PROCESS, \$

Of service of process, see WRIT AND PROCESS, § 10.

Does standard or solar time govern legal proceedings. 6 L.R.A. 1046.

Time from which order appointing receiver becomes operative. 15 L.R.A.(N.S.) 657.

TIME, I.—cont'd Effect of failure to file referee's report within proper time. 34 L.R.A.(N.S.) 581.

Of organization of grand jury. 27 L.R.A.

Of raising defense of former jeopardy. L.R.A.1917A, 1233.

For making admission or request to open and close. 61 L.R.A. 534.

Right to limit time of argument of counsel for accused. 25 L.R.A.(N.S.) 1027.

For giving of security in Federal Supreme Court. 66 L.R.A. 858.

For correction of record on appeal. L.R.A.(N.S.) 209.

For making application for mandamus to compel filing of petition for referendum. 50 L.R.A.(N.S.) 218.

For bringing action in connection with initiative and referendum election. L.R.A.1917B, 32.

Time of discovery of evidence as affecting bill of review. 30 L.R.A.(N.S.) 1038.

3. Contractual matters generally, Certainty as to, as element of negotiability,

see BILLS AND NOTES, § 21. For presentment of commercial paper, see BILLS AND NOTES, § 52.

Of maturity of negotiable paper, see BILLS AND NOTES, §§ 54-57.

For performance of contract, see Con-TRACTS, §§ 63, 132.

Limitation as to, in contract in restraint of trade, see CONTRACTS, § 108.

Time of payment, see PAYMENT, § 17.

Release of surety by extension of time, see PRINCIPAL AND SURETY, § 15.

Of passing of title to personalty, see SALE, §§ 2, 9-13.

For removal of timber conveyed, see TIM-BER, §§ 4, 5.

For assent to assignment or deed of trust for creditors. 24 L.R.A. 379, 384.

For assent and execution of release provided for in assignment for creditors. 50 L.R.A.(N.S.) 744.

Time for exercising option reserved in contract of sale to return or resell property. 50 L.R.A.(N.S.) 594.

Time of consummation of contract when

offer by letter is accepted by telegram, or vice versa. L.R.A.1916A, 1302.

Of resale of goods on purchaser's refusal to accept. 42 L.R.A. (N.S.) 681, 683.

Of signing as surety for surety. 21 L.R.A.

249. For notice of default to bind guarantor.

Limitation as to time in grant of water power. 67 L.R.A. 397.

Of consummating contract when offer by letter is accepted by telegram, or vice versa. 6 L.R.A.(N.S.) 1016.

Time for delivery of goods sold to be deinstalments as required by purchaser. L.R.A.1918A, 609.

TIME, I.—cont'd

Effect of statute of frauds upon right to extend by parol time for performance of written contract. L.R.A.1917B, 171.

4. Insurance matters.

Of payment of insurance premium or assessment, see INSURANCE, §§ 113, 114. giving proofs or notice of loss, death,

accident, or sickness, see Insurance, & 146.

Of demanding paid-up policy. 15 L.R.A. 449; 51 L.R.A. (N.S.) 1044.

From what time does notice of cancelation of fire insurance become effective. 39 L.R.A.(N.S.) 829.

Time within which demand by insurer for arbitration, appraisal, inspection, or reinspection must be made. L.R.A.1917A, 1086.

Of notice of assignment of policy to credit-or. '50 L.R.A. 41.

Of examination of insured under provision as to producing books and papers. 51 L.R.A. 706.

Scope of release under policy indemnifying insured against loss of time by sickness or accident. 24 L.R.A. (N.S.) 211.

Effect of provision in employer's liability or other indemnity policies, requiring immediate notice of accident, claim or suit. 3 B. R. C. 723.

Date from which the period to which a defense is limited in life insurance policy is to be computed. L.R.A.1915F, 703; L.R.A.1917B, 105.

§ 5. Matters as to carriers.

For removal of goods by consignee, see CAR-RIERS, § 118.

Stipulation as to time of giving notice to, or commencing suit against, carrier, see Carriers, § 133.

Time allowed for passenger to alight. 4 L.R.A. (N.S.) 140.

Limitation of time within which transportation tickets may be used. L.R.A.1918A. 779.

Time limit for exercise of transit privilege. L.R.A.1918A, 180.

Validity and effect of provision in carrier's contract as to time of valuation of property for purpose of determining amount of damages. L.R.A.1918B, 720.

Right of carrier to receive in afternoon, valuables to go on morning train. 13 L.R.A.(N.S.) 558.

Right of street railway company to limit time for using transfer. 8 L.R.A. (N.S.) 287; 52 L.R.A. (N.S.) 908.

Of notice to warrant special damages for carrier's failure to deliver property. 3 L.R.A.(N.S.) 1111.

Extent of ticket agent's implied authority as to time of arrival. 31 L.R.A.(N.S.)

livered in reasonable instalments, or in Delegation by legislature to railroad commission of power as to time of trains. 32 L.R.A.(N.S.) 653.

Begin with this book on every law question.

TIME, I.—cont'd

§ 6. — reasonableness of time.

Of time allowed for passengers to alight. 4 L.R.A.(N.S.) 140.

Of time for termination, of passengers relation after reaching destination. L.R.A. (N.S.) 875.

Of time within which transportation tickets may be used. L.R.A.1918A, 780. Reasonableness of time fixed in contract of

shipment of goods or live stock for bringing action. L.R.A.1916D, 350.

Reasonableness of time fixed in a contract of shipment of livestock for presentation of claim for damages.

(N.S.) 1041; L.R.A.1916D, 341. What is a reasonable time for removal of goods by consignee after which liability of carrier as such terminates. 8 L.R.A.(N.S.) 240; 16 L.R.A.(N.S.) 935; 25 L.R.A.(N.S.) 938.

Reasonableness of time for keeping passenger station open before arrival or after departure of train. 1 L.R.A. (N.S.) 851.

#### § 7. Accounts stated.

Time necessary to constitute account stated. 27 L.R.A. 823.

Time within which objection to a statement of account may be made. 29

L.R.A.(N.S.) 341.

Length of time necessary for retaining statement of account to render it an account stated. 29 L.R.A.(N.S.) 342; L.R.A.1917C, 453.

#### 8 8. Matters as to judgments.

Rule of, as to priority of judgment. 38 L.R.A. 243

Of attaching of lien of Federal judgment. 47 L.R.A. 478.

Allowing vendor reasonable time to perfect title by decree for specific performance. 30 L.Ř.A.(N.S.) 25.

#### § 9. Matters as to mines.

Of recording mining location. (N.S.) 878. 7 L.R.A.

Of performance of requirements for location of mining claim. 7 L.R.A. (N.S.)

Of marking location of mining claim on the ground. 7 L.R.A.(N.S.) 857.

§ 10. Loss of, as element of damages. Time lost, as element of damages for personal injuries, see DAMAGES, § 61.

Loss of time as element of damages for destruction or loss of use of implements or tools of laborer or professional man. 25 L.R.A.(N.S.) 625.

Loss of time as element of damages in action against telegraph company. 52 L.R.A. (N.S.) 1180.

### 11. Of death.

When homicide deemed to be committed. 34 L.R.A. 851.

Consult also L.R.A. Digests of Cases.

TIME, I.—cont'd

Instantaneous death as test of right of action or amount of recovery. L.R.A. 1916C, 973.

Abridgement of time necessary to raise presumption of death. L.R.A.1915B, 744.

Presumption as to time of death of one presumed to be dead after seven years absence, unheard of. 26 L.R.A.(N.S.) 294; L.R.A.1915B, 756.

#### § 12. Reasonableness of.

In matters relating to carriers, see supra,

Question for jury as to, see TRIAL, § 24.

Of period allowed by new statute of limitations in respect of existing causes of action. 7 L.R.A.(N.S.) 715; 21 L.R.A. (N.S.) 157.

Of time of retaining statement of account as question for court or jury. 29 L.R.A. (N.S.) 341.

Reasonableness of time for removal of timber sold or reserved without specifying time. 55 L.R.A. 534; 46 L.R.A. (N.S.) 681; 3 B. R. C. 895.

Admissibility of extrinsic evidence as to reasonableness of time for delivery of goods where none is specified in writ-ten contract. 31 L.R.A.(N.S.) 620. Of limitation on time of argument of coun-

sel for accused. 25 L.R.A.(N.S.) 1030.

#### II. Standard or solar time.

### § 13. Generally.

Standard or solar time as the criterion in determining questions dependent upon time. 35 L.R.A.(N.S.) 611.

Does standard or solar time govern legal proceedings. 6 L.R.A.(N.S.) 1046.

Intention of parties to contract to adopt standard instead of sun time. 1 L.R.A. (N.S.) 364,

### III. Fractions of day; month.

§ 14. Fractions of day.

Fractions of day as determining priorities or precedence of rights. (N.S.) 835.

### § 15. Month.

Meaning of "month." 12 L.R.A. 770.

### IV. Computation of time.

\$ 16. Generally.

Computation of legislative days. 17 L.R.A. 66.

For instituting proceedings to transfer cause to Federal Supreme Court. 66 L.R.A. 848.

Computation of period of abandonment as affected by insanity of defendant. 16 L.R.A.(N.S.) 1071.

Computation of time of receipt of communication sent through mail. 49 L.R.A. (N.S.) 466.

TIME, IV.—cont'd

Date from which the period to which a defense is limited in life insurance policy is to be computed. L.R.A. 1915F, 703; L.R.A.1917B, 105.

Right to compute minimum statutory period for presentation of claims against telegraph company from date of filing message. 34 L.R.A.(N.S.) 185.

\$ 17. Rule as to first and last days

General rule as to inclusion or exclusion. 49 L.R.A. 193; 15 L.R.A.(N.S.) 686. Early rule as to which day is counted. 49 L.R.A. 194.

The modern common-law doctrine. L.R.A. 195.

The statutory rule. 49 L.R.A. 198. Construction and particular provisions as to time. 49 L.R.A. 199; 15 L.R.A. (N.S.) 686.

The rule when Sunday or a holiday is the first or last day. 49 L.R.A. 203; 15 L.R.A. (N.S.) 687; 38 L.R.A. (N.S.) 1162; 3 B. R. C. 678.

Application of rules with reference to subject-matter and surrounding circumstances. 49 L.R.A. 205; 15 L.R.A.(N.S.) 688.

To statutes of limitations. 49 L.R.A. 212; 15 L.R.A. (N.S.) 688; 38 L.R.A. (N.S.) 1160.

Miscellaneous provisions for time. 49 L.R.A. 246; 15 L.R.A.(N.S.) 691.

§ 18. — counting or excluding holiday. Where first or last day falls on holiday. 19 L.R.A. 316; 49 L.R.A. 203; 15 L.R.A. (N.S.) 687.

Computation of time for bringing action when first or last day falls on. 38 L.R.A. (N.S.) 1162.

Computation of days of grace allowed for payment of insurance premium or assessment where date of payment or expiration of such period falls on Sunday or holiday. 23 L.R.A.(N.S.) 759.

19. — counting or excluding Sunday. Rule when Sunday is first or last day. 49 L.R.A. 203; 15 L.R.A.(N.S.) 687; 38 L.R.A.(N.S.) 1162.

Computation of time for bringing action when first or last day falls on. 38 L.R.A.(N.S.) 1162.

Computation of days of grace allowed for payment of insurance premium or assessment where date of payment or expiration of such period falls on Sunday. 23 L.R.A. (N.S.) 759.

#### TIME CLOCK.

Right of master to withhold wages of serv-

L.R.A.(N.S.) 644. Begin with this book on every law question.

#### TIME TABLES.

Effect of carrier's limitation of liability in, on liability for default or delay in running trains. 32 L.R.A. 544.

Train despatchers representing railroad company as to special order suspending regular time tables. 54 L.R.A. 92.

Right of one about to cross railroad track, to rely on. 17 L.R.A. (N.S.) 1253.

#### TIN TOP.

Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 316.

#### TIPS.

Servant's right as to tips received by him. 41 L.R.A.(N.S.) 1217.

#### TIRES.

Validity of statute or ordinance regulating width of tires of vehicles in city streets. 31 L.R.A.(N.S.) 685.

### TITHES.

Of bees. 40 L.R.A. 689.

#### TITLE.

§ 1. Generally.

By adverse possession, see ADVERSE Posses-SION.

Abstract of, see ABSTRACTS. Bond for, see BOND FOR TITLE.

Cloud on, see CLOUD ON TITLE.

Covenant of warranty of, see Covenants, §§ 13, 31-33.

Title acquired in eminent domain, see EMI-NENT DOMAIN; §§ 24-26.

Presumption and burden of proof as to, see Evidence, §§ 104, 105.

Evidence as to, see EVIDENCE, § 281.

Of purchaser at judicial sale, see JUDICIAL

SALE, § 14. Slander of, see LIBEL AND SLANDER, § 31. Record of, see RECORDS AND RECORDING

LAWS, IV.
Passing of, on sale of personal property, see

SALE, §§ 9-13.

Warranty of, on sale of personalty, see SALE, § 28.

Reservation of, on sale of property, see SALE, § 15.

Of statute, see STATUTES, §§ 13, 14.

To funds collected by bank, see BANKS, § 32. ant for failure to record his time. 45 Effect of easement on title to land, see EASE-MENTS, §§ 4, 5.

TITLE-cont'd

Effect of fraudulent conveyance on legal title, see FRAUDULENT CONVEYANCES,

Transfer of, by guaranty, see GUARANTY, § 4.

Acquisition of, by tenant, see LANDLORD AND TENANT, § 44.

Notice of, from possession of land, see No-TICE, § 17.

Tax title, see Taxes, § 81a.

between vendor and purchaser, see VENDOR AND PURCHASER, §§ 15-18.

Specific performance of contract in relation to title papers. L.R.A.1918E, 627. Distinguished from estate. 15 L.R.A. 68.

When title passes in eminent domain proceedings. 16 L.R.A.(N.S.) 537.

Conclusiveness of judgment or order in condemnation proceedings as a settlement of question of title between rival claim-

ants to the award. L.R.A.1917A, 690. Effect of defendant's mistake of fact as to, on right to specific performance of contract induced by the mistake. LR.A.(N.S.) 85.

Right to preliminary injunction which would have effect of transferring possession of property, title to which is in dispute, from defendant to plaintiff. 39 L.R.A.(N.S.) 31.

Necessity and character of title of plaintiff to sustain action of trespass quare clausum fregit. 30 L.R.A.(N.S.) 243.

Reservation of, in bailments for sale as against creditors of bailor and bailee. 22 L.R.A. 850,

Transfer of title to note by indorsement in form of guaranty. 41 L.R.A.(N.S.) 1009; L.R.A.1915C, 661.

Right to inspect account books of public officers as to. 27 L.R.A. 82.

What entry or record of judgment is necessary for purpose of vesting. 28 L.R.A.

Want of legal title as affecting set-off against assigned judgment. 23 L.R.A. 338.

Statements as to, as a fraud. 35 L.R.A. 420, 438.

Right to rely on representations as to. 37 L.R.A. 603.

Estoppel of one who permits the title of real property to stand in another's name to assert title as against the latter's creditors. 46 L.R.A.(N.S.) 1097.

Trial of title to property in proceedings in-stituted by search warrant. 46 L.R.A. (N.S.) 970.

Title to money deposited in mail or with carrier. L.R.A.1918A, 534.

Yielding to adverse claimant as affecting buyer's right to assert breach of warranty of title of personal property. L.R.A.1918B, 1138.

Right of mortgagor or those claiming through or under him to set up outstanding title or to acquire outstanding title to defeat the mortgage. L.R.A. 1918B, 734.

Consult also L.R.A. Digests of Cases.

TITLE—cont'd

Denial of, upon information and belief. 30 L.R.A.(N.S.) 777.

§ 2. To what property.

To crops, see Crops, § 2.

To real property generally, see DEEDS, §\$ 28-31; REAL PROPERTY, § 3; VENDOR AND PURCHASER, §\$ 15-18; WILL, §\$ 77-102.

To goods consigned, see Factors, § 2. To highway, see Highways, IV.

To land on discontinuance of highway, see HIGHWAYS, § 112.

Of insured property, see Insurance, §§ 66-73.

To property of religious societies, see RE-LIGIOUS SOCIETIES, § 3.

To tide land, see TIDE LANDS, § 2.

To land between high and low water marks, see WATERS, § 16.
To islands, see WATERS, §§ 23, 44.

To islands. 35 L,R.A.(N.S.) 227.

To accretions to shore lands. 58 L.R.A. 199. To land flowed by damming back water of stream. 59 L.R.A. 852.

Title to letters patent for inventions of servant. 2 L.R.A. (N.S.) 1173.

Effect on title to real property of appoint-

ment of foreign receiver. 23 L.R.A. 57. Of mortgagee of future crops. 23 L.R.A. 464.

In whom legal title to partnership property vests. 27 L.R.A. 460.

Of one taking money from thief or embezzler. 25 L.R.A. (N.S.) 631; L.R.A. 1917A, 707.

Effect of contract with regard to standing timber to pass title to the same. L.R.A.(N.S.) 870.

Title of owner to material employed in an improvement made by him in a street which the municipality has refused to accept. L.R.A.1915B, 187.

To escaped inanimate property. 43 L.R.A. (N.S.) 460.

To goods which purchaser elects to return for credit pursuant to contract. L.R.A. 1916E, 1209.

#### TITLE BOND.

See BOND FOR TITLE.

#### TITLE DEEDS.

Equitable mortgage by deposit of. 19 L.R.A. (N.S.) 206.

### TOBACCO.

Sufficiency of identity of part of larger lot sold. 26 L.R.A.(N.S.) 32.

Power to prohibit or restrict use of tobacco. 51 L.R.A.(N.S.) 562.

Prohibition or regulation of the manufacture, sale, or importation of tobacco. L.R.A.1918B, 988.

TOBACCO-cont'd

Effect on rights of innocent persons of con-fiscation of tobacco under internal revenue laws. L.R.A.1916E, 353.

As a family expense or necessary within statute rendering wife or her property liable therefor. L.R.A.1917F, 863.

#### TOKEN CURRENCY.

Validity of contract for, in violation of statute. 12 L.R.A.(N.S.) 610.

#### TOLL BRIDGES.

See Bridges, §§ 8-10.

#### TOLLGATES.

Character of occupancy by keepers of. L.R.A. (N.S.) 717.

#### TOLLING.

Of limitations, see LIMITATION OF ACTIONS.

### TOLLROADS.

§ 1. Generally. Toll bridges, see BRIDGES, §§ 8-10. As to turnpikes, see TURNPIKES.

Exclusiveness of franchise of toll road or

turnpike. L.R.A.1917D, 339.

Compensation to be paid proprietors of, on taking toll road for public use. 47
L.R.A.(N.S.) 795.

Legislative regulation of toll roads. L.R.A. 180.

Character of occupancy of toll keeper.

L.R.A. (N.S.) 717.

Extension of city limits to include toll road, as taking of property for which compensation must be made. 17 L.R.A.(N.S.) 1071.

#### § 2. Tolls.

As to rates charged by public service corporations, see RATES, § 2.

Right to take toll on road within a city. 15 L.R.A. 651.

Right to take toll for use of road by automobile. L.R.A.1917E, 562.

Necessity of franchise for taking tolls. 37

L.R.A. 715.

### TOLLS.

#### # 1. Generally.

porations, see RATES, § 2. Begin with this book on every law question.

TOLLS—cont'd

Legislative regulation of. 33 L.R.A. 177. Delegation of municipal power as to. L.R.A. 726.

Inspection of public toll books. 27 L.R.A. 82.

Under market regulations. 24 L.R.A. 587.

§ 2. Right to take without franchise. In general. 37 L.R.A. 711. Mills. 37 L.R.A. 712. Ferries. 37 L.R.A. 712.

Canals or other water ways. 37 L.R.A. 715. Toll roads and bridges. 37 L.R.A. 715. Fairs, markets, and sales. 37 L.R.A. 718. Port charges. 37 L.R.A. 718.

#### § 8. For what.

Without franchise, see supra, § 2. For use of toll bridge, see BRIDGES, § 10. For use of ferry, see FERRIES, § 7.
For use of mills, see MILLS, § 4.
For use of toll roads, see TOLL ROADS, § 2. For appropriated water, see WATERS, § 88.

For improvement of water way. 67 L.R.A. 835.

For use of navigable stream. 70 L.R.A. 273. On bicycles. 47 L.R.A. 303. Right of county, municipality, or town to rent, or collect tolls for use of, highway. 42 L.R.A.(N.S.) 836.

### TOMBS AND TOMBSTONES.

As part of funeral expenses.

666; 52 LR.A.(N.S.) 1158. Injunctive relief against removal of. L.R.A.(N.S.) 485.

Is money set aside under will or otherwise for purpose of erecting tomb or monu-ment subject to inheritance tax. 23 L.R.A.(N.S.) 474; L.R.A.1918A, 767.

Validity of testamentary provision for care and maintenance of. 1 B. R. C. 931.

Allowance against deceased's estate for. 28 L.R.A. (N.S.) 572.

### TONGS.

Master's liability for injury by defect in. 13 L.R.A.(N.S.) 679; 51 L.R.A.(N.S.) 337.

#### TONTINE POLICY.

Right to subject, to claims of creditors. 4 L.R.A.(N.S.) 456.

### TOOLS.

Master's duty as to, see MASTER AND SEEV-ANT, III, a, 6.

As to rates charged by public service cor- | Municipal liability for injury by tools in street. 20 L.R.A. (N.S.) 613.

### TORNADO.

Causes of loss covered by tornado insurance. L.R.A.1915B, 1094.

### ----TORPEDOES.

See SIGNAL TORPEDO.

### TORRENS LAW.

See RECORDS AND RECORDING LAWS.

### TORT-FEASOR.

See WRONGDOERS.

#### TORTS.

§ 1. Generally.

As to particular classes of torts, see specific title, e. g., AUTOMOBILES; CAR-RIERS; CONSPIRACY; HIGHWAYS; MAL-ICE; MALICIOUS PROSECUTION; MASTER AND SERVANT; MOTIVE; MUNICIPAL CORPORATIONS; NEGLIGENCE; ROADS; STREET RAILWAYS, etc.

Assignability of cause of action for, see

Assignment, § 5.

Provability of claim for, see BANKRUPTCY,

Right of action for generally, see CASE. Conflict of laws as to, see Conflict of LAWS, §§ 20-22.

Contribution between tort feasors, see Con-TRIBUTION, § 2.

Measure of damages for, generally, see DAMAGES.

Exemplary damages for, see Damages, II. Loss of profits as element of damages for, see Damages, § 108.

Right of action for causing death, see

DEATH, II.

Waiver of, see Election of Remedies, § 3. Exemption of homestead from liability for, see HOMESTEAD, § 7.

Injunction against, see Injunction, §§ 16,

Liability for tort of keeper or inmate of jail or prison, see Jails and Prisons,

Running of limitations against action based on, see Limitation of Actions, §§ 35, 40, 41, 51.

As to personal injuries generally, see PER-SONAL INJURIES.

Pleading as to, see PLEADING, § 31.

Proximate cause in case of, see PROXIMATE CAUSE, § 3.

Release from liability for, see RELEASE.

Counterclaims in tort in actions on con-tract, see Set-Off and Counterclaim, § 14b.

Consult also L.R.A. Digests of Cases.

TORTS-cont'd

Municipal liability for, as a debt within meaning of debt limit provisions. L.R.A.1917E, 451.

Does statute disqualifying party as a witness, because of death of other party, apply to actions ex delicto. L.R.A. 1916D, 811.

Liability for "shadowing" person. 43

L.R.A.(N.S.) 520.

Constitutionality of imprisonment for debt in case of 24 L.R.A. 640. L.R.A. 1915R.

in case of. 34 L.R.A. 640; L.R.A.1915B, 646.

Does statutory liability of stockholders for debts of corporation include liability for torts. 22 L.R.A.(N.S.) 256.

Rule of proximate cause in case of malicious torts. 45 L.R.A. 87.

Exemption of homestead from liability for.

24 L.R.A. 789; 16 L.R.A.(N.S.) 947. Equitable remedy to subject to judgment, claim of damages for tort. 63 L.R.A. 703.

Garnishment of claims in tort. 59 L.R.A. **3**55.

Lien of attorney on cause of action for. 3 L.R.A. (N.S.) 379.

Effect of bankruptcy on liabilities for. 1 L.R.A. (N.S.) 202.

Right of action for tort for injury to person other than physical as asset of bankrupt. 43 L.R.A.(N.S.) 940.

Requisites of special verdict in action for. 24 L.R.A.(N.S.) 20.

Curing separate verdicts rendered in action for joint tort. 10 L.R.A.(N.S.) 191.

Jurisdiction of action at law based on tort against real property in another state or country. 26 L.R.A.(N.S.) 933; 44 L.R.A. (N.S.) 268.

Avoidance by infant of release of cause of action ex delicto. 11 L.R.A.(N.S.) 690. Federal courts following state decisions as

to. 40 L.R.A. (N.S.) 437.

Application to claims for torts of statute or ordinance requiring notice or presentation as a condition of municipal liability. 50 L.R.A.(N.S.) 175.

### § 2. Who liable for.

Liability of carrier for torts towards passenger, see CARRIERS, §§ 10-15a. Constable's liability for, see CONSTABLE,

§ 2.

Liability of corporation for, see Corpo-RATIONS, § 36a.

Liability of corporate officers for, see Con-PORATIONS, §§ 56, 57a, 59.

Liability of county for, see COUNTES, § 8. In what capacity personal representative may be sued for, see EXECUTORS AND ADMINISTRATORS, § 21.

Liability of husband for torts of wife, see Husband and Wife, § 11.

Married woman's liability for, see HUSBAND AND WIFE, § 24.

Action between husband and wife for, see HUSBAND AND WIFE, § 69a.

Liability of incompetent person for, see INCOMPETENT PERSONS, § 12.

Liability for infants for, see INFANTS, § 24.

TORTS—cont'd

Joint liability for, see JOINT CREDITORS AND DERTORS.

Master's liability for, see CARRIERS, §§ 10, 14, 15a; MASTER AND SERVANT, IV.; TRUSTS, § 26.

Liability for torts of independent contractor see Master and Servant, IV, b. Liability of servant for, see MASTER AND

SERVANT, V

Municipal liability for, see MUNICIPAL COR-PORATIONS, §§ 72-101. Officer's liability for, see Officers, § 40. Parent's liability for, see PARENT AND

CHILD, § 10.
Partner's liability for, see PARTNERSHIP, § 14.

Principal's liability for, see PRINCIPAL AND

AGENT, § 20.
Agent's liability for, see PRINCIPAL AND AGENT, § 42.

Sheriff's liability for, see Sheriff's, § 3. Liability of state for, see State, § 11. Liability of trustee for torts of his servant,

see TRUSTS, § 26. Arbitrary or mala fide termination of part-

nership as basis of action in tort. 25 L.R.A. (N.S.) 959. Liability of one who procures defamatory

testimony to be given. 4 B. R. C. 986. Liability of school district or school cor-

poration for. 49 L.R.A.(N.S.) 1026. Liability of marshal or constable for his deputy's tort in making an arrest. 12 L.R.A.(N.S.) 1019; L.R.A.1915E, 172.

#### TOTAL DISABILITY.

Of insured, see Insurance, § 178.

#### TOTAL LOSS.

Of insured property, see INSUBANCE, § 173.

#### TOWAGE.

Owners of tugs as independent contractors. 65 L.R.A. 471.

Action on contractor's bond for expense of towage. 43 L.R.A.(N.S.) 170.

Services covered by towage agreement. L.R.A.1915B, 1086.

Jurisdiction of admiralty over contract as to. 66 L.R.A. 232.

Maritime lien for towage services. L.R.A. 388.

### TOWN HALL.

Power of town to construct for purposes other than use by town officers. L.R.A. (N.S.) 425.

TOWN HALL-cont'd

Right of municipality to permit use of, or to lease town hall for private purposes.

31 L.R.A.(N.S.) 580.
Liability of town for torts in connection with. 25 L.R.A.(N.S.) 91.

#### TOWN MARSHALS.

As public officers. 36 L.R.A.(N.S.) 882.

#### TOWNS.

§ 1. Generally.

Estoppel of, see ESTOPPEL, I.

As to municipal corporations generally, see MUNICIPAL CORPORATIONS.

Applicability of statute of limitations to actions by. L.R.A.1916E, 99.

Parol evidence to vary or supplement minutes of town meeting. 50 L.R.A.(N.S.)

As trustees of charities. 14 L.R.A. 70.

2. Creation and incorporation of. Extrinsic evidence to show unconstitutionality of statutes incorporating towns. 14 L.R.A. 459.

§ 3. Annexation or division of territory.

Power to use public funds to promote or defeat legislation as to. LR.A.1917B, 358.

Power of legislature as to annexation of town to municipality. 27 L.R.A. 738. Division of territory of, as affecting its assets and liabilities. 39 L.R.A.(N.S.)

§ 4. Powers and rights.

285.

Power to use public funds to promote the passage or to secure the defeat of a law. L.R.A.1917B, 358.

Power to employ attorney. L.R.A.1917D, 243.

On contingent fee. L.R.A.1917D, 263. Right when entitled to services of official attorney to employ other attorney in civil matters. 1917D, 257.

Power of, to remove officer in absence of statutory authority. 9 L.R.A.(N.S.) 572; 39 L.R.A.(N.S.) 519.

Right to collect tolls for use of bridge or highway. 42 L.R.A.(N.S.) 836.

Reputed father's right to custody or control of illegitimate child as against. 65 L.R.A. 694.

§ 5. - property rights.

Division of territory as affecting its assets. 39 L.R.A. (N.S.) 285.

Right to surrender valid claim upon partial payment thereof. 19 L.R.A. (N.S.) 320.

Begin with this book on every law question.

TOWNS-cont'd § 6. Appropriations by. Appropriations or use of moneys of. 14 As fellow servants. 52 L.R.A.(N.S.) 1103. L.R.A. 474.

7. Liabilities; indebtedness.

Bonds of, see Bonds, III.

Liability for injury on defective highway, see HIGHWAYS, § 79.

Effect of contributory negligence on liability of township for defects in highway, see HIGHWAYS, § 101.

Division of territory of, as affecting. 39 L.R.A. (N.S.) 285.

Liability as between counties and towns for the expense of maintaining a boundary bridge between counties. L.R.A.1916F, 524.

Liability for damage to vessel by bridge. L.R.A.1915F, 1062.

Liability for injury by interference of bridge with flow of water. 59 L.R.A. 856.

Liability of townships for injury to employee engaged in repairing highway. 41 L.R.A. (N.S.) 1074.

Liability of township on negotiable paper executed by officer of town. 21 L.R.A. (N.S.) 1078.

When limitations begin to run against action on township warrant. 10 L.R.A. (N.S.) 478.

Holders as necessary parties to proceed-ings to invalidate moneyed obligations 3 L.R.A.(N.S.) 256.

Right of town authorities to reconsider action as to allowance of claim. L.R.A.(N.S.) 289.

Liability of territory annexed to township to pay proportionate share of existing debts. 27 L.R.A.(N.S.) 1147.

#### \$ 8. Officers.

Parol evidence to vary or supplement records of. 50 L.R.A.(N.S.) 99.

Power of board to appoint officers or make contract for term of office extending beyond its own term. 29 L.R.A.(N.S.) 652; L.R.A.1915E, 581.

Character and extent of relief by mandamus against town board which has rendered a decision on a ground not within its discretion. 7 L.R.A.(N.S.) 525.

#### 9. - powers.

Power of town board to act as determined by place of performance. 33 L.R.A. 86.

Liability of township on negotiable paper executed by officer of town. 21 L.R.A. (N.S.) 1078.

#### # 10. — removal of.

Power of town to remove officer in absence of statutory authority. 9 L.R.A.(N.S.) 572: 39 L.R.A. (N.S.) 519.

#### TOWN-SITE GRANTS.

See Public Lands, § 18. Consult also L.R.A. Digests of Cases.

#### TRACK INSPECTORS.

### TRACK REPAIRERS AND LA-BORERS.

As fellow servants. 52 L.R.A.(N.S.) 1101.

#### TRACKS.

Right of witness to express opinion as to. L.R.A.1918A, 732,

### TRACTION ENGINE.

Lawfulness of use of, on highways. 16 L.R.A. 148.

#### TRADE.

Restraint of, see Contracts, §§ 107-109, 117, 118; Monopoly and Combina-TIONS.

Municipal control over nuisances, relating to, see MUNICIPAL CORPORATIONS. § 30. As to unfair competition in, see UNFAIR COMPETITION.

What is a "trade" within exemption laws. L.R.A.1915F, 916.

Injunction by municipality against nuisance

relating to. 41 L.R.A. 326.
Solicitation of, as doing business within state. 9 L.R.A. (N.S.) 1214: 23 L.R.A. (N.S.) 834; L.R.A.1916E, 236.

#### TRADE FIXTURES.

See FIXTURES.

#### TRADE INDUCEMENTS.

As to trading stamps, see TRADING STAMPS.

Constitutionality of statute requiring prizes or other inducements to attract trade to be paid in cash. 41 L.R.A.(N.S.) 1041.

#### TRADEMARK,

- I. In general, § 1.
- II. What may be, \$\$ 2, 2a.
- III. Invalidity of deceptive trademark,
- IV. Transfer of, §§ 4, 5.
  - V. Protection, §§ 6, 7.

TRADEMARK-cont'd VI. Extent of right; exclusive use, §§ 8, 9. VII. Infringement, §§ 10, 11.

### I. In general.

Generally.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 162.

Effect of fraud in respect to, see FRAUD AND DECEIT, § 22.
See also Tradenames; Unfair Compe-

TITION.

As a subject of taxation. 21 L.R.A. (N.S.) 30.

Effect of devise of business to pass trade-

marks. L.R.A.1917D, 439. Conclusiveness of judgment as between plaintiff and one not a party nor privy who voluntarily conducted the defense in trademark case. 37 L.R.A.(N.S.) 966.

#### II. What may be.

§ 2. Generally.

What may be protected as a trademark, see infra, § 7.

Use of one's name as, see NAME, § 18. What may be tradename, see TRADENAME, § 2.

Labels as. 17 L.R.A. 130.

§ 2a. Foreign word.

Descriptive word adopted from foreign language as subject of trademark. 32 L.R.A.(N.S.) 439.

### III. Invalidity of deceptive trademark.

§ 3. Generally. Generally 19 L.R.A. 53. Claim of patent. 19 L.R.A. 54. Tea. 19 L.R.A. 54. Cigars. 19 L.R.A. 55. Cordials and medicines. 19 L.R.A. 55. Cosmetics and perfumes. 19 L.R.A. 56. Miscellaneous. 19 L.R.A. 56.

#### IV. Transfer of.

4. Generally.

Transfer of tradename, see TRADENAME, § 3. Sale of a trademark. 1 L.R.A. (N.S.) 705.

§ 5. By bankruptcy or insolvency assignment.

The general rule as to transferability. 46 L.R.A. 541.

Mode of transfer; what rights pass. L.R.A. 543.

Distinction between trademarks attaching to place or product and those attachings to the person. 46 L.R.A. 543.

46 L.R.A. 545.

Begin with this book on every law question.

#### TRADEMARK—cont'd

#### V. Protection.

6. Generally.

Injunction to protect rights in, see INJUNC-TIONS, §§ 69, 70.

Protection of tradename, see TRADENAME. §§ 4, 5.

Protection of, as affected by deception or fraud in use of. 8 L.R.A. 643; 17 L.R.A. 130; 19 L.R.A. 53.

Validity of penal statute to protect trade-marks. 25 L.R.A.(N.S.) 473.

Effect of false representations extrinsic to the trademark, on the right to protection against infringement of same. L.R.A. (N.S.) 1201; 23 L.R.A. (N.S.) 1151.

§ 7. What may be protected as. What may be protected as tradename, see Tradename, § 5.

Right to protection in use of terms descriptive of a process. L.R.A.1916E, 633. Colored threads or strands in fabric as trademark. L.R.A.1915F, 1107.

Protection of trade union labels or trademarks. 29 L.R.A. 200; 39 L.R.A. (N.S.) 1190.

Right to protection against use of a particular number by a competitor. 8 L.R.A. (N.S.) 1153.

Right to protection against use by rival of similar design, shell, or pattern not protected by patent. 19 L.R.A.(N.S.) 269.

Right to protection in use of geographical name as a trademark or tradename or upon the ground of unfair competition. 26 L.R.A.(N.S.) 73.

Protection of descriptive word or phrase as trademark. L.R.A.1918A, 961. Name of celebrity. L.R.A.1917C, 1161.

### VI. Extent of right; exclusive use.

8. Extent of right.

Use of, on articles other than those to which it is applied by the owner. 30 L.R.A. (N.S.) 167; 47 L.R.A. (N.S.) 1002; L.R.A.1918C, 1044.

Territorial extent of right in trademark or tradename used in limited locality where used by another in a different locality. 35 L.R.A. (N.S.) 251; L.R.A.1916D, 143.

Right to use of name capable of becoming trademark on expiration of copyright or patent. 16 L.R.A.(N.S.) 550.

§ 9. Exclusive use of. Right to exclusive use of. 17 L.R.A. 129.

### VII. Infringement.

§ 10. Generally. Protection against, see supra, §§ 6, 7. Trademark consisting of business name. Measure of damages for, see DAMAGES, §§ 19, 95, 112.

TRADEMARK, VII.-cont'd

Injunction against, see Injunction, §§ 69, 70.

Infringement of tradename, see TRADENAME, § 7.

Liability of officers of a corporation for its infringement. 28 L.R.A. 426.

Power of equity, upon enjoining unfair competition or infringement of trademark, to require defendant to pay damages sustained by complainant as distinguished from profits realized by defendant. 21 L.R.A.(N.S.) 526.

Use of another's trademark, or insignia not technically a trademark, for advertising purposes as infringement or unfair competition. L.R.A.1915B, 889.

### § 11. What constitutes.

By similarity of names of articles. 14 L.R.A. 245.

Right to use a word substantially similar to that used by another as trademark, as affected by differences in appearance in other respects. 12 L.R.A.(N.S.) 729.

#### TRADENAMES.

#### § 1. Generally.

Effect of fraud in respect to, see FRAUD AND DECEIT, § 22.

Injunction against misuse of, see Injunc-

TION, § 69.
See also Thademark; Unfair Competition.

As part of good will of business. 15 L.R.A.

462. Notice of copyright containing variant

tradename. 66 L.R.A. 445.
Acquisition in restricted locality notwithstanding use in other places. 2 L.R.A.
(N.S.) 964.

### § 2. What may be.

What may be protected as, see infra, § 5. Use of one's name as, see NAME, § 18. What may be trademark, see TRADEMARK, § 2.

Right to use geographical name as. 26 L.R.A. (N.S.) 73.

Limitation of right to use one's own name as tradename. 1 L.R.A.(N.S.) 660; 28 L.R.A.(N.S.) 934.

### § 8. Transfer of.

Transfer of trademark, see TRADEMARK, §§ 4, 5.

### § 4. Protection of.

Protection of trademark, see TRADEMARK, §§ 6, 7.

Effect of false representations extrinsic to the tradename, on the right to protection against infringement of same. 12 L.R.A.(N.S.) 1201; 23 L.R.A.(N.S.) 1151.

Consult also L.R.A. Digests of Cases.

### TRADENAMES--cont'd

Right of owner of tradename to be protected against its use by another to describe the character of material to be used by the latter in performing a contract. 12 L.R.A.(N.S.) 339.

### § 5. — what protected.

What may be protected as trademark, see Trademark, § 7.

Right of members of organization to protection in use of name which their efforts have made valuable. 28 L.R.A. (N.S.) 458.

Right to protection in use of geographical name as tradename. 26 L.R.A. (N.S.) 89.

Relief against infringement of tradename not used in connection with manufactured article. 15 L.R.A.(N.S.) 625.

Protection of name descriptive of the kind or character of business. L.R.A.1917C, 958.

Name of celebrity as. L.R.A.1917C, 1161.

#### § 6. Extent of use.

Use of, on articles other than those to which it is applied by owner. 30 L.R.A. (N.S.) 167; 47 L.R.A.(N.S.) 1002; L.R.A.1918C, 1044.

Use of same tradename by wholesale and retail concerns dealing in same goods. 4 L.R.A.(N.S.) 447.

Right to use of name capable of becoming tradename on expiration of copyright or patent. 16 L.R.A.(N.S.) 550; 1 B. R. C. 649.

Territorial extent of right to tradename used in limited locality where used by another in a different locality. 2 L.R.A. (N.S.) 964; 35 L.R.A. (N.S.) 251; L.R.A.1916D, 143.

### § 7. Infringement.

Measure of damages for, see Damages, §§ 19, 95, 112.

Injunction against, see Injunction, §§ 69, 70.

Infringement of trademark, see TRADEMARK, §§ 10, 11.

Right to use a word substantially similar to that used by another, as tradename, as affected by differences in appearance in other respects. 12 L.R.A.(N.S.) 729.

Power of equity on enjoining infringement of tradename to require defendant to pay damages sustained by complainant as distinguished from profits realized by defendant. 21 L.R.A. (N.S.) 526.

#### TRADE SECRETS.

See SECRETS.

#### TRADESMEN.

As independent contractors. 65 L.R.A. 467. Effect of notice to, on husband's liability for personal necessaries furnished wife. 65 L.R.A. 532, 538, 544; 47 L.R.A. (N.S.) 281.

#### · TRADE TALK.

As a fraud. 35 L.R.A. 418. Right to rely on. 37 L.R.A. 605.

#### TRADE UNION.

See Conspiracy, §§ 4-8; Labor Organiza-TIONS.

#### TRADING COMPANIES.

Right of foreign company to enter state. 24 L.R.A. 313.

#### TRADING STAMPS.

Constitutionality of statutes as to, see CONSTITUTIONAL LAW, § 163.

License of business of dealing in, see Li-CENSE, § 42.

Forbidding or regulating use of. 2 L.R.A. (N.S.) 588; 7 L.R.A.(N.S.) 1131; 30 L.R.A.(N.S.) 957; 49 L.R.A.(N.S.) 1123; L.R.A.1917A, 433; L.R.A.1918B, 383.

Gratuitous distribution of tokens entitling holders of certain numbers to prizes, as a lottery. 3 B. R. C. 984.

Trading stamp contract as a monopoly. L.R.A.1915D, 520.

### TRAFFIC AGREEMENT.

Association of persons under, as partner-ship. 18 L.R.A.(N.S.) 1095.

### TRAFFIC OFFICER.

Signal of traffic officer as affecting duty of travelers to exercise care. L.R.A.1917B, 137.

Validity of statute or ordinance for direction of street traffic by. L.R.A.1918F, 1113.

### T-RAIL CUTTER.

Master's liability for injury by defects in. Injury by, to persons on railroad track, see 51 L.R.A.(N.S.) 338.

RAILBOADS, VII.

#### TRAILING.

Evidence of trailing by bloodhounds. 42 L.R.A. 432; 35 L.R.A.(N.S.) 870; L.R.A.1917E, 730.

### TRAIN DESPATCHER.

As fellow servant of trainmen, see MASTER AND SERVANT, § 149.

Record of, as evidence. 3 L.R.A. (N.S.) 1190.

Representing company as to special orders suspending regular time tables. L.R.A. 92.

State statute regulating hours of labor of, as interference with interstate commerce. 29 L.R.A.(N.S.) 240.

#### TRAIN HOUSE.

Regulations as to admission of passenger to. 16 L.R.A. 449.

#### TRAINING SCHOOL.

Mandamus to compel issuance of diploma to student in. 3 L.R.A.(N.S.) 1115. Confinement in, as cruel and unusual pun-

ishment. L.R.A.1915C, 563.

Statutory power of local authority to maintain teacher's training department in school. 52 L.R.A.(N.S.) 163.

### TRAIN MASTER.

As fellow servant. 52 L.R.A.(N.S.) 1105. Authority of, to contract for services of other persons. L.R.A.1918F, 64.

### TRAINMEN.

As fellow servants. 50 L.R.A. 429, 455; 52 L.R.A.(N.S.) 1082, 1106, 1142.

Conductor as fellow servant of. 46 L.R.A. 337.

fellow servants of telegraph operator, train despatcher or block signal opera-tors. 25 L.R.A. 386; 7 L.R.A. (N.S.) 651; 52 L.R.A. (N.S.) 1123, 1127.

### TRAINS.

Regulation as to stopping of, see CARRIERS, § 162.

Failure to stop as proximate cause of injury to passenger by, see PROXIMATE CAUSE, § 9.

RAILBOADS, VII.

Begin with this book on every law question.

TRAINS—cont'd Evidence as to speed of. 34 L.R.A.(N.S.)

Right of court to determine question as to quickest means of stopping train, as a matter of common knowledge. 14 L.R.A.(N.S.) 262.

Duty to give regular train service on Sunday. 30 L.R.A.(N.S.) 401.

#### TRAIN SCHEDULES.

Right of one about to cross railroad track to rely on. 17 L.R.A.(N.S.) 1253.

#### TRAMPS.

As passengers of carrier. 2 L.R.A. 166. Cruel and unusual punishment for violation of Tramp Act. L.R.A.1915C, 570.

#### TRAMBOAD.

Right to place on private right of way. L.R.A.1918A, 263.

#### TRAMWAYS.

Right of owner or lessee of mineral in place to build tramways on surface. 48 L.R.A.(N.S.) 886.

#### TRANSFER,

In general, see Assignment.
Street car transfer. see Carriers, § 27.
Of property generally, see Property, § 4.
Of personal property, see Personal Property, § 5.

Of real property, see RAILBOADS, § 14.
Of real property generally, see REAL Property & 4.

Of trust property, see TRUSTS, §§ 35, 36. Of corporate stock, see CORPORATIONS, VIII.

C. Of interest of cotenant, see COTENANCY, §

Conflict of laws as to transfer of property, see CONFLICT OF LAWS, §§ 28-33.

Effect of transfer of business on good will,

# TRANSFER AGENTS.

see GOOD WILL, § 3.

As independent contractors. 65 L.R.A. 471. Consult also L.R.A. Digests of Cases. 83

#### TRANSFER COMPANY.

Liability of, see CARRIERS, § 106.

As carrier. 21 L.R.A.(N.S.) 188.
Right of carrier to grant exclusive train privilege to baggage or passenger transfer companies. 32 L.R.A.(N.S.) 1181; L.R.A.1917F, 1085.

Right of state or municipality to forbid solicitation of patronage at railway station. L.R.A.1917D, 690.

#### TRANSFER TAX.

See TAXES, §§ 90-105.

#### TRANSIENT.

Duty of telegraph company as to discovering unknown sendee who is a transient. 22 L.R.A.(N.S.) 764.

#### TRANSIENT DEALERS.

Constitutionality of discriminations in statutory regulations concerning transient dealers in food products. 34 L.R.A (N.S.) 653.

Discrimination against nonresidents by statute or ordinance as to license. 40 L.R.A. (N.S.) 286.

### TRANSITORY DANGERS.

Duty to warn servant against, see Master AND SERVANT, § 74.

Duty to warn contractor's servants of approach of. 46 L.R.A. 75.

#### TRANSIT PRIVILEGES.

Nature and validity of. L.R.A.1918A, 178. Carrier's right to make discriminating rate for wheat to be converted into flour to be shipped over its road. 6 L.R.A. (N.S.) 225.

Liability of carrier for loss of transit privilege resulting from deviation. L.R.A. 1918A, 1065.

#### TRANSLATION.

As an infringement of common-law rights in literary productions. 51 L.R.A. 378. Of will as part of probate. 42 L.R.A. (N.S.) 458.

### TRANSMISSION.

Of mails, see Postoffice, §§ 4-8.

#### TRANSPORTATION.

By carriers, see Carriers; Shipping.
Regulation of, as interference with commerce, see Commerce, §§ 4-12.
Of pupils, see Schools, § 2.

#### TRAPDOORS.

Duty of storekeeper toward customer as condition of. 21 L.R.A. (N.S.) 457; L.R.A.1915F, 572.

Municipal liability for injury from trap door maintained in sidewalk by abutting owner. 7 L.R.A.(N.S.) 425.

ting owner. 7 L.R.A.(N.S.) 425.
Res ipsa loquitur in action for injury on highway resulting from. 43 L.R.A. (N.S.) 593.

#### TRAPS.

Liability for killing or injuring trespasser by means of. 29 L.R.A. 154.

### TRAVAIL.

Dying declaration of woman in travail. 56 L.R.A. 454.

#### TRAVELER.

Injury to, on highway, see HIGHWAYS, VI. Duty of innkeeper towards, see INNKEEPERS, \$\$ 6-12.

### TRAVELERS' CHECKS.

Who must bear loss of payment on forgery. L.R.A.1917F, 558.

### TRAVELING.

As violation of Sunday laws. 30 L.R.A. (N.S.) 468.

### TRAVELING EXPENSES.

Implied authority of agent or employee to bind principal for. L.R.A.1916B, 754.

Begin with this book on every law question.

#### TRAVELING SALESMEN,

See COMMERCIAL TRAVELERS.

#### TREASON.

Libel or slander by imputing sedition or disloyalty. L.R.A.1917D, 861.

Criminal responsibility of corporation for. 2 B. R. C. 253.

Criminal liability of children for. 36 L.R.A. 208.

Evidence of other crimes in prosecution for. 62 L.R.A. 325.

Proof of corpus delicti in prosecution for. 68 L.R.A. 56.

Forfeiture of rights of innocent persons in property forfeited for treason. L.R.A. 1916E, 344.

#### TREASURER.

Bond of, see Bonds, §§ 12-15.

Authority of, to contract for services of other persons. L.R.A.1918F, 59.
Eligibility of woman to office of county treasurer. 27 L.R.A.(N.S.) 532.

#### TREASURE-TROVE.

ŧ

Rights of finder of. 1 L.R.A.(N.S.) 477; 8 L.R.A.(N.S.) 95; 35 L.R.A.(N.S.)

Rights inter se of joint finders of lost property. 19 L.R.A.(N.S.) 1201.

#### TREASURY.

Secretary of, see Secretary of Treasury.

Effect of money in, on creation of indebtedness in excess of debt limit. 37 L.R.A.

(N.S.) 1085; L.R.A.1917E, 446.

### TREASURY NOTES.

Liability of government for, when stolen from it. 39 L.R.A.(N.S.) 445.

# TREASURY STOCK.

Of corporation, taxation of. 9 L.R.A. (N.S.) 885.

#### TREATIES.

Effect of, on validity and enforceability of contract or covenant in relation to real property which discriminates against persons because of race, color, or religion. L.R.A.1916B, 1200.

TREATIES—cont'd

Effect of, on jurisdiction over boundary rivers. 65 L.R.A. 957.

Question relating to treaty rights as Federal question. 62 L.R.A. 532.

Guaranties by, to aliens. 16 L.R.A. 277. Effect of, on alien's right to inherit. 32 L.R.A. 177; L.R.A. 1915E, 327.

Validity of discrimination against aliens by inheritance tax law as affected by treaty with foreign government. 33 L.R.A.(N.S.) 632; L.R.A.1916A, 474.

#### TREATING.

Social treating as an offense. 21 L.R.A. (N.S.) 134.

Treating jurors as ground for new trial or reversal. 19 L.R.A. (N.S.) 733; 49 L.R.A. (N.S.) 889.

#### TREATMENT.

Medical treatment, see Physicians and SURGEONS.

Treatment while in custody as element of damages in action for malicious prosecution or false imprisonment. L.R.A.(N.S.) 291; L.R.A.1915D, 621.

### TREBLE DAMAGES.

See DAMAGES, § 120.

#### TREES.

§ 1. Generally.

In highway, see HIGHWAYS, § 42.

Master's liability for injury to servant by trees near street car track, see MASTER AND SERVANT, § 97.
See also Logs and Logging; Lumber;

TIMBER.

Mechanic's lien for furnishing and planting trees and caring for same. 1917D, 351.

As subject of larceny. 49 L.R.A. (N.S.) 966, 969.

Doctrine of attractive nuisance as applied to. L.R.A.1915D, 168.

Contributory negligence of one struck by limb of tree extending over highway. L.R.A.1918A, 205.

' Validity and construction of statutory regulations as to infected trees. 43 L.R.A. (N.S.) 1080; L.R.A.1915F, 894.

Injury to employee on top of train by. 47 L.R.A.(N.S.) 499.

Duty to give warning where trees are being felled. 46 L.R.A.(N.S.) 86.

Right as between owner of land and owner of timber thereon to annual product of the trees. L.R.A.1915E, 307.

Consult also L.R.A. Digests of Cases.

TREES-cont'd

Interest of one other than owner of soil, in growing trees or their products as separate subjects of taxation. 17 L.R.A. (N.S.) 693.

§ 2. Cutting of, or injury to.

Measure of damages for injury to, or destruction of, see Damages, § 75.

Right to cut timber, see TIMBER, §§ 6, 7.

Effect of cutting trees upon the title. 19 LR.A. 654.

Criminal liability for act of agent in wilfully cutting. 41 L.R.A. 657.

Duty to instruct servant as to danger in

felling. 2 L.R.A. (N.S.) 840.
Liability for injury to trees by gas escaping from pipes or mains. 10 L.R.A. (N.S.) 890.

§ 3. On boundary line.

Trees near boundary as a nuisance, see NUISANCES, § 3.

Property rights in trees on or overhanging boundary line. 21 L.R.A. 729; 46 L.R.A. (N.S.) 3.

#### TRENCHES.

Imputing to master coservant's negligence in respect to dangers in. 54 L.R.A. 138.

Servant's assumption of risk from changing condition of, during progress of work.
19 L.R.A.(N.S.) 358.

### TRESPASS.

I. Civil, \$\$ 1-11. II. Criminal, \$ 12.

### I. Civil.

§ 1. Generally.

By animals, see ANIMALS, § 10. Liability for injury by blasting, see BLAST-,

Trespass on the case, see Case.

Injunction against, see Injunction, §§ 21-

Remedy for continuing trespass or nuisance, see Nuisances, § 20a.
As to trespassers, see Trespassers.

On banks to float logs. 41 L.R.A. 495. Remedies against timber trespassers on public lands. 70 L.R.A. 875.

Effect of remedy by, on equitable jurisdiction to remove cloud on title. 12 L.R.A. (N.S.) 59.

Jurisdiction of action for trespass upon real property in another state or country. 26 L.R.A. (N.S.) 935; 44 L.R.A. try. 26 L. (N.S.) 267.

Applicability of statute of limitations governing actions for trespass to actions for damages to real property. 26 L.R.A. (N.S.) 1047.

TRESPASS, I.—cont'd

Judgment against plaintiff in trespass involving boundary as establishing boundary claimed by defendant. 38 L.R.A. (N.S.) 1024.

Effect of admission to change burden of proof and right to open and close. 61 L.R.A. 539, 547.

Imprisonment for debt in case of. 34 L.R.A. 641.

#### § 2. What constitutes.

Levy on partnership property for debt of partner as a trespass. 46 L.R.A. 489. By entering upon land to remove timber after the expiration of the time limit.

29 L.R.A.(N.S.) 551. Protection of building or other structure over boundary as a continuing trespass or nuisance. 32 L.R.A.(N.S.) 1010.

In executing invalid search warrant. L.R.A.(N.S.) 770.

Right to break and enter dwelling to serve civil writ of process. L.R.A.1916D, 281.

Right to employ force in retaking property sold conditionally. 19 L.R.A.(N.S.) 607.

§ 3. Resistance of. Homicide in attempting to prevent. LR.A. 538.

Right to use deadly weapon in resisting trespass. 22 L.R.A.(N.S.) 724.

Force permissible in resisting attempt of public service corporation to plant poles, lay tracks, etc. 45 L.R.A.(N.S.) 601.

### § 4. When lies.

For taking or injuring dogs. 40 L.R.A. 507. For interference with fishery rights. 60 L.R.A. 523.

Action in trespass against mortgagee who has unlawfully seized the property while assuming to act under mortgage. L.R.A.1915E, 196.

Against landowner for cutting trees boundary line. 46 L.R.A. (N.S.) 6. trees on

### § 5. Who may maintain.

In case of continuing trespass or nuisance, see Nuisances, § 20a.

For taking bees. 40 L.R.A. 688. Owner of burial lot. 67 L.R.A. 124; L.R.A. 1918A, 149.

Trespass quare clausum fregit by tenant in common of realty against cotenant. 10 L.R.A.(N.S.) 212.

Right of widow, prior to assignment of dower, to maintain trespass quare clausum. 13 L.R.A.(N.S.) 209.

As a proper remedy by abutting owner to recover damages from maintenance of 36 L.R.A. (N.S.) railroad in street. 829.

Bailee's right to maintain action of, for damage or conversion of bailed property. 3 B. R. C. 391.

Right of mortgagee in possession to maintain action for trespass antecedent to Loss of profits as element of damages for his entry. 6 B. R. C. 92. trespass against person. 52 L.R.A. 42. Begin with this book on every law question.

TRESPASS, I.—cont'd

§ 6. — character of title. Sufficiency of equitable title to sustain. 47 L.R.A. 637; 30 L.R.A.(N.S.) 231.

Sufficiency of equitable title to sustain action for injury to real property. L.R.A. (N.S.) 231.

Sufficiency of possessory title. 46 L.R.A. (N.S.) 500, 503, 516.

Necessity and character of title or possession of plaintiff to sustain action of trespass quare clausum fregit. 30 L.R.A.(N.S.) 243.

#### § 7. Who liable for.

Landlord's liability in for forcible expulsion of tenant after termination of tenancy. 16 L.R.A. 798.

Civil liability of insane person. 42 L.R.A. (N.S.) 85.

Responsibility of one who assumes to sell land or an interest therein, for a trespass by another claiming under or through him. L.R.A.1918D, 220.

Liability of officer executing invalid search warrant. 49 L.R.A.(N.S.) 770.

Liability of school district or school corporation for. 49 L.R.A. (N.S.) 1032.

Liability of municipal corporation for trespass on private property where committed in connection with streets. L.R.A. 1916D, 1086.

#### 8. — employer.

Master's liability in for wrongful or negligent act of servant. 27 L.R.A. 197. Employer's nonliability for trespass by independent contractor. 65 L.R.A. 655.

Liability for torts by servants sent to commit. 70 L.R.A. 731; 18 L.R.A.(N.S.) 297.

§ 9. - servant, agent, partner, or corporate officer.

Liability of servant or agent for, when acting under orders. 50 L.R.A. 645.

Liability of partnership for. 51 L.R.A. 472. Liability of officers of a corporation for its trespasses. 28 L.R.A. 422.

Criminal liability for acts of servant, agent, or partner. 41 L.R.A. 657.

### § 10. Defenses.

Possession of licensee to defeat trespass after revocation of license. 28 L.R.A. 519.

Effect of continued occupation by trespasser for less than the limitation period to estop the owner to maintain trespass q. c. f. 23 L.R.A. (N.S.) 270.

May entry upon land which would otherwise constitute a trespass be justified by private necessity. 20 L.R.A. (N.S.)

### § 11. Measure of damages for.

For trespass on real property, see DAMAGES, §§ 71-79.

#### TRESPASS-cont'd

#### II. Criminal,

#### § 12. Generally.

For act of servant, agent, or partner, see CRIMINAL LAW, § 29; INTOXICATING LIQUORS, § 23.

Criminal liability of children for malicious trespass. 36 L.R.A. 207.

Criminal liability for assault committed in regaining possession of land by one entitled to possession. 22 L.R.A.(N.S.) 728.

#### TRESPASSERS.

#### § 1. Generally.

Trespassing animals, see Animals, § 10.

Extent of trespasser's liability for consequential injuries, see Damages, § 73.

On railroad tracks, see Railroads.

Need of color of title to adverse possession by. 15 L.R.A.(N.S.) 1233.

Right of, to notice to redeem from tax sale.
44 L.R.A.(N.S.) 676.

Owner's right to compensation for improvements placed on land by trespasser before condemnation. 66 L.R.A. 46; L.R.A.1916F, 981.

Rights and remedies of owner of land in respect of crops grown thereon by trespasser. L.R.A.1918A, 550.

### § 2. Who are.

Does subsequent wrongful act by one who enters premises under license of owner or occupier made him a trespasser ab initio. 27 L.R.A. (N.S.) 442.

### § 3. Duty and liability to.

Injury to, see also CARRIERS, III. h.; ELECTRICITY, III.; ELEVATORS, § 4; NEGLIGENCE, I. b. 3; RAILROADS, VII. a, 4.

Liability of carrier for arrest of trespasser on train. L.R.A.1917D, 227.

Liability of lessor for injuries to. L.R.A. 1916F, 1132.

Liability for injury to bystander watching progress of work. L.R.A.1916F, 117.

Liability of railroad company to trespasser injured because of defects in track or roadbed while walking along track. L.R.A.1916E, 461.

Duty of railroad company to give crossing signals for benefit of trespassers and licensees near crossing but not about to use the same. L.R.A.1915D, 964.

Liability for injury to trespasser or bare licensee at station by train. 41 L.R.A. (N.S.) 162.

Care due to sick or otherwise helpless trespasser. 69 L.R.A. 513.

Liability for injury to by animals, 14 L.R.A. 197.

Duty toward trespassers of keeper of animal known to be dangerous. 2 B. R. C. 28.

Consult also L.R.A. Digests of Cases.

#### TRESPASSERS—cont'd

Liability to servants of other person entering premises, as trespassers. 46 L.R.A. 63.

Causing trespasser to jump from moving wagon as actionable misconduct. 31 L.R.A.(N.S.) 1064.

Liability for injury to trespasser by discharge of firearms, 3 L.R.A. (N.S.) 1038.

Liability for killing or injuring by means of spring guns, traps, and other dangerous instruments. 29 L.R.A. 154.

Assault in removing trespasser from one's premises. L.R.A.1918E, 1054.

Liability of municipality for acts of its officers in removing trespassers from public grounds. 35 L.R.A.(N.S.) 435.

§ 4. Contributory negligence of. Intoxication of trespasser amounting to contributory negligence. 40 L.R.A. 132; 47 L.R.A.(N.S.) 734.

### TRESPASSING ANIMALS.

See ANIMALS, § 10.

#### TRESTLE.

Nondelegability of duty to protect servants against defects in. 54 L.R.A. 69.

Duty to avoid injury to persons walking on railway trestle. 69 L.R.A. 526.

#### TRIAL.

I. In general, § 1.

II. Conduct and disposal, \$\$ 2-18a.

a. In general, §§ 2-5.

b. Notice of trial; stipulations; admissions, \$\$ 6-9.

c. Election between counts, §

- d. Matters as to witnesses; reception of evidence, §§ 11-14.
- e. Argument of counsel, §§ 15-17.
- f. Objections and exceptions,§ 18.
- g. Withdrawal of juror, § 18a. III. Questions of law or fact, §§ 19-55.
  - a. In general, 🖇 19.
  - b. Weight of evidence, §§ 20, 21.
  - c. Cause and effect, \$ 22.
  - d. Reasonableness; necessity, \$\$ 23-25.
  - e. Relation, character, or condition of persons or things, \$\$ 26-30.
  - f. Fraud; good faith; intent; malice; motive; knowledge; notice; authority, \$\$ 81-36.

TRIAL, III.—cont'd

g. Construction of contracts, \$ 37.

h. Libel or slander, § 38.

i. Care; negligence, §§ 39-49. 1. Of person causing in-

jury, §§ 39-44. 2. Contributory negligence, §§ 45-49.

j. Miscellaneous, §§ 50-55. · IV. Nonsuit; direction of verdict; peremptory instructions, §§ 56-59.

V. Instructions, §§ 60-68.

a. In general, \$ 60.

b. As to witnesses and evidence, §§ 61-63.

c. As to negligence, \$\$ 64-66. 'd. Criminal cases, \$\$ 67, 68.

VI. Findings, \$ 69. VII. Matters as to jury, \$\$ 70-74. VIII. Verdict, §§ 75-87.

# I. In general.

§ 1. Generally.

Record of, for purpose of appeal, see Ap-PEAL AND ERROR, §§ 18-23.

Irregularities or misconduct on trial as ground for reversal, see APPEAL AND ERBOR, §§ 35-40.

Withdrawal of attorney from case, see AT-

TORNEYS, § 16.
Continuance of, see Continuance, §§ 2, 3. Procedure in criminal cases generally, see CRIMINAL LAW, §§ 31-68.

Protection and rights of accused on, sec CRIMINAL LAW, §§ 43-54. Exclusion of public at criminal trial, see

CRIMINAL LAW, § 44.
As to new trial, see New TRIAL.

Grounds for new trial, see NEW TRIAL, §§ 3-11.

Venue, see VENUE.

Regularity of trial of member of benevolent society which will make his expulsion on suspension conclusive on the courts. 52 L.R.A.(N.S.) 813.

Misconduct toward juror as contempt. 46 L.R.A. (N.S.) 517.

As affected by question whether suit for statutory penalty is a civil or criminal prosecution. 27 L.R.A.(N.S.) 745.

Rebuking or fining attorney during trial as prejudicing rights of party. 42 L.R.A. (N.S.) 428.

#### II. Conduct and disposal,

### a. In general.

Reversible error in conduct of trial, see APPEAL AND ERROR, § 39. Nolle prosequi, see Nolle Prosequi.

§ 2. Order of trial. Order of trial in prosecution of habitual criminal or prior offender. 34 L.R.A. 405; 24 L.R.A.(N.S.) 437.

TRIAL, II. a-cont'd

§ 3. Absence of judge.

Conduct of judge as reversible error, see APPEAL AND ERBOR, § 38.

Matters as to judges on criminal trial, see CRIMINAL LAW, § 39.

Temporary absence of judge, when fatal to trial. 41 L.R.A. 569.

§ 4. Proceedings outside of room.

Validity of proceedings in course of a trial outside of the court room. 41 L.R.A.

§ 5. — communication by judge with jury

Effect of judge communicating with jury in not open court. 17 L.R.A. (N.S.) 609; L.R.A.1915D, 719.

#### b. Notice of trial; stipulations; admissions.

§ 6. Notice of trial.

First and last days in computing notices for. 49 L.R.A. 221.

§ 7. Stipulations.
Validity and effect of stipulation of incapacity of testator. 23 L.R.A.(N.S.) 783.

§ 8. Effect of admissions.

Conclusiveness of judicial admission as to strangers. 28 L.R.A. (N.S.) 327; L.R.A. 1915Ā, 200.

§ 9. — on burden of proof and right to open and close.

General principle. 61 L.R.A. 513. When regulated by rule of court or provision of statute. 61 L.R.A. 515.

How and when admission made. 61 L.R.A. 529.

Extent and character of admission. L.R.A. 534.

Effect of reply to restore right to plaintiff. 61 L.R.A. 559.

Conditional admission. 61 L.R.A. 561. In equity actions. 61 L.R.A. 561.

On writ of error and appeal and issue of law. 61 L.R.A. 561

In criminal action. 61 L.R.A. 562.

#### c. Election between counts.

§ 10. Generally.

Election by prosecution of offense relied on where evidence of different crimes given. 62 L.R.A. 344.

Election between counts in indictment when objection of duplicity is raised. 49 L.R.A.(N.S.) 455.

d. Matters as to witnesses; reception of evidence.

§ 11. Matters as to witnesses. As to witnesses generally, see WITNESSES. Begin with this book on every law question.

TRIAL, II. d—cont'd

Power of court to call and examine witnesses. 57 L.R.A. 875; L.R.A.1916A, 1191. Inquiries of witnesses by jurors. 1 L.R.A. (N.S.) 839.

§ 12. Reception of evidence.

Matters as to evidence generally, see Evi-

Right of party producing documents upon notice to use and control their use as evidence. 15 L.R.A. 138.

Discretion of judge as to admission of declarations as part of the res gestæ. L.R.A. 737.

Admission of incompetent or prejudiced testimony as ground for relief from divorce. L.R.A.1917B, 432.

Error in reception of testimony to support attack on divorce decree. L.R.A.1917B,

§ 13. — order of proof.

As to evidence of character and reputation of deceased in prosecution for homicide. 3 L.R.A. (N.S.) 358.

14. — striking out evidence.

Right to have direct testimony stricken out where cross-examination is interrupted wholly or in part by sickness or death of witness. 15 L.R.A. (N.S.) 493.

### e. Argument of counsel.

§ 15. Generally.

Effect of admissions on right to open and

close, see supra, § 9.

Reversible error as to, see APPEAL AND ER-BOR, § 37.

Comment by counsel in argument as to resemblance as evidence of relationship. 52 L.R.A. 505.

Use of books on inexact sciences in argument. 40 L.R.A. 570.

Effect of provision that jury shall determine the law and the facts in libel cases on right of counsel to argue law to 33 L.R.A.(N.S.) 212. jury.

Right to direct verdict or enter nonsuit on opening statement of counsel. 29 opening statemer L.R.A. (N.S.) 218.

Argument of counsel as part of record on writ of error to state court from United States Supreme Court. 63 L.R.A. 333.

# § 16. Reference to result in another

Reference to result of former trial of the

same case. 38 L.R.A.(N.S.) 1131.
Reference to prior conviction of defendant for another offense. 38 L.R.A.(N.S.) 1132.

Harmless reference. 38 L.R.A.(N.S.) 1132. Failure of defendant to request curative instruction. 38 L.R.A. (N.S.) 1133.

Failure of defendant to object to reference.

38 L.R.A.(N.S.) 1134. Effect of action of court regarding improper reference. 38 L.R.A.(N.S.) 1134.

Consult also L.R.A. Digests of Cases.

TRIAL, II. e-cont'd

§ 17. Limiting time of.

Right to limit time of argument of counsel for accused. 25 L.R.A.(N.S.) 1027; 42 L.R.A.(N.S.) 209.

### f. Objections and exceptions.

18. Generally.

Objections and exceptions for purpose of appeal, see APPEAL AND ERROR, §§ 24, 24a.

To action of court in calling and examining witnesses. 57 L.R.A. 884; L.R.A.1916A, 1207.

Time for objection to service on nonresident. 50 L.R.A. 585.

### g. Withdrawal of juror.

18a. Generally.

Power to withdraw juror. 48 L.R.A. 432. Effect of withdrawal of juror in civil cases. 48 L.R.A. 436.

Effect of withdrawal of juror in criminal cases. 48 L.R.A. 440.

### III. Questions of law or fact.

### a. In general.

§ 19. Generally.

Generally. 14 L.R.A. 559.

The scintilla doctrine. 2 L.R.A. 340; 4 L.R.A. 778.

Right of jury to determine existence of facts essential to the admissibility of dying declarations. 16 L.R.A.(N.S.) 660.

### b. Weight of evidence.

§ 20. Generally.

As to weight of testimony of experts. L.R.A. 764.

Power of court to disregard testimony because contrary to scientific principles. 7 L.R.A.(N.S.) 357; 15 L.R.A.(N.S.) 701; 28 L.R.A.(N.S.) 648; L.R.A. 1916D, 301.

Credibility of witness of unsound mind as question for jury. 46 L.R.A. (N.S.)

Conclusiveness upon jury of testimony of experts as to the value of professional services. 45 L.R.A.(N.S.) 181.

Receipt of communication sent through mail as question for jury, where evidence in rebuttal of presumption of receipt is offered. 49 L.R.A.(N.S.) 468.

In action to have written instrument importing absolute conveyance declared a mortgage or pledge. L.R.A.1916B, 561.

### § 21. As to sanity or insanity.

Weight of expert opinion as to sanity or in-39 L.R.A. 333. sanity.

As to weight and effect of nonexpert opinions as to sanity or insanity. 38 L.R.A. 733, 747.

TRIAL, III.—cont'd

### c. Cause and effect.

#### § 22. Generally.

As to proximate cause of injury resulting from discharging passenger at improper place or one not his destination. 7 L.R.A.(N.S.) 1183.

Whether intoxication contributed to injury. 40 L.R.A. 141.

#### d. Reasonableness; necessity.

#### § 23. Reasonableness.

Reasonableness of municipal ordinance as a question for court or for jury. L.R.A. 1915F, 1196.

Reasonableness or excessiveness of punishment of pupil. 65 L.R.A. 897.

Reasonableness of use after breach of warranty or noncompliance with contract for sale as a question for court or jury. 36 L.R.A.(N.S.) 474,

#### **§ 24.** — of time.

Reasonableness of time allowed passenger to alight as question for jury. 4 L.R.A. (N.S.) 140.

Reasonable time to retain statement of account as questions for court or jury. 29 L.R.A.(N.S.) 341.

Reasonableness of period fixed in contract for presentation of claim against carrier for damages to shipment of livestock as a question for jury. 7 L.R.A. (N.S.) 1041; L.R.A.1916D, 341.

### § 25. Necessity.

As to necessity of obstructing street. 14 L.R.A. 559.

Necessity for homicide by officer. 67 L.R.A.

Province of jury on question of danger and necessity justifying killing in self-defense. 3 L.R.A. (N.S.) 535.

Question whether barbering on Sunday is a work of necessity. L.R.A.1917B, 97.

### e. Relation, character, or condition of persons or things.

### § 26. Generally.

As to relation of master and servant between parent and minor child committing tort. 10 L.R.A.(N.S.) 942.

Question for jury as to termination of passenger's relation as such on reaching destination. 2 L.R.A.(N.S.) 876.

Right of court to hold as a matter of law that a child of tender years is incapable of rendering valuable services. 41 L.R.A. (N.S.) 795.

#### 27. As to who are fellow servants. As to what servants are in common employ-

ment. 50 L.R.A. 421.

Whether negligent servant was a vice prin- Implied malice in homicide as a question of cipal. 54 L.R.A. 63.

Begin with this book on every law question.

TRIAL, III. e-cont'd

§ 28. As to who are independent contractors.

As to whether persons are independent con-tractors. 65 L.R.A. 508; 17 L.R.A. 65 L.R.A. 508; 17 L.R.A. (N.S.) 382.

### § 29. Sanity or insanity.

Weight of evidence as to, see supra, § 21.

As to sanity or insanity. 39 L.R.A. 324. As to insanity of defendant in criminal case.
39 L.R.A. 747; 44 L.R.A.(N.S.) 119.

Right of jury to abide by presumption of defendant's sanity as against uncontradicted evidence to the contrary. 24 L.R.A. (N.S.) 545.

Competency of witness alleged to be of unsound mind. 46 L.R.A. (N.S.) 1029.

### § 30. Of things.

As to intoxicating character of liquor. 20 L.R.A. 649.

As to whether medicinal compound is an intoxicating liquor within prohibitory or regulatory statutes. L.R.A.1917F,

As to whether object calculated to frighten horses. 15 L.R.A. 366.

As to nuisance or no nuisance. 36 L.R.A. 594.

Obscenity or indecency of publications. 24 L.R.A. 111.

Extent of depot grounds as a question for the jury. 7 L.R.A.(N.S.) 213.

f. Fraud; good faith; intent; malice; motive; knowledge; notice; authority.

### § 31. Fraud; good faith.

Expressions of opinion as fraud. 35 L.R.A. 441.

Right to rely on fraudulent statements. 37 L.R.A. 613.

Effect of statutes making fraud a question for jury where mortgagor of merchandise is left in possession with power of sale. 18 L.R.A. 611.

Bona fides of one accused of larceny who claims to have acted in good faith under color of right as question for jury. 41 L.R.A. (N.S.) 554.

#### § 31a. Intent.

Intent of parties as to passing of title under contract for sale of goods to be produced or manufactured. 50 L.R.A. (N.S.) 113.

### § 32. — fraudulent intent.

Fraudulent intent in transfer of property in satisfaction of debt. 36 L.R.A. 363.

Effect of statute making fraudulent intent a question of fact. 18 L.R.A. 611.

#### § 33. Malice; probable cause.

Malicious prosecution: is the question of probable cause for the court or jury. L.R.A.1915D, 1.

law or fact. 38 L.R.A. (N.S.) 1095.

TRIAL, III. f-cont'd

§ 34. Motive.

Question for jury as to motive of person charged with extortion. 40 L.R.A. (N.S.) 805.

§ 35. Knowledge or notice,

As to actual knowledge or notice to city of defect or obstruction in highway. L.R.A. (N.S.) 730.

As to knowledge of insured of falsity of statements respecting family history. L.R.A.1917C, 877.

§ 36. Authority.

As to authority of child to bind parent by contracts other than those for necessaries. 39 L.R.A.(N.S.) 886.

Whether defendant authorized sale of liquor by his servant. 41 L.R.A. 676.

### g. Construction of contracts.

§ 37. Generally.

Construction of fire insurance policy containing word "additions" as question for court of jury. 33 L.R.A.(N.S.) 161.

Question whether certain articles used on insured premises were within prohibition of the policy. L.R.A.1917C, 298.

### h. Libel or slander.

38. Generally.

Effect of provision that jury shall determine the law and the facts in libel cases. 33 L.R.A. (N.S.) 207; 51 L.R.A. (N.S.) 369.

Questions for court or jury in action for defamation based on statements made in character of a witness. 4 B. R. C. 972.

Question for jury as to amount of damages for libel or slander reflecting on in-tegrity or responsibility of merchant. 44 L.R.A. (N.S.) 355.

Application of the defamatory statement to plaintiff in action for defamation of unnamed person. 48 L.R.A.(N.S.) 373.

Sufficiency of retraction to reduce damages in action for libel as a question for court or jury. 25 L.R.A. (N.S.) 796.

### i. Care; negligence.

### 1. Of person causing injury.

§ 39. Generally.

Nonsuit or direction of verdict, see infra, \$ 57.

Right of court to declare defendant negligent as a matter of law. 47 L.R.A. (N.S.) 1199.

Exceptions to rule as to function of court and jury in negligence cases. 15 L.R.A.

Liability for escape and explosion of gas. 29 L.R.A. 354.

Negligence in displaying fireworks. L.R.A.(N.S.) 330.

Consult also L.R.A. Digests of Cases.

TRIAL, III. i, 1-cont'd

Degree of care exercised by corporate directors. 55 L.R.A. 738.

Intoxication as affecting. 47 L.R.A. (N.S.) 730.

Sufficiency of evidence in action against carrier for act of drunken passenger to carry case to jury. 4 B. R. C. 341.

Question for jury as to carrier's duty to assist passenger boarding or alighting.

48 L.R.A.(N.S.) 821.

Negligence in ejection of sick or intoxicated passenger. L.R.A.1915C, 147.

Disobedience of statute or ordinance relating to explosives as evidence for jury in private action for injury. 48 L.R.A. (N.S.) 880.

Negligence in failing to prevent contract of wires carrying electric current. L.R.A. (N.S.) 606.

40. Of employer.

Necessity for promulgation of rules by master. 43 L.R.A. 314.

Master's liability for injury to servant by defective ladder not forming part of structure. 13 L.R.A.(N.S.) 680.

Right of jury to pass upon question of negligence in use of a switch of a particular type of construction. 26 L.R.A.(N.S.) 600.

Question for jury as to liability of railroad company for injuries to employees caused by defects in roadbed caused or accompanied by rainfall. 49 L.R.A. (N.S.) 198.

§ 41. — master's liability for negligence of fellow servant.

As to master's nonliability for negligence of coservants in respect to details of work. 54 L.R.A. 114.

As to what is a railroad hazard within statute changing fellow servant rule. 18 L.R.A.(N.S.) 485.

§ 42. Injury on highway.

In respect of ice on sidewalk. 21 L.R.A.

Care required to avoid injury to person driving frightened horse. 69 L.R.A.

Questions for jury in action against township for defects in highway. 13 L.R.A. (N.S.) 1250.

Question for jury as to negligence in leaving horse unhitched in highway. 10 L.R.A.(N.S.) 852.

Using, or permitting the use of, space under street. 61 L.R.A. 589.

§ 43. Railroad cases.

Precautions at railroad crossing. 15 L.R.A. 429.

Excessive speed resulting in injury to small children on railroad track. 25 L.R.A. 789.

Negligence of railroad company operating trains or cars longitudinally along public street. 49 L.R.A.(N.S.) 660.

3 Negligence as to cattle guards. L.R.A. 1915B, 136.

TRIAL, III. i, 1-cont'd 44. Street car cases.

Duty of street railway company to equip cars with safety appliances. L.R.A. 1915A, 752.

Negligence toward child from rate of speed of street car. 25 L.R.A. 665.

Negligence of employees in charge of street car in failing to keep lookout for children. 25 L.R.A. 665.

As to negligence in permitting street cars to become overcrowded. 4 L.R.A. (N.S.)

#### 2. Contributory negligence.

🖁 45. Generally.

Nonsuit or direction of verdict, see infra, § 58.

As to care of person found killed by alleged negligence of another. 16 L.R.A. 261.

Intoxication as affecting. 47 L.R.A.(N.S.)

Contributory negligence of one injured by car making flying switch or detached car moving by its own momentum. L.R.A.1916C, 1034.

§ 46. Of passenger.

Getting on or off street car in motion. L.R.A. 788; 30 L.R.A.(N.S.) 271.

Exposure of person at car window. 16 L.R.A. 92; 50 L.R.A. (N.S.) 42.

Exposing part of body beyond side of car. 5 L.R.A.(N.S.) 274.

§ 47. Of employee.

Whether servant relying upon orders is guilty of contributory negligence. 17 L.R.A.

Direct command to employee as making assumption of risk and contributory negligence questions of fact only. L.R.A.(N.S.) 442.

Disobedience of master's rules as contributory negligence. 24 L.R.A. 662.

Negligence of servant entering or remaining in employment with knowledge of defects. 49 L.R.A. 35.

Contributory negligence of employee in continuing work after master's promise to repair where danger is great and imminent. 29 L.R.A. (N.S.) 603.

Contributory negligence of railroad employee injured by defects in roadbed caused or accompanied by rainfall. 49 L.R.A. (N.S.) 205.

§ 48. Of traveler on highway.

ŧ.

Questions for jury as to contributory negligence in action against municipality for defects and obstructions in streets. 13 L.R.A.(N.S.) 1261; 21 L.R.A.(N.S.) 675; 48 L.R.A.(N.S.) 640.

Of driver of automobile at railroad crossing. 46 L.R.A. (N.S.) 702.

Attempting to cross in front of observed street car. L.R.A.1917C, 713.

TRIAL, III. i, 2—cont'd § 49. Of child.

Contributory negligence of infants generally. L.R.A.1917F, 84.

Of child injured while walking along railroad track. L.R.A.1917F, 147.

As to what acts of child in attempting to cross street car tracks are negligence. 11 L.R.A.(N.S.) 168; L.R.A.1917F, 175.

#### 1. Miscellaneous.

§ 50. Genetally.

Is issue upon grounds of attachment for court or jury. L.R.A.1918B, 344.

Legality of enactment of bill as question of law. 40 L.R.A.(N.S.) 37.

As to account books. 52 L.R.A. 608.

As to affixing of internal revenue stamp on instrument. 48 L.R.A. 318.

Question for jury as to time of alteration in written instrument. 39 L,R.A.(N.S.)

Condonation of servant's breach of duty as a question for the jury. 8 L.R.A.(N.S.) 1007.

Master's liability for wrongful or negligent act of servant towards one having no contract relation with master. L.R.A. 202.

As to what is surface water. 25 L.R.A. 529. Boundary on river or tidewater. 42 L.R.A.

Value of the use or rental of property. 44 L.R.A.(N.S.) 499.

Question for jury as to whether transac-tions pursuant to agreement with local dealer to sell product of foreign corporation within the state constitute doing business therein. 44 L.R.A.(N.S.) 1096.

Receipt of communication sent through mail as question for jury. 49 L.R.A. (N.S.) 458.

Question whether porch or steps were used in common by tenants. L.R.A.1915B, 100.

Reasonableness and propriety of ejection of sick or intoxicated passenger. L.R.A. 1915C, 147.

§ 51. Contractual matters generally.

Construction of contract having some provisions peculiar to consignment and agency contracts and others to sale contracts. L.R.A.1917B, 626.
As to stated account. 27 L.R.A. 825.

Question whether contract has been substantially performed as one for court or jury. 24 L.R.A.(N.S.) 350. Liability of corporations on contracts of

26 L.R.A. 544; 50 L.R.A. promoters. (N.S.) 979.

As to implied contract for through carriage by initial carrier. 31 L.R.A.(N.S.) 5.

As to passing of title on sale of personal property. 22 L.R.A. 415.

Existence of warranty on sale of second-hand article. L.R.A.1915B, 480.

Begin with this book on every law question.

TRIAL, III. j—cont'd § 52. Bills and notes.

Do presumptions which attach to commercial paper necessarily entitle the holder to go to the jury. L.R.A.1917E, 537.

Whether acceptance is payment of debt. 35 L.R.A. (N.S.) 107.

As to waiver or want of demand and notice of dishonor. 29 L.R.A. 315.

# § 53. Insurance matters. Construction of policy, see supra, § 37.

As to constructive total loss of insured building. 56 L.R.A. 792.

Question for jury as to breach of provision in insurance policy forbidding use of intoxicating liquor. 15 L.R.A.(N.S.) 212.

Questions for jury in case of attempt to reject or rescind policy not conforming to representatives of insurers. 41 L.R.A. (N.S.) 1140.

Questions for jury in action growing out of provision in fire insurance policy prohibiting presence of designated articles on premises. 3 B. R. C. 50.

Question whether vacancy during change of tenants violates vacancy clause in fire policies covering rented premises. L.R.A.1915B, 849.

Question as to keeping of prohibited articles on insured premises. L.R.A.1917C, 298.

### § 54. Criminal cases.

Direction of verdict, see infra, § 59.

Questions affecting dying declarations. 56 L.R.A. 434.

Province of court and jury with respect to proof of corpus delicti. 68 L.R.A. 79.

Possession of recently stolen property as evidence of burglary, question for jury as to. 12 L.R.A.(N.S.) 209.

Question whether barbering on Sunday is a work of necessity. L.R.A.1917B, 97.

In prosecution for violation of act regulating speed of automobiles. L.R.A.1918D, 149.

### § 55. — homicide and assault. Necessity for homicide, see supra, § 25. Malice, see supra, § 33.

Where self defense is set up by person who began conflict. 45 L.R.A. 706.

As to withdrawal from controversy by defendant in homicide relying on self-defense. 45 L.R.A. 712.

As to what weapons are deadly under law of homicide and assault. 21 L.R.A. (N.S.) 499.

Effect of statutory declaration that murder committed by certain means or while engaged in commission of felony shall be murder in the first degree, upon right of jury to pass upon the degree. 12 L.R.A. (N.S.) 935; L.R.A.1916D, 610.

Consult also L.R.A. Digests of Cases.

#### TRIAL-cont'd

# IV. Nonsuit; direction of verdict; peremptory instructions.

#### § 56. Generally.

Dismissal or discontinuance of action, see
DISMISSAL AND DISCONTINUANCE.

Conclusiveness of judgment of nonsuit, see JUDGMENT, § 31a.

Liability of replevin bond where nonsuit is suffered without a judgment for the return of the property. L.R.A.1917A, 1191.

Judgment affirming a nonsuit as the law of the case. 48 L.R.A.(N.S.) 464.

Effect of provision that jury shall determine the law and the facts in libel cases on right of court to grant nonsuit or direct verdict. 51 L.R.A.(N.S.) 369.

Right of attorney to enter retraxit. 25 L.R.A.(N.S.) 1313.

Right to direct verdict or enter nonsuit on opening statement of counsel. 29 L.R.A.(N.S.) 218.

Right of plaintiff to take a nonsuit where the defendant has interposed a counterclaim entitling him to affirmative relief, where right to such dismissal is not defined or denied by statute. 15 L.R.A.(N.S.) 340.

Power of court to grant nonsuit in libel cases. 33 L.R.A.(N.S.) 208.

Jurisdiction of court to enter final judgment upon dismissal or nonsuit. 26 L.R.A. (N.S.) 914.

#### § 57. Negligence.

Does the presumption of negligence arising from the fact that a fire was set by a railroad company's locomotive necessarily make the question of negligence one for the jury. 5 L.R.A.(N.S.) 99.

#### § 58. Contributory negligence.

Right to rely on presumption of self-preservation, in an action for negligently killing, in order to prevent nonsuit, where no eyewitnesses to the killing. 11 L.R.A.(N.S.) 844.
Right to peremptory instructions in regard

Right to peremptory instructions in regard to contributory negligence. 33 L.R.A. (N.S.) 1214.

#### § 59. Criminal cases.

Right of court in criminal case to direct a verdict of guilty. 22 L.R.A.(N.S.) 304.

### V. Instructions.

### a. In general.

### § 60. Generally.

Reversible error as to, see APPEAL AND ERROR. \$ 36.

Propriety of referring in argument to jury to instructions of the court in previous trials in the same cause. L.R.A.1918D, 63.

Charging jury on Sunday. L.R.A.1915D, 361.

TRIAL, V. a—cont'd As to verdict. 24 L.R.A.(N.S.) 62.

Effect of provision that jury shall determine the law and the facts in libel cases on right of court to instruct the jury and the effect of instructions. 33 L.R.A. (N.S.) 209.

Right to reversal or new trial where jury disregard erroneous instructions.

L.R.A. (N.S.) 852.

Instructions to jury in action to have instrument importing an absolute conveyance declared a mortgage or pledge. L.R.A.1916B, 557.

Propriety of instructions in action to recover damages for mental anguish in telegraph case. 49 L.R.A.(N.S.) 281.

#### b. As to witnesses and evidence.

#### § 61. Generally,

Instruction in action for malicious prosecution, that malice may be inferred from want of probable cause. L.R.A.1918A,

As to presumption and burden of proof in L.R.A.1918C, bastardy proceedings.

As to value and weight of expert testimony as to handwriting and typewriting. L.R.A.1918D, 655.

Does an instruction that a witness is presumed to speak the truth invade the province of the jury. 14 L.R.A.(N.S.) 947.

Necessity of qualifying by reference to conscious falsity an instruction under a statute enacting the maxim, Falsus in uno, falsus in omnibus, without that qualification. 29 L.R.A.(N.S.) 680.

Cautionary instructions as to credibility of defense witness indicted for same offense. 43 L.R.A. (N.S.) 146.

Right of accused in criminal case to an instruction as to the presumption of his good character. 46 L.R.A.(N.S.) 343.

### § 62. Necessity of, as to law of cireumstantial evidence.

When evidence is entirely circumstantial. 69 L.R.A. 193.

When the evidence of guilt of accused is direct. 69 L.R.A. 200.

Where evidence is both direct and circumstantial. 69 L.R.A. 209.

Where instruction, or request to charge, simply states abstract proposition. 69 L.R.A. 210.

Testimony of accomplice. 69 L.R.A. 211. Necessity of request for instruction or exception. 69 L.R.A. 211.

Refusal of request, the substance of which is elsewhere charged. 69 L.R.A. 213.

Accused in juxtaposition to main or inculpatory fact. 69 L.R.A. 213. As to question of intent. 69 L.R.A. 215.

Miscellaneous cases. 69 L.R.A. 216.

Begin with this book on every law question.

TRIAL, V. b—cont'd § 63. Right to caution jury as to believing testimony of accused in his own behaif.

Instructing generally as to credit to be given to testimony of accused. 19 L.R.A.(N.S.) 804.

Instruction singling out testimony of accused generally. 19 L.R.A.(N.S.) 809.

Instruction as to disregarding testimony of accused. 19 L.R.A.(N.S.) 810.

Instruction as to contradiction of accused. 19 L.R.A. 811.

Instructing as to corroboration of testimony of accused. 19 L.R.A.(N.S.) 812.

Instruction as to relation of accused to case. 19 L.R.A.(N.S.) 814.

Instructing as to former conviction or other 19 L.R.A. charges against accused. (N.S.) 825.

Instructing as to demeanor of accused. 19 L.R.A.(N.S.) 825.

Instructing as to statutory statement by accused. 19 L.R.A.(N.S.) 827.

### c. As to negligence.

### 64. Generally.

In action for negligence respecting escape and explosion of gas. 29 L.R.A. 354.

In action for injury to passenger from door of vehicle. L.R.A.1918D, 535.

Instructions in actions against township for defects in highway. 13 L.R.A.(N.S.) 1275.

### § 65. Of employer.

In respect of knowledge as an element of em-

ployer's liability. 41 L.R.A. 153.
Failure to qualify master's duty as to places and appliances by reference to ordinary care or reasonable safety. 6 L.R.A. (N.S.) 602.

Propriety of instructions as to delegation of master's duty. 54 L.R.A. 62.

As to master's nonliability for negligence of coservants in respect to details of work. 54 L.R.A. 114.

### 66. Contributory negligence.

Misleading instructions as to contributory negligence where burden is on defendant. 33 L.R.A.(N.S.) 1178.

Instructions to jury as to servant's contributory negligence in failing to remember dangerous conditions. (N.S.) 86.

As to contributory negligence of children. L.R.A.1917F, 37.

#### d. Criminal cases.

### 67. Generally.

Instructions as to evidence or witnesses, see supra, §§ 61-63.

Instructions as .to character of accused. 20 L.R.A. 609.

As to alibi. 41 L.R.A. 539.

Necessity of instruction as to other crimes in criminal prosecution. 62 L.R.A. 350.

TRIAL, V. d-cont'd

Correctness of instruction as to evidence of other crime. 62 L.R.A. 353.

Effect of instruction to disregard evidence of other crimes. 62 L.R.A. 355.

Right of accused in criminal case to an instruction as to the presumption of his good character. 46 L.R.A.(N.S.) 343.

As to character of accused where evidence is circumstantial. 20 L.R.A. 614.

Necessity for instructing as to "flight" rule. 2 L.R.A.(N.S.) 53.

Propriety of instruction to the effect that a reasonable doubt is one for which a reason can be assigned. 16 L.R.A. (N.S.) 260.

### § 68. Homicide.

In prosecution for homicide in commission of an unlawful act. 63 L.R.A. 401; 45 L.R.A.(N.S.) 219.

Necessity of instructing as to homicide in defense of dwelling. 2 L.R.A. (N.S.)

Necessity of instructing, on trial for homicide, on rule as to standing ground when in the right. 2 L.R.A. (N.S.) 58. What term "malice aforethought" in de-

fense of murder now means and how the courts should deal with it in charging the jury. 38 L.R.A.(N.S.) 1054.

Necessity of defining malice aforethought in prosecution for murder. 38 L.R.A. (N.S.) 1104.

Instruction in homicide cases upon rule of reasonable doubt with reference to cause of death. 49 L.R.A.(N.S.) 913. Submission of question of lower degree to jury in prosecution for homicide. 21 L.R.A. (N.S.) 18.

#### VI. Findings.

69. Generally.

Reversible error as to, see APPEAL AND ER-BOB. \$ 40.

Admissibility of, in evidence, see EVIDENCE, § 133.

Necessity of finding facts before adjudging one guilty of contempt. 30 L.R.A. (N.S.) 564.

#### VII. Matters as to jury,

70. Generally.

Communication by judge with jury, see supra, § 5. Argument to jury, see supra, §§ 15–17.

Questions for jury, see supra, §§ 19-55. Instructions to, see supra, §§ 60-68.

Withdrawal of juror, generally, see supra, § 18a.

Withdrawal of juror in criminal case, see CRIMINAL LAW, § 38.

Reversible error as to, see APPEAL AND ER-ROR, § 39.

Matters as to jury on criminal trial, see CRIMINAL LAW, §§ 36-38.

Experiments in presence of, and by, jurors, see Evidence, §§ 158, 158a.

View by jury, see Evidence, § 159.

Consult also L.R.A. Digests of Cases.

TRIAL, VII.—cont'd Right to trial by jury, see JURY, §§ 3-7. Impaneling, selection, and competency of jurors, see Juny, §§ 8-14.

Number and agreement of jurors, see JURY,

New trial for matters as to jury, see New TRIAL, §§ 7-9.

Inquiries of witnesses by juror. 1 L.R.A. (N.S.) 839.

Comparison of handwriting by. 62 L.R.A. 867.

Effect of judge communicating with, not in open court. 17 L.R.A.(N.S.) 609.

Interference with as a crime. 25 L.R.A.

Power of court to set aside award in condemnation proceedings for misconduct of jurors. 27 L.R.A. (N.S.) 567.

Right of jury on retirement to take family Bible or other religious book introduced as evidence. 41 L.R.A. 456.

Right of jury to have reporter's shorthand notes read to them. 21 L.R.A. (N.S.) 931.

§ 71. Right of jurors to act on their own knowledge.

Right of jurors to act on their own knowledge of the facts in, or relevant to, the issue. 31 L.R.A. 489; 37 L.R.A. (N.S.) 790.

§ 72. Coercion of jury.

Coercion of disagreeing jury. 16 L.R.A. 643.

§ 73. Separation of jury. Separation of jury in criminal trial, see CRIMINAL IAW, § 37.

In ejectment, see EJECTMENT, § 8.

§ 74. Discharge of jury.
Discharge of jury as former jeopardy, see CRIMINAL LAW, § 63.

Effect of discharge on right to correct ver-dict in criminal case. 23 L.R.A. 732. How long jury will be permitted to deliberate before a mistrial may be ordered in a criminal case. 11 L.R.A.(N.S.) 178.

### VIII. Verdict.

§ 75. Generally.

Direction of verdict, see supra, IV.

As to sufficiency of evidence to support verdict on appeal, see APPEAL AND ERROR, §§ 31-34.

Reversible error as to, generally, see APPEAL AND EBROR, § 40.

Excessive or inadequate damages as ground for reversal, see APPEAL AND ERROR, § 32.

Instances of excessive or inadequate damages, see Damages, §§ 64, 65a. As to damages allowed by verdict, generally,

see DAMAGES.

Constitutionality of statutes as to, see CONSTITUTIONAL LAW, § 185. Judgment notwithstanding, see JUDGMENT,

§ 13.

TRIAL, VIII.—cont'd

Number and agreement of jurors necessary to verdict, see JURY, § 15.

Errors in verdict as ground for new trial,

see New Trial, §§ 4-6.
Impeachment of verdict of testimony or affidavit of jurors, see New TRIAL, § 13. In replevin suit, see REPLEVIN, § 15.

Habeas corpus because of defective verdict.

L.R.A.1916F, 967. Instructions as to. 25 L.R.A.(NS.) 62.

Set-off against verdict in hands of assignee. 23 L.R.A. 335.

In prosecution under statute enhancing penalty for crime by prior offenders. 34 L.R.A. 407; 48 L.R.A.(N.S.) 207. Garnishment of verdict before judgment.

4 L.R.A. (N.S.) 624.

Treating of jury after rendition of verdict as ground for new trial or reversal. L.R.A. (N.S.) 737; 49 L.R.A. (N.S.) 890. Effect of verdict to cure duplicity in indictment. 49 L.R.A. (N.S.) 455.

§ 76. Reception of verdict, Necessity of presence of accused, see CRIMI-NAL LAW, § 46.

Delegation of power to receive verdict in criminal case. L.R.A.1917E, 1090.

77. - time of receiving. Receiving verdict on Sunday. 327; 39 L.R.A.(N.S.) 844. 7 L.R.A.

78. Sufficiency of verdict. Of special verdict, see infra, § 81.

Omission of dollar sign or word "dollars" from verdict. 35 L.R.A.(N.S.) 653.

Sufficiency of verdict to permit enhancing penalty for crime committed by habitual criminal or prior offender. 48 L.R.A. (N.S.) 207.

§ 79. Chance verdict. Chance verdict. 11 L.R.A. 706.\*

§ 80. Special verdict. Amendment or correction of, see infra, § 84.

In prosecution for sale of intoxicating liquors without a license. 36 L.R.A. (N.S.) 100.

§ 81. — sufficiency of. What special verdict must contain. 24 L.R.A.(N.S.) 1.

§ 82. General and special verdicts. General and special verdicts. 6 L.R.A. 573.\* When special verdict will control general verdict. 6 L.R.A. 574.\*

§ 83. Amendment or correction of verdict.

Power of court to amend verdict by adding interest. 25 L.R.A. (N.S.) 311. Curing separate verdicts rendered in action for joint tort. 10 L.R.A. (N.S.) 191. Begin with this book on every law question.

TRIAL, VIII.—cont'd

Amendment of verdict or judgment to cure defect for which motion in arrest of judgment has been made. 67 L.R.A. 183.

Power of trial court to cure excessive verdict by requiring or permitting a reduction where true measure of damages not ascertainable by mere computation. 39 L.R.A.(N.S.) 1064.

Effect of discharge of jury on right to correct verdict. 23 L.R.A. 732.

🖇 84. — special verdict. Correction of special verdict. 24 L.R.A.(N. S.) 72. In criminal cases. 23 L.R.A. 735.

§ 85. — sealed verdict.

§ 86. — in criminal cases.

Correction of special verdict. 24 L.R.A. (N.S.) 72.

Right to amend sealed verdict after sep ration of jurors. 3 L.R.A. (N.S.) 1086.

General rules. 23 L.R.A. 723. By the court. 23 L.R.A. 723. By the jury under the court's directions. 23 L.R.A. 727. After separation of jurors. 3 L.R.A. (N.S.) 1086.

§ 87. Effect of verdict.

Effect of verdict of jurors acting on their own knowledge. 37 L.R.A. (N.S.) 794. Effect of verdict on assignability of cause of action for personal tort. 14 L.R.A. 514.

Effect of verdict for servant in action against master and servant for latter's negligence or misfeasance. 9 L.R.A.(N.S.) 880; 30 L.R.A.(N.S.) 404; L.R.A. 1917E, 1029.

TRIAL BY JURY.

See JURY, §§ 3-7.

TRIAL DE NOVO,

See APPEAL AND ERROR, § 26.

TRICK.

Forgery by obtaining signature through. 1. L.R.A. (N.S.) 1075.

TRICYCLE.

Municipal liability for injury to person using tricycle by defect or obstruction in street. 20 L.R.A.(N.S.) 756.

#### TRIMMING TREES.

Right of municipality to trim trees within limits of highway. 20 L.R.A. (N.S.) 809.

Authority of municipal officers to trim trees on private property to facilitate use of street. 20 L.R.A. (N.S.) 814.

#### TROUBLE.

As element of damages for carrying passenger beyond destination. 17 L.R.A. (N. Š.) 1230.

#### TROVER AND CONVERSION.

I. In general, § 1.
II. Right of action, §§ 2-8. III. Liability; defenses, \$\$ 9, 10.

#### I. In general.

§ 1. Generally.

Liability of bailee for conversion, see BAIL-

MENT, § 10. Conflict of laws as to conversion, see Con-FLICT OF LAWS, § 21.

Measure of damages for conversion, see Damages, § 70.

Loss of profits as element of damages for

conversion, see DAMAGES, § 109. Landlord's liability for conversion of property, see Landlord and Tenant, §§ 70,

· Pledgee's conversion of pledged property by invalid sale, see PLEDGE AND COLLATER-AL SECURITY, § 13.

Action for conversion not prosecuted to judgment as a conclusive election of remedies. L.R.A.1917D, 657.

Conversion of proceeds of property acquired by defendant under an agreement to sell the same and turn over proceeds, as larceny. 52 L.R.A.(N.S.) 1222. Conversion of stranded logs or timber.

43 L.R.A.(N.S.) 461.

Conversion of coin, obligation to pay in coin. 29 L.R.A. 522.

Right of administrator de bonis non to assets converted by predecessor. L.R.A. 72, 73.

Effect of subsequent conversion of property taken in good faith. 41 L.R.A. (N.S.) 555.

Conversion as ground of attachment. L.R.A. 490.

Right of one garnished in respect of property wrongfully taken from debtor to set off his own claim against latter. 30 L.R.A.(N.S.) 1185.

Voidability as preference by bankrupt, of transfer made in satisfaction of claim for misappropriation of property. 30 L.R.A.(N.S.) 1053.

Departure in reply, in actions for conversion. 8 L.R.A. (N.S.) 291.

Joinder of original converter of property in action for conversion. L.R.A.1918F,

Consult also L.R.A. Digests of Cases.

TROVER AND CONVERSION-cont'd

#### II. Right of action.

§ 2. Generally.

Against person unlawfully cutting trees from land. 19 L.R.A. 654.

To recover goods purchased with knowledge of inability to pay for them. 44 L.R.A. (N.S.) 1.

Action in trover against mortgagee of chattels who has unlawfully seized the property while assuming to act under mort-gage. L.R.A.1915E, 198.

§ 3. For what.

Tax receipts. 45 L.R.A. (N.S.) 785. Gambling device. 45 L.R.A. (N.S.) 334. Lottery ticket. 45 L.R.A.(N.S.) 776.

For dogs. 40 L.R.A. 507.

For bees. 40 L.R.A. 688. For crops. 23 L.R.A. 471.

Against bank for special deposit. 32 L.R.A.

Right to maintain trover to recover possession of paid bill or note. 16 L.R.A. (N. S.) 1043.

Remedy of payee of check against one who has taken it on indorsement of unauthorized agent. 13 L.R.A.(N.S.) 211.

For timber which has been cut but not removed before expiration of time limit. 29 L.R.A. (N.S.) 550.

Right to maintain action for conversion of timber, crops, buildings, etc., from land in another state or country. 34 L.R.A. (N.S.) 994; 44 L.R.A.(N.S.) 268.

### § 4. Who may maintain action.

Action at law between partners, based on conversion of firm property. 1918F, 1125.

Who is real party in interest by whom action must be brought. 64 L.R.A. 621. Right of bailee to recover for damage to, or

conversion of property. 3 B. R. C.

Right of ward to maintain trover against guardian after termination of guardianship, but before settlement of account. 26 L.R.A.(N.S.) 793.

Right of agent who was in possession of personal property to maintain action for conversion. 26 L.R.A.(N.S.) 840. Right of principal to maintain trover or

case for money collected by agent or attorney. 20 L.R.A.(N.S.) 35.

Right of consignee to maintain against carrier. 36 L.R.A.(N.S.) 70. Shipper's right to maintain trover for goods

shipped at rate that is not that fixed by interstate commerce act. 38 L.R.A. (N.S.) 354.

Right of action by creditor of fraudulent vendor against fraudulent vendee who has converted the property to his own use or disposed of the same. 26 L.R.A. (N.S.) 545.

Right of conditional vendee of personal property to maintain action for conversion of property. L.R.A.1917D, 217.

TROVER AND CONVERSION, II.—cont'd | TROVER AND CONVERSION, III.—cont'd § 5. Jurisdiction of action.

Jurisdiction of action for conversion of timber, crops, or building on lands in another state. 26 L.R.A.(N.S.) 940; 44 L.R.A. (N.S.) 268.

§ 6. What constitutes conversion. Conversion by carrier, see CARRIERS, § 117.

Pledgee's conversion of pledged property by invalid sale. 43 L.R.A. 737.

Sale of property at a loss or on unauthorized terms by one rightfully in possession, as a conversion. 23 L.R.A.(N. S.) 573.

Conversion by driving team to place other than that for which it was hired. 26 L.R.A. 366.

Surrender of property by bailee to one neither the bailor nor the true owner. 33 L.R.A.(N.S.) 687.

Effect of unlawful seizure of property by chattel mortgagee assuming to act under mortgage. L.R.A.1915E, 193.

Removal of chattel to foreign country by tenant in common as conversion. 7 B. R. C. 313.

### 7. Demand.

Demand and refusal. 1 L.R.A. 305,\* 318;\* 9 L.R.A. 817.

Necessity and effect of demand and refusal as a condition of trover. 1 L.R.A. 305.\*

### 8. Tender as condition.

Payment or tender of freight as a condition precedent to an action against carrier. 21 L.R.A. 117.

When tender of freight money not condition of conversion by the carrier's refusal to surrender goods. 6 L.R.A.(N.S.) 1058.

Effect of unauthorized sale or disposal of pledge by pledgee to dispense with tender as a condition of trover against him. 6 L.R.A.(N.S.) 298; 24 L.R.A.(N.S.) 511.

### III. Liability; defenses.

#### § 9. Liability.

Liability of school district or school corporation for conversion. 49 L.R.A. (N.S.) 1032.

Liability of servant or agent for conversion under orders of employer. 50 L.R.A.

Liability of agent to true owner for selling or disposing of property intrusted to him by his principal. 50 L.R.A.(N.S.)

Civil liability of insane person for conversion. 42 L.R.A. (N.S.) 85.

sion. 42 L.R.A.(N.S.) 85. Employer's liability for conversion of property severed by servant sent to commit trespass. 70 L.R.A. 737.

Liability of partnership for. 51 L.R.A. 473.

Liability of officer who turns over articles taken from prisoner to a third person in recognition of the latter's adverse claim. 19 L.R.A.(N.S.) 833. Liability of landlord, or his agent, for con-

version of tenant's goods by one put in possession of the premises before the expiration of the tenancy. 24 L.R.A. (N.S.) 226.

In what capacity executor or administrator to be sued. 51 L.R.A. 263.

Valuation of property for purposes of transportation as affecting carrier's liability where it is converted or embezzled while in its possession. 31 L.R.A.(N. while in its possession. 3 S.) 309; L.R.A.1918A, 756.

Liability of connecting carrier for detaining freight on account of mistake as to amount due. 32 L.R.A. (N.S.) 189.

Liability of county for conversion of property. 39 L.R.A. 75.

Liability of drawee in an action of conversion to the true owner of a check which has been paid on a forged indorsement. L.R.A.1918C, 615.

#### § 10. Defenses.

Right of defendant in action for conversion to impeach plaintiff's title as being based upon a contract void under the statute of frauds. 2 B. R. C. 733.

Liability for conversion of property leased or hired in violation of Sunday law. L.R.A.1915F, 644.

#### TRUCKING.

Action on contractor's bond for expense of trucking. 43 L.R.A.(N.S.) 170; L.R.A. 1915F, 953.

#### TRUCKMAN.

In general, see BAGGAGE TRANSFER COM-PANY; DRAYMEN.

As carrier. 21 L.R.A.(N.S.) 188.

As independent contractor. 65 L.R.A. 468.

#### TRUE BILL.

Effect of indorsement of, on indictment. 28 L.R.A. 33.

### TRUNK.

Liability of officers of a corporation for con- What passes under bequest of contents of. version by it. 28 L.R.A. 422. L.R.A.1915C, 655.

Begin with this book on every law question.

#### TRUST COMPANIES.

See SURETY COMPANIES.

#### TRUST DEED.

See MORTGAGE.

#### TRUSTEE.

In bankruptcy, see BANKRUPTCY, § 23. Of charitable bequest, see CHARITIES, §§ 5,

Of religious society, see RELIGIOUS SOCIE-TIES, § 10.

Generally, see Trusts, §§ 18-31.

Right of receiver to take property from possession of one holding as trustee. 47 L.H.A.(N.S.) 754.

#### TRUST EX MALEFICIO.

See TRUSTS, § 15.

#### TRUSTS.

I. In general, § 1.

II. Creation; validity, §§ 2-15.

- a. In general, §§ 2, 3. b. Express or declared trusts; precatory trusts, \$\$ 4-10.
- c. Parol trusts; statute frauds, § 11.
  d. Implied, constructive, and
- resulting trusts, §§ 12-14. e. Ex maleficio, \$ 15.
- III. Termination; revocation, § 16, 17.

IV. Trystees, §§ 18-31.

- a. In general, §§ 18-21.
- b. Rights and powers; compensation, §§ 22-24.
- c. Duties and liabilities, §\$ 25-29.
- d. Dealing with trust or cestui que trust, § 30.

e. Account of, \$ 31.

- V. Interest of cestul que trust; rights of creditors; spendthrift trusts, §§ 32-34. VI. Transfer of trust property, §§
- 35, 36.
- VII. Following trust property, \$ 37. VIII. Enforcing trust; actions, \$\$ 38, 39.
  - IX. Lien on trust estate, § 40.

#### I. In general.

1. Generally. Existence of fiduciary relation between attorney and client, see ATTORNEYS, § 10. Presumption as to time of alteration in dectorney and client, see ATTORNEYS, § 10. laration of trust. 39 L.R.A.(N.S.) 109. Consult also L.R.A. Digests of Cases. 84

TRUSTS, I.—cont'd

Existence of fiduciary relation between cor-poration and its officers, see Corpora-TIONS, §§ 50, 51.

Fiduciary relation of executor or administrator, see EXECUTORS AND ADMINIS-TRATORS.

Existence of fiduciary relation between guardian and ward, see GUARDIAN AND WARD.

Existence of fiduciary relation between partners, see Partnership, §§ 25-28.

Existence of fiduciary relation between principal and agent, see PRINCIPAL AND AGENT, §§ 33-35.

Between relatives, see RELATIVES, § 4. In bank deposit, see BANKS, §§ 12, 12a.

In funds of insolvent bank, see BANKS, § 41. In property of religious society, see RE-LIGIOUS SOCIETIES, § 3.

Application to debt due bank, of deposit in fiduciary character, see BANKS, § 18.

Charitable trusts, see CHARITIES.

Duty of corporation as to transfer of corporate stock held in trust, see Corpora-TIONS, § 90.

Voting trust, see Corporations, § 124. Jurisdiction in cases of, see Courts, § 7; EQUITY, § 9.

As to character of estate in real property, see DEEDS, §§ 28-31; WILLS, §§ 77-102; LIFE TENANTS.

Parol evidence as to, see EVIDENCE, § 181. As to executors and administrators, see Ex-ECUTORS AND ADMINISTRATORS.

As between husband and wife, see HUSBAND AND WIFE, § 53.

Improvements on trust property, see Im-

PROVEMENTS, § 5.

Matters as to life tenant and remaindermen, see LIFE TENANTS.

Limitation of action in case of, see LIMITA-TION OF ACTIONS, §§ 11, 37, 52.

to trusts in restraint of trade or commerce, see Monopoly and Combina-

Deed of trust to secure debt, see MORTGAGE. As affected by rule against perpetuities, see PERPETUITIES.

Place of taxation of trust property, see TAXES, § 48.

Effect of existence of trust on right to specific performance of contract in relation to personal property. 1918E, 611.

The statute of uses in the United States. 16 L.R.A.(N.S.) 1148.

Mechanics' liens on trust property. L.R.A. 1916B, 1267.

Recovery of payments required by one holding title as trustee as made under duress of real property. L.R.A.1915B, 500.

Security held by surety as trust for payment of debt. L.R.A.1916C, 1070. In vessel; admiralty jurisdiction of.

L.R.A. 235. Priority of notice of assignment to trustee as giving priority of right. 66 L.R.A. 761.

TRUSTS, I.—cont'd

Effect on, of failure of gift as violating rule

against perpetuities. 20 L.R.A. 512. Necessity of consistency in complaint as to representative or individual capacity of

party. 1 L.R.A.(N.S.) 161.

Association under trust agreement as partnership. 18 L.R.A.(N.S.) 1095.

Validity of agreement with surety as to custody or control of trust funds. L.R.A.(N.S.) 994.

Enforcement of contracts of service by court of equity where applicant for relief is in employment of a body of trustees. 6 L.R.A.(N.S.) 1128.

Property held by municipal corporation in trust as subject of taxation. 34 L.R.A. (N.S.) 143.

Necessity of pleading statute of frauds in action to establish trust. 49 L.R.A. (N.S.) 37.

#### II. Creation; validity.

### a. In general.

§ 2. Generally.

Of spendthrift trusts, see infra, § 34. Charitable trust, see CHARITIES.

Impressing share of heir with trust, see DESCENT AND DISTRIBUTION, § 11.

Trust violating rule as to perpetuities, see . PERPETUITIES.

Upholding instrument otherwise ineffective as a conveyance of real property as a covenant to stand seized to uses. L.R.A. (N.S.) 937.

Effect of deposit of funds belonging to the depositor in a bank account in the name of himself and another. L.R.A.1917C, 567.

Necessity of beneficiary's knowledge of trust. 10 L.R.A.(N.S.) 616.

Sufficiency of execution of power of appointment by will creating a trust. L.R.A. 903.

Law governing validity of trust in real property. L.R.A.1916A, 1044.

§ 3. Necessity of word "heirs" to pass fee to trustee.

Necessity of word "heirs" in deed or devise in trust, to pass fee to trustee. L.R.A.(N.S.) 172.

#### b. Express or declared trusts; precatory trusts.

Generally.

Effect of executor's promise as to payment of legacy upon trust relations with legatee. 9 L.R.A.(N.S.) 214.

Effect of specifying use of real estate in devise to religious society as creating a trust. 11 L.R.A.(N.S.) 512, 520.

Creation of trust by use of words "upon condition," in will or conveyance of real property. 9 L.R.A. (N.S.) 758.

Character of estate created by grant, lease, or devise of property to person so long as he shall desire to live upon it, or devote it to a particular use. 21 L.R.A. (N.S.) 575.

Begin with this book on every law question.

TRUSTS, II. b-cont'd § 5. Active trusts.

What constitutes a directory or an active trust. 11 L.R.A.(N.S.) 331.

🛭 6. Voluntary trusts.

Power to revoke, see infra, § 17.

Sufficiency of declaration to establish voluntary trust where legal title is retained by settlor. 12 L.R.A. (N.S.) 547.

§ 7. Bequest to one to divide as he thinks best.

Gifts "in trust" or "upon trust." 37 L.R.A. (N.S.) 401.

Where other provision is made for legatee. 37 L.R.A.(N.S.) 402; L.R.A.1917D, 821.

Gifts to executors or trustees eo nomine. 37 L.R.A.(N.S.) 403; L.R.A.1917D, 821. Gifts to persons also appointed executors. 37 L.R.A.(N.S.) 405; L.R.A.1917D, 822.

Gifts to individuals designated by name. 37 L.R.A.(N.S.) 407.

#### § 8. Secret trusts.

General doctrine and distinction. 20 L.R.A. 465.

Promises to the testator. 20 L.R.A. 465. Secret trusts. 20 L.R.A. 469.

Secret trusts to use for masses. 25 L.R.A.

Knowledge or notice of, sufficient to put purchaser from fraudulent vendor on inquiry. 32 L.R.A. 56.

§ 9. Precatory trusts.

Creation of trust by precatory words in a will. 37 L.R.A.(N.S.) 646.

For charity or religion. 14 L.R.A. (N.S.) 77; 37 L.R.A. (N.S.) 999.

§ 10. For payment of debts.

Effect of creation of testamentary trust for payment of debts. 5 L.R.A.(N.S.)

#### c. Parol trusts; statute of frauds.

§ 11. Generally.

Constructive trust from grantee's oral promise to grantor to hold in trust, see infra, § 13.

Parol evidence to establish trust in a third person. 20 L.R.A. 109.

Creation of trust in personalty by parol. 51 L.R.A. (N.S.) 1208.

May statute of frauds be satisfied by a declaration of trust signed by the trustee alone. 38 L.R.A.(N.S.) 646.

Parol agreement to take title to real property, sell the same and account for the proceeds, as affected by statute of frauds. 20 L.R.A.(N.S.) 298.

Statute of frauds as affecting legal remedy for breach of contract to purchase land for and in the name of another. 5 L.R.A.(N.S.) 123.

TRUSTS, II.—cont'd

#### d. Implied, constructive, and resulting trusts.

12. Implied or constructive trusts. Existence of a trust in property stolen or embezzled. L.R.A.1915B, 442.

Trust implied to effectuate purpose of contract when its terms cannot be given

effect. 58 L.R.A. 115.

Does donor's expectation that the donee will allow him to share in the benefit of the property raise an implied trust to that effect. 24 L.R.A.(N.S.) 1043.

Impressing share of heir, devisee, or legatee with constructive trust because of his fraud in frustrating decedent's intention to give the property to a third person. 8 L.R.A. (N.S.) 698; 31 L.R.A. (N.S.) 176.

Gratuitous conveyance as raising implied, resulting, or constructive trust in favor of the natural objects of the bounty of the grantor or donor. L.R.A.1915E, 648.

Constructive trust in deed of homestead by husband to wife, with proviso attempting to derogate from her right of survivorship. 1 L.R.A.(N.S.) 312.

May a constructive trust be based upon an undertaking to hold for the benefit of another property received through devise or inheritance where no actual testamentary intention has been frustrated. 33 L.R.A.(N.S.) 996; L.R.A.1918F, 1045.

When a purchaser of property for less than value without fraudulent intent will be regarded as a trustee for creditors. 5 L.R.A. (N.S.) 395.

Does assignee of mortgage as collateral security, who forecloses the same and purchases the property, hold the title subject to a trust in favor of the assignor. 7 L.R.A. (N.S.) 1094.

R'ght of employer in products of labor of fiduciary agents. 5 L.R.A. (N.S.) 1172,

1179, 1193.

Implied trust in property of religious society in case of schism or division. 24 L.R.A. (N.S.) 703.

§ 13. - constructive trust from grantee's oral promise to grantor to hold in trust.

Grantee's oral promise to granter or person furnishing consideration for conveyance, to hold in trust as giving rise to constructive trust. L.R.A.(N.S.) 906.

# 14. Resulting trusts.

In partnership lands. 27 L.R.A. 468; 37 L.R.A. (N.S.) 899.

Resulting trust in favor of one who purchases stock-exchange seat in name of another. 4 L.R.A.(N.S.) 435.

Effect of investment by husband in his own name of wife's separate property in real estate, to create trust in her favor. 6 L.R.A.(N.S.) 381; 26 L.R.A.(N.S.) 161.

Consult also L.R.A. Digests of Cases.

TRUSTS, II. d-cont'd

Effect of statute of limitations on the trust relationship arising from the taking of title in the husband's name, to lands inherited by or purchased with the money of the wife. 12 L.R.A.(N.S.) 493.

Consideration in deeds for school purposes as negativing resulting trust in favor of the grantor. 44 L.R.A.(N.S.) 1223.

Gratuitous conveyance as raising resulting trust in favor of the natural objects of the bounty of the grantor or donor. L.R.A.1915E, 648.

Right of true owner of land to benefit of contract between adverse claimant and third person. L.R.A.1916E, 720.

#### e. Ex maleficio.

15. Generally.

Law of, as affecting right to revoke license. 49 L.R.A. 497.

Doctrine of trust ex maleficio to uphold rights of licensee for incurring of expense. 49 L.R.A. 524.

#### III. Termination; revocation.

🕽 16. Generally.

Power of court to dissolve. 18 L.R.A. 745. Power of court to hasten enjoyment of trust fund. 46 L.R.A.(N.S.) 43.

Doctrine as to possibility of issue extinct as affecting termination of trust. L.R.A.(N.S.) 873.

Divorce as equivalent of death for purpose of terminating a trust. L.R.A.1915E, 762.

§ 17. Power to revoke or set aside voluntary trust or settlement. Generally, 15 L.R.A. 75.

Attempts at revocation. 15 L.R.A. 76. Renunciation of beneficiaries. 15 L.R.A. 77.

Reserved power. 15 L.R.A. 77.
Testamentary trusts. 15 L.R.A. 77.
Assistance of the court. 15 L.R.A. 78. Necessity of power of revocation. 15 L.R.A.

78. Voluntary trust binding in equity. L.R.A. 79.

Where trustor sole beneficiary. 15 L.R.A.

Mistake, fraud, undue influence, etc., as a ground for relief from a voluntary trust. 19 L.R.A. 767.

#### IV. Trustees.

### a. In general.

§ 18. Generally.

Following trust funds in hands of trustee, see infra, § 37.

In bankruptcy, see BANKRUPTCY, § 23. Trustees of charities, see CHARITIES, §§ 5, 9. As to executors and administrators, see Ex-ECUTORS AND ADMINISTRATORS.

Trustees as necessary parties to foreclosure suit, see MORTGAGE, § 71.

TRUSTS, IV. a-cont'd

Of religious society, see RELIGIOUS SOCIE- Right to enjoin an unlawful sale of church THES, § 10.

Disqualification of trustee of one interested in eminent domain proceedings to serve as commissioner or juror. 47 L.R.A. (N.S.) 166.

Competency as an attesting witness of officer or stockholder of a corporation named as trustee. L.R.A.1916D, 185.

Payment of money deposited with bank to credit of more than one trustee. L.R.A. 1915D, 921.

Presumption of satisfaction of trust debt by legacy or devise to creditor. L.R.A. 1915B, 1173.

Negotiability of note payable to. 35 L.R.A.

Effect of notice to trustees in trust deed of fraudulent intent of grantor. 31 L.R.A. 642.

Transfer of funds or securities from one estate to another by a common trustee. 16 L.R.A.(N.S.) 205.

Appointment of trustee to protect alimony. 38 L.R.A.(N.S.) 270.

Necessity of trustee on conveyance by husband to wife. 69 L.R.A. 362.

Circumstances sufficient to put one taking paper from trustee on inquiry. 29 L.R.A. (N.S.) 305; 44 L.R.A. (N.S.) 403.

§ 19. Who are or may be.

Power of municipality to administer, see MUNICIPAL CORPORATIONS, § 15.

Municipal corporations as trustee of a charity. 14 L.R.A. 69.

Foreign corporation as trustee. 24 L.R.A. 291.

Power of foreign surety company to act as trustee. 48 L.R.A. 593.

§ 20. Removal.

Authority of legislature to remove municipality from trusteeship of charity. 16 L.R.A. 695.

21. Number of.

Power of court to change number of trustees designated in trust instrument. 1 L.R.A. (N.S.) 802.

#### b. Rights and powers; compensation.

§ 22. Generally.

Right to deal with trust estate, see infra, § 30.

Rights of trustee in bankruptcy, see BANK-EXECUTION of power of sale conferred upon,

see Powers, § 3.

Equitable control of discretion vested in trustee. 8 L.R.A.(N.S.) 398.

Right to set-off, in bankruptcy cases, claims held in trust. 55 L.R.A. 46.

Validity of acknowledgment of deed of trust taken by trustee. 16 L.R.A. 719.

erty. 32 L.R.A.(N.S.) 676. Begin with this book on every law question.

TRUSTS, IV. b—cont'd ·

property by trustees. 2 L.R.A. (N.S.)

Power of trustee to mortgage trust estate for purpose of making improvements so as to render it productive. 7 L.R.A. (N.S.) 263.

Right of trustee to execute lease to extend beyond termination of trust. 13 L.R.A. (N.S.) 496.

Power of testamentary trustee to carry on business in behalf of estate. 40 L.R.A. (N.S.) 204.

Right of person standing in fiduciary relation to relocate mining claim for his own benefit. 50 L.R.A. 184.

Notice to redeem from tax sale to one occupying as trustee for another. 44 L.R.A. (N.S.) 676.

Transfer of stock on books of corporation at request of trustee. 45 L.R.A. (N.S.) 1079.

Power of court to authorize lease of trust property for a longer period than was contemplated by the creator of the trust. 48 L.R.A.(N.S.) 1004.

Right to have title registered under the Torrens Law. L.R.A.1916D, 61.

Right of trustees or executive committee of club to indemnity for obligations incurred by them. 5 B. R. C. 763.

Right of trustee under trust deed covering property sold conditionally, to complain of failure to record the contract of conditional sale. L.R.A.1917C, 445.

§ 23. Admissions and waivers by fiduciaries in actions.

By representatives of infants. 32 L.R.A. 671.

By trustees. 32 L.R.A. 686.

By executors and administrators. 32 L.R.A. 687.

By curator ad hoc. 32 L.R.A. 688.

By representatives of idiots and lunatics. 32 L.R.A. 688.

By confession of judgment. 32 L.R.A. 690.

8 28a. Investments.

Liability for losses on investments, see infra, § 26a.

Investments by trustees in foreign jurisdictions. 45 L.R.A. (N.S.) 411.

24. Compensation.

Right of partner appointed trustee on liq-uidation to compensation. 17 L.R.A. (N.S.) 399; L.R.A.1917F, 576.

Right of trustee to retain bonus or gratuity received from third person. 37 L.R.A. (N.S.) 923.

Right as between trustee and cestui que trust to compensation due for former's services as director. 1 B. R. C. 313.

#### c. Duties and liabilities.

§ 25. Generally.

Implied power of trustee to sell real prop- Liability of trustee in bankruptcy, see BANKRUPTCY, § 23.

TRUSTS, IV. c-cont'd

Liability of infant as. 57 L.R.A. 688.

Liability of arbitrators as trustees. 42 L.R.A.(N.S.) 281. Care demanded of trustee to sell real estate. 42

3 L.R.A.(N.S.) 415.

Liability of partnership for fraud with respect to trust fund. 51 L.R.A. 486.

Right to have trust property wrongfully pledged by a trustee for his individual benefit redeemed by money belonging to his insolvent estate. 6 L.R.A.(N.S.) 487

Personal liability of trustee on corporate stock belonging to trust but standing in his name. 30 L.R.A.(N.S.) 1092.

Personal liability of trustee who signs contract by adding words indicating representative capacity to his signature. 42 L.R.A. (N.S.) 61.

Personal liability of trustee on covenant in deed executed by him. 43 L.R.A. (N.S.) 377.

Individual liability of testamentary trustee for carrying on business in behalf of estate. 40 L.R.A. (N.S.) 210.

Estoppel of beneficiaries to charge testamentary trustees with losses sustained in carrying on business in behalf of estate. 40 L.R.A.(N.S.) 234.

For loss by bank failure. 14 L.R.A. 103;

45 L.R.A.(N.S.) 1. Liability of, for compound interest. L.R.A. 622.

Extrinsic evidence to show who is liable as maker of note. 20 L.R.A. 705.

§ 26. For torts or negligence of servants.

In general. 63 L.R.A. 227. Receivers. 63 L.R.A. 228.

🖁 26a. Investments. Personal liability of a trustee for losses to trust estate from investments. 44 L.R.A. (N.S.) 873.

§ 27. Joint liability. Joint liability of trustees. 4 L.R.A. 529.\* Joint receipt by trustees, effect of. 4 L.R.A. 529.\*

28. For acts of cotrustee. Liability for default of co-executor, see EXECUTORS AND ADMINISTRATORS, § 25.

Liability of inactive trustee for defalcation of cotrustee. 38 L.R.A.(N.S.) 1029.

§ 29. On bond. Contingency of claim against sureties on trustee's bond. 58 L.R.A. 86.

d. Dealing with trust or cestul que

§ 80. Generally. Fiduciary relations as affecting reliance on fraudulent statement. 37 L.R.A. 613. Independent advice as condition of valid

gift inter vivos between trustee and cestui que trust. 16 L.R.A. (N.S.) 1087. Consult also L.R.A. Digests of Cases.

TRUSTS, IV. d-cont'd

Right of executor or administrator to purchase at his own sale. L.R.A.1918B. 7.

#### e. Account of.

§ 31. Generally.

Stated account of. 27 L.R.A. 821.

Accounting for trust in gold or silver. 29 L.R.A. 523.

Effect of account on personal liability of trustee for losses from investments. 44 L.R.A.(N.S.) 984.

V. Interest of cestui que trust; rights of creditors; spendthrift trusts.

§ 32. Generally.

Trustee dealing with osstui que trust, see supra, § 30.

Garnishment of bank deposit in a form importing that depositor is acting as fi-duciary. 34 L.R.A.(N.S.) 1207.

Judgment against trustee in mortgage or deed of trust to secure debt as affecting beneficiary who was not a party. 35 L.R.A.(N.S.) 196.

Infant on ventre sa mere as grantee in deed of trust. 44 L.R.A. 490.

Right to subrogation to vendor's lien where trust funds are used to pay for land. 37 L.R.A.(N.S.) 1208.

Notice of title from possession by cestui que trust. 13 L.R.A.(N.S.) 121.

Effect of expression of intention to make provision for family, upon estates taken by beneficiaries of trust, in the absence of express definition thereof. 17 L.R.A. (N.S.) 1215.

§ 33. Rights of creditors, generally.

Effect of option of cestui que trust to require a conveyance, or otherwise terminate the trust, to subject the same to the claims of his creditors. 25 L.R.A. (N.S.) 236.

May provision in will for support of a person which is made a lien or charge upon property be reached by his creditors. 23 L.R.A.(N.S.) 526.

Application of child's property to his support where trustees have discretion. 57 L.R.A. 734.

Effect of trust conferred on personal representative on right of garnishment. 47 L.R.A. 361.

Garnishment of claim of cestui que trust against trustee. 59 L.R.A. 385. Injunction against execution sale of trust

property. 30 L.R.A. 119.

§ 34. Spendthrift trusts. Law governing validity of. 2 L.R.A.(N.S.) 443.

Right, as against subsequent creditors, to create trust to pay the income to settlor for life, and, after his death, to his heirs or devisees. 12 L.R.A. (N.S.) 369. Constitutionality of statute subjecting spendthrift trust to debts. 40 L.R.A.

(N.S.) 1215.

TRUSTS, V.—cont'd

Interest of cestui que trust in spendthrift trust as assets passing to trustee in bankruptcy. L.R.A.1917A, 989.

#### VI. Transfer of trust property.

35. Generally.

Following trust property, see infra, § 37. Sale under power in deed of trust, see MORTGAGE, § 77.

Duty of corporation as to transfer of stock held in trust. 15 L.R.A. 643.

Where trustees' sales to be made. L.R.A. 96.

Injunction against negotiation of note held in trust. 28 L.R.A. 578.

Power of court or guardian of incompetent or habitual drunkard to consent to conveyance by trustee under a trust requiring consent by cestui que trust. 39 L.R.A.(N.S.) 39.

Possession of cestui que trust as adverse within the rule against conveyance of land held adversely. 35 L.R.A.(N.S.) 754.

§ 36. To beneficiary.

Right to compel trustee of dry trust to convey to beneficiary. 38 L.R.A.(N.S.)

#### VII. Following trust property.

§ 37. Generally.

Rights in funds of insolvent bank, see BANKS, § 41.

Identifying misapplied trust funds to follow and recover them. L.R.A.1916C,

Effect of legal remedy to defeat equitable jurisdiction to follow trust funds. 6 L.R.A.(N.S.) 793.

### VIII. Enforcing trust; actions.

8 38. Generally.

Enforcement of charitable trust, see CHAB-ITTES, §§ 10, 11.

Action to enforce liability of stockholders, see Corporations, § 116a.

Limitation of action, see LIMITATION OF ACTIONS, §§ 37, 52.

Right of trustee to redress fraud practised on the beneficiary of the trust. L.R.A. 1915E, 451.

Enforceability of promise by beneficiary to pay proceeds of life insurance policy to third person. 40 L.R.A.(N.S.) 692. Right of one whose interest is merely con-

tingent, to maintain suit to establish or enforce a trust. 7 L.R.A.(N.S.) 999.

Scope of statute permitting trustee of ex-press trust to sue without joining beneficiaries when rights as between beneficiaries, or between them and the trustee are involved. 6 L.R.A. (N.S.) 275.

Begin with this book on every law question.

TRUSTS, VIII.—cont'd Applicability of common law rule precludlaw between husband and wife, where husband acts as trustee. 11 L.R.A. (N.S.) 273.

Removal, because of separable controversy, of actions relating to trusts. 5 L.R.A. (N.S.) 87.

§ 39. In equity.

Equitable enforcement of, in case of land, as affected by statute of frauds. 5 L.R.A. (X.S.) 112.

Jurisdiction of equity over suit to enforce trust as to real property in another state or country. 23 L.R.A.(N.S.) 924.

Jurisdiction of a court of equity to award compensatory damages for breach of trust. 14 L.R.A. (N.S.) 900.

Necessity of exhausting remedy at law as condition of creditor's bill to enforce trust. 23 L.R.A.(N.S.) 105.

### IX. Lien on trust estate.

\$ 40. Generally.

Creation of lien on trust estate. 7 L.R.A. 656.\*

#### TRUTH.

Presumption and burden of proof as to, see

EVIDENCE, § 54.
As defense to libel or slander, see LIBEL AND SLANDER, § 88.

As defense to proceeding for contempt for publishing pending trial of article tending to influence result. 6 L.R.A. (N.S.) 572.

Fact that witness's testimony is contradicted by opposing testimony as warranting introduction of evidence of his reputation for. 12 L.R.A.(N.S.) 364.

Is evidence of truth of alleged statement admissible in criminal case to corroborate or disprove fact that statement was made. 10 L.R.A.(N.S.) 335.

### TUBERCULIN TEST.

Validity and construction of statutes as to. 34 L.R.A.(N.S.) 654; 43 L.R.A.(N.S.) 1072; L.R.A.1917C, 254.

### TUBERCULOSIS.

As element of damages for negligent injury. 48 L.R.A.(N.S.) 102.

Right of property owner to complain of location of hospital for, in neighborhood. 25 L.R.A.(N.S.) 228.

#### TUGS.

Owners of, as independent contractors. 65 L.R.A. 471.

#### TUITION.

See Schools, § 11a.

### TUNNELS.

§ 1. Generally.

Injury by, to trainman on top of passing train. 47 L.R.A.(N.S.) 497.

Power to permit tunnel under street for private purposes. L.R.A.1915F, 937.

Municipal liability for defects or obstruc-tions in. 20 L.R.A. (N.S.) 573.

#### § 2. In mine.

Rights under tunnel-site location of mine, see MINES, § 5.

Taking property for, under power of eminent domain. 1 L.R.A.(N.S.) 978.

Exercise of eminent domain to secure right of way for mining tunnel. 4 L.R.A. (N.S.) 106.

Admissibility of evidence of condition of tunnels before and after accident alleged to have caused injury. 32 L.R.A. (N.S.) 1095.

Servant's assumption of risk from changing condition of excavations in, during progress of work. 19 L.R.A.(N.S.) 352.

#### TURNING STATE'S EVIDENCE.

See STATE'S EVIDENCE.

### TURN OUTS.

See Spur Tracks and Sidings.

#### TURNPIKES.

As to toll roads, see TOLL ROADS.

Railroad on, as additional servitude.

L.R.A. (N.S.) 731.
Prohibiting use of automobiles on.
L.R.A. (N.S.) 221. 1

Taking of property for, as a public use. 22

L.R.A. (N.S.) 101. Business of, affected with a public interest subjecting them to regulation and control as to rates and prices. 6 L.R.A. (N.S.) 835.

#### TURNTABLES.

See NEGLIGENCE, § 23.

#### TURPENTINE.

Keeping of, on insured premises. L.R.A. 1917C, 278.
Cutting of timber on public lands for. 70
L.R.A. 892.

Injunction against trespass to box trees for turpentine. 43 L.R.A.(N.S.) 264.

Right as between owner of land and owner of timber thereon to take turpentine from trees. L.R.A.1915E, 307.

Liability for injury to employee by explosion of. L.R.A.1918B, 866.

#### TYPEWRITING.

Comparison of, and expert evidence as to, see EVIDENCE, § 205a.

Typewritten matter as written or as printed matter. L.R.A.1915D, 1084.

### TYPEWRITTEN INSTRUMENT.

Presumption as to alteration of typewritten instrument made in duplicate. L.R.A.(N.S.) 680.

Of legal process or other legal papers. L.R.A.1917B, 285.

### U

#### ULTERIOR . PURPOSE.

terior purpose. 6 B. R. C. 338.

Consult also L.R.A. Digests of Cases,

#### ULTRA VIRES.

Right of court to decline jurisdiction of Of corporation, see Corporations, §§ 28-34. suit because of plaintiff's motive or ul- | Liability of municipality or other public corporation on ultra vires contract. L.R.A.(N.S.) 1124; 46 L.R.A.(N.S.) 921.

ULTRA VIRES-cont'd Municipal liability for labor performed or services accepted under ultra vires contract. 27 L.R.A.(N.S.) 1128.

#### UMPIRE.

In general, see ARBITRATION, § 4, Effect of decision of, see CONTRACTS, § 142.

#### UNACCEPTED OFFER.

Of compromise as tolling statute of limitations.
 37 L.R.A.(N.S.) 885.

## ---UNACCEPTED TENDER.

See TENDER.

#### UNAUTHORIZED APPEARANCE.

Effect of, see APPEABANCE, § 3.

#### UNAUTHORIZED PAYMENT.

Depositor's right to recover against one to whom bank has made unauthorized payment. 42 L.R.A.(N.S.) 1135.

### UNBLOCKED SWITCHES.

Master's liability for injury to employee by, see MASTER AND SERVANT, § 95.

Leaving switch unlocked as proximate cause of derailment of train resulting from throwing of switch by stranger. 11 L.R.A.(N.S.) 738.

Private action for violation by railroad company of statutory duty to block frogs, switches and crossings. L.R.A.1915E, 537.

#### UNBORN CHILDREN.

In general, see AFTERBORN CHILDREN.

Parent's statutory right of action for death of unborn child. L.R.A.1916E, 122.

#### UNBROKEN CONTINUITY.

As essential to title by adverse possession, Passing of, with stock. 45 L.R.A. 393; see Adverse Possession, § 20. L.R.A.1917B, 326.

### UNCERTAIN PROFITS.

Loss of, as element of damages, see Dam-AGES, §§ 107-118.

### UNCERTAINTY.

Of contract, see Contracts, § 20. In description of beneficiaries, see WILLS, V.

#### UNCHASTITY.

Charge of, as ground for divorce, see DI-VORCE AND SEPARATION, § 23.
Actionability of words charging, see LIBEL

AND SLANDER, § 12.

Antenuptial, as ground for divorce or annul-ment of marriage. 18 L.R.A. 375; L.R.A.1916E, 653.

Misrepresentations or concealment as to, as ground for annulment of marriage promise. 26 L.R.A. 431.

Effect of complainant's knowledge of spouse's antenuptial unchastity as bar to divorce for subsequent adultery. 23 L.R.A.(N.S.) 240.

Sufficiency of evidence to establish condonation of antenuptial unchastity or pregnancy. 6 B. R. C. 621.

#### UNCLE.

Implied agreement to pay for services rendered to. 11 L.R.A. (N.S.) 884.

#### UNCONSCIOUSNESS.

Effect of unconsciousness of person injured on admissibility as res gestæ of sub-sequent statements. 42 L.R.A.(N.S.) 967.

Signature made by hand of unconscious person. L.R.A.1915B, 678.

#### UNDATED ENTRIES.

In books of account, admissibility in evidence. 52 L.R.A. 586.

#### UNDECLARED DIVIDENDS.

Begin with this book on every law question.

#### UNDELIVERED CHECK.

Check indorsed in blank as subject of larceny or embezzlement. 42 L.R.A. (N.S.) 499.

#### UNDELIVERED NOTE.

Liability for permitting undelivered note to get into circulation. 3 L.R.A. (N.S.) 212.

### UNDENIED STATEMENTS,

Rule admitting, as affected by mental or physical condition at the time. L.R.A.(N.S.) 349.

#### UNDER-ESTIMATE.

Architect's under-estimate of cost of structure as basis of claim or defense against him. 42 L.R.A.(N.S.) 125.

#### UNDERGROUND CROSSING.

Power of municipality to require railroad company to keep highway in repair at. 18 L.R.A. (N.S.) 915.

### · UNDERTAKERS.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 167.

Undertaker's establishment as a nuisance, see NUISANCES, § 8.

Validity of agreement in restraint of trade ancillary to sale of business as affected by its territorial scope. L.R.A.1916C, 630.

Liability for consenting to and co-operating in unauthorized autopsy. L.R.A.1918D, 404.

#### UNDERWRITERS.

In general, see Insurance. Unlawful combination of, see MONOPOLY AND COMBINATIONS, § 11.

### UNDISCLOSED PRINCIPAL.

See PRINCIPAL AND AGENT, §§ 24-27, 43. Consult also L.R.A. Digests of Cases.

#### UNDISCOVERED DISEASE.

Innocent misrepresentations as to health of insured having. 53 L.R.A. 193.

#### UNDISCOVERED PERSONS.

Liability of railroad company for injury to, see RAILROADS, §§ 53, 63.

#### UNDISPUTED CLAIMS.

Payment of part of a liquidated and undisputed debt as a consideration for the discharge of the whole. L.R.A.1917A,

#### UNDIVIDED INTEREST.

Replevin for, see REPLEVIN, § 7.

#### UNDUE INFLUENCE.

Presumption as to, see EVIDENCE, §§ 52, 53. Relevancy of evidence as to, see EVIDENCE, § 260.

Sufficiency of evidence of, see EVIDENCE, § 300.

On testator, see WILLS, §§ 16, 17.

As a ground for relief from a voluntary trust. 19 L.R.A. 767.

Effect of undue influence by physician to avoid release. 5 L.R.A.(N.S.) 663; 50 L.R.A. (N.S.) 1091.

In contract requiring servant to elect be-tween acceptance of benefits out of relief fund and a prosecution of his claims in an action for damages. 11
L.R.A. (N.S.) 192; 48 L.R.A. (N.S.) 448.
Rights and remedies of prior beneficiary
where change of beneficiary is accom-

plished by fraud or undue influence. LR.A.1916C, 1133.
Undue influence in conveyance or transfer of property in consideration of support of the grantor or a third person. 52 L.R.A.(N.S.) 476.

#### UNEQUAL SERVICES.

Compensation of partner in case of. L.R.A.(N.S.) 391; L.R.A.1917F, 575.

### UNFAIR COMPETITION.

§ 1. Generally. See also TRADEMARKS; TRADENAMES.

Imitation of union label. 39 L.R.A. (N.S.) 1191.

UNFAIR COMPETITION—cont'd

Interference by competitor or others with agents of dealer or manufacturer. 9
L.R.A.(N.S.) 904.

Unfair competition in sale or manufacture of article, not protected by patent, identical with that originated by competitor. 17 L.R.A. (N.S.) 448.

Unfair competition by retailer or jobber as against manufacturer by substitution of goods. 52 L.R.A. (N.S.) 899.

Liability of individual in absence of any element of conspiracy for driving away another's customers. 22 L.R.A.(N.S.) 1224; L.R.A.1915B, 1180.

Power of equity, upon enjoining unfair competition to require defendant to pay damages sustained by complainant as distinguished from profits realized by defendant. 21 L.R.A. (N.S.) 526.

§ 2. What constitutes. By adoption of descriptive term from foreign language. 32 L.R.A.(N.S.) 443.

In use of combination of geographical name with numeral. 34 L.R.A.(N.S.) 1040.

Unfair competition by placing means thereof in hands of retailer without any intention to deceive him. 9 L.R.A. (N.S.)
1096; 24 L.R.A. (N.S.) 901.

Infringement or unfair competition in simulating toy or other article of no utili-ty which is a diminutive replica of article in general use. 44 L.R.A. (N.S.) 1057.

Unfair competition in using rival's container for competing product. L.R.A.1915F, 945.

Use of another's trademark or insignia not technically a trademark for advertising purposes as unfair competition. L.R.A.1915B, 889.

#### § 3. Protection against.

Injunction against, see Injunction, §§ 69,

Protection of union labels on ground of. 39

L.R.A.(N.S.) 1194. Protection of descriptive word or phrase on the ground of unfair competition. L.R.A.1918A, 980.

Right to protection in use of terms descriptive of a process. L.R.A.1916E, 634.

Right to protection against use of a particular number by a competitor. 8 L.R.A.(N.S.) 1153.

Right to protection against use by rival of similar design, shell or pattern not pro-tected by patent. 19 L.R.A.(N.S.) 269; 37 L.R.A.(N.S.) 259.

Right to protection in use of geographical name on ground of unfair competition. 26 L.R.A. (N.S.) 73.

#### UNFINISHED BUILDING.

Insurable interest in. 43 L.R.A. 664. Begin with this book on every law question.

#### UNFIT CONDITION.

Of prison, liability for injury due to, see JAILS AND PRISONS, § 3.

### UNFITNESS.

Of fellow-servant, master's duty as to, see MASTER AND SERVANT, §§ 104, 105.

Liability for serving unfit food. 40 L.R.A. (N.S.) 480; L.R.A.1915B, 481.

### 4+4 UNFOUNDED BELIEF.

As proof of testamentary incapacity. L.R.A.(N.S.) 66; L.R.A.1915A, 459.

#### UNFOUNDED CLAIM.

As subject of valid compromise. 25 L.R.A. (N.S.) 275.

#### UNGUARDED MACHINERY.

Master's duty to guard machinery, see Mas-TER AND SERVANT, § 90.

#### UNIFORM.

Right to require or prohibit wearing of uniforms in public school or college. 42 L.R.A.(N.S.) 337.

#### UNIFORMITY.

In license fee, see LICENSE, §§ 46, 46a. In taxation, see Taxes, §§ 8-12, 39, 93, 94.

### UNILATERAL CONTRACTS.

In general, see CONTRACTS, § 18.

Consideration for promise to pay for securing release from. L.R.A.1918F, 666.

#### UNINCORPORATED SOCIETY.

Charitable gift to, see CHARITIES, § 4.

### UNINDORSED CHECK.

As subject of larceny or embezzlement. 42 L.R.A.(N.S.) 499.

#### UNION.

Labor union, see CONSPIRACY, §§ 4-8; LABOR ORGANIZATIONS.

Of Cumberland and Presbyterian churches, see RELIGIOUS SOCIETIES.

#### UNION DEPOT.

Power to require establishment of. L.R.A. 1915D, 98.

Person at, as a passenger. 40 L.R.A.(N.S.) 778.

Liability of railroad company for injuries to its servants by negligence of union depot employees. 13 L.R.A.(N.S.) 1196.

Liability of union depot company for negligence of its own or carrier's employees. 33 L.R.A.(N.S.) 433.

#### UNION LABELS.

See LABELS, § 2.

#### UNION LABOR.

See LABOR ORGANIZATIONS.

#### UNION MORTGAGE CLAUSE.

Effect on rights of mortgagee of breach of policy by mortgagor under. 18 L.R.A. (N.S.) 204; L.R.A.1915C, 759.

#### UNITED STATES.

§ 1. Generally.

Bonds of, see Bonds, III.

Tax on property or instrumentalities of, see TAXES, §§ 6, 7.

Giving of free service or reduced rates by public service corporation to Federal government as an unlawful discrimination. L.R.A.1918D, 906.

Duty of government official to know signature of drawer of draft. L.R.A.1913D,

As trustee in charitable bequest. 14 L.R.A. (N.S.) 113.

Jurisdiction of state courts over lands of. 17 L.R.A. 720.

§ 2. Rights and powers.

Right to erect wharves. 40 L.R.A. 647. Control of right of fishery. 39 L.R.A. 581.

§ 3. — property rights. Ownership of waters by, see WATERS, § 8. Consult also L.R.A. Digests of Cases.

UNITED STATES—cont'd
Rights in literary work done in connection
with official duties. 5 L.R.A.(N.S.) 1193.

§ 4. Claims against.

Running of limitations on, see LIMITATION of Actions, § 16.

Situs of claims against, for purposes of administration. 24 L.R.A. 687.

Circumstances under which employee of United States may recover remunera-tion for extra work. 30 L.R.A.(N.S.)

Acceptance of partial allowance of claim as an accord and satisfaction. 42 L.R.A.(N.S.) 112.

§ 5. Claims in favor of.

Imprisonment for debts owing to. 34 L.R.A. 671.

Exemption as against fines and penalties when United States is the plaintiff. L.R.A.1915A, 1216.

Applicability as against government of presumption of payment from lapse of time. L.R.A.1916B. 739.

Applicability to government of statutes limiting liability of shipowners. L.R.A.1917C, 1110.

§ 6. — priority of.

Of claims against insolvent, see Insolvency,

Priority of judgment in favor of. 47 L.R.A. 479.

Common-law priority of United States in payment from assets of debtor. 46 L.R.A. (N.S.) 261; L.R.A.1918A,-398.

### UNITED STATES BONDS.

In general, see Bonds, III.

Taxation, as part of capital stock of corporation. 57 L.R.A. 57; 58 L.R.A. 568. Applicability of general tax exemptions to inheritance or succession tax on. 23 L.R.A.(N.S.) 1208.

#### UNITED STATES MARSHAL.

See MARSHAL.

### UNITED STATES SENATORS.

Provision in primary election laws for popular election of. 22 L.R.A.(N.S.) 1147. Constitutionality of popular elections of. 41 L.R.A.(N.S.) 140.

### UNITED STATES SUPREME COURT.

See SUPREME COURT OF THE UNITED STATES.

#### UNKNOWN CHANNEL.

Character of water flowing underground in defined but unknown channel. 2 B. R. C. 991.

### ---UNKNOWN NAME.

Liability of officer for making arrest of person having. 51 L.R.A. 219.

#### UNKNOWN PERSONS.

Effect of omission of statement that owner is unknown in proceedings in rem to enforce tax. 36 L.R.A.(N.S.) 1060. Telegraph company's duty as to discovery of unknown sendee. 22 L.R.A.(N.S.) 761.

#### UNLAWFUL ACT.

Homicide in commission of, see Homicide, §§ 10, 11, 16-18. Homicide to prevent, see HOMICIDE, § 23.

### UNLAWFUL ARREST.

Liability for, see FALSE IMPRISONMENT. Homioide in resisting. 66 L.R.A. 375; 33 L.R.A. (N.S.) 147.

#### UNLAWFUL ASSEMBLAGES.

Municipal liability for permitting in street. 23 L.R.A.(N.S.) 638.

#### UNLAWFUL BUSINESS.

\*\*\*

Liability of partnership for engaging in. 51 L.R.A. 495.

### UNLAWFUL DETAINER.

See FORCIBLE ENTRY AND DETAINER.

### UNLAWFUL WORK.

Employer's liability for acts of independent contractor in. 14 L.R.A. 831. Mean Begin with this book on every law question.

#### UNLICENSED PERSONS.

Effect of failure to procure license, see La-CENSE, §§ 15, 16.

#### UNLIQUIDATED CLAIMS.

Accord and satisfaction as to, see Accord AND SATISFACTION. Garnishment of, see Garnishment, § 11. Set-off of or against, see SET-OFF AND COUNTERCLAIM, § 5.

Application to, of doctrine of accounts stated. 45 L.R.A.(N.S.) 537.

Right to maintain action or on original unliquidated claim for mere failure to pay at time stipulated in agreement of accord or compromise. 45 L.R.A. (N.S.) 1062.

Interest during receivership on unliquidated claim accruing prior to appointment of receiver. L.R.A.1917D, 1169.

#### UNLIQUIDATED DAMAGES.

Set-off of, in bankruptcy cases. 55 L.R.A. Set-off of damages existing before rendition of judgment as ground for injunction. 31 L.R.A. 765.

#### UNLIQUIDATED DEMANDS.

Accord and satisfaction by part payment of, see ACCORD AND SATISFACTION, § 3.

### UNLOADED WEAPON.

Pointing unloaded firearm as assault. 15 L.R.A.(N.S.) 1272.

#### UNLOADING CARS.

As railroad hazard within statute changing fellow servant rule. 18 L.R.A.(N.S.) 480; 47 L.R.A.(N.S.) 115. Provision exempting carrier from liability

for loss due to unloading as extending to loss caused by negligence. 6 B. R. C. 131.

### ----· UNLOADING VESSEL.

See Shipping, § 19.

### UNMARRIED.

Meaning of word. 15 L.R.A. 292.

#### UNMATURED CLAIM.

Set-off of, see SET-OFF AND COUNTERCLAIM, | Parol evidence as to purpose of, see EVI-§ 19.

#### UNNATURAL BEQUEST.

Effect of unnatural testamentary disposition on question of undue influence. 6 L.R.A. (N.S.) 202; 22 L.R.A. (N.S.) 1024.

#### UNNECESSARY DANGER.

Voluntary exposure to, see INSURANCE, §§ 158, 164.

#### UNPRECEDENTED FLOOD.

As act of God. 11 L.R.A. 615. Destruction of boom or dam by, as affecting liability of one under contract to build and maintain it. 35 L.R.A. (N.S.) 1109.

Contractor's liability to replace bridge destroyed by unprecedented flood against which he does not contract. 15 L.R.A. (N.S.) 833.

#### UNPUBLISHED PICTURES.

Common-law right in. 1 B. R. C. 195.

### UNQUALIFIED LIMITATIONS.

Under rule in Shelley's Case, 29 L.R.A. (N.S.) 1069, 1123, 1148.

### UNREASONABLE DETENTION.

Effect of, on liability of officer making arrest. 51 L.R.A. 216.

#### UNREASONABLE SEARCH.

See SEARCH AND SEIZURE.

### UNREPEATED MESSAGES.

Validity of limitation of liability of telegraph company for. 11 L.R.A. (N.S.) 561: 30 L.R.A. (N.S.) 409; L.R.A. 7915B, 685.

Applicability of stipulation as to repeating telegraph messages to failure or delay in transmission or delivery. 28 L.R.A. Right of party calling to impeach.
(N.S.) 566.

L.R.A. 423. (N.S.) 566.

Consult also L.R.A. Digests of Cases.

#### UNRESTRICTED INDORSEMENT.

DENCE, § 171.

#### UNSANITARY PREMISES.

Vendor's liability to purchaser on account of unsanitary condition of premises. 34 L.R.A. (N.S.) 1035.

#### UNSEALED INSTRUMENT.

Unsealed transfer or assignment as a gift. 21 L.R.A. 693.

#### UNSHAKABLE DELUSIONS.

As proof of testamentary incapacity. 27 L.R.A.(N.S.) 72; L.R.A.1915A, 459.

### UNSOCIABILITY.

As ground for divorce. 51 L.R.A. (N.S.) 460.

#### UNSOUND MIND.

See Incompetent Persons.

#### UNSTAMPED INSTRUMENT.

See Internal Revenue, § 2.

### UNUSED MATERIALS.

As basis of mechanics' lien, see MECHANICS LIENS, § 11.

#### UNUSUAL STORMS.

Municipal liability for injury by surface water during. 65 L.R.A. 277.

#### UNWHOLESOMENESS.

Of food, liability for injury by, see Food, § 5.

#### UNWILLING WITNESS.

#### UPLAND.

Rights of owner of, in water generally, see WATERS, II.

Right of owner of, to access to water, see WATERS, § 11.

Separation of riparian rights from, see Wa-TERS, § 36.

#### URINAL.

Injunction against public urinals constituting nuisance. 23 L.R.A. 303.

#### USAGE.

See CUSTOM AND USAGE.

#### USE.

Use and occupation, see Use AND Occupa-TION.

Restrictions on use of dedicated property, see DEDICATION, § 3.

Of insured premises, see Insurance, §§ 74-78, 85–87.

See also Uses.

Permissive user which will constitute a dedication of a wharf or landing place. 48 L.R.A.(N.S.) 469.

As acceptance of dedicated highway. 18 L.R.A. 510.

Effect of mere use of highway over public domain as acceptance of grant of right of way. 9 L.R.A.(N.S.) 1223; L.R.A. 1917A, 359.

Acquisition of easement of way or passage by use and severance. 26 L.R.A. (N.S.) 346; L.R.A.1915C, 349.

Notice of title to land from.
(N.S.) 94. 13 L.R.A.

Parol evidence to establish. 20 L.R.A. 109. As waiver of right to rescind for breach of warranty or noncompliance with contract. 36 L.R.A. (N.S.) 467.

#### USE AND OCCUPATION.

Accounting for by cotenant, see Cotenan-CY, § 8.

When action for use and occupation of premises will lie. 14 L.R.A. 156; 26 L.R.A. 802.

Liability for use of leased premises by one seizing tenant's goods or chattels. L.R.A.(N.S.) 527.

Liability of cotenants to account for. L.R.A. 829; 29 L.R.A. (N.S.) 224.

Of intestate's property, liability of administrator. 40 L.R.A. 344.

Action for, when lease invalid under stat-ute of frauds. 26 L.R.A. 802.

Admissibility of books of account to prove.

52 L.R.A. 714. Begin with this book on every law question.

#### USER.

See USE.

#### USES.

In general, see TRUSTS. Charitable uses, see CHARITIES. See also USE.

### USURPATION.

Of governmental powers, see Constitution-AL LAW, §§ 18-20.

Of office, see Municipal Corporations, § 118; Officers, § 27.

Scope and effect of provision exempting insurer from loss caused by usurped power. 36 L.R.A.(N.S.) 1155.

Mandamus to compel one usurping office to turn over papers. 35 L.R.A. (N.S.) 528.

#### USURY.

I. In general, § 1.

II. What constitutes, \$\$ 2-8a. III. Effect; defenses; remedies; penalties, 98 9-15.

a. Effect, §§ 9-11. b. Defenses, §§ 12, 13.

c. Remedies, § 14.

d. Penalties, \$ 15.

### I. In general.

Generally.

Effect of preferring usurious debt in assignment for creditors, see Assign-MENT FOR CREDITORS, § 16.

Law of place as to, see Conflict of Laws, §§ 7, 7a.

Constitutionality of statutes as to, see Con-STITUTIONAL LAW, § 108. In mortgage, see Mortgage, §§ 23, 24.

In store orders. 42 L.R.A.(N.S.) 1058.
Constitutionality of statutory discrimination as to interest rates. 2 L.R.A. (N.S.) 813; 27 L.R.A.(N.S.) 898.

Right of one to testify as to his intent. 23 L.R.A.(N.S.) 391.

Creation of partnership by sharing in profits from usurious loan. 18 L.R.A. (N.S.) 1061.

Federal courts following state decisions as to, 40 L.R.A.(N.S.) 428. Usurious loan office as a disorderly house.

24 L.R.A. (N.S.) 507.

Implied warranties against usury by one passing negotiable paper. 10 L.R.A. (N.S.) 546.

Payment of, or promise to pay, usurious interest as consideration for agreement extending time of payment of obligation. 52 L.R.A.(N.S.) 358.

#### II. What constitutes.

2. Generally.

Application of usury law to purported sale or assignment of accounts. L.R.A. 1917E, 1121.

What constitutes payment of usurious interest to national bank. 56 L.R.A. 702. In sale of expectancy by prospective heir.

33 L.R.A. 281. Usury in exacting payment of interest for full term upon payment of debt before maturity. 28 L.R.A. (N.S.) 113; L.R.A. 1916B, 812.

As affected by question whether transaction is purchase or discount of note or bill. 16 L.R.A. 224.

By contract for life insurance. 53 L.R.A.

Issuance of corporate bonds at less than par as usury. 35 L.R.A.(N.S.) 1106.

Applicability of usury law to loans other than of money. 29 L.R.A.(N.S.) 620.

Inclusion of days of grace in computing interest as usury. 10 L.R.A.(N.S.) 839.

Computation of interest on the basis of thirty days for a month, or three hundred and sixty days for a year, as usury. 5 L.R.A. (N.S.) 592.

Validity of contract to resell at an advance, property purchased. 3 L.R.A.(N.S.) 213.

Stipulation for attorneys' fees as usury. L.R.A.1915B, 944.

Payment of bonus by stranger. L.R.A. 1917F, 923.

Loan to pay usurious debt. L.R.A.1918C, 354.

§ 3. In loans by agent.

Commissions charged borrower by lender's agent as usury. 19 L.R.A.(N.S.) 391; 46 L.R.A.(N.S.) 1157.

Power of legislature to restrict fees in connection with loans. 11 L.R.A.(N.S.)

§ 4. In loans by building associations. Law governing. 62 L.R.A. 64.

By fixed premium of association. 35 L.R.A. 244.

Fines in building and loan associations. 35 L.R.A. 215.

of statute exempting Constitutionality building and loan associations from general usury laws. 26 L.R.A.(N.S.) Ĭ 135.

§ 5. Lawfulness of taking interest in advance.

In general. 29 L.R.A. 761; L.R.A.1915D, 1195.

In periodical payments. L.R.A.1915D, 1197. 29 L.R.A. 766;

For what length of time allowed. 29 L.R.A. 767; L.R.A.1915D, 1197.

§ 6. Agreement for interest after maturity.

Generally. 49 L.R.A. 550.

Consult also L.R.A. Digests of Cases,

USURY, II.—cont'd

Lump sum, a penalty. 49 L.R.A. 551. Not usury if debtor can relieve himself. L.R.A. 551.

Agreement for reduction for prompt payment. 49 L.R.A. 551.

Provision for interest only in case of de-

fault. 49 L.R.A. 552. Higher rate legal. 49 L.R.A. 552.

Statutory limitation. 49 L.R.A. 552. In case of sales, etc. 49 L.R.A. 553.

Various constructions. 49 L.R.A. 553. Express penalty. 49 L.R.A. 554.

Understanding that loan shall continue. 49 L.R.A. 554.

Notes held valid. 49 L.R.A. 555. Equitable relief. 49 L.R.A. 555.

§ 7. In deferred payments of purchase money. Generally. 27 L.R.A. 565.

Making interest a part of the purchase price. 27 L.R.A. 566.

Cash and credit prices. 27 L.R.A. 568.

Agreement as to interest made after original contract completed, 27 L.R.A. 570. Other contracts. 27 L.R.A. 570.

Increasing price upon sale on credit as usury. 28 L.R.A.(N.S.) 102.

8. Interest on interest.

Right, in case of renewal of loan, to compute interest on basis of including ac-

cumulated interest as part of principal of renewal. 6 L.R.A.(N.S.) 612.

Validity of agreement to pay interest on interest, made after interest has become due. 18 L.R.A. (N.S.) 633.

Validity of agreement, made before interest becomes due, to pay interest on interest. 33 L.R.A. (N.S.) 296.

§ 8a. Purchase of paper at discount. Purchase of paper at discount as usury. 43 L.R.A.(N.S.) 211.

III. Effect; defenses; remedies; penalties.

### a. Effect.

9. Generally.

Effect on surety's liability of usury in consideration for extension of time to principal, see Principal and Surety, § .16.

Constitutionality of statute validating usurious contract. 22 L.R.A. 384.

As affecting validity of life insurance to secure debt to insurer. 53 L.R.A. 463.

Effect on surety's liability of usury in consideration for extension of time for principal. 53 L.R.A. 316.

Effect of preferring usurious debt in an assignment for creditors. 41 L.R.A. 707.

In renewal contract as affecting original agreement. 33 L.R.A. 633.

Right of bank acquiring paper void for usury as between prior parties, under statute prescribing special and exclusive penalties against a bank which takes usury. 16 L.R.A.(N.S.) 626. USURY, III. a-cont'd

Injunction against sale under power in mortgage because of usury. 35 L.R.A. (N.S.) 911.

Conclusiveness of stated or settled account containing usurious interest. 23 L.R.A. (N.S.) 790.

Effect of usury on right of accommodation party who has been obliged to pay bill or note to recover from accommodated party. 37 L.R.A.(N.S.) 784.

Effect of payment of usury. 53 L.R.A. 316. As affecting receipt of commercial paper as payment. 35 L.R.A.(N.S.) 72.

Effect as between the parties of transfer of property in satisfaction of usurious debt. 36 L.R.A.(N.S.) 134.

Payment of usurious interest as consideration for agreement extending time of payment of obligation. 52 L.R.A. (N.S.) 361.

Usury in mortgage as affecting rights of purchaser or redemptioners under fore-closure. L.R.A.1915D, 349.

§ 10. On judgment.

Suit to set aside judgment for; who may maintain. 54 L.R.A. 765.

As ground for injunction against judgment. 31 L.R.A. 761.

By confession. 30 L.R.A. 239. Enforceability of judgment containing usury. 3 L.R.A.(N.S.) 715.

Right of alleged fraudulent grantee to show that judgment against grantor was based on usurious transaction. 67 L.R.A. 601.

Right to open judgment to let in defense of. 12 L.R.A. (N.S.) 659; L.R.A. 1916F, 859.

§ 11. By national bank. In general. 56 L.R.A. 673.

Where usury charged, but not paid. 5 L.R.A. 682.

Remedy where interest actually paid. 5 L.R.A. 689.

### b. Defenses.

§ 12. Generally.

As defense by or against corporation, see CORPORATIONS, § 31.

As a defense against a bona fide purchaser of a bill or note. L.R.A.1918C, 773.

Defense of, as against holder of negotiable paper transferred after maturity. 46 L.R.A. 767.

Usury as affected by the borrower's connection with the lender. 49 L.R.A. (N.S.) 1044.

§ 13. Who may set up defense. Usury in mortgage, see MORTGAGE, § 24.

Who may urge usurious character of debt preferred in assignment for creditors. 41 L.R.A. 711.

Right of transferee of mortgaged property to set up usury in the mortgage. 10 L.R.A. (N.S.) 857.

L.R.A. (N.S.) 857. Of 10 Begin with this book on every law question.

USURY, III. b-cont'd

The right of a vendee of real estate which is subject to a lien, to raise the question of usury. 8 L.R.A.(N.S.) 814; 48 L.R.A.(N.S.) 840.

Applicability of statute forbidding corporation to interpose defense of usury, as affected by the foreign or domestic character of the corporation, the situs of the contract, or the place of suit. 1 L.R.A.(N.S.) 616.

Estoppel to set up defense of usury to commercial paper by representations to prospective purchaser. 50 L.R.A.(N.S.) 1031.

Right of creditors to set up usury in their debtor's contract with others. L.R.A.1915C, 634.

#### c. Remedies.

§ 14. Generally.

Limitation of action to recover back usury, see Limitation of Actions, §§ 38a, 54.

Set-off as to, on foreclosure. 21 L.R.A. 323. Power to make the taking of, a criminal offense. 3 L.R.A. (N.S.) 530.

Right, in absence of statutory provision therefor, to maintain action to recover back usurious payments. L.R.A.1918B, 585.

#### d. Penalties.

§ 15. Generally.

Cruel and unusual punishment for. L.R.A. 1915C, 570.

Against national bank for taking illegal interest. 56 L.R.A. 673.

Recovery of penalty for usury on transfer of property in satisfaction of usurious debt. 36 L.R.A.(N.S.) 135.

Right of bank acquiring paper void for usury as between prior parties, under statute prescribing special and exclusive penalties against bank, which takes usury. 16 L.R.A. (N.S.) 626.

#### UTILITY.

As element of patentability of invention, see PATENT, § 7.

### UTILITIES.

Public utilities, see Public SERVICE CORPO-BATIONS.

#### UTTERING.

Of forged instruments, see FORGERY.

### VACANCY.

Of insured property, see INSURANCE, §§ 75,

In office, see Officers, § 17.

Appointment of officer to fill, see OFFICERS,

Of property, as affecting right to enjoin nuisance affecting it. 46 L.R.A.(N.S.)

When does vacancy in party ticket occur within statute authorizing filling of vacancies. 41 L.R.A. (N.S.) 1088.

### VACANT LAND.

Effect of statutes permitting action by claimant to vacant lands on equitable jurisdiction to remove cloud on title. 12 L.R.A.(N.S.) 71.

#### VACANT PROPERTY.

Liability of owner for using it or permitting it to be used in such way as to collect crowds to injury of neighborhood. 11 L.R.A.(N.S.) 464.

#### VACATION.

Of courts, see Courts, § 47.

### VACCINATION.

See HEALTH, § 10.

#### VAGRANCY.

Criminal liability of children for. 36 L.R.A. 207.

Power of municipality to punish vagrancy, which is also an offense under state law. 17 L.R.A.(N.S.) 52.

Cruel and unusual punishment for. L.R.A. 578.

Prohibition of fortune telling under English vagrancy act. 43 L.R.A.(N.S.) 204.

#### VALIDATION.

Curative act, see Constitutional Law, §§ 9, 10.

Of undelivered deed by ratification or estoppel of the grantor. 9 L.R.A.(N.S.)

Consult also L.R.A. Digests of Cases, 85

#### VALUATION.

For purposes of transportation, see CARRIERS, §§ 131, 132.
Of property of public service corporations,

see Public Service Corporations, § 5. Of property for purpose of taxation, see Taxes, §§ 56-58, 102, 103.

Of claims against insolvent insurance company. 38 L.R.A. 100.

Valuation of commercial paper for purposes of graduating offense of larceny. 23

L.R.A.(N.S.) 1063. Considerations of time and place in determining value of personal property for purpose of fire insurance. L.R.A.1915E, 489.

#### VALUE.

1. Generally.

Presumption and burden of proof as to, see EVIDENCE, § 107.

Opinion evidence as to, see EVIDENCE, § 194. Evidence of, generally see EVIDENCE, § 262. Cash surrender value of policy, see INSUR-ANCE, § 57.

Of child's services as question for jury, see TRIAL.

Conclusiveness of expert opinion as to. 42 L.R.A. 767.

Change in, as defense to action for specific performance of contract for sale of corporate stock. 50 L.R.A. 510.

Of services of attorneys in dissolving injunction. 16 L.R.A.(N.S.) 61.

Burglary as affected by value of goods taken or sought to be taken. 34 L.R.A. (N.S.) 243.

§ 2. Misrepresentations as to.

Fraud or mistake as to value of land sold, see VENDOR AND PURCHASER, § 28.

Right to rely on representations as to. 37 L.R.A. 605.

Statements as to, as a fraud. 35 L.R.A.

418, 436. Effect of misrepresentation as to value of goods by shipper on his right to re-cover for loss. 23 L.R.A. (N.S.) 745;

L.R.A.1915A, 502.

### . VALUED POLICY.

Conflict of laws as to. 63 L.R.A. 866. Effect of valued policy statutes on agreements for arbitration. 47 L.R.A.(N.S.) 433.

outory provisions regulating valued policies as affecting provisions of policies for prorating loss in case of concurrent insurance. L.R.A.1916F, 997. Statutory

### VAPORS.

Liability for damage by, see NEGLIGENCE, § 14.

Presumption as to statutory authority of railroad to emit noxious vapors. 70 L.R.A. 594.

#### VARIANCE.

Between pleading and proof, see EVIDENCE, §§ 330-332.

Right to rescind subscription contract for variance between prospectus and articles of incorporation. 33 L.R.A. 733. Between deed and certificate of sale for taxes as to statement that owners are unknown. 36 L.R.A.(N.S.) 1066.

Between execution and judgment as affect-ing amercement of officer for failure to return execution. 42 L.R.A.(N.S.) 895.

Variance between assignment or transfer of insured property or insurance policy, and the insurer's consent thereto. 42 L.R.A.(N.S.) 173.

Between indictment and bail bond or recognizance in description of offense. 38 L.R.A.(N.S.) 325.

### VASECTOMY.

Asexualization or sterilization of criminals or defectives. 41 L.R.A. (N.S.) 419; L.R.A.1918D, 236.

VAULTS. Under highway, see HIGHWAYS, § 14.

#### VEGETATION.

Right to vegetation growing in highway, see HIGHWAYS, § 43.

#### VEHICLES.

Liability of bailee of wagon, see BAILMENT, § 6.

Liability of bailor of wagon, see BAILMENT, § 12.

Rights and regulations as to vehicles in highway. see Highways, §§ 45, 46. License tax on, see LICENSES, § 43.

Liability of street railway company for injury by collision with, see STREET RAIL-

ways, §§ 18, 19.
See also Automobiles; Bioycles; Jitney

BUSSES; MOTOR CYCLE; STAGBOOACHES. Begin with this book on every law question.

VEHICLES—cont'd

Warranty of vehicle kept for hire. L.R.A. 283.

May one in charge of a vehicle under a contract importing a bailment or lease be regarded as a servant of the owner as to a third person injured by the vehicle.
6 L.R.A.(N.S.) 544.
Liability of master for injury to servant by defect in. L.R.A.1918D, 1141.

Liability of employer for negligence of one to whom servant intrusted management of vehicle of which he had charge. 6 B. R. C. 705.

Duty and liability of one who maintains temporary obstruction in street for purpose of loading and unloading vehicle. 24 L.R.A. (N.S.) 97.

Causing trespasser to jump from moving wagon as actionable conduct. 31 L.R.A. (N.S.) 1064.

Validity of statutes or ordinances regulating horse-drawn vehicles in city streets. 31 L.R.A. (N.S.) 682.

Who responsible for acts of driver of hired vehicle. 13 L.R.A.(N.S.) 1123; 16 L.R.A.(N.S.) 816; 25 L.R.A.(N.S.) 33; 38 L.R.A.(N.S.) 978; L.R.A.1918E, 121.

Presumption of carrier's negligence from collision with vehicle. 29 L.R.A. (N.S.) 813; L.R.A.1916C, 373.

What vehicles are subject to tolls for using toll bridge. 30 L.R.A.(N.S.) 363.

Liability of county for injury to. 39 L.R.A. 33

Municipal liability for injury by storage of, in street. 20 L.R.A.(N.S.) 612. Character of vehicle that may be used on

private right of way. L.R.A.1918A, 262.

Opinion evidence as to speed of. 34 L.R.A. (N.S.) 778; L.R.A.1918A, 705.

### VEINS.

In mines, see MINES, II. a.

#### VENDEE'S LIEN.

See VENDOR AND PURCHASER, § 7.

#### VENDOR AND PURCHASER.

I. In general, §§ 1-4a.

II. Rights, remedies, and liabilities of parties, \$\$ 5-29.

a. In general, \$\$ 5-9.
b. Rights as to purchase money, \$\$ 10-14.
c. Title, \$\$ 15-18.

d. Quantity, \$\$ 19-21.

e. Rescission, \$\$ 22-25. f. Fraud or mistake. \$\$ 26-29.

III. Vendor's lien, \$\$ 30-35.

IV. Rights and liabilities of parties as to third persons; bona fide purchasers, \$\$ 36-39.

#### VENDOR AND PURCHASER-cont'd

#### I. In general.

§ 1. Generally.

Adverse possession by, see Adverse Possession, § 4.

Bond for title, see BOND FOR TITLE.

Boundaries of land generally, see Boundaries, §§ 4-9.

Effect of conveyance of land held adversely, see Champerty and Maintenance, § 3.

As to statute of frauds in relation to contracts of vendor and purchaser, see CONTRACTS, §§ 40-49, 58, 59.

Conveyance by one cotenant, see COTEN-ANOY, § 11.

Provision in land contract as to penalty or liquidated damages, see Damages, § 40. As to deeds, see Deeds.

As to what constitutes fraud of vendor, see FRAUD AND DECEIT.

Sale of land by guardian, see GUARDIAN AND WARD, §§ 7, 14.

Conveyances to married woman by third persons, see HUSBAND AND WIFE, § 38.

Conveyances by husband and wife, see Hus-BAND AND WIFE, §§ 39-42.

Improvement by vendor, see IMPROVEMENTS, § 11.

Improvement by purchaser, see IMPROVE-MENTS, § 12.

Vendor's intent, see INTENT, §§ 7, 8.

Judicial sale, see JUDKHAL SALE.
Covenant against sale in lease, see LAND-

LORD AND TENANT, § 19.

Purchase of mortgaged premises, see Mort-

GAGE, §§ 40-46.
Sale on foreclosure, see MORTGAGE, § 77-

94.
Purchase by agent in his own name, see
PRINCIPAL AND AGENT, § 34.

Record of conveyances, see RECORDS AND RE-CORDING LAW, IV.

Sale of personal property, see SALE.

As to specific performance, see Specific Performance, §§ 12, 13.

Contract for support of grantor, see Sup-PORT, § 4.

Sale of standing timber, see TIMBER, §§ 2-5.

Income tax on sales of property. L.R.A. 1917E, 566.

Lease of land as conveyance. 11 L.R.A. (N.S.) 99.

Validity of sale of real estate by railroad corporation. 25 L.R.A. 139.

Validity of transfer of property in violation of restraining order. 50 L.R.A. (N.S.) 871.

Right to sell real estate while in custody of law. 1 L.R.A.(N.S.) 1062.

Implied power of cashier of bank to sell or lease property. 31 L.R.A. (N.S.) 737.

Power of real estate broker to make contract of sale. 17 L.R.A.(N.S.) 210; 23 L.R.A.(N.S.) 982.

Effect upon escrow of the imposition of conditions in violation of vendor's contract. 11 L.R.A.(N.S.) 1183.

Consult also L.R.A. Digests of Cases.

VENDOR AND PURCHASER, I.—cont'd Sale of real property as an abandonment. 10 L.R.A. (N.S.) 633.

Deed of land held adversely, in completion of executory contract. 35 L.R.A.(N.S.) ' 743.

Devolution of vendee's interest under contract for purchase of real property. 42 L.R.A.(N.S.) 446.

Right to relief, in absence of contract, against sale of, or proposal to sell, real property to person or for purpose regarded as undesirable. 44 L.R.A. (N.S.) 228.

Admissibility of declarations by vendor made out of court as to his purpose in making a conveyance or transfer attacked as fraudulent as against creditors. 41 L.R.A. (N.S.) 1.

# § 2. Transfer of interest under land contract.

Oral transfer, see CONTRACTS, § 49.

Applicability of statute of frauds to assignment or surrender of purchaser's interest under land contract. 19 L.R.A. (N.S.) 879.

## § 3. Nature of interest in land contract.

Nature of interest of vendor or vendee in a land contract as real or personal property. 57 L.R.A. 643.

Optional land contract. 57 L.R.A. 651; L.R.A. 1916F, 358.

### § 4. Option for purchase of land. Insurable interest of holder of option.

L.R.A.1918A, 393.
Options to purchase and the rule against perpetuities or against undue suspension of power of alienation. L.R.A. 1917D, 904.

Devolution of interests of respective parties

to. L.R.A.1917D, 719.

Validity and effect of agreement by vendor to repurchase or permit a rescission of the contract or to resell the property at the option of his vendee. L.R.A.1917C, 763.

Communication naming price as a quotation or an offer to sell. 3 B. R. C. 229.

Assignability of option to purchase property. 43 L.R.A. (N.S.) 115.

Is power to give option included in power to sell real estate. 10 L.R.A. (N.S.) 867.

Nature of interest of vendor or vendee in optional contract for sale of land. 57 L.R.A. 651; L.R.A.1916F, 358.

Liability of promoter on sale to corporation of real estate on which he holds option. 18 L.R.A. (N.S.) 1114.

Effect on liability of tenant's surety, of surrender of lease containing option to purchase. 9 L.R.A.(N.S.) 557.

Purchase by agent for principal of property which agent has personally an option or contract to purchase. 11 L.R.A. (N.S.) 122.

VENDOR AND PURCHASER, I .-- cont'd To purchase real property as a taxable credit. 10 L.R.A. (N.S.) 1061; 34 L.R.A. (N.S.) 1221.

Rights of third person intervening between the taking and exercising of an option for the purchase of real property. 28 L.R.A.(N.S.) 522; 43 L.R.A.(N.S.) 1150.

§ 4a. Merger of stipulations as to title in executory contract in subsequently executed conveyance.

Merger of stipulations as to title in executory contract for sale of real estate, in subsequently executed convey-ance. 31 L.R.A.(N.S.) 457.

II. Rights, remedies, and liabilities of parties.

#### a. In general.

5. Generally.

Conditions in deed, see CONDITIONS, §§ 8-

Covenants between, see Covenants.

Measure of damages for breach of contract to sell, see Damages, § 31.

What are fixtures as between, see FIXTURES,

Rights of purchaser from fraudulent grantor, see Fraudulent Conveyances, § 16. Rights of purchaser from fraudulent grantee, see FRAUDULENT CONVEYANCES, § 17.

Purchaser at judicial sale, see JUDICIAL SALE, §§ 11-16.

In case of purchase pending suit, see Lis PENDENS, § 4.

Rights and liabilities of purchaser of land subject to a mortgage, see MORTGAGE, §§ 40–46.

Purchaser's right to redeem from foreclosure sale, see MOBTGAGE, § 89.

Notice of title from possession of vendee or vendor, see Notice, § 17.

Vendor's liability for nuisance, see Nui-

SANCES, § 15.
Purchaser's liability for nuisance, see NUI-**BANCES, §§ 16, 17.** 

Rights of purchaser in partnership real estate, see PARTNERSHIP, § 24.

Right of purchaser by quitclaim deed, see QUITCLAIM DEED, § 2.

Specific performance of contract, see Specific Performance, §§ 12, 13, 15-19.

Contract for support of grantor, see Sup-PORT, § 4.

Grantee's oral promise to grantor to hold in trust as giving rise to constructive trust, see TRUSTS, § 13.

Stipulation that vendee shall become a tenant. 49 L.R.A. 435.

Rights as to insurance money. 37 L.R.A. 150.

Right of vendor to proceeds of insurance in name of vendee. 13 L.R.A. (N.S.) 909. Right of purchaser to benefit of insurance taken out by vendor. L.R.A.1918D, 938.

Begin with this book on every law question.

VENDOR AND PURCHASER, II. a-cont'd Rights in respect to compensation for improvements on land, made in good faith under oral contract. 53 L.R.A. 337.

Admissibility of parol evidence as to im-provements to be made on tract from which a lot is sold. 36 L.R.A.(N.S.) 896.

Privity of estate between, in party wall. 66 L.R.A. 683.

Stipulation against assignment by vendee without vendor's consent. 35 L.R.A. (N.S.) 1064.

Liability of vendor to purchaser on account of unsanitary condition of premises. 34 L.R.A.(N.S.) 1035.

Implied easement by exhibiting unfiled plat to intending purchaser. (N.S.) 938. 35 L.Ř.A.

Remedy of one who fails to record a deed against his grantor who subsequently conveys to an innocent third person. 26 L.R.A.(N.S.) 284.

Dedication of land by vendor. 31 L.R.A. (N.S.) 1026.

Conveyance of lots laid down on plat as preventing a change in use or form of property. 14 L.R.A.(N.S.) 1067.

Applicability of rule of caveat emptor to sales for partition. 33 L.R.A. (N.S.) 409.

Damages for breach of contract to convey real estate. 16 L.R.A.(N.S.) 768.

Right of one holding bond for title to maintain bill against third person to remove cloud. 15 L.R.A.(N.S.) 413.

Is purchaser of real property under executory contract the owner thereof for purpose of taxation. 24 L.R.A.(N.S.) 130Ò.

Who responsible as between vendor and vendee for taxes accruing after sale but before title perfected in purchaser. 43 L.R.A.(N.S.) 51.

Rights of vendor and vendee as to notice to redeem from tax sale. 44 L.R.A.(N.S.) 666.

Right of vendee to acquire tax title adversely to vendor. 46 L.R.A.(N.S.) 209. Interest of vendee under an executory con-

tract for the purchase of real property as subject to lien of judgment, execution or attachment against him. 1915B, 340.

Liability of purchaser who takes possession under parol contract of sale in action for rents or for use and occupation, where vendor refuses to perform. L.R.A.1915E, 405.

Recovery of unlawful payments demanded by vendor as made under duress of real

property. L.R.A.1915B, 501.

May contract which purports to describe premises by number of acres be satisfied by a conveyance of that number of acres out of a larger tract which otherwise answers the description. L.R.A. 1916C, 1100.

VENDOR AND PURCHASER, II. a-cont'd | VENDOR AND PURCHASER, II. b-cont'd Addition of name of attesting witness to land contract as an alteration. L.R.A. 1**917D, 8**28.

Implied or ostensible authority of agent for the sale of land as to representations. L.R.A.1917F, 062.

Implied or ostensible authority of an agent to bind his principal by covenants in the sale of real property. L.R.A.1917F, 954.

Right of purchaser from testator to contest will. L.R.A.1918A, 455.

Right of purchaser after testator's death to contest will. L.R.A.1918A, 455.

Validity and effect of agreement by vendor to repurchase or permit a rescission of the contract or to resell the property at the option of his vendee. L.R.A.1917C,

Validity of contract by vendor to repurchase vendee's interest after latter's default. 35 L.R.A.(N.S.) 544.

Validity of conveyance of property in enemy country during war to a citizen of that country. L.R.A.1917C, 687.

#### § 6. Who must bear loss resulting before completion of contract.

Respective rights to proceeds of insurance policy, see Insurance, § 183.

Who must bear loss from destruction or deterioration of property before contract has been completely performed by transfer of legal title. 27 L.R.A. by transfer of legal title. 27 L. (N.S.) 233; 43 L.R.A. (N.S.) 383.

Right of vendee to specific performance with allowance for buildings destroyed after making executory contract. 10 L.R.A. (N.S.) 125.

### § 7. Vendee's lien.

Right of vendee under executory contract to a lien on the land for the amount paid thereon where the contract fails or is rescinded. 20 L.R.A. (N.S.) 175.

### § 8. Right to crops or rental.

Right to crops growing on, or rental of, real estate sold upon contract. 35 L.R.A. (N.S.) 1066; 38 L.R.A. (N.S.) 420.

Conveyance of land as including crops. 23 L.R.A. 451; L.R.A.1917C, 35.

### § 9. Performance; tender.

Necessity of perfecting title before time for performance in order to hold vendee. 3 L.R.A. (N.S.) 103.

Ability of vendor to perform as condition precedent to his enforcement of right to rescind or declare a forfeiture. 3 L.R.A. (N.S.) 103.

Effect of tender by vendee of purchase price before due to put other party in default. 20 L.R.A. (N.S.) 338.

Who may enforce contract for sale of real property where only one party signed contract. 28 L.R.A.(N.S.) 694; 43 L.R.A. (N.S.) 410.

Consult also L.R.A. Digests of Cases.

b. Rights as to purchase money.

10. Generally.

Mortgage for purchase money, see PUR-CHASE MONEY, §§ 6, 7.

Effect of statutory bar of action for purchase money upon right to enforce vendor's lien. 39 L.R.A. (N.S.) 1171.

Right of vendee to specific performance with abatement from purchase price where vendor is unable to convey a good and unencumbered title. 10 L.R.A. (N.S.) 117; 88 L.R.A. (N.S.) 1195; L.R.A. 1917F, 597.

Effect of defendant's mistake of fact as to purchase price on right to specific performance of contract induced thereby. 15 LR.A.(N.S.) 87.

Amount due under contract for purchase of land not evidenced by note or purchasemoney mortgage as a credit subject to taxation. 17 L.R.A.(N.S.) 1220.

Agreement of vendee to divide proceeds of

each sale with vendor as affected by statute of frauds. 8 L.R.A. (N.S.) 1137.

Right of vendor to unpaid instalments of the purchase price where the contract has terminated or been rescinded for default of vendee. L.R.A.1916C, 893,

#### § 11. Collection of.

Injunction against judgment for purchase money. 31 L.R.A. 748.

Failure of consideration as ground for injunction against judgment for purchase money. 31 L.R.A. 753.

Injunction against the collection of purchase money where the title to land is defective. 7 L.R.A.(N.S.) 445.

Rescission as condition of injunction against collection of purchase money where title to land is defective. 7 L.R.A. (N.S.) 463.

Failure of consideration as a defense to action on a purchase price note. 39 L.R.A.(N.S.) 938; L.R.A.1918A, 1055.

§ 12. — right of grantee in possession to question grantor's right to collect.

Failure of consideration. 21 L.R.A. (N.S.) 363.

Remedy on covenants in the deed. 21 L.R.A. (N.S.) 376.

Purchaser under the title bond. 21 L.R.A. (N.S.) 380. Quitclaim deed. 21 L.R.A.(N.S.) 385.

Notice of defective title. 21 L.R.A.(N.S.) 385.

Where the title is cured. 21 L.R.A. (N.S.) 387.

Liens against the property. 21 L.R.A. (N.S.) 388.

Covenant of seisin. 21 L.R.A. (N.S.) 391.

Ejectment. 21 L.R.A. (N.S.) 393. Fraud, mistake, insolvency, and rescission. 21 L.R.A. (N.S.) 395. Estoppel. 21 L.R.A.(N.S.) 399.

VENDOR AND PURCHASER, II. b-cont'd | VENDOR AND PURCHASER, II. c-cont'd § 13. Tender of deed as prerequisite. Tender of deed or abstract of title as condition of enforcing forfeiture for failure of vendee to pay last instalment of purchase money. 28 L.R.A.(N.S.) 956.

§ 14. Recovery back of purchase money.

Right of vendee in contract for sale of real property to recover payments. L.R.A.1918B, 540.

Because of misrepresentation as to location of property. 38 L.R.A.(N.S.) 306.

Upon resale by vendor after purchaser's default. 35 L.R.A. (N.S.) 532; L.R.A.1918B, 546.

Where contract does not satisfy the statute of frauds. L.R.A.1916D,

#### c. Title.

§ 15. Generally.

Fraud or mistake as to title, see infra, § 27. Duty of vendor as to abstract of title, see Abstracts.

Title acquired by purchaser at judicial sale, see JUDICIAL SALE, § 14.

Effect on marketable title of failure to make one party to suit, see PARTIES, § 35.

Effect of doubtful title on right to specific formance, see SPECIFIC PERFORM-ANCE, § 17.

What constitutes "satisfactory title," with- in requirement of land contract or other agreement relating to land. 18 L.R.A. (N.S.) 741.

Right of grantee in possession with notice of defective title to question grantor's right to collect purchase money. L.R.A. (N.S.) 363.

Acceptance of deed with knowledge of defect in title as waiver of purchaser's right to rescind contract. 30 L.R.A. (N.S.) 879.

Effect of assumption of obligation before notice of defective title to sustain bona fide character of purchaser of real estate. 7 L.R.A.(N.S.) 1020.

Right of vendee to recover payments made where title is defective. L.R.A.1918B,

16. What is a marketable title.

Distinction between courts of law and equity. 38 L.R.A. (N.S.) 3.

Distinction between "good title" and "mar-ketable title." 38 L.R.A.(N.S.) 4. Marketable title defined. 38 L.R.A.(N.S.)

Meaning of term "reasonable doubt" as ap-

plied to marketable titles. L.R.A. (N.S.) 8. Marketability as affected by hazard of litigation. 38 L.R.A.(N.S.) 14.

Where construction of statute or written instrument is involved. 38 L.R.A. (N.S.) 16.

Where based on exercise of power of sale. 38 L.R.A.(N.S.) 18.

Begin with this book on every law question.

As affected by defect in conveyance. L.R.A.(N.S.) 20.

Where title is dependent upon defective court proceeding. 38 L.R.A.(N.S.) 22.

Gap in record title. 38 L.R.A. (N.S.) 24. Insanity or mental incompetency of grantor.

38 L.R.A. (N.S.) 26.
racter of title. 38 L.R.A. (N.S.) 26. Character of title. Adverse claim. 38 L.R.A.(N.S.) 29.

Remedial effect of lapse of time. 38 L.R.A.

(N.S.) 36. Burden of proof. 38 L.R.A.(N.S.) 39.

Doctrine as to possibility of issue extinct as affecting marketability of title. 48 L.R.A.(N.S.) 874.

§ 17. Misstatement as to.

May fraud be predicated of misstatement as to title to real property. 28 L.R.A. (N.S.) 202; 39 L.R.A.(N.S.) 1140.

§ 18. Effect of unmarketable title; duty to take.

Vendee's right to specific performance with abatement from purchase price where vendor is unable to convey a good and unencumbered title. 10 L.R.A. (N.S.) 117; 38 L.R.A. (N.S.) 1195; L.R.A. 1917F, 597.

Injunction against collection of purchase money where title to land is defective. 7 L.R.A. (N.S.) 445.

Defective title as ground for injunction against judgment for purchase money. 31 L.R.A. 751.

Rescission as condition of injunction against collection of purchase money where title to land is defective. 7 L.R.A. (N.S.) 463.

Defective title as affecting real estate broker's commissions. 43 L.R.A. 593; L.R.A.1915E, 714.

### d. Quantity.

§ 19. Generally.

May vendor be required to make good, deficiency in tract sold, out of other lands. 39 L.R.A.(N.S.) 785.

Deficiency in quantity of property de-

scribed as a section or a fraction of a section as breach of a covenant. L.R.A. (N.S.) 558.

Right to specific performance where there is a shortage in quantity, on condition of a compensation or indemnity. 52 L.R.A. (N.S.) 959.

§ 20. False representations as to.

Right of purchaser of land to rely upon representation of seller as to boundaries. 14 L.R.A.(N.S.) 1210.

Is fraudulent representation by vendor as to area within boundaries correctly pointed out actionable. 23 L.R.A. (N.S.) 487.

Is fraudulent representation by vendor of False statements as to use to which propextent or proportion of land of particular kind included within the tract sold, actionable where purchaser inspects the land. 30 L.R.A. (N.S.) 55.

§ 21. Abatement in purchase price for deficiency.

Right of purchaser of land at judicial sale to abatement of purchase price for deficiency in quantity. 28 L.R.A.(N.S.) 393.

Abatement from price because of deficiency in quantity under grant of coal in place. 51 L.R.A.(N.S.) 792.

#### e. Rescission.

§ 22. Generally.

Effect of rescission on exemption of mortgage debt, see MORTGAGE, § 45.

Validity and effect of agreement by vendor to permit a rescission of the contract at the option of his vendee. L.R.A.1917C, 763.

Right of vendee to recover payments made on rescission of contract. L.R.A.1918B, 547.

Right of vendor to unpaid instalments of purchase price where the contract has been rescinded for default of vendee. L.R.A.1916C, 893.

Ability of vendor to perform as a condition precedent to his enforcement of right to rescind or declare a forfeiture. L.R.A. (N.S.) 103.

Right of purchaser in possession to rescind in action for defective title. 21 L.R.A. (N.S.) 395.

Rescission of purchase of real estate as affecting assumption of mortgage or lien thereon. 40 L.R.A. (N.S.) 672.

Implied power of agent to assent to rescission of land contract. 37 L.R.A. (N.S.) 92.

Action to rescind sale of land for misrepresentations as to its location. 38 L.R.A. (N.S.) 303.

Rescission as condition of injunction against collection of purchase money where title to land is defective. 7 L.R.A.(N.S.) 463.

### 28. Grounds for.

Right to rescind or abandon contract, because of other party's default. 30 L.R.A.

Right of vendee to rescind executory contract for sale of land because of vendor's breach of contract to make improvements. 21 L.R.A.(N.S.) 823; L.R.A.1917B, 403.

Rescission because of deficiency in quantity under grant of coal in place. 51 L.R.A. (N.S.) 792.

24. — fraud or mistake,

As to what constitutes fraud, see FRAUD AND | Misrepresentation as to location of proper-DECEIT. II.

Consult also L.R.A. Digests of Cases.

VENDOR AND PURCHASER, II. d—cont'd | VENDOR AND PURCHASER, II. e—cont'd erty is to be put as ground for rescission of deed. 32 L.R.A.(N.S.) 127.

Secret dealings between vendor and one who promoted the organization of a corporate purchaser as a ground for rescission of contract. L.R.A.1916C, 1000.

Rescission because of mistake as to extent of grantor's title to land. 15 L.R.A. (N.S.) 1039.

§ 25. Waiver of purchaser's right to. General rule. 30 L.R.A.(N.S.) 872. Mere delay. 30 L.R.A.(N.S.) 874.

Delay coupled with other acts. 30 L.R.A. (N.S.) 877.

Selling or offering property for sale. 30

L.R.A. (N.S.) 878. Leasing, etc. 30 L.R.A. (N.S.) 878.

Expressly recognizing contract. 30 L.R.A. (N.Š.) 878.

Acceptance of deed with knowledge of defect in title. 30 L.R.A. (N.S.) 879.

Miscellaneous. 30 L.R.A. (N.S.) 879.

What is sufficient knowledge. 30 L.R.A. (N.S.) 880.

#### f. Fraud or mistake.

§ 26. Generally.

False representations as to quantity, see supra, § 20.

As ground for rescission, see supra, § 24. As to what constitutes fraud, see FRAUD AND DECEIT, II.

Right to rely on representations. 37 L.R.A.

Relief from mistake of law as to effect of contract with reference to-lands. 28 L.R.A. (N.S.) 827.

Effect on liability of tenant's surety of surrender of lease containing an option to purchase. 9 L.R.A. (N.S.) 557.

Compliance with contract for the purchase of real estate as condition precedent to the right of the vendee to maintain an action against his vendor for fraud and deceit. L.R.A.1915F, 962.

Measure of damages for fraudulent representations in the sale or exchange of real estate. 8 L.R.A.(N.S.) 804; 16 L.R.A.(N.S.) 818.

#### 27. As to title.

May fraud be predicated of misstatement as to title to real property. 28 L.R.A. (N.S.) 202; 39 L.R.A. (N.S.) 1140.

#### § 28. As to value.

Effect of purchaser's concealment or misrepresentation of fact affecting the value of real estate. 30 L.R.A. (N.S.) 748.

False statement as to cost, selling, or market price of property or as to offers therefor as fraud. 35 L.R.A.(N.S.) 175; L.R.A.1916F, 782.

#### 29. As to location.

ty. 38 L.R.A. (N.S.) 301.

§ 13. Tender of deed as prerequisite. Tender of deed or abstract of title as condition of enforcing forfeiture for failure of vendee to pay last instalment of purchase money. 28 L.R.A.(N.S.) 956.

8 14. Recovery back of purchase money.

Right of vendee in contract for sale of real property to recover payments. L.R.A.1918B, 540.

Because of misrepresentation as to location of property. 38 L.R.A.(N.S.) 306.

Upon resale by vendor after purchaser's default. 35 L.R.A.(N.S.) 532; L.R.A.1918B, 546.

Where contract does not satisfy the statute of frauds. L.R.A.1916D, 468.

#### c. Title.

§ 15. Generally.

Fraud or mistake as to title, see infra. § 27. Duty of vendor as to abstract of title, see ABSTRACTS.

Title acquired by purchaser at judicial sale, see JUDICIAL SALE, § 14.

Effect on marketable title of failure to make one party to suit, see Parties, § 35.

Effect of doubtful title on right to specific formance, see SPECIFIC PERFORMformance, see ANCE, § 17.

What constitutes "satisfactory title," with-· in requirement of land contract or other agreement relating to land. 18 L.R.A. (N.S.) 741.

Right of grantee in possession with notice of defective title to question grantor's right to collect purchase money. 21 L.R.A.(N.S.) 363.

Acceptance of deed with knowledge of defect in title as waiver of purchaser's right to rescind contract. 30 L.R.A. (N.S.) 879.

Effect of assumption of obligation before notice of defective title to sustain bona fide character of purchaser of real estate. 7 L.R.A.(N.S.) 1020.

Right of vendee to recover payments made where title is defective. L.R.A.1918B,

16. What is a marketable title.

Distinction between courts of law and equity. 38 L.R.A.(N.S.) 3.

Distinction between "good title" and "mar-ketable title." 38 L.R.A.(N.S.) 4.

Marketable title defined. 38 L.R.A.(N.S.)

Meaning of term "reasonable doubt" as applied to marketable titles. L.R.A. (N.S.) 8.

Marketability as affected by hazard of litigation. 38 L.R.A. (N.S.) 14.

Where construction of statute or written instrument is involved. 38 L.R.A. (N.S.) 16.

Where based on exercise of power of sale. 38 L.R.A.(N.S.) 18.

Begin with this book on every law question.

VENDOR AND PURCHASER, II. b-cont'd | VENDOR AND PURCHASER, II. c-cont'd As affected by defect in conveyance. L.R.A. (N.S.) 20.

Where title is dependent upon defective court proceeding. 38 L.R.A.(N.S.)

Gap in record title. 38 L.R.A.(N.S.) 24. Insanity or mental incompetency of grantor.

38 L.R.A.(N.S.) 26. Character of title. 38 L.R.A.(N.S.) 26.

Adverse claim. 38 L.R.A.(N.S.) 29. Outstanding liens, charges, or claims. L.R.A.(N.S.) 30.

Remedial effect of lapse of time. 38 L.R.A.

(N.S.) 36. Burden of proof. 38 L.R.A.(N.S.) 39.

Doctrine as to possibility of issue extinct as affecting marketability of title. 48 L.R.A.(N.S.) 874.

§ 17. Misstatement as to.

May fraud be predicated of misstatement as to title to real property. 28 L.R.A. (N.S.) 202; 39 L.R.A. (N.S.) 1140.

§ 18. Effect of unmarketable title: duty to take.

Vendee's right to specific performance with abatement from purchase price where vendor is unable to convey a good and unencumbered title. 10 L.R.A. (N.S.) 117; 38 L.R.A. (N.S.) 1195; L.R.A. 1917F, 597.

Injunction against collection of purchase money where title to land is defective. 7 L.R.A.(N.S.) 445.

Defective title as ground for injunction

against judgment for purchase money. 31 L.R.A. 751.

Rescission as condition of injunction against collection of purchase money where title to land is defective. 7 L.R.A.(N.S.) 463.

Defective title as affecting real estate brok-43 L.R.A. 593; er's commissions. L.R.A.1915E, 714.

### d. Quantity.

§ 19. Generally.

May vendor be required to make good, de-

ficiency in tract sold, out of other lands. 39 L.R.A.(N.S.) 785.

Deficiency in quantity of property described as a section or a fraction of a section as breach of a covenant. L.R.A. (N.S.) 558.

Right to specific performance where there is a shortage in quantity, on condition of a compensation or indemnity. 52 L.R.A. (N.S.) 959.

20. False representations as to.

Right of purchaser of land to rely upon representation of seller as to boundaries. 14 L.R.A.(N.S.) 1210.

Is fraudulent representation by vendor as to area within boundaries correctly pointed out actionable. 23 L.R.A. (N.S.) 487. VENDOR AND PURCHASER, II. d—cont'd | VENDOR AND PURCHASER, II. e—cont'd Is fraudulent representation by vendor of | False statements as to use to which propextent or proportion of land of particular kind included within the tract sold, actionable where purchaser inspects the land. 30 L.R.A. (N.S.) 55.

§ 21. Abatement in purchase price for deficiency.

Right of purchaser of land at judicial sale to abatement of purchase price for deficiency in quantity. 28 L.R.A. (N.S.)

Abatement from price because of deficiency in quantity under grant of coal in place. 51 L.R.A.(N.S.) 792.

#### e. Rescission.

32. Generally.

Effect of rescission on exemption of mortgage debt, see Mortgage, § 45.

Validity and effect of agreement by vendor to permit a rescission of the contract at the option of his vendee. L.R.A.1917C, 763.

Right of vendee to recover payments made on rescission of contract. L.R.A.1918B, 547.

Right of vendor to unpaid instalments of purchase price where the contract has been rescinded for default of vendee. L.R.A.1916C, 893.

Ability of vendor to perform as a condition precedent to his enforcement of right to rescind or declare a forfeiture. L.R.A.(N.S.) 103.

Right of purchaser in possession to rescind in action for defective title. 21 L.R.A. (N.S.) 395.

Rescission of purchase of real estate as affecting assumption of mortgage or lien thereon. 40 L.R.A. (N.S.) 672.

Implied power of agent to assent to rescission of land contract. 37 L.R.A.(N.S.)

Action to rescind sale of land for misrepresentations as to its location. 38 L.R.A. (N.S.) 303.

Rescission as condition of injunction against collection of purchase money where title to land is defective. 7 L.R.A.(N.S.) 463.

### 3 23. Grounds for.

Right to rescind or abandon contract, because of other party's default. 30 L.R.A.

Right of vendee to rescind executory contract for sale of land because of vendor's breach of contract to make im-21 L.R.A.(N.S.) 823; provements. L.R.A.1917B, 403.

Rescission because of deficiency in quantity under grant of coal in place. 51 L.R.A. (N.S.) 792.

#### \$ 24. — fraud or mistake.

As to what constitutes fraud, see FRAUD AND | Misrepresentation as to location of proper-DECEIT, II.

Consult also L.R.A. Digests of Cases.

erty is to be put as ground for rescission of deed. 32 L.R.A.(N.S.) 127.

Secret dealings between vendor and one who promoted the organization of a corporate purchaser as a ground for rescission of contract. L.R.A.1916C, 1000. Rescission because of mistake as to extent

of grantor's title to land. 15 L.R.A. (N.S.) 1039.

§ 25. Waiver of purchaser's right to. General rule. 30 L.R.A.(N.S.) 872.

Mere delay. 30 L.R.A. (N.S.) 874. Delay coupled with other acts. 30 L.R.A.

(N.S.) 877.
Selling or offering property for sale. 30
L.R.A.(N.S.) 878.
Leasing, etc. 30 L.R.A.(N.S.) 878.

Expressly recognizing contract. 30 L.R.A. (N.S.) 878.

Acceptance of deed with knowledge of defect in title. 30 L.R.A. (N.S.) 879. Miscellaneous. 30 L.R.A. (N.S.) 879.

What is sufficient knowledge. 30 L.R.A. (N.S.) 880.

#### f. Fraud or mistake.

26. Generally,

False representations as to quantity, see supra, § 20.
As ground for rescission, see supra, § 24.

As to what constitutes fraud, see FRAUD AND DECRIT, II.

Right to rely on representations. 37 L.R.A. 610.

Relief from mistake of law as to effect of contract with reference to-lands. 28 L.R.A.(N.S.) 827.

Effect on liability of tenant's surety of surrender of lease containing an option to purchase. 9 L.R.A.(N.S.) 557.

Compliance with contract for the purchase of real estate as condition precedent to the right of the vendee to maintain an action against his vendor for fraud and deceit. L.R.A.1915F, 962.

Measure of damages for fraudulent representations in the sale or exchange of real estate. 8 L.R.A.(N.S.) 804; 16 L.R.A.(N.S.) 818.

### § 27. As to title.

May fraud be predicated of misstatement as to title to real property. 28 L.R.A. (N.S.) 202; 39 L.R.A. (N.S.) 1140.

### § 28. As to value.

Effect of purchaser's concealment or misrepresentation of fact affecting the value of real estate. 30 L.R.A. (N.S.) 748.

False statement as to cost, selling, or market price of property or as to offers therefor as fraud. 35 L.R.A.(N.S.) 175; L.R.A.1916F, 782.

#### 39. As to location.

ty. 38 L.R.A.(N.S.) 301.

#### VENDOR AND PURCHASER—cont'd

#### III. Vendor's lien.

§ 30. Generally. Dower in land subject to vendor's lien, see Dower, § 4a.

Interpleader between. 10 L.R.A. (N.S.) 753. On superstructure on railroad right of way. 66 L.R.A. 44.

Questioning validity of attachment by. 35 L.R.A. 774.

Effect of payment by volunteer or stranger. 23 L.R.A. 130.

Agreement for support in consideration of conveyance as basis for equitable lien. 13 L.R.A.(N.S.) 725; 28 L.R.A.(N.S.) 607; 43 L.R.A.(N.S.) 929.

Vendor's lien as affecting sole and uncondi-tional ownership. 7 L.R.A. (N.S.) 627.

§ 31. Subrogation to,

Right of one advancing money for purchase price of property to be subrogated to vendor's lien. 37 L.R.A.(N.S.) 1203.

§ 32. Priority of. Priority over widow's claim to dower. 52 L.R.A. (N.S.) 555.

As against purchaser at judicial sale. 21 L.R.A. 39.

Is money loaned to improve land part of the purchase price within the rule that a purchase money lien takes priority over homestead rights. 41 L.R.A. (N.S.) 89.

Rights of seller of fixtures, retaining title thereto or a lien thereon, as against lien of vendor of realty. 1 B. R. C. 670.

§ 83. Assignment of.

Assignment of vendor's lien. 13 L.R.A.

#### \$ 84. Enforcement of,

The right of a vendor of real estate, upon purchaser's refusal to perform, to resell at latter's risk, and hold him liable for deficiency. 8 L.R.A. (N.S.) 137.

Effect of statutory bar of action for purchase money on right to enforce. 39 L.R.A.(N.S.) 1171.

Necessity of pleading statute of frauds in suit to enforce vendor's lien. 49 L.R.A. (N.S.) 37.

Right of creditor of vendor to benefit of vendor's lien. 47 L.R.A.(N.S.)

Deficiency decree in action to foreclose vendors' lien. 13 L.R.A. (N.S.) 874.

Right to redeem from sale enforcing vendor's lien. 44 L.R.A.(N.S.) 285.

35. Waiver or loss of.

By attachment or execution. 50 L.R.A. 717. Acceptance of commercial paper as. L.R.A.(N.S.) 91.

Joining in mortgage as. 35 L.R.A. (N.S.) 348.

VENDOR AND PURCHASER, III.-cont'd Effect of discharge in bankruptcy on. 42 L.R.A. (N.S.) 295.

IV. Rights of parties as to third persons; bona fide purchasers.

§ 36. Generally.

Dower in land subject to purchase money mortgage or vendor's lien, see Dower, § 4a.

Conveyances in fraud of creditors, see FRAUDULENT CONVEYANCES.

Mechanics' liens on building erected by vendees, see MECHANICS' LIENS, § 7. Assumption of mortgage debt by grantce,

see MORTGAGE, §§ 40-46.
Constructive notice to purchaser, see
NOTICE, §§ 12, 17.

Effect of substitute conveyances as against innocent third persons. 44 L.R.A. (N.S.)

Rights of purchasers subsequent to partition. 57 L.R.A. 338.

Right of one taking conveyance from holder of final certificate of entry on public land in event of its cancelation. L.R.A. 1918E, 1002.

Power of vendee to subject vendor's interest to mechanics' lien. 23 L.R.A.(N.S.) 601; L.R.A.1917D, 577.

Right of vendee of land subject to a lien to raise the question of usury. 8 L.R.A. (N.S.) 814; 48 L.R.A.(N.S.) 840.

Right of vendee under executory contract to maintain action for injury to real property. 30 L.R.A.(N.S.) 231.

Right of purchaser of land to recover amount paid by him to relieve land from tax lien from one who should have paid the same but with whom he had no contractual relationship. L.R.A.(N.S.) 562.

Is purchaser of real property under an executory contract, the owner thereof for purposes of taxation. 24 L.R.A.(N.S.) 130Ô.

Vendee under executory contract as owner for purposes of insurance where vendor holds legal title. 20 L.R.A. (N.S.) 775.

Personal liability of purchaser of land on contract under which it is supplied with water. 39 L.R.A.(N.S.) 798.

agreement by vendee to pay encumbrances within statute of frauds as promise to answer for the debt of another. 15 L.R.A.(N.S.) 1087.

Right of purchaser of real estate to rely on the statute of frauds against contract by his vendor with a third person. 40

L.R.A.(N.S.) 883.

Rights of third persons intervening between the taking and the exercise of the option for purchase of real property. 28 L.R.A. (N.S.) 522; 43 L.R.A. (N.S.) 1150.

Rights of purchasers or mortgagees of grantor's crops as against subsequent vendee of the land. L.R.A.1917C, 39. Enforcement by or against purchaser of obligation to contribute to cost of party

wall. 66 L.R.A. 673.

Begin with this book on every law question.

when charged on devise. 30 L.R.A. (N.S.) 818.

Right of one who has placed a purchaser in possession to maintain a bill to quiet title against outstanding claim. 12 L.R.A. (N.S.) 652.

Liability of purchaser for damming back water of stream. 59 L.R.A. 858.

Right of grantee to sue for injuries by damming back water of stream. 59 L.R.A.

May purchaser of property be required to accept deed of third person. 37 L.R.A. (N.S.) 1123.

Does continuation by grantee of life tenant of adverse possession, initiated by the creator of the life estate, inure to benefit of remaindermen. 24 L.R.A.(N.S.) 1055.

Right of husband's grantee to exoneration of land conveyed, by allotment of dower from other land. 34 L.R.A.(N.S.) 917.

Failure of title of payee of purchase money note as affecting purchaser of note with knowledge of the character of the consideration. 46 L.R.A.(N.S.) 870.

Right of successor to share of cotenant to latter's claim to allowance for improvements to common property. 45 L.R.A.(N.S.) 738.

Right of receiver to take property from possession of purchaser. 47 L.R.A. (N.S.) 749.

Estoppel of third person against assertion of title or interest in real property by concealing the same or representing it to be in vendor. 48 L.R.A.(N.S.) 745.

Agreement between landlord and tenant for removal of fixtures by latter as affecting purchaser of premises. L.R.A. 1915E, 822.

§ 37. Rights of bona fide purchasers. Rights of bona fide purchasers from grantee of insane persons. 19 L.R.A. 492.

Title of bona fide purchaser from fraudu-lent grantee. 67 L.R.A. 891, 898.

Effect of delivery in escrow as to bona fide purchaser from grantee who has wrongfully obtained and recorded the deed. 17 L.R.A. 511.

Protection of purchaser from apparent vendee under instrument apparently a conveyance but intended as a mortgage. 32 L.R.A.(N.S.) 1046; 38 L.R.A.(N.S.)

Rights of assignee as against subsequent bona fide purchasers or encumbrancers relying on apparent discharge of the mortgage by the mortgagee. 15 L.R.A. (N.S.) 1025; L.R.A.1915F, 554.

Right of wife to relief against executed conveyance by husband in fraud of her support where grantee is a bona fide purchaser. 18 L.R.A.(N.S.) 1152.

Consult also L.R.A. Digests of Cases.

VENDOR AND PURCHASER, IV.—cont'd Remedies against subsequent purchaser Right, as against subsequent bona fide purfrom devisee for enforcement of legacy | chaser, to avoid deed because of false impression, induced by fraud, as to the contents or character of paper signed. 36 L.R.A.(N.S.) 537.

Effect of plat as to which purchaser of property affected thereby has no notice. 44 L.R.A. (N.S.) 231.

Rights of bona fide purchaser of title fraudulently registered under the Torrens Law. L.R.A.1916D, 72.

§ 38. Rights of grantee under quitclaim deed. See QUITCLAIM DEED, § 2.

§ 39. Nature of consideration.

Sufficiency of pre-existing debt to give one character of bona fide purchaser or mortgagee. 19 L.R.A. 590; L.R.A. 1918C, 438; L.R.A.1918D, 568.

Effect of assumption of obligation before notice of defective title to sustain the bona fide character of purchaser of real estate. 7 L.R.A.(N.S.) 1020.

#### VENDOR'S LIEN.

See Vendor and Purchaser, §§ 30-35.

#### **VENEREAL** DISEASE.

Misrepresentations or concealment as to, as ground for annulment of marriage. 13 L.R.A. (N.S.) 996.

Condonation of, as defense to action for divorce or annulment of marriage. L.R.A. (N.S.) 729.

Requiring certificate of freedom from venereal disease, as condition to marriage. 52 L.R.A.(N.S.) 778.

### VENIRE.

For grand jury. 27 L.R.A. 778.

#### VENIRE DE NOVO.

Correction of special verdict by. 24 L.R.A. (N.S.) 74.

#### VENTILATION.

Master's liability for vice principal's negligence in failing to keep place of work properly ventilated. 54 L.R.A. 133.

#### VENTILATORS.

Carrier's liability for injury by failure to adjust. 15 L.R.A.(N.S.) 801.

#### VENTRE SA MERE.

Capacity of child en ventre sa mere to take under devise or bequest to children. 1 B. R. C. 582.

Prenatal injury to infant as ground of action. 45 L.R.A.(N.S.) 625.

#### VENUE.

§ 1. Generally.

Rights of courts of one state to enforce causes of action arising in another state, see Conflict of Laws.

Constitutionality of statute as to, see Con-STITUTIONAL LAW, § 191. Territorial limitations of jurisdiction, see

COURTS, §§ 19-26.

Validity of provision in contract as to place where action may be brought. L.R.A. 1916D, 696.

Degree of proof of venue in criminal cases. L.R.A.1918B, 1187.

When may local venue be disregarded upon ground that action or proceeding is anor incidental. L.R.A.1916D. 1134.

Venue of action against municipal corpora-tion. 25 L.R.A.(N.S.) 711; L.R.A. 1915F, 1029.

Offense of desertion or failure to provide for wife or family as affected by residence of parties. 47 L.R.A.(N.S.) 218.
Of offense of obtaining property by false pretenses. 49 L.R.A.(N.S.) 834.

Of offense of libel. 49 L.R.A. (N.S.) 941. Of civil action for libel or slander. L.R.A.

1918F, 1026.

Of prosecution for embezzlement. 1918E, 744.

Of action for death caused by negligence. 4 L.R.A. 263.

Of action by state court against national bank for taking or charging usury. 56 L.R.A. 692.

Of action in state court against foreign corporation. 70 L.R.A. 696.

Of action for injury by damming back water of stream. 59 L.R.A. 890.

Jurisdiction of actions, aided by attachment or garnishment, against a resident of the state. 49 L.R.A. (N.S.) 548.

Effect of rule abrogating local venue upon rule precluding jurisdiction of action for tort concerning real property in another state or country. 26 L.R.A. (N.S.) 928.

Power of legislature to provide for indictment in county or district other than where crime alleged to have been committed. 7 L.R.A. (N.S.) 669; L.R.A. 1918F, 965.

VENUE—cont'd § 2. Change.

Propriety of arguments by counsel to jury referring to changes of venue. L.R.A. 1918D, 56.

Motion to change, as extending time to plead. 47 L.R.A.(N.S.) 857.

Constitutionality of statute permitting change of venue to one party and not to the other. L.R.A.1915F, 920.

Petition for change of, as a contempt. 9

L.R.A. 566.

Proceedings for incorporation of drainage district or for other public improvement as a civil suit within statute allowing change of venue. 12 L.R.A. (N.S.) 900.

Prohibition against court proceeding with case in which it erroneously denied a change of. 2 L.R.A. (N.S.) 395; L.R.A. 1917F, 911.

Mandamus to compel change of venue. L.R.A.1917F, 914.

Mandamus to prevent change of, from court having exclusive jurisdiction. 2 L.R.A. (N.S.) 568.

Use of superintending control over inferior tribunal to compel change of venue. 20 L.R.A.(N.S.) 951.

§ 3. — in criminal cases.

Mandamus to compel change. L.R.A. 1917F, 914.

Delay caused by change, as ground for discharge of accused. 56 L.R.A. 525.

Effect on conviction of failure to give accused an opportunity to plead where there has been a change from one court to another. 13 L.R.A. (N.S.) 815.

Will habeas corpus lie to release one convicted after wrongful refusal to change venue. 25 L.R.A.(N.S.) 483.

Time and place covered by recognizance or bail bond in criminal case where change of venue is taken. L.R.A.1916F, 380.

#### VERACITY.

Of witness, see WITNESSES, §§ 41-46.

### VERDICT.

Reversible error as to, see APPEAL AND EBBOB, § 40. In general, see TRIAL, §§ 75-87.

#### VERIFICATION.

By corporate officer, see Corporations, § 42.

Of indictment or information, see INDICT-MENT, ETC., § 12.

Injunction against judgment for matters Of pleading in civil action, see Pleading, relating to. 31 L.R.A. 203.

Begin with this book on every law question.

VERIFICATION—cont'd

Of initiative or referendum petition. L.R.A. 1917B, 36.

Of recall petition. L.R.A.1916D, 1107.

Of record of mining claim. -7 L.R.A. (N.S.)

What constitutes a verification of accounts as required by fidelity bond or contract. 10 L.R.A.(N.S.) 323.

By officer of corporation as verification by agent of corporation. 16 L.R.A. (N.S.) 703.

#### VERMIN.

Constitutionality and validity of statutes or ordinances for extermination of vermin. L.R.A.1916A, 1239.

Provision relieving carrier from liability for damage by vermin as extending to loss caused by negligence. 6 B. R. C. 130.

#### VESSELS.

Abandonment of, see ABANDONMENT, § 7. Insurance on, see MARINE INSURANCE. Liens on, see MARITIME LIENS. In general, see SHIPPING. Where taxable, see Taxes, § 49.

Local license tax on vessels licensed by United States. 27 L.R.A. 414.

Admiralty jurisdiction of contract for construction of. 66 L.R.A. 198.

Admiralty jurisdiction of contract for building and outfitting. 66 L.R.A. 216.

Acceptance of partial allowance by United States of claim for rent of, as an acceptance of the contract of the cord and satisfaction. 42 L.R.A. (N.S.) 115.

Loss of profits as element of damages for breach of contract for the construction or repair of. 53 L.R.A. 50.

Upon whom duty of furnishing vessel lies under contract to ship goods f. o. b. 62 L.R.A. 797.

Applicability of liquor laws to vessels. L.R.A.1915F, 1140.

Liability of hirer of vessel under special terms of contract for its care or return. L.R.A.1915B, 300, 306.

Forfeiture of vessels used in violation of the fish laws. L.R.A.1916F, 916.

### VESTED INTEREST.

Under will, see WILLS, §§ 99-102.

### VESTED REMAINDERS.

See WILLS, §§ 101, 102. Jonsult also L.R.A. Digests of Cases.

#### VESTED RIGHTS.

In general, see Constitutional Law, § 29. In statute of limitations, see LIMITATION OF ACTIONS, § 3.

Questioning validity of attachment for injury to. 35 L.R.A. 782.

### VESTIBULED CARS.

Liability of carrier for accident through leaving vestibule doors open. 2 L.R.A. (N.S.) 645.

Injury to passenger on platform of vesti-buled train. 22 L.R.A.(N.S.) 313; 27 L.R.A.(N.S.) 253.

Negligence of passenger in passing from one car to another. 34 L.R.A. 721.

Liability of street railway company to employees for failure to perform statutory duty to provide vestibules on cars. 30 L.R.A.(N.S.) 428.

#### VESTRYMAN.

Injunctive relief affecting. 3 L.R.A. (N.S.)

#### VETERANS.

Rights under civil service laws, see CIVIL SERVICE, § 2.

Validity of pension or bounty to confederate soldiers. 45 L.R.A.(N.S.) 692. Vested right in pension. 50 L.R.A.(N.S.)

1018.

#### VETO.

Power of governor to veto part of statute 55 L.R.A. 882. only.

Power of Governor to veto initiative meas-50 L.R.A. (N.S.) 208; L.R.A. ure. 1917B, 24.

### **VEXATIOUS SUITS.**

Right of court to decline jurisdiction of frivolous and vexatious suits. 6 B. R. C. 334.

### VIADUCTS.

Liability of railroad company to abutting owner from damages from change of grade necessary to carry highway across tracks. 26 L.R.A.(N.S.) 226; L.R.A.1916D, 1078.

VIADUCTS-cont'd

Municipal liability for injury to abutting owner from, under constitutional provision against "damaging" private property for public use without compensation. 36 L.R.A.(N.S.) 1198.

#### VIBRATION.

Liability for injury to person or property from concussion caused by blasting. 12 L.R.A.(N.S.) 389; 27 L.R.A.(N.S.) 425; L.R.A.1915E, 356.

Noise with or without vibration incident to lawful industrial business as a nuisance. 17 L.R.A. (N.S.) 287; 44 L.R.A. (N.S.) 236.

Right to recover for, in condemnation proceedings. 17 L.R.A.(N.S.) 1054; 40 L.R.A.(N.S.) 48.

#### VICE PRESIDENT.

Of corporation, powers of, see CORPORA-TIONS, §§ 47, 48.

#### VICE PRINCIPAL.

As fellow servant, see MASTER AND SERV-ANT, III. d, 3.

Liability of vessel or owner for acts of, see SHIPPING, § 14.

### VICIOUSNESS.

Expert testimony as to vicious character of animals. 24 L.R.A.(N.S.) 1189. Admissibility of evidence of subsequent vi-

cious conduct of animal inflicting injury. 17 L.R.A.(N.S.) 1233.

#### VIDELICET.

Effect of videlicet following word "heirs" in a grant or devise of real property to restrict estate given to the first taker.
33 L.R.A.(N.S.) 191.

### VI ET ARMIS.

Taking of property by, from possession of bailee as defense to him against bailor. 33 L.R.A.(N.S.) 688.

### VIEW.

VIEW—cont'd

Interference with view. L.R.A.1917C, 1135. Right of action of occupant of premises abutting on highway for interference with the public's view of goods or advertising displayed thereon. 6 B. R. C. 493.

Injunction against interference with view from street. 5 L.R.A.(N.S.) 486. View outside the territorial jurisdiction.

L.R.A.1917F, 984.

#### VIEWERS.

Necessity of viewers as a condition of discontinuance of highway. 26 L.R.A. 829.

#### VILLAGES.

For municipalities, generally, see MUNICI-PAL CORPORATIONS.

What constitutes a village. 35 L.R.A. 396. What is a village within statutes or ordinances in relation to intoxicating liquor. L.R.A.1915C, 898.

Who may maintain quo warranto to test validity of organization of. 21 L.R.A. (N.S.) 685.
Creation of indebtedness within meaning of

debt limit provision. 37 L.R.A. (N.S.) 1058; L.R.A.1917E, 437.
Rule for determining the indebtedness within the meaning of debt limit provisions, where boundaries of different political units are wholly or partly coincident. L.R.A.1917E, 468.

Power to employ attorney. L.R.A.1917D, 246.

Right, when entitled to services of official attorney, to employ other attorney in civil matters. L.R.A. 1917D, 251.

#### VINEGAR.

See FOOD, § 10.

#### VINEYARD.

Mechanic's lien for planting of. L.R.A. 1917D, 352.

### VINOUS LIQUORS.

As intoxicating liquors. 20 L.R.A. 645.

#### VIOLATION OF LAW.

Effect of, on right to recover on policy, see INSURANCE, § 168.

View of jury generally, see EVIDENCE, § 159. Begin with this book on every law question. VIOLATION OF LAW-cont'd contributory negligence. 21 L.I (N.S.) 667; 48 L.R.A.(N.S.) 639. 21 L.R.A.

Effect of, on homicide by negligent operation of automobile. L.R.A.1918B, 955.

Effect of, on criminal homicide in operation of railroad or street railway. L.R.A. 1917C, 537.

### VIOLENCE.

Effect of violence during strike on carrier's liability. 35 L.R.A. 627.

Voluntariness of confession induced by fear excited by violence. 18 L.R.A. (N.S.) 832, 837; 50 L.R.A. (N.S.) 1087.
Competency of witness to testify as to reputation for. 2 L.R.A. (N.S.) 553; 22 L.R.A. (N.S.) 661.

Demonstration of violence outside of range of actual injury as assault. 33 L.R.A. (N.S.) 982.

#### VIOLENT MEANS.

Death of insured by, see INSURANCE, § 165.

### VISIBLE EASEMENT.

See EASEMENTS, §§ 13, 19-21.

#### VISITATION.

Remedy for refusal to permit visitation of children as provided by decree of divorce. L.R.A.1917B, 290.

#### VISITATORIAL POWER.

Of donor of charitable trust or his heirs. 3 L.R.A.(N.S.) 227.

### VISITOR.

Injury to tenant's visitors, see LANDLORD AND TENANT, IV. d, 4.

Duty and liability of owner to one on premises for purpose of seeing his employees. 24 L.R.A. (N.S.) 497.

Right of, to notice to redeem from tax sale. 44 L.R.A.(N.S.) 676.

### VISITS.

Physician's right to determine frequency of, In garnishment proceedings, injunction ato patient. 51 L.R.A. 298.

Respectively. to patient. 51 L.R.A. 298.

Consult also L.R.A. Digests of Cases.

#### VIS MAJOR.

See also ACT OF GOD; INEVITABLE ACCI-

Applying dectrine of, to liability for falling walls or buildings. 34 L.R.A. 563. Liability for injury caused by escape through vis major of water stored on the state of the one's premises. 15 L.R.A. (N.S.) 547.
Burden of proof when defense in action to recover for loss or injury to goods during carriage is vis major. 29 L.R.A.

(N.S.) 663; L.R.A.1915D, 547. Law governing effect of, on carrier's contracts. 63 L.R.A. 531.

#### VITALIZER.

Application of statute regulating practice of medicine to persons giving special kinds of treatment. 3 L.R.A. (N.S.) 762; 24 L.R.A. (N.S.) 103; 25 L.R.A. (N.S.) 1297.

### VITAL SCIENCE.

Application of statute regulating practice of medicine to persons giving special kinds of treatment. 3 L.R.A. (N.S.) 762; 24 L.R.A. (N.S.) 103; 25 L.R.A. (N.S.) 1297.

### VITAL STATISTICS.

Constitutionality of statutes in relation to. 39 L.R.A.(N.S.) 1015.

#### VOICE.

Identification by, see EVIDENCE, § 155.

#### VOID INSTRUMENTS.

Forgery of. 24 L.R.A. 38.

#### VOID INSURANCE.

Effect of, on other insurance, see INSUR-ANCE, § 100.

### VOID JUDGMENTS.

Effect of levy under, see LEVY AND SEIZURE, § 14.

Right to appeal from. 38 L.R.A.(N.S.) 733.

#### VOID LEGACY.

Who takes, see WILLS, § 129.

#### VOID PAPER.

Payment of debt by. 35 L.R.A. (N.S.) 71.

#### VOIR DIRE.

Examination of juror on, see JURY, § Sa.

#### VOLENTI NON FIT INJURIA.

As defense to actions by injured servants, see MASTER AND SERVANT, § 112.

#### VOLUNTARY ASSESSMENTS.

On paid-up stock. 45 L.R.A. 652.

#### VOLUNTARY ASSOCIATIONS.

See Associations.

#### VOLUNTARY CONVEYANCE.

See FRAUDULENT CONVEYANCES, § 7.

#### VOLUNTARY CREDITS.

To bring debt within jurisdiction of court, see Courts, § 29.

### VOLUNTARY DISMISSAL.

Of action, see DISMISSAL AND DISCONTINU-ANCE, § 2.

#### VOLUNTARY EXPOSURE TO DANGER.

By insured, see Insurance, 98 158, 164.

#### VOLUNTARY PAYMENTS.

Recovery back of, see Assumpsit, II. Begin with this book on every law question.

#### VOLUNTARY SALE.

See Fraudulent Conveyances, § 7.

#### VOLUNTARY SURRENDER.

Right to habeas corpus in case of. L.R.A.(N.S.) 885.

Admissibility of evidence of defendant's voluntary surrender. 20 L.R.A.(N.S.)

#### VOLUNTARY TRUSTS.

See TRUSTS, § 6.

#### VOLUNTEER.

§ 1. Generally.

Enlistment of minor in volunteer army without parent's consent. 39 L.R.A. (N.S.) 454.

§ 2. Liability for acts of.
Liability of master for injury to property
or person of one to whom he owes no
contractual duty by acts of a volunteer whom servant permits to assist in the performance of the master's service. 13 L.R.A.(N.S.) 572; 45 L.R.A.(N.S.) 382; L.R.A. 1916B, 630.

Leaving elevator in position to be operated by stranger as proximate cause of injury to passenger occasioned by act of third person in connection therewith. 22 L.R.A.(N.S.) 297.

§ 3. Personal injury to.

Master's liability to, see MASTER AND SERV-ANT, §§ 107, 108.

Assumption of risks by, see MASTER AND SERVANT, § 121.

Performing duties outside scope of employment as contributory negligence, see MASTER AND SERVANT, § 131.

Voluntarily incurring danger to save life of another as contributory negligence, see NEGLIGENCE, § 33.

Contributory negligence of volunteers handling or testing electric wire or apparatus. 6 L.R.A. (N.S.) 290.

### § 4. Payment by.

Payment by. 23 L.R.A. 120.

Moral obligation as consideration for promise, to repay volunteer. 53 L.R.A. 372; 26 L.R.A. (N.S.) 526.

Right of volunteer advancing money for purchase price of property to be subroga-gated to vendor's lien. 87 L.R.A. (N.S.) Ĭ204.

#### VOTE.

In general, see Elections; Parliamentary LAW.

Voting by stockholders, see CORPORATIONS, §8 122-126.

Impeachment by voters of sufficiency of vote by which bill was passed. 40 L.R.A. (N.S.) 17.

Showing by journal's failure to record vote on bill. 40 L.R.A.(N.S.) 19.

## VOTERS AND ELECTIONS.

See ELECTIONS.

## VOTING MACHINE.

See Constitutional Law, § 58; Elections, § 23.

## VOTING CONTEST.

Legality of. L.R.A.1917D, 489.

#### **VOTING TRUST.** .

Of corporate stock, see CORPORATIONS, § 124.

## VOUCHERS.

Negligence in examination of, see Banks, §§ 24, 29.

Condition in fire policy as to keeping, producing and preserving. 51 L.R.A. 698.

Waiver of. L.R.A.1915F, 759.

## VULGARITY.

As disturbance of public peace. 32 L.R.A. (N.S.) 505.

Vulgar statements made by person causing accident some time thereafter as res gestæ. 42 L.R.A.(N.S.) 926.

Libel or slander by charge of, against public officer or candidate. L.R.A.1918E, 87.

## W

## WAGE EARNERS.

In general, see MASTER AND SERVANT.

Exempting wage earners from anti-trust laws. 52 L.R.A.(N.S.) 525.

Effect upon state insolvency laws of provisions of Federal Bankruptcy Act excepting wage earners from involuntary bankruptcy. L.R.A.1917A, 109.

#### WAGER.

See Contracts, §§ 105, 106, 115, 116; Insubance, §§ 24-35, 122.

## WAGERING CONTRACTS.

See CONTRACTS, §§ 105, 106, 115, 116; INSURANCE, § 24-35, 122.

## WAGES.

Wages, generally, see MASTER AND SERVANT, §§ 24-31, 43a.
Assignment of, see MASTER AND SERVANT, § 28.
Exemption of, see EXEMPTION, § 5.

Exemption of, see EXEMPTION, § 5. Consult also L.R.A. Digests of Cases.

#### <u>-</u>

WAGES—cont'd Garnishment of, see Garnishment, § 10a. Of seamen, see SEAMEN, § 2.

Of school teacher, see Schools, §§ 17, 18.

Maritime lien for. 70 L.R.A. 364, 437.

Right of married woman to recover for loss of. 20 L.R.A.(N.S.) 215.

Validity of statute or ordinance requiring persons engaged in business of loaning money on security of wages to file a record of loans made. 25 L.R.A.(N.S.) 686.

Who are laborers, employees, or servants within meaning of statutes giving preference to. 18 L.R.A. 305.

## WAGONER.

See CARTMEN AND TEAMSTERS.

#### WAGONS.

See VEHICLES.

## WAIVER.

§ 1. Generally. Of fraud, see Fraud and Decert, § 42. WAIVER-cont'd

Of statute of limitations, see Lamitation of Actions, IV.

By trustee, see TRUSTS, § 23.

Of right of surface owner to support surface as against owner of minerals. 41 L.R.A.(N.S.) 238.

Of right to set-off against judgment in hands of assignee. 23 L.R.A. 339. By fiduciaries in action. 32 L.R.A. 671.

Of right to attack marriage for lunacy of one of parties. 40 L.R.A. 745.

Of penalty against national bank for charging or taking usury. 56 L.R.A. 680.

Of personal liability of executor or administrator to distributees for interest during delay in settlement of estate.

31 L.R.A.(N.S.) 360.

Waiver by bailee of right to make defense against bailor of hostile, adverse, paramount title of third person. 33 L.R.A. (N.S.) 696.

Of right to contest assessment for drains and sewers. 60 L.R.A. 246.

Of objection that assessment for public improvement exceeds the percentage limited by charter or statute. 38 L.R.A. (N.S.) 582.

Of tort in actions for enticing or harboring apprentice. 5 L.R.A.(N.S.) 1161.

Of exemption against claim for rent. 24 L.R.A. 812.

Of rights under Federal employers' liability act. 47 L.R.A.(N.S.) 76; L.R.A.1915C, 84.

§ 2. Contractual matters generally.

Of objections to performance of contract, see Contracts, § 139.

By insured, see INSURANCE, §§ 130, 131.

By insurance company, see INSURANCE, §§ 132-144.

Of right in pledged property, see PLEDGE AND COLLATERAL SECURITY, §§ 8, 9.

Of notice of acceptance of guaranty. 16 L.R.A.(N.S.) 379.

Of notice of default to bind guarantor. 20 L.R.A. 264.

Of condition against bond taking effect until signed by others. 45 L.R.A. 329,

Extent to which bondholders are represented by trustee's waiver of rights. 16 L.R.A. (N.S.) 1012.

Of release of homestead. 56 L.R.A. 76.

Of requirement of signature to railway ticket or coupon. 30 L.R.A.(N.S.) 432.

Of limitation of time within which transportation tickets may be used. L.R.A. 1918A, 784.

Waiver by carrier of contractual rights under interstate shipment as unlawful discrimination among shippers. L.R.A. 1918C, 978.

Waiver of time stipulated in carrier's contract for claim or suit against carrier. L.R.A.1916D, 1049.

Of right to relief from mistake of law as to effect of instrument accompanied by negligence. 28 L.R.A.(N.S.) 891.

WAIVER-cont'd

Right of city to waive provisions in contract for public work for retention of fund to insure payment of claims of laborers and materialmen. 37 L.R.A.(N.S.) 576.

By surety of right to complain with respect to creditor's management and collection of collateral. 37 L.R.A.(N.S.) 715.

Conductor's right to waive conditions in stock-drover's pass. 27 L.R.A.(N.S.) 646.

Of condition in deed to railroad for construction of road within specified time. 32 L.R.A.(N.S.) 120.

By copartner of right to compensation for services. 17 L.R.A.(N.S.) 416.

Of right to enferce rent of premises occupied by receiver or assignee for creditors. 59 L.R.A. 686.

Of provision for consent to assignment of lease. 36 L.R.A.(N.S.) 488.

Waiver of arbitration agreements. 47 L.R.A.(N.S.) 425. Of surety's right to demand that the cred-

Of surety's right to demand that the creditor proceed in the enforcement of the obligation. L.R.A.1918C, 51.

Of stipulation in building contract that alterations or extras must be ordered in writing. 48 L.R.A.(N.S.) 575.

Consideration for secondary agreement waiving rights under prior contract. L.R.A. 1915B, 58.

Waiver without new consideration of time clause in a building contract. 50 L.R.A.(N.S.) 501.

§ 3. — matters as to commercial paper. Of presentment, see BILLS AND NOTES, §§ 45-47.

Waiver by indorser of delay in enforcing liability of maker of note. 18 L.R.A. (N.S.) 553.

Waiver of exemptions by agent authorized to give paper for loan. L.R.A.1916C, 136.

Waiver of defense of usury as against a bona fide purchaser of a bill or note. L.R.A. 1918C, 779.

Waiver of surety's right to demand that the creditor proceed in the enforcement of the obligation. L.R.A.1918C, 51.

Necessity for new consideration to support waiver of failure to give notice of dishonor. 3 L.R.A.(N.S.) 1079.

§ 4. — contracts of sale.

Of breach of warranty, see SALE, §§ 58, 59. Of right to rescind contract of sale, see SALE, §§ 69, 70.

Of purchaser's right to rescind contract for sale of land, see VENDOR AND PURCHAS-ER, § 25.

By vendor in conditional sale. 32 L.R.A. 471.

Of notice of defects in article sold. 1 L.R.A. (N.S.) 142.

Of purchaser's right to rescind contract for purchase of real property. 30 L.R.A. (N.S.) 872.

By purchaser, as to abstract of title. 43 L.R.A.(N.S.) 48.

Begin with this book on every law question.

WAIVER—cont'd

Of conditions in contract of sale limiting the warranty. 50 L.R.A.(N.S.) 796.

Waiver of delivery or tender by seller where purchaser wrongfully repudiates his contract. 51 L.R.A. (N.S.) 745.

Bringing an action for the purchase price as a waiver by the vendor of the title and remedy clauses in a conditional sale contract. L.R.A.1916A, 925.

§ 5. — contract with servant.

Of wrongful discharge of servant. 6 L.R.A. (N.S.) 74.

Of breach of contract of employment. L.R.A.(N.S.) 77.

Of servant's breach of duty. 8 L.R.A. (N.S.) 1009.

6. Matters of practice generally. Of right to appeal, see APPEAL AND ERROR,

Of objections during trial, see APPEAL AND ERROR, § 30.

By appearance, see APPEARANCE.

Of right to jury trial, see JURY, § 7.

Of service of process, see WRIT AND PROC-ESS, § 38.

Waiver of objection to affidavit or complaint in contempt proceeding because made on information and belief. L.R.A.1917C, 857.

Of use of firm name in suit by, or against partnership. 29 L.R.A. (N.S.) 284.

Of full number of jurors. 43 L.R.A. 59.

Of defects in decision of tribunal of association or corporation. 49 L.R.A. 371.

Of objection to admissibility in evidence of copies of records of other states. L.R.A.(N.S.) 983.

Of objections to admission of testimony given on preliminary examination by witnesses not available at time of trial. 25 L.R.A.(N.S.) 871.

Of service of process by statutory agent of foreign corporation appointed to receive service. 2 L.R.A.(N.S.) 389.

Of right to object to physical examination or exhibition of person. 2 L.R.A.(N.S.) 388

Of objection to judge's communication with jury not in open court. 17 L.R.A. (N.S.) 614.

Of property qualification of juror. L.R.A. (N.S.) 967.

Of question of duplication of judgments where second judgment is entered without vacation or reversal of the first. 44 L.R.A.(N.S.) 342.

Of objection to jurisdiction on removal of action brought in a state court outside the territorial jurisdiction of either the plaintiff's or defendant's residence. 50 L.R.A.(N.S.) 831.

§ 7. — in criminal cases.

Of defect of duplicity in indictment, see IN-DICTMENT, ETC., § 31.

Of right to object to selection of grand jury by unauthorized person. LR.A.1917C,

Consult also L.R.A. Digests of Cases. 86

WAIVER—cont'd

Of objection that grand jury was not sworn.
49 L.R.A. (N.S.) 1217.

Validity of waiver of jury trial in criminal action. 11 L.R.A. (N.S.) 1136.

Effect of consent of defendant in criminal case to proceeding with less than twelve jurors. 46 L.R.A.(N.S.) 38.

Right to waive absence of jurymen in criminal case. 14 L.R.A.(N.S.) 862.

By defendant of separation of jury in capital case. 24 L.R.A. (N.S.) 782.

Of presence of accused at time of receiving verdict in misdeameanor case. L.R.A. (N.S.) 56.

Right of accused to waive his presence at time of receiving verdict on trial for felony. 14 L.R.A.(N.S.) 603; 32 L.R.A. (N.S.) 306; L.R.A.1915D, 817.

Of irregularities in finding of indictment. 26 L.R.A.(N.S.) 688.

Of verification of information. 31 L.R.A. (N.S.) 805.

Failure to demand trial as waiver of right to speedy trial. 44 L.R.A.(N.S.) 871.

Of right to demand new trial because of reading of newspaper account of trial in criminal case. 46 L.R.A.(N.S.) 745.

## § 8. Of forfeiture.

Of insurance policy, see Insurance, §§ 132-144.

Of lease, see LANDLORD AND TENANT, § 35.

Of forfeiture under provision in will for forfeiture by confesting beneficiary. 68 L.R.A. 447.

Of right to forfeit deed for breach of condition by suit for damages. 5 L.R.A. (N.S.) 603.

#### 9. Of lien.

What constitutes waiver, see infra, § 12.

Of lien generally, see LIENS, §§ 18-20.

chattel mortgage lien, see CHATTEL MORTGAGE, §§ 30, 31.

landlord's lien, see LANDLORD AND TENANT, § 90.
Of mechanics' lien, see MECHANICS' LIEN,

Of junior lien by failure to assert same on foreclosure, see Mortgage, § 64.

Of vendor's lien, see VENDOR AND PURCHAS-EB, § 35.

Of innkeeper's lien. 21 L.R.A. 231.

Right of one advancing money for purchase price of property to be subrogated to vendor's lien where vendor has waived same. 37 L.R.A. (N.S.) 1212.

10. Of privilege.

Of privilege against admissibility of communication, see EVIDENCE, §§ 224, 226.

Of privilege from arrest or service of process, see WRIT AND PROCESS, § 37.

privilege as to communications as to sanity or insanity. 39 L.R.A. 307.

Taking possession of building with knowledge of defects as waiver thereof as against contractor. 20 L.R.A.(N.S.) 872. WAIVER-cont'd

Delay in attempting to regain property obtained under agreement to pay therefor on delivery, as waiver of such condi-tion. 11 L.R.A.(N.S.) 948: 23 L.R.A. (N.S.) 824; L.R.A.1915D, 355.

Acceptance of goods as waiver of damages for delay in delivery. 54 L.R.A. 719; 7 L.R.A.(N.S.) 1114.

Acceptance of goods with knowledge of breach of warranty as waiver of breach of warranty as waiver of breach. 35 L.R.A. (N.S.) 501.

Failure of vendee to inspect or test goods as waiver of express warranty. L.R.A.(N.S.) 235.

Use as waiver of right to rescind for breach of warranty or noncompliance with contract. 36 L.R.A.(N.S.) 467.

Effect of statement by indorser to holder that party primarily liable cannot pay as waiver of presentment to latter. 27 L.R.A.(N.S.) 516.

Pleading particular cause of injury as waiver of right to rely on res ipsa loquitur. 24 L.R.A.(N.S.) 788; L.R.A. 1915F, 992.

Of interest by acceptance of principal sum. 40 L.R.A.(N.S.) 597.

Surrender of pledged property as waiver of pledge. 39 L.R.A.(N.S.) 886.

Recognition of return or of decree rendered thereon as affecting liability for making false return. 38 L.R.A. (N.S.) 292.

Selling or mortgaging chattel as waiver of purchaser's right to return. 38 L.R.A. (N.S.) 1035.

Of conversion of pledged property by invalid sale. 43 L.R.A. 760.

Acceptance of premises by lessee after contract time, as waiver of damages for lessor's failure to put him in possession. 9 L.R.A. (N.S.) 1131.

Acceptance of rent accruing after cause for forfeiture, with knowledge of such cause, as waiver of forfeiture. L.R.A. (N.S.) 831.

Denial of tenancy as waiver of notice to quit or of demand of possession. 25 L.R.A. (N.S.) 104.

Delay of landlord in enforcing forfeiture as waiver of breach. 24 L.R.A. (N.S.) 1063.

Waiver of condition in lease against assignment as waiver of condition as to business to be carried on. 24 L.R.A. (N.S.) 1067.

Of statutory provisions as to confidential disclosures to physicians. 1 L.R.A. (N. S.) 1068.

Of privilege as to confidential communications on first trial as affecting its exercise on a second trial. 6 L.R.A.(N.S.) 1082.

Of privilege as to communication between husband and wife by calling one spouse as a witness for the other. 40 L.R.A. (N.S.) 43.

Waiver of privilege of exemption of public service corporation from regulation of rates. L.R.A.1915C, 281.

WAIVER-cont'd

§ 11. What constitutes. Of privilege, see supra, § 10.

By appearance, see APPEARANCE.

Inconsistent defenses as. 48 L.R.A. 203. Failure to demand trial as waiver of right to speedy trial. 44 L.R.A.(N.S.) 871.

Repudiation of contract of sale of personal property on one ground as waiver of other objections. 3 B. R. C. 591.

Waiver of statute of limitations by personal representative as to indebtedness of the estate. L.R.A.1915B, 1044.

Waiver of right to interest in condemnation proceedings. L.R.A.1916C, 1118.

Taking possession of building with knowledge of defects as waiver thereof as against contractor. L.R.A.1917C, 326.

12. — of lien.

By attachment or execution. 50 L.R.A. 714. Of chattel mortgage. 50 L.R.A. 714: 24 L.R.A. (N.S.) 490; 51 L.R.A. (N.S.) 1068.

Of junior lien by failure to assert it in foreclosure proceedings. 68 L.R.A. 323. Lienor joining in mortgage on property as waiver of his lien. 35 L.R.A. (N.S.) 348.

Of lien of chattel mortgage by accepting proceeds of sale of property. L.R.A.1917A, 1262.

Waiver of attorney's lien by taking security. 2 B. R. C. 58.

Recovering personal judgment against owner as waiver of mechanics' lien. 32 L.R.A.(N.S.) 1073.

18. Effect of.

Effect of walver of general issue on right to open and close. 61 L.R.A. 531.

Effect of waiver on locality of jurisdiction of state court over foreign corporations. 70 L.R.A. 701.

Effect of waiver of past breach of condition subsequent with respect to real property to extinguish the condition. L.R.A.(N.S.) 398.

Effect of waiver of defects in title by vendee on his right to recover payments of purchase money. L.R.A.1918B, 554. Effect of consent of defendant in criminal

case to proceeding with less than twelve jurors. 46 L.R.A.(N.S.) 38.

Effect of waiver of statute of limitations by personal representative as to indebtedness of the estate. L.R.A.1915B, 1049.

#### WAKESHAV.

Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 316.

## WALLS.

§ 1. Generally. Party walls, see PARTY WALLS. Begin with this book on every law question.

WALLS—cont'd

Right of owner of upper floor to compel maintenance of. 3 L.R.A.(N.S.) 510. Employee's right of action for employer's

violation of building laws relating to. 9 L.R.A.(N.S.) 378.

2. Use of, for advertising.

Right of tenant to lease wall of building for advertising purposes. 13 L.R.A.(N.S.)

Tenant's right to use walls of building for advertising purposes. 39 L.R.A.(N.S.) 350; L.R.A.1915B, 1057.

Right to use party wall for advertising purposes. 16 L.R.A.(N.S.) 434.

3. Injury by fall of.

L.R.A. (N.S.) 96.

Duty as to maintenance and repair of retaining wall. L.R.A.1917F, 683.

Individual liability for fall of. 34 L.R.A. 557.

Landlord's liability as to condition of. 23 L.R.A. 157.

Landlord's duty as to side walls. 14 L.R.A.

Doctrine of attractive nuisance as applied to. L.R.A.1915D, 160.

Liability of land owner for fall of wall left standing after fire. L.R.A.1915C, 704. Proximate cause of injury by dangerous walls left unprotected after fire.

## WANTONNESS.

Frightening horse driven along highway parallel to railroad or street railway track. 33 L.R.A.(N.S.) 132.

May wantonness or wilfulness, precluding defense of contributory negligence, be predicated of the omission of a duty before the discovery of a person in peril on a railroad or street railway track. 21 L.R.A.(N.S.) 427.

Wanton negligence of railroad company operating trains longitudinally along public street. 49 L.R.A. (N.S.) 688.

#### WAR.

🖁 1. In general.

Army and navy, see ARMY AND NAVY. Insurrection; see Insurrection.

Suspension of habeas corpus during, see HABEAS CORPUS, § 8.

Martial law, see Martial Law.

As to militia, see MILITIA.

As to prize and capture, see Prize AND CAPTURE.

Secretary of War, see SECRETARY OF WAR.

Litigation arising out of Mexican revolution. L.R.A.1917A, 280; L.R.A.1918E,

Subordination or suspension of state law

during war. L.R.A.1918F, 561.
Continuance of constitutional guaranties during war or insurrection. 45 L.R.A. (N.S.) 996.

Consult also L.R.A. Digests of Cases.

WAR—cont'd

Internment of naturalized citizens. R. C. 772.

Decisions under the Espionage Act of June

15, 1917. L.R.A.1918F, 410. Exclusion of seditious matter from the mails under the Espionage Act. L.R.A. 1918C, 89.

Regulation of price of food as valid exercise of the war power. 7 B. R. C. 663. Duty of conquering state with respect to

obligations of conquered state. 5 B. R. C. 906.

Effect of war on c. i. f. contracts. 7 B. R. C. 956.

Liability of executor or trustee for loss of funds through failure of bank due to war. 14 L.R.A. 106.

Absence on account of, as nonresidence for the purpose of attachment. 19 L.R.A. 665.

Power of military during, to arrest and punish citizens in places where civil courts are open. 65 L.R.A. 200.

Liability of insurer under policy of marine insurance for losses arising out of state of war. 5 B. R. C. 4.

Effect of carriage of contraband upon marine insurance. 5 B. R. C. 58.

War casualties as within accident insurance. L.R.A.1918C, 130.

2. Alien enemies; belligerents

Status of person who has devested himself of national character without acquiring a new one. 7 B. R. C. 887.

Commercial domicil as affecting national character. 7 B. R. C. 835.

Status of corporation as alien enemy. 5 B. R. C. 333.

Right of alien enemy to vote as stock-holder in domestic corporation. 7 B. R. C. 827.

Alien enemies as litigants. L.R.A.1918B, 189; L.R.A.1918E, 809; 5 B. R. C. 583. Effect of war on contracts with alien enemies. L.R.A.1917C, 662.

Lessee's liability for rent where governmental prohibition of residence of alien enemies in specified areas renders his occupancy of the demised premises illegal. 7 B. R. C. 814.

Trading with the enemy. 7 B. R. C. 923.

Marine insurance: validity of insurance on property of enemy against seizure. 5 B. R. C. 836.

Recovery for goods sold to rebels. 15 L.R.A. 834.

Validity of contract made for purpose of aiding and abetting public enemies. 12 L.R.A. (N.S.) 606.

Effect of war on partnership agreements, and the rights of the parties thereto. 7 B. R. C. 618.

Exemption of alien enemies from provisions of Selective Service Act of May 18, 1917. L.R.A.1918E, 1023.

#### WARD.

See GUARDIAN AND WARD.

## WARDENS.

Liability of game warden. L.R.A.1918A,

Injunctive relief affecting. 3 L.R.A. (N.S.) 861.

#### WAREHOUSE.

Sufficiency of delivery of freight to carrier at. 32 L.R.A.(N.S.) 316.

What is, within meaning of workmen's compensation act. L.R.A.1916A, 206; pensation act. L.R.A.1917D, 156.

Use of railroad right of way for purposes of, as against owner of fee. 36 L.R.A. (N.S.) 519.

Warehouse and their sites on railroad right of way as separate subjects of taxa-

tion. L.R.A.1916E, 413. Warehouse used exclusively for owner's goods as subject to license tax. 39 L.R.A.(N.S.) 803.

## WAREHOUSEMAN.

§ 1. Generally.

Carrier as warehouseman, see CARRIERS, §§ 90, 118.

Constitutionality of statutes as to, see CONSTITUTIONAL LAW, § 172.

As carrier. 21 L.R.A.(N.S.) Insurance upon property held by. L.R.A. 341.

Speculation in commodities as within ostensible or implied authority of a partnership operating a warehouse. 27 L.R.A.(N.S.) 1015. Rights of purchasers from warehouseman

to assert title as against owner. 25 L.R.A.(N.S.) 781.

Loss of profits as element of damages in case of contracts of. 53 L.R.A. 65. Liability of goods in hands of warehouse-man to distress. 25 L.R.A.(N.S.) 795.

2. Regulation and control. License of, see LICENSE, § 44a.

 3. — rates and charges. Legislative regulation of rates. 33 L.R.A. 178.

Business of storing grain as affected with a public interest authorizing regulation of rates and prices. 6 L.R.A.(N.S.)

Power of equity to regulate charges of public warehouseman. 24 L.R.A.(N.S.) 399.

4. Liability of. Liability for fires, see FIRES, § 5.

Warehouseman's bond. L.R.A.1918E, 235. Liability of warehouseman for injury to agricultural products by weevil. 26 agricultural products by weevil. L.R.A. (N.S.) 1114.

WAREHOUSEMAN—cont'd

Liability of warehouseman for goods damaged or destroyed while stored in building other than that called for by contract. 24 L.R.A.(N.S.) 1117.
Liability of, under special terms of con-

tract for care or return of subject of bailment. L.R.A.1915B, 306.

Duty of warehouseman to protect goods against high water. L.R.A.1915D, 726.

Effect of stipulation exempting warehouse-man from loss by fire. 23 L.R.A.(N.S.)

Presumption and burden of proof as to care or negligence in respect to subject of bailment. 43 L.R.A.(N.S.) 1176.

Burden of proof as to negligence where property is destroyed while in the pos-session of a carrier holding as warehouseman. 22 L.R.A. (N.S.) 975.

3. Warehouse receipts.

Garnishment of debt evidenced by. L.R.A. 1918C, 752.

Effect as to warehousemen of recitals in their receipts. 19 L.R.A. 302.

Issuance and delivery by warehouseman of receipt for his own property as a constructive transfer of possession essential to a valid pledge. 16 L.R.A. (N.S.) 227; 30 L.R.A. (N.S.) 552; 52 L.R.A. (N.S.) 754.

Intent as ingredient of offense by warehouseman selling goods for which he has issued receipt. 27 L.R.A.(N.S.) 160.

Effect of putting warehouse receipts payable to bearer into another's possession to estop owner as against purchaser in good faith. 29 L.R.A.(N.S.) 257.

Burden of proof as to bona fides of transferee of warehouse receipts for property secured by fraud. 10 L.R.A.(N.S.) 801.

## WAREHOUSE RECEIPTS.

See WAREHOUSEMEN, § 5.

## WARNING.

1. Generally.

Master's duty as to, see MASTER AND SERV-ANT, §§ 72-78, 165. Of approach of train, see RAILBOADS, §§ 57,

66-69.

Of obstructions in highway. 20 L.R.A.(N. S.) 671.

Duty to warn those coming from private property of dangerous condition of street. 37 L.R.A. (N.S.) 360.

Caution against incrimination as necessary to voluntariness of confession. 18 L.R.A.(N.S.) 824; 50 L.R.A.(N.S.)

Begin with this book on every law question.

WARNING-cont'd

2. To passenger.

Liability for injury in alighting from moving train after warning. 21 L.R.A. 358; 22 L.R.A. (N.S.) 755; L.R.A.1915C,

Negligence of passenger in getting on or off moving street car against warning. 30 L.R.A.(N.S.) 276.

Duty of carrier to warn and wait for passenger alighting temporarily at intermediate point. 51 L.R.A.(N.S.) 902,

#### WARRANT.

1. Generally.

Of commitment, see CRIMINAL LAW, § 38. Of attorney to confess judgment, see Jung-MENT, § 6.

Distress warrant, see LANDLORD AND TEN-ANT, §§ 91, 92.

Search warrant, see SEARCH AND SEIZURE.

2. For payment of money.

County warrants, see COUNTY WARRANTS, §§ 9-11.

Garnishment of debt evidenced by government warrant. L.R.A.1918C, 752.

Are holders necessary parties to proceedings to invalidate warrants of state, or municipal corporations. 3 L.R.A.(N.S.) 256.

Effect of putting dock warrant indorsed in blank into another's possession to estop owner as against purchaser in good faith. 29 L.R.A.(N.S.) 255.

Liability of government or other public body for its own obligation stolen from it. 39 L.R.A.(N.S.) 444.

Mandamus to compel issuance of municipal warrant to pay indebtedness. L.R.A. 1916D, 325.

§ 3. For arrest.

Arrest without, see ARREST, § 3. In extradition proceedings, see ARREST, § 10.

Liability of judicial officer for issuing. 14 L.R.A. 142; 44 L.R.A. (N.S.) 164.

Exhibition of, at time of arrest. 42 L.R.A. 677.

Complaint or information based on information and belief as basis for issuance of warrant. 10 L.R.A.(N.S.) 159; 25 L.R.A.(N.S.) 60.

## WARRANTS OF ATTORNEY.

To confess judgment, see JUDGMENT, § 6. Power of attorney, see PRINCIPAL AND Infecting premises with contagious disease AGENT, §\$ 8-10. Consult also L.R.A. Digests of Cases.

## WARRANTY.

Of signature to commercial paper, see BILLS AND NOTES, § 9.

On transfer of negotiable paper, see BILLS AND NOTES, §§ 31, 32. Covenant of, see COVENANT, §§ 13, 31-33.

Damages for breach of, see DAMAGES, III.

b, 4.

By insured, see Insurance, §§ 63-102.

On sale of chattel, see SALE, 38 26-38, 53-**59**, **68**.

On sale of expectancy by prospective heir. 33 L.R.A. 274.

On sale by mortgagee under a power in the mortgage. 49 L.R.A.(N.S.) 514.

Of horse or vehicle kept for hire. 19 L.R.A. 283.

Warranty as inducement to copartner to enter into a contract as a promise to indemnify. 15 L.R.A. (N.S.) 1151.

Implied warranty of authority as basis of action against one who, without authority, assumed to contract as another's agent. 34 L.R.A.(N.S.) 535.

#### WASHOUT.

Liability of railroad company to employees for injuries caused by defects in roadbed caused or accompanied by a rainfall. 49 L.R.A.(N.S.) 198.

#### WASH ROOMS.

Statute requiring mine owner or operator to furnish wash rooms or similar conventences for employees. L.R.A.1915B, 420.

#### WASTE.

\$ 1. Generally.

By tenant, see LANDLORD AND TENANT, § 56.

Right of citizen or taxpayer to enjoin waste of state funds. L.R.A.1915D, 178.

Rights of action in case of damages to remainder or reversion by stranger. L.R.A.1916A, 792.

By husband on land held by entireties. 30 L.R.A. 309.

Set-off for, on mortgage foreclosure. L.R.A. 324. 21

Cutting of timber as waste which may be enjoined. 43 L.R.A.(N.S.) 262.

Injunction against trespass to cut timber. 22 L.R.A. 233; L.R.A.1917C, 236.

Enjoining interference with fences or gates as. 7 L.R.A.(N.S.) 86.

Liability for waste of oil or gas resulting from acts done on neighboring premises. 48 L.R.A.(N.S.) 170.

as waste. 30 L.R.A. (N.S.) 474.

WASTE-cont'd Right to interest on damages recoverable for. 28 L.R.A.(N.S.) 82.

§ 2. By life tenant.

Duty of life tenant to keep property in repair. 33 L.R.A.(N.S.) 669.

Impeachment of life tenant for waste in cutting timber. 37 L.R.A.(N.S.) 772.

## § 8. Of water.

Care necessary to avoid waste in diverting

water from stream under right of appropriation. 15 L.R.A.(N.S.) 238.

Constitutionality of statutes to prevent waste of subterranean water, natural gas, or oil. 23 L.R.A.(N.S.) 436;
L.R.A.1918B, 134.

Right to complain of waste by prior appropriator. L.R.A.1916B, 1014.

## WASTE MATERIAL.

Burning waste material, as a nuisance. 48 L.R.A.(N.S.) 244.

#### WASTE WATER.

Appropriation of. 6 L.R.A. (N.S.) 1104.

#### WATCHMAN.

## § 1. Generally.

As public officer. 36 L.R.A. (N.S) 882. Private action for violation of ordinance requiring watchmen on cars in motion. 5 L.R.A.(N.S.) 242.

For vessel; jurisdiction of admiralty over contracts of. 66 L.R.A. 231.

Maritime lien for services of. 70 L.R.A. 386.

Liability of railroad company for injury to, by passing trains. 48 L.R.A.(N.S.) 150.

Liability of master for the intentional killing or injury of watchman by third person. L.R.A.1917F, 753.

§ 2. For insured property. Stipulation for, in insurance policy, see In-SURANCE, § 77.

§ 3. Employer's liability for acts of. As fellow servants. 50 L.R.A. 457.

Liability of master for arrest or false imprisonment by servant employed as watchman. 4 L.R.A.(N.S.) 282; 28 L.R.A.(N.S.) 88; L.R.A.1916F, 1249.

#### WATER-CLOSETS.

Liability of landlord to third persons as to condition of. 26 L.R.A. 201. Municipal regulations of, as nuisance. L.R.A. 316.

WATER COMPANY.

See WATERS, III.

WATER COURSE.

See WATERS, II.

WATER CRAFT

Where taxable, see Taxes, § 49.

WATER FRONT.

Wharves at, see Wharves. Use of, see Waters, § 17.

WATER MAINS.

See WATER PIPES.

WATER METERS.

See WATERS, § 124.

#### WATER PIPES.

In street, see Highways, § 23. In general, see WATERS, § 112.

As an appurtenance. 15 L.R.A. 653.

Landlord's duty to tenant as to. L.R.A. 1917B, 225, 236, 244.

Landlord's liability to third persons as to condition of. 26 L.R.A. 202.

## WATER POWER.

Reservation of, see DEEDS, § 25. Condemnation of land for, see EMINENT DOMAIN, § 15.

Taking and use of water for, see WATERS, §§ 28, 29.

Grant of, see WATERS, § 99.

Situs of, for purposes of taxation. L.R.A. 1917F, 591.

## WATER-PROOF.

Meaning of term "waterproof" employed in contract, statute, or ordinance. L.R.A. 1918B, 826.

Begin with this book on every law question.

### WATER PURVEYING.

Taking of property for, as a public purpose. 22 L.R.A. (N.S.) 156.

#### WATERS.

- I. Public rights; navigable waters, **§§ 1-23**.
  - a. In general, §§ 1, 2.
  - b. What waters are navigable, § 3.
  - c. Jurisdiction over, §§ 4-7.
  - d. State and Federal ownership of waters, § 8.
    e. Relative rights of public
  - and individuals, \$\$ 9-23.
    - 1. In general, § 9.
    - 2. Right of access to water, \$\$ 10, 11.
    - 8. In bed and shores, §§ 12-17.
    - of navigation, 4. Rights
    - \$\$ 18-21. 5. Accretions; islands, \$\$ 22, 23.
- II. Water rights and easements as between individuals, §§ 24-105.
  - a. In general, \$\$ 24-29.
  - b. Riparian rights generally, §§ 30-37.
  - c. Private streams generally; what are water courses, §§ 38, 38a.
  - d. Use of water generally, \$ 39.
  - e. Change course of of stream; accretions; alluerosion; vion; submergence; islands; flats, \$\$ 40-45.
  - f. Embankment; obstruction; overflow, **\$\$ 46-50**.
  - g. Diversion; deflection; pre-cipitation from building, \$\$ 51-54.

  - h. Pollution, \$\$ 55-58.i. Surface water, \$\$ 59-67.j. Flood water, \$\$ 67a-70.

  - k. Seepaye, § 71.
  - l. Percolating; subterranean: springs; wells, \$\$ 72-80.
  - m. Lakes and ponds, \$\$ 81-85.
  - n. Appropriation, §§ 86-91. 1. In general, \$\$ 86-88.
    - 2. Prior appropriation, §§ 89-91.
  - o. Irrigation, \$\$ 92-97.
  - p. Contract or grant, \$\$ 98-100.
  - q. Prescriptive rights, §\$ 101-105.
- III. Public water supply, \$\$ 106-124. a. In general, \$\$ 106-108. b. Operation and regulation of waterworks, \$\$ 109-124. Consult also L.R.A. Digests of Cases.

- WATERS—cont'd
- As state boundary, see Boundaries, §§ 2,
- Bridge over, see Bridges.
- Custom and usage as to, see Custom AND USAGE, §§ 9, 10.
- Extent of recovery for injury to real property by water, see Damages, § 77.
- Boundary of municipality on, see MUNICI-PAL CORPORATIONS, § 10.
  Liability for injury by, see NEGLIGENCE,
- § 14.
- As dangerous attraction to children, see
- NEGLIGENCE, §§ 23, 23a. Parties plaintiff in actions affecting, see Parties, § 5.
- Reasonableness of matters relating to, see REASONABLENESS, § 3.
- Water pipes, see WATER PIPES.
- Duty of agister to supply water. L.R.A. 1915E, 590.
- Water as subject of larceny. L.R.A.1918C,
  - I. Public rights; navigable waters.

## a. In general,

- 🖇 1. Generally.
- As to canals, see CANALS.
- Control of navigable waters under provisions as to commerce, see COMMERCE, §
- Rights of fishing in, see FISHERIES.
- Right to extend highway into navigable water. 15 L.R.A.(N.S.) 1170.
- Does public easement in street terminating at shore line follow recession of shore line. 22 L.R.A.(N.S.) 593.
- Injunction against hunting on navigable waters or against interference therewith. 17 L.R.A.(N.S.) 1236; 38 L.R.A. (N.S.) 286.
- Necessity of franchise for taking tolls on waterway. 37 L.R.A. 715.
- Claim against state for injuries arising on
- water courses. 42 L.R.A. 65. Liability for loss of life or property at ford. 46 L.R.A.(N.S.) 229.
- Question relating to navigation as Federal question. 62 L.R.A. 538.
- Use of generally.
- Driving, floating, or rafting logs, see Logs AND LOGGING, §§ 4-10.
- Right to use stream for floating logs, see LOGS AND LOGGING, § 5.
- Navigable stream as a highway. 70 L.R.A. 272.
- Tolls. 70 L.R.A. 273. Private stream. 70 L.R.A. 274. Priority of rights. 70 L.R.A. 275.
- Kind of craft. 70 L.R.A. 277. Exclusive use. 70 L.R.A. 277.
- Public regulation. 70 L.R.A. 277. Negligence. 70 L.R.A. 279.
  - b. What waters are navigable,
- § 3. Generally.
- General statement. 42 L.R.A. 305.

WATERS, I. b-cont'd The rule in England. 42 L.R.A. 305. Chancellor Kent's doctrine. 42 L.R.A. 310. Unsoundness of Chancellor Kent's doctrine. 42 L.R.A. 315.

The true rule. 42 L.R.A. 316.

Navigable waters of the United States. 42 Ľ.R.A. 325.

Waters held navigable or not navigable on

the facts. 42 L.R.A. 325. Legislative meaning. 42 L.R.A. 327. Practice questions. 42 L.R.A. 327.

Canal as navigable water. 22 L.R.A. (N.S.) 435.

What streams are navigable within meaning of milldam acts. 16 L.R.A.(N.S.) 420.

#### c. Jurisdiction over.

4. Over sea.

Over oceans in general. 46 L.R.A. 204. Over straits, channels, and narrow seas. 46 L.R.A. 266.

Over coast water. 46 L.R.A. 267.

Enforcement of law within 3-mile limit. 46 L.R.A. 272.

Conflict of law. 46 L.R.A. 273.

Inland water. 46 L.R.A. 275.
Jurisdiction as between nation and subdivision thereof. 46 L.R.A. 277. Jurisdiction as between subdivisions of na-

tion. 46 L.R.A. 280. Jurisdiction of, and law governing, action

for death on waters. L.R.A.1916A, 1157.

§ 5. Over lakes,

Jurisdiction over Great Lakes. 46 L.R.A. 277.

Are lakes connected with interstate river included within term "boundary" over which states are given concurrent jurisdiction. 25 L.R.A. (N.S.) 640.

§ 6. Over boundary rivers.

In general. 65 L.R.A. 953; 41 L.R.A. (N.S.) 366.

Right to exercise. 65 L.R.A. 953.

Equal rights on. 65 L.R.A. 959.

What rights are exclusive. 65 L.R.A. 961. What concurrent jurisdiction includes. 65 L.R.A. 963; 41 L.R.A. (N.S.) 368.

Effect of change of channel. 65 L.R.A. 967. Jurisdiction to determine the rights of private parties in interstate streams. 19 L.R.A. (N.S.) 535.

Are sloughs, bays, or lakes connected with a river forming a boundary between states included within the term "boundary," over which the states are given 25 L.R.A. concurrent jurisdiction. (N.S.) 649.

Jurisdiction as to taxation of bridge over river forming boundary of state or its divisions. 29 L.R.A. 69.

7. Over inland rivers.

Jurisdiction over inland rivers. 46 L.R.A. 276.

WATERS, I .-- cont'd

d. State and Federal ownership of waters.

§ 8. Generally.

Generally. 50 L.R.A. 737.

Public rights limited. 50 L.R.A. 738. Right to divert water in aid of navigation. 50 L.R.A. 740.

Illustrations of the limitations on the pow-

ers of the trustee. 50 L.R.A. 742.

Effect of constitutional or statutory assertion of title to water. 50 L.R.A. 743. Title as between state and United States. 50 L.R.A. 747.

Jurisdiction over sea as between nation and subdivision thereof. 46 L.R.A. 277.

Right as between state and Federal government to improve navigability of stream. 67 L.R.A. 824.

Title to islands as between governments. 58 L.R.A. 673.

Right of state to forbid taking water out of the state. 43 L.R.A.(N.S.) 240.

## e. Relative rights of public and individuals.

## 1. In general.

9. Generally.

Rights as to fishing, see FISHERIES.

Right to remove lateral support by dredging water bed. 64 L.R.A. 275.

Right as against public to dam back waters of stream. 59 L.R.A. 847.

Public rights in artificial condition of body of water. 50 L.R.A. 845.

Effect of constitutional provision asserting title to navigable water upon vested riparian rights. 6 L.R.A.(N.S.) 257.

Right of public to bathe on the seashore.

8 L.R.A. (N.S.) 1047.
Right of public to use or divert water in

highway. 41 L.R.A.(N.S.) 1066.

Taxation of water power on interstate stream. 18 L.R.A. (N.S.) 755.

Situs of mill site or water power for purposes of taxation. L.R.A.1917F, 591.

Interference with pleasurable use of stream as causing special damage or peculiar injury which will sustain an action by private individual for nuisance. LR.A.1917F, 208.

## 2. Right of access to water.

§ 10. Public right. Generally. 41 L.R.A. 268. No right for fishing. 41 L.R.A. 268. No right for general purposes. 41 L.R.A. 288.

§ 11. Right of owner of upland. Generally. 40 L.R.A. 593. The English rule. 40 L.R.A. 593. The rule in Ireland. 40 L.R.A. 595. The rule in Canada. 40 L.R.A. 595.

Begin with this book on every law question.

WATERS, I. e, 2-cont'd General expressions favoring the right of the shore owner in this country. 40 L.R.A. 596.

The rule in Massachusetts. 40 L.R.A. 598. The cases holding the opposite rule. L.R.A. 599.

The rule of the Federal courts. 40 L.R.A. 602.

Other decisions which have denied the riparian owner's right. 40 L.R.A. 603. The effect of statutes. 40 L.R.A. 604.

Right as against private individual. L.R.A. 604.

Estoppel by grant. 40 L.R.A. 605.

Special reasons for refusing relief. 40 L.R.A. 605.

Right as against improvement of navigation. 40 L.R.A. 605; 67 L.R.A. 842.

Right of action for interference with access. 22 L.R.A. (N.S.) 345; L.R.A.1918E, 738.

Access cut off by railroad. 40 L.R.A. 604. Measure of damages for cutting off access of riparian owner to navigable waters. 15 L.R.A. 618.

Right to construct fish traps in front of riparian property. L.R.A.1918A, 1076.

#### 3. In bed and shores,

§ 12. Right of way on shore. Civil-law rule. 4 L.R.A. (N.S.) 872. Common-law rule. 4 L.R.A. (N.S.) 875. As appurtenant to fishing right. 4 L.R.A. (N.S.) 879.

Custom or prescription. 4 L.R.A.(N.S.) 880.

Grant. 4 L.R.A.(N.S.) 881. Legislative power. 4 L.R.A. (N.S.) 881. Street on shore. 4 L.R.A (N.S.) 881.

§ 18. Title to land under water. Ownership of beds of lakes and ponds, see infra, § 84.

Tide water. 42 L.R.A. 161. Nontidal rivers. 42 L.R.A. 165.

Lakes. 42 L.R.A, 175. Title to bed of navigable river. 1 L.R.A. (N.S.) 762.

Federal grant of land under navigable water in territories. 1 L.R.A. (N.S.) 745.

Government grant bounded by nontidal navigable river as carrying title to land thereunder. 24 L.R.A.(N.S.) 1240.

Right to lateral and subjacent support of land under water. 68 L.R.A. 682.

## 3 14. Tide lands.

Of municipality, see MUNICIPAL CORPORATIONS, § 71.

Title to land under tide water. 42 L.R.A. 161.

Municipal ownership of tide lands. L.Ř.A. 333.

How far tide lands within protection of covenants in deed. 62 L.R.A. 763. Location of mining claim on tide lands. L.R.A. (N.S.) 790.

Consult also L.R.A. Digests of Cases.

WATERS, I. e, 3—cont'd

§ 15. —acquisition of; grant of. Acquisition of tide land by right of eminent domain. 66 L.R.A. 897.

Grant of land under tide water. 42 L.R.A.

Right of state to grant tide land so as to destroy wharfage right of shore owner. 63 L.Ř.A. 264.

Right of state to grant tide lands. L.R.A.(N.S.) 337.

Grant of tide land to municipal corporation. 3 L.R.A.(N.S.) 822.

## § 16. Title to land between high and low water marks.

The rule in England. 45 L.B A. 227.

The rule in the United States. 45 L.R.A.

Conflicting rights of owner and public. 45 L.R.A. 241.

What is shore. 45 L.R.A. 242. Boundary of municipal corporations. L.R.A. 243.

## 17. Use of water front.

Rights with respect to wharves and docks. see WHARVES.

Division of, between riparian owners. 21 L.R.A. 776; 25 L.R.A.(N.S.) 257; L.R.A.1917B, 786.

#### 4. Rights of navigation.

## § 17a. Generally.

Effect of admission of state into the Union upon provision of ordinance of 1787 as to. 52 L.R.A.(N.S.) 308.

§ 18. Liability for injuries due to attempted exercise of.

General rights of navigator. 64 L.R.A. 977.

Must not exceed capacity of stream. 64 L.R.A. 978.

64 L.R.A. 979. Excessive speed.

Collision. 64 L.R.A. 979. Mooring. 64 L.R.A. 981.

Injury to fishing rights. 64 L.R.A. 982. Floating logs. 64 L.R.A. 983. Injury to banks. 64 L.R.A. 986.

Contributory negligence. 64 L.R.A. 987.

## 19. Improvement of navigation.

Right of owner of upland to access to navigable water as against improvement of. 40 L.R.A. 605.

Duty of municipality to improve stream adopted as part of sewer system. 3 L.R.A.(N.S.) 1053.

Taking of property for, as a public purpose. 22 L.R.A. (N.S.) 153.

Right to compensation for damages to oyster bed by improvement of. 34 L.R.A. (N.S.) 1084.

3 20. — right to improve navigability. Extent and limits of the right. 67 L.R.A. 820.

Right as between state and Federal governments. 67 L.R.A. 824.

WATERS I. e, 4—cont'd Character of improvement. 67 L.R.A. 827. Improvement companies. 67 L.R.A. 828. Booming and sorting logs. 67 L.R.A. 839. Interference with private rights. 67 L.R.A. 841.

Exercise of power of eminent domain. 67 L.R.A. 847.

Public rights in improvement. 67 L.R.A. 848.

Use of surplus water. 67 L.R.A. 848.

Other matters. - 67 L.R.A. 849.

Right to divert water in aid of navigation. 50 L.R.A. .740.

Right of government to divert water from nontidal stream for navigation purposes without compensation to riparian own-

er. 37 L.R.A.(N.S.) 308. Legislative authority to dam water of stream for improvement of navigation. 59 L.R.A. 826.

Right to obstruct or destroy wharf rights without compensation for provement of navigation. L.R.A. (N.S.) 425. im-

§ 21. Obstruction of navigation. By bridge, see BRIDGES, § 11. Obstruction of navigation by running logs, see Logs and Logging, § 7. Wharves as, see WHARVES, § 6.

Extent of sovereign's right. 59 L.R.A. 33. Injury by individual. 59 L.R.A. 51. Powers and liabilities of municipality. 59

L.R.A. 77. Prescriptive rights. 59 L.R.A. 79. Right to object to obstruction. 59 L.R.A.

Private right of action for obstruction of 3 L.R.A.(N.S.) navigable stream. 1126; 38 L.R.A.(N.S.) 763.

Right of one who navigates stream or floats logs therein to abate nuisance arising from bridge. 51 L.R.A.(N.S.) 1172.

Partial or immaterial obstruction. L.R.A. 89.

Obstruction a nuisance. 59 L.R.A. 90. Remedies. 59 L.R.A. 91.

Liability of owner for cost of removing vessel sunk in harbor. 3 L.R.A.(N.S.) 1120.

Injunction against city as to nuisance affecting docks and navigation. L.R.A. 302.

Police regulation, so as to prevent obstruction of navigation by electric companies. 31 L.R.A. 799.

## 5. Accretions; islands.

§ 22. Accretions. Tenant's rights as to, see LANDLORD AND TENANT, § 53.

Change of channel as change of state boundary. 39 L.R.A.(N.S.) 200.

Does public easement in street terminating at shore line follow recession of shore line. 22 L.R.A.(N.S.) 593.

Begin with this book on every law question.

WATERS, I. e, 5-cont'd § 23. Title to islands.

As between state and subject. 58 L.R.A. 673.

How far island included in government grants. 58 L.R.A. 675.

## II. Water rights and easements as between individuals.

#### a. In general.

§ 24. Generally.

Abandonment of water rights, see ABANDON-MENT, § 4.

Defenses to action relating to water rights,

see Action or Suit, § 14. boundary between indiv individuals,

BOUNDARIES, §§ 6, 7.
Constitutionality of statutes as to, see CONSTITUTIONAL LAW, § 173.

Custom and usage as to, see Custom AND USAGE, § 9.

Extent of recovery for injury to real property by water, see Damages, §§ 10a, 77.

Measure of damages for injury to water rights, see Damages, §§ 76-79.

As to drains and sewers, see DRAINS AND SEWERS.

Water rights in highway, see HIGHWAY, § 12.

Right as to ice, see Icz, § 2.

Injunction as to water rights, see INJUNC-TION, §§ 30-38.

License as to waters and water rights, see LICENSE, § 4.

Negligence of municipality as to,

MUNICIPAL CORPORATIONS, §§ 86-94.

Municipal liability for injuries in connection with water, see MUNICIPAL COR-PORATIONS, §§ 87-94.

Liability for injury by water constituting attractive nuisance, see NEGLIGENCE, § 23a.

Negligence as to waters generally, see NEGLI-GENCE, § 29.

Liability for damage by escaping water, see NEGLIGENCE, § 29a.

Right to waterway as way of necessity where other possible modes of access exist. 17 L.R.A.(N.S.) 1022.

Reciprocal easement as to water rights. 17 L.R.A. (N.S.) 945.

Easement for use of water as appurtenant or in gross. L.R.A.1918F, 447.

Creation of easement by severance of tract on which natural water course exists. 26 L.R.A. (N.S.) 356; L.R.A.1915C, 351.

Existence of water right on land at time of conveyance as breach of covenants. 36 L.R.A. (N.S.) 313; 51 L.R.A. (N.S.) 428.

Right to discharge water from mines or wells upon lower land. 42 L.R.A. (N.S.) 714.

Jurisdiction to determine the rights of private parties in interstate streams. 19 L.R.A. (N.S.) 535.

Is one a littoral owner whose property abuts on highway, one line of which is coterminous with the shore line of navigable water. 22 L.R.A.(N.S.) 674. WATERS, II. a-cont'd

Right of one who pumps oil, gas, or water on his premises to enjoin similar acts by his neighbor. 30 L.R.A. (N.S.) 1057.

Discharging oil into stream or bay as proximate cause of fire resulting therefrom. 30 L.R.A.(N.S.) 1210.

Federal courts following state decisions as to water rights. 40 L.R.A.(N.S.) 417. Question as to vested water rights as Federal question. 62 L.R.A. 537.

Does a water right used in connection with land mortgaged prior to its acquirement pass on foreclosure. 15 L.R.A. (N.S.) 359.

Duty to serve public as affecting liability of public utility for temporary interferference with water rights. L.R.A. 1915E, 294.

Treatment of water rights in public service property valuations. 48 L.R.A. (N.S.) 1079.

Estoppel to assert water rights by deceiving one acquiring title. 48 L.R.A.(N.S.) 762, 765.

Change in exercising right to take water from another's premises. 43 L.R.A. (N.S.) 824.

Right to waters of springs and streams on railroad right of way as between company and fee owner. 45 L.R.A.(N.S.)

## § 25. Liability for acts of independent contractors

Employer's liability for negligence of independent contractor in removal of wrecks from navigable rivers. 65 L.R.A. 848.

Employer's liability for injury from independent contractor's allowing materials dredged from water to escape onto adjoining land. 65 L.R.A. 853.

Employer's liability for injury from flooding of lands through negligent drainage, operations of independent contractor. 65 L.R.A. 853.

§ 26. Facilitating evaporation. Liability for facilitating evaporation from stream. 59 L.R.A. 333.

## § 27. Rights acquired in artificial condition of body of water.

As to canals, see CANALS.

Generally. 50 L.R.A. 836. Contract rights. 50 L.R.A. 836. Artificial condition established by grant. 50 L.R.A. 837.

Application of doctrine of riparian rights.

50 L.R.A. 838. Prescriptive rights. 50 L.R.A. 839. Reciprocal rights. 50 L.R.A. 841. Changing channels. 50 L.R.A. 844. Public rights. 50 L.R.A. 845.

Creation of easements by severance of tract on which artificial condition exists. 26 L.R.A.(N.S.) 356; L.R.A.1915C, 351. Consult also L.R.A. Digests of Cases.

WATERS, II. a-cont'd

§ 28. Taking and use for water power. Taking under power of eminent domain, see EMINENT DOMAIN, § 15.

Right to use stream for power during night as well as day. 7 L.R.A.(N.S.) 289. May water company be required to furnish

water for power or manufacturing purposes. 32 L.R.A.(N.S.) 805.

Taxation of water power on interstate stream. 18 L.R.A.(N.S.) 755.
Situs of mill site or water power for purposes of taxation. L.R.A.1917F, 591.

£ 29. - use of canals for. Use of canals for water power. 61 L.R.A. 853.

## b. Riparian rights generally.

§ 30. Generally.

Rights as to dams, see DAMS.

Rights as to fishing, see FISHERIES.

Rights as to ice, see Ice, § 2.

Right of riparian owner to use stream for sewer purposes. 41 L.R.A. 751.

Riparian rights on canal. 61 L.R.A. 877. Power to condemn riparian rights apart from land to which they are appurtenant. 17 L.R.A.(N.S.) 1005.

Maintenance of ejectment by riparian own-er. 18 L.R.A. 786.

Effect of constitutional provision asserting title to navigable water on vested riparian rights. 6 L.R.A.(N.S.) 257.

Right of action by owner of upland for interference with access to navigable water. 22 L.R.A.(N.S.) 345.

Interference with pleasurable use of stream as causing special damage or peculiar injury which will sustain an action by private individual for nuisance. L.R.A. 1917F, 208.

Interference by riparian owner with bridge. 39 L.R.A. (N.S.) 1213.

## 31. What is riparian land

What is riparian land. 11 L.R.A. (N.S.) 1062.

Is one a riparian owner, whose property abuts on a highway, one line of which is coterminous with the shore line of navigable water. 22 L.R.A.(N.S.) 674.

§ 32. As to running of logs. See Logs and Logging, §\$ 4-10.

# § 33. Liability for injuries to riparian owner by running logs. See Logs and Logging, § 8.

## § 34. Correlative rights of upper and lower proprietors generally.

General statement of the right. 41 L.R.A. 737.

Right to use. 41 L.R.A. 739. Right to flow. 41 L.R.A. 743. WATERS, II. b-cont'd Use for sewer. 41 L.R.A. 751. Right to relief. 41 L.R.A. 754.

§ 35. Division of rights. Division of water between opposite riparian

owners. 26 L.R.A. 284.

The division of a water front, alluvion, and flats between adjoining riparian owners. 21 L.R.A. 776; 25 L.R.A. (N.S.) 257; L.R.A.1917B, 786.

Meander line, or water line, as basis for dividing accretions. 12 L.R.A. (N.S.) 687.

§ 36. Separation of riparian rights from upland.

Generally. 40 L.R.A. 393. Right of fishing. 40 L.R.A. 393. Right of wharfage. 40 L.R.A. 393. Mere riparian rights. 40 L.R.A. 393. Cases merely recognizing the doctrine. 40 L.R.A. 394. Adverse possession. 40 L.R.A. 394.

Partition. 40 L.R.A. 394. Method of separation. 40 L.R.A. 394. Separation of upland and accretion. L.R.A. 208.

Separation of accretions from shore. L.R.A. 210.

37. Loss of rights by nonuser. Effect of nonuser on rights of prior appropriators of water. 30 L.R.A. 265.

Forfeiture of rights in stream by nonuser. 41 L.R.A. 758.

In water power. 67 L.R.A. 400.

### c. Private streams generally; what are water courses.

38. Private streams generally. What are private streams. 3 L.R.A. 610.\* Private stream not public highway. L.R.A. 406.\*

§ 38a. What are watercourses. Surface water as distinguished from. 25 L.R.A. 527.

Surface water as source of. 6 L.R.A. (N.S.) 157.

Swales and ravines as water courses. 15 L.R.A. 630.

Distinguishing character of water course. 1 L.R.A.(N.S.) 756.

Conversion of artificial into natural water course. 16 L.R.A.(N.S.) 280.

## d. Use of water generally.

§ 39. Generally. Use of navigable water, see supra, § 2. Use of water front, see supra, § 17. Use for water power, see supra, § 28.

Right to make use on nonriparian lands of water rights incident to riparian lands.

Begin with this book on every law question.

WATERS, II. d—cont'd

Priority of rights in use of navigable stream. 70 L.R.A. 275.

Right of railroad company as riparian owner to take water from stream for its engines. 31 L.R.A.(N.S.) 543.

e. Change of course of stream; accretions; alluvion; erosion; submergence; islands; flats.

#### § 40. Change of course of stream generally.

Correlative rights of upper and lower pro-

prietors as to. 41 L.R.A. 743.
Rights in water of stream as affected by act of God or natural change of course. 30 L.R.A. 820.

Right of riparian owner to restore atream which has changed its course by natural causes, to old channel. 33 L.R.A. (N.S.) 804; L.R.A.1916F, 407.
Liability of municipality for damages by changing the channel or course of a

stream. 47 L.R.A. (N.S.) 440.

#### § 41. Accretions.

Effect on public rights, see supra, § 22. Tenant's rights as to, see LANDLORD AND TENANT, § 53.

What constitutes. 58 L.R.A. 193. Title to. 58 L.R.A. 199.

Basis of rule. 58 L.R.A. 206.

Effect of character of water. 58 L.R.A. 207.

Separation of upland and accretion. L.R.A. 208.

Interference with right. 58 L.R.A. 209. Dower and leasehold. 58 L.R.A. 210.

Right to follow accretions across division

line previously submerged by the action of the water. 51 L.R.A. 425.

Meander line or water line as basis for division of. 12 L.R.A. (N.S.) 687.

Right to island attached to shore by. 6 L.R.A.(N.S.) 194.

## 42. Alluvion.

Division of, between adjoining riparian owners. 21 L.R.A. 776; 25 L.R.A. (N.S.) 257; L.R.A.1917B, 786.

# 43. Erosion or submergence.

Effect of sudden submergence upon title to land. 38 L.R.A. 849.
Title to islands temporarily submerged. 35

L.R.A. (N.S.) 230.

Right to follow accretions across division line previously submerged by action of water. 51 L.R.A. 425.

Division, in absence of special agreement, of water front, alluvion, and flats between adjoining riparian owners. 25 L.R.A. (N.S.) 257; L.R.A.1917B, 786.

## § 44. Islands.

Generally. 12 L.R.A. 367; \* 58 L.R.A. 673; 35 L.R.A.(N.S.) 227.

22 L.R.A. (N.S.) 383; 49 L.R.A. (N.S.) Title as between governments. 58 L.R.A. 673.

WATERS, II. e-cont'd As between state and subject. 58 L.R.A.

As between opposite owners. 58 L.R.A. 674. How far included in government grants. 58 L.R.A. 675.

Private grants. 58 L.R.A. 677. Reformed islands. 58 L.R.A. 677. Adverse possession. 58 L.R.A. 677.

Estoppel. 58 L.R.A. 678.

Where title to bed of river is in riparian proprietor. . 35. L.R.A.(N.S.) 227. Where title to bed of river is not in ripar-

ian owner. 35 L.R.A.(N.S.) 229.
Islands in great ponds. 35 L.R.A.(N.S) 230.

Island temporarily submerged. 35 L.R.A. (N.S.) 230.

As affecting riparian water rights. L.R.A. 285.

Effect of, on division of rights between opposite riparian owners. 26 L.R.A.

Right to island attached to shore by accretion. 6 L.R.A.(N.S.) 194.

## § 45. Flats.

Ownership of flats or land below high water mark. 16 L.R.A. 353.

Division of, between adjoining riparian owners. 21 L.R.A. 776; 25 L.R.A. (N.S.) 257; L.R.A.1917B, 786.

## f. Embankment; obstruction; overflow.

§ 46. Generally.

Of surface water, see infra, § 63. Of subterranean water, see infra, § 75.

Prescriptive right as to, see infra. § 102. Measure of damages for, see DAMAGES, §§ 10a, 77.

As to dams, generally, see DAMS.

License or easement to maintain dam, see Dams, § 2.

Municipal liability for damage by obstruction or overflow of sewer, see MUNIC-IPAL CORPORATIONS, § 88.

Obstruction as nuisance, see NUISANCES, §

Ly railroad, see RAILROADS, § 42.

Presumption as to authority of railroad to commit nuisance by maintaining embankments. 70 L.R.A. 586.

For what purpose flowage of land may be authorized by statute. 14 L.R.A. 487. Right to prevent obstruction against passage of fish. 39 L.R.A. 587.

Injury to, in improving navigability of stream. 67 L.R.A. 844.

Duty of municipality to keep stream free from obstruction. 3 L.R.A.(N.S.) 1053.

Duty of riparian proprietor whose rights are interfered with, or one whose prop-erty is flooded because of the obstruction of a natural water course, to minimize the damages. 22 L.R.A.(N.S.) 684.

When does statute of limitations commence to run against action for damages for flooding of land caused by the digging of a ditch or drain. 20 L.R.A.(N.S.) 894; 25 L.R.A.(N.S.) 645.

Consult also L.R.A. Digests of Cases.

WATERS, II. f-cont'd

§ 47. Liability for. Surface water, see infra, § 63.

Liability for injury by flood water due to, see infra, § 69.

Casting water upon opposite bank by raising bank of a stream, as a taking or damaging of property within constitu-tional provisions. 48 L.R.A.(N.S.) 994 Right of riparian owner to remove tem-

porary obstruction in stream to the damage of other riparian property. 49 L.R.A.(N.S.) 711.

Liability for causing discharge of percolating or underground water into another's premises. L.R.A.1915D, 1080. Interfering with flow of stream; effect of

bad motive. 62 L.R.A. 687.

Liability for obstruction by structure or material washed downstream. L.R.A. 1918B, 182.

Injury from flooding by improving naviga-

bility of stream. 67 L.R.A. 845. Liability to riparian owner for flooding lands for purpose of running logs in stream. 41 L.R.A. 496. Municipal liability for injury by em-bankment in street. 20 L.R.A.(N.S.)

626.

Municipal liability for obstruction of swales. 65 L.R.A. 269.

Municipal liability for overflow of stream used by it as a sewer. 3 L.R.A.(N.S.) 1053.

Liability of drainage district for flooding land. 19 L.R.A.(N.S.) 991.

Employer's nonliability for torts of independent contractor in construction of. 65 L.R.A. 647.

Employer's liability for injury from flooding of lands through negligent drainage operation of independent contractors. 65 L.R.A. 853.

Character of liability of several persons whose independent wrongs contribute to enhance injury by. 40 L.R.A. (N.S.)

106.

§ 48. — for damming back water of stream.

Liability for injury by flood water, due to, see infra, § 69.

Liability as to dams, see Dams, § 3.

Right to dam back. 59 L.R.A. 817. Who are liable. 59 L.R.A. 853. What is obstruction. 59 L.R.A. 862. Effect of character of stream. 59 L.R.A. 875.

Effect of flood. 59 L.R.A. 876. Character of injury. 59 L.R.A. 878. Remedy. 59 L.R.A. 879.

Who may sue. 59 L.R.A. 898. Defenses. 59 L.R.A. 904.

Liability for damming back water of stream by bridge. 28 L.R.A. (N.S.) 156.

§ 49. Protection against. Disposal of waters brought in unnatural

quantities upon property. 27 L.R.A. **294**.

WATERS, II. f-cont'd

Right to embank against water turned out of stream. 6 L.R.A.(N.S.) 136.

Right of riparian owner to protect the shore from encroachment of water. 6 L.R.A. (N.S.) 162.

Right to deepen natural channel or drain as protection against overflow. L.R.A. 1917C, 1027.

§ 50. Remedy for.

Remedy by injunction, see INJUNCTION, § 32.

For damming back water of stream. L.R.A. 879.

Injunction to restrain obstruction stream. 59 L.R.A. 881.

Mandatory injunction as to obstruction of water courses. 20 L.R.A. 164.

#### g. Diversion; deflection; precipitation from building.

\$ 51. Diversion.

Of surface water, see infra, § 64. Of flood water, see infra, § 70. Of subterranean water, see infra, § 76.

For irrigation purposes, see infra, § 95. Injunction against, see Injunction, § 32. By railroad, see RAILROADS, § 42.

Mandatory injunction as to diversion of water courses. 20 L.R.A. 164.

Liability for overflow from artificial channel by which a stream is diverted from its natural channel. 36 L.R.A. (N.S.) 1158; L.R.A.1916F, 1291.

Correlative rights of upper and lower proprietors as to. 41 L.R.A. 744.

Duty as to protection of banks of changed watercourse. L.R.A.1916F, 1302.

§ 52. - by government.

Right of state or United States to divert water in aid of navigation. 50 L.R.A. 740.

Right of government to divert water from nontidal stream without compensation to riparian owner. L.R.A.(N.S.) 307.

§ 53. Deflection.

Right of upper proprietor to deflect water

in stream to the injury of lower pro-prietors. 7 L.R.A.(N.S.) 344.

Injury to riparian property by deflection of water by structure erected under statutory authority as a taking. 38 L.R.A. (N.S.) 1040.

54. Precipitation from building.

Right to discharge from roof upon premises of adjoining owner. L.R.A.1916A, 693. Liability for injury from water precipitated upon adjoining property. 36 L.R.A. (N.S.) 1172.

## h. Pollution.

\$ 55. Generally. Of surface water, see infra, § 66. Of subterranean water, see infra, § 77. Begin with this book on every law question.

WATERS, II. h—cont'd Of well, see infra, § 80.

Of municipal water supply, see infra, § 113. Prescriptive rights as to, see infra, § 103. Measure of damages for, see Damages, § 79. Estoppel as to, see ESTOPPEL, § 23.

Injunction against, see INJUNCTION, § 33.
Municipal liability for, see MUNICIPAL COM-PORATIONS, § 89.

Right of pollution as against lower pro-prietor. 41 L.R.A. 751. Pollution of water course by stock. 26

L.R.A.(N.S.) 222.

Statutory prohibition of pollution of water to protect fishery. 1 L.R.A.(N.S.) 752; 34 L.R.A.(N.S.) 286.

Injury to fishing right as damages from pollution. 33 L.R.A.(N.S.) 74.

Discharging matter into stream causing pollution of ice. L.R.A.1915E, 1210.

Effect of plaintiff's contributory act on right to recover damages for pollution of stream. 6 L.R.A. (N.S.) 1111.

§ 56. By several persons.

Liability in damages of one of several polluters of a stream. 24 J.R.A.(N.S.) 1185.

Character of liability of several persons whose independent wrongs contribute to enhance injury by. 10 L.R.A.(N.S.) 167; 40 L.R.A.(N.S.) 106.

Joinder of parties in suit to restrain pollution of water course. 6 L.R.A. (N.S.) 1149.

§ 57. As nuisance.

Municipal control over, see MUNICIPAL
CORPORATIONS, §§ 28, 36.

Nuisance as to waters generally, see NUI-SANCES, § 2.

As a nuisance to fishery. 39 L.R.A. 589. Injury to fishing rights as damages from pollution. 33 L.R.A. (N.S.) 74.

Fouling of streams by gas plant as a nuisance. 20 L.R.A.(N.S.) 468.

Railroad causing pollution as a nuisance. 32 L.R.A. (N.S.) 376.

Right of municipality to create nuisance at point where its sewers discharge. 47 L.R.A.(N.S.) 137.

§ 58. For mining purposes or by mining operations

In general. 24 L.R.A. 64; 22 L.R.A. (N.S.) 276; 38 L.R.A. (N.S.) 272; L.R.A. 1915D, 911.

Caring for tailings. 24 L.R.A. 64.

Mine and mine mill refuse. 22 L.R.A. (N.S.) 278.

Water from mines. 24 L.R.A. 65; 22 L.R.A. (N.S.) 280.

Oil well refuse. 22 L.R.A.(N.S.) 280.

Effect of prior appropriation. 22 L.R.A. (N.S.) 281.

Contractual or prescriptive right to pollute streams. 22 L.R.A.(N.S.) 281. Refusal of injunction. 24 L.R.A. 66.

Estoppel to question pollution. 24 L.R.A. 66; 22 L.R.A. (N.S.) 282. Who liable; joint tort feasors. 24 L.R.A. 66; 22 L.R.A. (N.S.) 282.

WATERS, II. h-cont'd Injunctive relief dependent on compara-tive injury. 22 L.R.A.(N.S.) 283. Prior appropriation. 24 L.R.A. 66.

#### i. Surface water.

§ 59. Generally.

Measure of damages for injury by, see DAMAGES, §§ 10a, 77.

Power of municipality over, see MUNICIPAL CORPORATIONS, §§ 30-32.

Municipal liability as to surface waters,

see MUNICIPAL CORPORATIONS, §§ 91,

As source of water course. 6 L.R.A. (N.S.) 157.

§ 60. What is surface water.

Distinguished from water course. 25 L.R.A. 527.

Distinguished from basins or marshes. 25 L.R.A. 529.

Definition of surface water. 25 L.R.A. 529. A question for the jury. 25 L.R.A. 529.

Water overflowing river banks. 25 L.R.A. 529.

§ 61. Right to flow of surface water. The two rules. 21 L.R.A. 593.

The upper proprietor not bound to permit the water to flow to the lower estate. 21 L.R.A. 594.

Right to collect or divert water in masses. 21 L.R.A. 595.

The correlative rights as to the obstruction of the natural flow. 21 L.R.A. 598.

Duty to care for water where it falls. L.R.A. 604.

Draining ponds. 21 L.R.A. 605.

Casting water into natural streams. 21 L.R.A. 606

Obstructing water flowing in a body. L.R.A. 607.

Prescriptive rights. 21 L.R.A. 607. Fixing servitudes before subdivision of tracts. 21 L.R.A. 607.

The maxim, Sic utere tuo, etc. 21 L.R.A. 607.

§ 62. Right to drain.

As to drains and sewers generally, see DRAINS AND SEWERS.

Right to drain surface water into water course. 24 L.R.A.(N.S.) 903.

Liability for injury to higher property by hastening drainage from lower land. 6 L.R.A. (N.S.) 146.

Effect of incurring expense upon parol li-cense to drain water onto one's property. 6 L.R.A.(N.S.) 154.

Liability for reopening or cleaning out drain or natural water way after body of surface water has accumulated. 40 L.R.A.(N.S.) 160.

Right to deepen natural channel or drain as protection against overflow. 1917C, 1027.

Consult also L.R.A. Digests of Cases.

WATERS, II. i-cont'd

§ 63. Obstruction of.

Measure of damages for, see Damages, § 77.

Correlative rights as to obstruction of natural flow. 21 L.R.A. 598.

Obstruction of surface water in city. 20 L.R.A. (N.S.) 155; 43 L.R.A. (N.S.) 792.

Obstructing surface water flowing in a body. 21 L.R.A. 607.

Presumption as to statutory authority to commit nuisance by obstruction of surface water. 70 L.R.A. 586.

Right of owner of lower tenement as against the rights of the upper landowner to obstruct surface water in a natural drainage channel. 22 L.R.A.(N.S.) 789; L.R.A.1917A, 517.

Liability of railroad for conducting surface water through its embankment and onto the property of an adjoining owner.

12 L.R.A.(N.S.) 680.

Obstruction of surface water as element of damages in eminent domain proceedings for a railroad right of way. 13 L.R.A. (N.S.) 237.

When does statute of limitations begin to run against action for damages for flooding of land caused by obstructing surface water. 20 L.R.A.(N.S.) 886; 25 L.R.A.(N.S.) 645.

§ 64. Diversion.

Right to divert in masses. 21 L.R.A. 595.

§ 65. Acceleration of flow.

Right to accelerate flow. 21 L.R.A. 595. Right to hasten flow of surface water along natural drain ways. 19 L.R.A.(N.S.) 167; L.R.A.1916F, 427.

Of flow of surface water, municipal liability for. 65 L.R.A. 265.

§ 66. Pollution of.

Municipal liability for pollution of surface water. 65 L.R.A. 273.

§ 67. Failure to protect against. Failure to protect property against surface water wrongfully or negligently collected or diverted by another as contributory negligence. 33 L.R.A. (N.S.) 369.

## j. Flood water.

§ 67a. Generally. As surface water. 25 L.R.A. 531.

§ 68. Right to confine.

Liability of municipality for confining flood water within banks of stream to injury of riparian owner. 26 L.R.A. (N.S.) 199.

Right of riparian owner, as against other riparian owners, to confine flood water within banks of stream. 24 L.R.A. (N.S.) 214.

WATERS, II. j—cont'd § 69. Liability for injury by.

Liability of one damming back water of stream for injury by flood. 59 L.R.A.

Extraordinary floods which one obstructing water course need not anticipate. L.R.A.(N.S.) 252.

Character of liability of several persons whose independent wrongs contribute to enhance injury by floods. 40 L.R.A. (N.S.) 106.

§ 70. Diversion.

Right of riparian owner to prevent diversion of flood water. 22 L.R.A.(N.S.)

## k. Seepage.

71. Generally.

When limitations begin to run against action for damages by seepage from ditch or canal. 23 L.R.A.(N.S.) 795.

Liability of municipal corporation for damage to abutting property by water percolating through soil of highway by reason of defect therein. 22 L.R.A. (N.S.) 383.

#### 1. Percolating; subterranean; springs; wells.

§ 72. Generally. Seepage, see supra, § 71.

Appropriation of percolating waters on public lands. 30 L.R.A. 186; 2 L.R.A. (N.S.) 76.

Reasonableness of use of percolating water. 6 L.R.A.(N.S.) 266.

Constitutionality of statutes to prevent waste of subterranean water. 23 L.R.A. (N.S.) 436; L.R.A.1918B, 134.

Liability for damages to neighboring gas or oil well by percolation of water. 48 L.R.A.(N.S.) 168.

Liability for causing discharge of perco-lating or underground water into an-

other's premises. L.R.A.1915D, 1080.
Bad motive as affecting liability for interference with. 62 L.R.A. 688.

Character of water flowing underground in a defined but unknown channel. B. R. C. 991.

§ 73. Rights in subterranean waters. Generally. 19 L.R.A. 92.

Intercepting water by mining operations.
19 L.R.A. 93.

The effect of malice. 19 L.R.A. 94. Prescriptive rights. 19 L.R.A. 94.

Intercepting water by public improvements. 19 L.R.A. 94.

Fouling subterranean water. 19 L.R.A. 95. Subterranean stream. 19 L.R.A. 97. Presumption as to character of water. 19

L.R.A. 98. Drawing water by percolation from a surface stream. 19 L.R.A. 98.

Begin with this book on every law question.

WATERS, II. 1-cont'd

Correlative rights in percolating water. 19 L.R.A. 92; 64 L.R.A. 236; 17 L.R.A. (N.S.) 650; 23 L.R.A.(N.S.) 331: 25 L.R.A.(N.S.) 465; 37 L.R.A.(N.S.) L.R.A. (N.S.) 465; 37 193; L.R.A.1915D, 1080.

6 Right of municipal corporation in respect of percolating waters. L.R.A.1917F, 691.

§ 74. — effect of grant on.
In general. 19 L.R.A. 99; 17 L.R.A. (N.S.)

§ 75. Obstruction.

Mandatory injunction as to. 20 L.R.A. 164.

§ 76. Diversion of.

Mandatory injunction as to. 20 L.R.A. 164.

Remedy for diverting percolating water. 6 L.R.A.(N.S.) 1099.

§ 77. Pollution of.

Underground pollution of water. 34 L.R.A. (N.S.) 48.

Fouling subterranean water. 19 L.R.A. 95.

§ 78. Springs.

Right to water of new spring. 30 L.R.A. (N.S.) 1158.

§ 79. Wells.

Right to discharge from, on lower land. 42 L.R.A.(N.S.) 714.

Mechanics' lien for sinking. 6 L.R.A. (N.S.) 550; 43 L.R.A. (N.S.) 559.

Construction of contract to dig a well as to the quantity or quality of water furnished thereby. L.R.A.1918A, 1085.

Landlord's liability for injuries from defective condition of the cond

fective condition of. 4 L.R.A.(N.S.) 1142.

Right to pump up water where the result is to carry away another's mineral in solution. 5 B. R. C. 254.

§ 80. — pollution of. Fouling of, by gas plant as a nuisance. 20 L.R.A.(N.S.) 468.

## m. Lakes and ponds.

§ 81. Generally.

Jurisdiction over, see supra, § 5.

Public right of access to ponds. 41 L.R.A. 269.

Raising lakes and ponds by damming back water of stream. 59 L.R.A. 820.

Draining ponds. 21 L.R.A. 605.

Right to hasten flow of water from ponds. 19 L.R.A. (N.S.) 169; L.R.A.1916F, 429.

Right to consider value of property as part of natural water power in fixing compensation for taking land for. 3 L.R.A.(N.S.) 912.

Doctrine of "attractive nuisance" as applied to ponds. 19 L.R.A.(N.S.) 1143; 47 L.R.A.(N.S.) 1101.

WATERS, II. m-cont'd 82. Rights in generally.

Division of rights between riparian owners, see supra, 35.

Pond as an appurtenance to mill. 58 L.R.A.

Public right of fishing in bays of Great Lakes. L.R.A.1918A, 1147.

83. Boundary on,

Lakes as boundaries between states, see BOUNDARIES, § 2a.

Boundary on. 51 L.R.A. 179.

§ 84. Ownership of beds of. Division of rights between riparian owners, see supra, 35.

In general. 18 L.R.A. 695; 42 L.R.A. 175; L.R.A.1916C, 150.

Small lakes and ponds. 18 L.R.A. 695; L.R.A. 695; L.R.A.1916C, 151.

Great Lakes. L.R.A.1916C, 150. Derelict and accretions. 18 L.R.A. 698. Artificial ponds. 1916C, 160. 18 L.R.A. 698; L.R.A.

Title to land under lakes. 42 L.R.A. 175. Title to islands in great ponds. 35 L.R.A. (N.S.) 230.

Ownership prior to changed conditions. L.R.A.1916C, 160.

§ 85. Fishing in. Right to fish in. 60 L.R.A. 512. Right to free fishing in great ponds. 31 L.R.A. (N.S.) 434.

## n. Appropriation.

## 1. in general.

86. Generally. Periodical appropriation. 46 L.R.A. 175. Appropriation of percolating waters on public lands. 30 L.R.A. 186; 21 L.R.A.

(N.S.) 76. Appropriation of waste water not in channel. 6 L.R.A.(N.S.) 1104.

Correlative rights of upper and lower proprietors as to. 41 L.R.A. 743.

Right to store appropriated water. 46
L.R.A. 322; 17 L.R.A.(N.S.) 329.
Use of natural stream to convey appropriated water. 51 L.R.A. 930.

Right of appropriator of water to use of current of stream. 41 L.R.A.(N.S.)

Right of appropriator to enter upon the land of an upper proprietor to clean out ditch. 43 L.R.A. 130.

Right of appropriator of water for distribution to public to grant exclusive or preferential rights to individual. 29 L.R.A.(N.S.) 213.

Care necessary to avoid waste in diverting water from stream under right of appropriation. 15 L.R.A.(N.S.) 238.

Rights, as against other appropriators, of one who adds water to natural flow of stream. 23 L.R.A.(N.S.) 1065.

Liability for withdrawing water from reservoir. 62 L.R.A. 579.

Consult also L.R.A. Digests of Cases. 87

WATERS, II. n, 1—cont'd

§ 87. Change of use or channel of water appropriated. Generally. 30 L.R.A. 384.

Rights subsequently vested cannot be infringed. 30 L.R.A. 386.

Priority not lost by change. 30 L.R.A. 389. Right may be sold. 30 L.R.A. 390.

Right to change mill location. 30 L.R.A.

88. Tolls for appropriated water. State regulation of tolls for use of appropriated water, 33 L.R.A. 180-182.

## 2. Prior appropriation.

§ 89. Generally.

As affecting right to pollute stream for mining purposes. 24 L.R.A. 66.
Right to complain of waste by prior appropriator. L.R.A.1916B, 1014.

§ 90. Right of prior appropriator of

Right at common law. 30 L.R.A. 665.

Right under special statutes or customs. 30 L.R.A. 668.

Effect of prior appropriation on right to pollute stream by mining operations. 22 L.R.A.(N.S.) 281.

Right as between appropriator above, and junior appropriator below, mill, during periods when water not used by mill. 30 L.R.A.(N.S.) 615.

§ 91. Abandonment or loss of rights of prior appropriators.

Generally. 30 L.R.A. 265. Effect of nonuser. 30 L.R.A. 265.

Attempt to change use. 30 L.R.A. 266. Abandonment prevented by use. 30 L.R.A.

Decisions under statutes. 30 L.R.A. 267.

## o. Irrigation.

§ 92. Generally.
Condemnation of land for, see EMINENT DOMAIN, § 18.

Incorporation of territory into municipality as affecting prior right to maintain irrigation ditch in highway. 47 L.R.A. (N.S.) 610.

Right of way for irrigation ditch; right of fee owner to cross. 3 L.R.A.(N.S.)

Specific performance of agreement for license to maintain irrigation ditch. 49 L.R.A. 520.

Mandamus to enforce the right of a stockholder of a water company to water. 24 L.R.A. (N.S.) 372.

Municipal liability for negligence in maintenance of irrigation ditches in con-nection with water works. 25 L.R.A. (N.S.) 243.

§ 98. Taking property for. See EMINENT DOMAIN, § 18.

WATERS, II. o-cont'd

§ 94. Contract to furnish water for. Construction of irrigation contracts with consumers. L.R.A.1916F, 257.

Right of stockholder in mutual irrigation company to maintain action against the company for negligent failure to furnish water. L.R.A.1915D, 292.

Measure of damages for breach of contract to furnish water for irrigation. L.R.A.(N.S.) 938; 31 L.R.A.(N.S.) 748.

95. Right to use or divert water for. Correlative rights of upper and lower proprietors to use water for irrigation. 41 L.R.A. 741.

Right to divert water from stream for irrigation purposes. 41 L.R.A. 741.

Right to divert water from nontidal stream for irrigation purposes without compensation to riparian owner. 37 L.R.A. (N.S.) 311.

§ 96. Transfer of right to use water for irrigation.

Of right acquired by appropriation. L.R.A. 407.

Of right in ditch. 65 L.R.A. 409.

May pass by conveyance of land. 65 L.R.A. **4**09.

Method of transfer. 65 L.R.A. 412.

## § 97. Rates.

State regulation of rates of irrigation company. 12 L.R.A. (N.S.) 711; L.R.A. 1915D, 1205.

Business of supplying water for irrigation as affected with a public interest authorizing regulation and control as to rates and prices. 6 L.R.A.(N.S.) 834.

Power of judiciary to fix rates to be charged for water for irrigation purposes. L.R.A.(N.S.) 529.

Construction of provisions as to water rentals and other charges in irrigation contract. L.R.A.1916F, 269.

## p. Contract or grant.

§ 98. Generally.

Effect of grant on percolating waters, see

supra, § 74. Contract to furnish water for irrigation, see supra, § 94.

Transfer of right to use water for irrigation, see supra, § 96.

Contract for public supply, see infra, § 111. Reservation and exceptions in deed as to water rights, see DEEDS, § 25.

Constitutionality of statutes as to, see

CONSTITUTIONAL LAW, § 174.

Mandamus against water company, see MANDAMUS, § 14.

Personal liability of purchaser of land on contract under which it is supplied with water. 39 L.R.A.(N.S.) 798.

Effect of division of tract with visible servitude in favor of one parcel upon another. 6 L.R.A. (N.S.) 410; 26 L.R.A. Prescriptive right to dam back water of (N.S.) 356; L.R.A.1915C, 351.

Begin with this book on every law question.

WATERS, II. p—cont'd Of right to dam back water of stream. 59 L.R.A. 829.

Establishing artificial condition of body of water by. 50 L.R.A. 837.

Of right of way on share. 4 L.R.A.(N.S.) 881.

Change in exercising right to take water from another's premises. 43 L.R.A. (N.S.) 824.

§ 99. Grant of water power. Form; estate created. 67 L.R.A. 369. Successive and conflicting grants. 67 L.R.A. 372.

What rights conveyed. 67 L.R.A. 375. Limitation of rights. 67 L.R.A. 390.
Protecting rights. 67 L.R.A. 397.
Measurement. 67 L.R.A. 399.
Loss of rights. 67 L.R.A. 400.
Compensation. 67 L.R.A. 401.

Covenants. 67 L.R.A. 401.

Grant of water power without a definitegrant of necessary ground to utilize it. L.R.A.1916A, 508.

§ 100. How far grant of mill includes water rights.

Generally. 58 L.R.A. 487.

Effect of mentioning appurtenances. L.R.A. 487.

Pond an appurtenance. 58 L.R.A. 489. Storage reservoir. 58 L.R.A. 490. What is appurtenant. 58 L.R.A. 490. Limitation upon grant. 58 L.R.A. 491.

Estate granted. 58 L.R.A. 493. Grant for particular purpose. 58 L.R.A. 493.

Liability for detracting from grant. L.R.A. 493.

## q. Prescriptive rights.

§ 101. Generally.

Prescriptive right of way on shore. 4 L.R.A. (N.S.) 880.

Prescriptive right to take oysters. L.R.A. 521

Prescriptive rights as to fishing. 60 L.R.A. 496.

Prescriptive right to establish ferry. L.R.A. 515.

40 Prescriptive right to erect wharves. L.R.A. 641.

Prescriptive rights in artificial condition of body of water. 50 L.R.A. 839.

By use of underground water pipes. L.R.A.(N.S.) 976.

Of municipality to drain sewage into waters. 48 L.R.A. 705.

Prescriptive right to maintain nuisance relating to waterways. 53 L.R.A. 903.

Equalization by prescription of title to land for purposes of canal. 61 L.R.A. 877.

§ 102. Obstructions; overflow.

Prescriptive right to obstruct. 53 L.R.A. 895, 903; 59 L.R.A. 79.

stream. 59 L.R.A. 838.

WATERS, II. q-cont'd

§ 103. Pollution.

Prescriptive right to pollute generally. 53 L.R.A. 895, 903; L.R.A.1918E, 956.

Prescriptive right to pollute stream by mining operations. 22 L.R.A. (N.S.) 281.

Prescriptive right of municipality or individual to pollute stream with sewage or other harmful substance. 25 L.R.A. (N.S.) 589; 47 L.R.A. (N.S.) 137.

Prescriptive right to protection from pollution of source of municipal water supply. 11 L.R.A.(N.S.) 1165.

## 104. In subterranean water.

Prescriptive rights in subterranean water. 19 L.R.A. 94.

## 105. As to surface waters.

Prescriptive right to flow of surface water. 21 L.R.A. 607.

## III. Public water supply.

#### a. In general.

§ 106. Generally.

For irrigation, see supra, §§ 92-97.

Damages for taking of water plant in condemnation proceedings, see DAMAGES, § 82.

Ownership of plant by city, see MUNICI-PAL CORPORATIONS, § 70.

Valuation of property of water company, see Public Service Corporations, § 5. Estimating return of water company, see

PUBLIC SERVICE CORPORATIONS, § 6. Taxation of waterworks plant, see Taxes, §§ 29, 32.

Water in pipes as subject of larceny. L.R.A.1918C, 580.

Right of water company to challenge powers or privileges of rival. L.R.A.1916B, 1087.

Duty to serve public as affecting liability of public utility for temporary interference with water rights. L.R.A. 1915E, 294.

Waterworks as appurtenance. 15 L.R.A. 653.

Correlative rights of upper and lower proprietors as to use of water for. L.R.A. 740.

Right of taxpayer, in absence of statute, to enjoin issuance or payment of water bonds. 36 L.R.A.(N.S.) 6.

#### § 107. Acquisition of.

Condemnation of land for water supply, see EMINENT DOMAIN, § 16.

Right to divert water from nontidal stream for water supply purposes without compensation to owner. 37 L.R.A. (N.S.) 312.

Right of municipal corporation as to use L.R.A.1917F, 691.

Consult also L.R.A. Digests of Cases.

WATERS, III. a-cont'd § 108. Exclusive privilege.

Exclusiveness of franchise of water com-pany. 61 L.R.A. 80.

Right of municipality to establish water plant in competition with company to which it has granted a franchise. L.R.A.1915C, 439.

Right of appropriator of water for distribution to the public, to grant exclusive or preferential rights to individual. 29 L.R.A.(N.S.) 213.

#### b. Operation and regulation of waterworks.

## § 109. Generally.

Municipal waterworks plant, see MUNICI-

PAL CORPORATIONS, § 70.

Municipal liability in connection with waterworks plant, see MUNICIPAL Cor-PORATIONS, §§ 93, 94.

Right of consumer to sue water company, see Parties, § 13.

Municipal liability for hydrants and other appliances pertaining to municipal waterworks. 20 L.R.A.(N.S.) 620.

Right of water company to require customer to keep service pipe in repair. 32 L.R.A.(N.S.) 229; 43 L.R.A.(N.S.)

Right of water company to refuse to deal with tenant. 33 L.R.A. (N.S.) 1015.

Liability of landlord as to water pipes and water supply on leased premises. 23 L.R.A. 160.

Liability of landlord to tenant for damage by water caused by defective plumbing or bursting of pipes. L.R.A.1917B, 225, 236, 244.

Mechanic's lien for water connections in street. 42 L.R.A.(N.S.) 356.

## § 110. Establishment and regulation of municipal water supply.

As to regulation of public service corporations generally, see Public Service. CORPORATIONS.

Power to procure or furnish. 61 L.R.A. 34. Purchase or construction of plant. L.R.A. 44.

Liability for injuries.
23 L.R.A. (N.S.) 204. for injuries. 61 L.R.A. 58;

Contract for water. 61 L.R.A. 61. Rights of taxpayer. 61 L.R.A. 75.

Use of highways. 61 L.R.A. 76. Rights and duties of water company. L.R.A. 80.

Rights and duties of consumer. 61 L.R.A. 107.

Rights and duties of municipality. L.R.A. 116.

## § 111. Contracts.

Contracts for public water supply. L.R.A. 61.

Effect of contract on rates charged for water. 61 L.R.A. 102.

of percolating waters for water supply. Period that may be covered by contract for water supply. 16 L.R.A. 258.

WATERS, III. b-cont'd

Power of board to make contract for water supply extending beyond its own term. 29 L.R.A.(N.S.) 653.

Right to enforce by mandamus duty of water company arising wholly from contract. 13 L.R.A.(N.S.) 1084.

Duty under contract with consumer to supply water for extinguishment of fire. 36 L.R.A. (N.S.) 1045.

What are city or public purposes within contract requiring water company to furnish water for such purposes. 43 L.R.A.(N.S.) 439.

## § 112. Water mains.

Water pipes in street, see HIGHWAYS, § 23.

Laying water mains at expense of abutting property. 3 L.R.A.(N.S.) 817.

Right to compel consumer to pay for the connection with water mains. 24 L.R.A.(N.S.) 485; L.R.A.1915A, 246.

Permitting abutting owners to make water connection in street. 19 L.R.A. (N.S.) 512.

Prescriptive right by use of underground water pipes. 2 L.R.A. (N.S.) 976.

Duty and right of municipality to reimburse water company for expenses entailed in respect to water pipes. 6 L.R.A. (N.S.) 1027.

Defects in work as defense to assessment for. 56 L.R.A. 922.

Liability for damage to service mains by excavating in street. L.R.A.1917E, 1094.

§ 113. Pollution of; filtration; quantity and quality.

Protection from pollution of source of municipal water supply. 11 L.R.A. (N.S.) 1163; L.R.A.1918E, 954.

Power of state or health authorities to forbid the use of a polluted water supply. 23 L.R.A.(N.S.) 766.

Power of legislature to forbid pollution of stream from which municipal water supply is taken. 7 L.R.A.(N.S.) 321.

Duty of water supply company to filter water. 24 L.R.A. (N.S.) 304.

Duty of water company as to quantity and quality of water. 61 L.R.A. 87.

## § 114. Duty to furnish.

Right to discontinue service to compel payment of bill, see infra, § 117.

Duty to furnish at proper rates, see infra, § 122.

Compulsory service in case of. 15 L.R.A. 322.

Duty of water company as to furnishing water. 61 L.R.A. 87.

Right to compel water company to furnish general supply while municipal corporation is in default in paying hydrant rentals. 34 L.R.A.(N.S.) 196.

May water company be required to furnish water for power or manufacturing purposes. 32 L.R.A.(N.S.) 305.

Begin with this book on every law question.

WATERS, III. b-cont'd

Right of stockholder in mutual irrigation company to maintain action against the company for negligent failure to furnish water. L.R.A.1915D, 292.

What are city or public purposes within contract requiring water company to furnish water for such purposes. 43 L.R.A.(N.S.) 439.

Duty of water company or municipality supplying water to extend the service to all applicants willing to comply with its regulations. 47 L.R.A.(N.S.) 655.

Right or duty of municipal corporation to supply nonresident with water. 34 L.R.A. (N.S.) 542.

§ 115. — liability for shutting off water.

Shutting off to enforce payment, see infra, § 117.

Liability for damages caused by shutting off water from premises. 21 L.R.A. (N.S.) 468.

Loss of profits as element of damages for cutting off supply of water from premises. 22 L.R.A.(N.S.) 588.

§ 116. Enforcing payment for.

Lack of, or invalidity of franchise as defense to action for water rents. 52 L.R.A. (N.S.) 713.

Enforcement of payment for water 61 L.R.A. 114.

Compelling property owner to pay for water furnished to former occupant of premises. 1 L.R.A.(N.S.) 771.

Validity of statute or ordinance making property or property owner liable for water furnished tenant. 6 L.R.A. (N.S.) 198; L.R.A.1918D, 364.

Reasonableness of regulations requiring payment of water rentals in advance. 19 L.R.A. (N.S.) 693; 31 L.R.A. (N.S.) 319.

Right of water company to impose penalty for failure to pay service bills promptly. 31 L.R.A. (N.S.) 329; 43 L.R.A. (N.S.) 63.

§ 117. — by discontinuing service. Discontinuing service to compel payment of water bills. 31 L.R.A.(N.S.) 301; 40 L.R.A.(N.S.) 263.

Right to shut off water from whole building because of one tenant's delinquency. 61 L.R.A. 33; 39 L.R.A. (N.S.) 814.

Right to discontinue service after tender of amount due. L.R.A.1917C, 376.

§ 118. Liability of water company. For shutting off supply, see supra, § 115. Municipal liability for damages in connec-

Municipal liability for damages in connection with plant, see MUNICIPAL CORPORATIONS, §§ 93, 94.

Injunction by municipality against water company for maintaining nuisance. 42 L.R.A. 821.

WATERS, III. b—cont'd

Liability of water company in tort for loss to one sustaining no contract relation with it, by its failure to comply with its contract with the municipality. 6 L.R.A.(N.S.) 1171; 21 L.R.A.(N.S.) 1021.

§ 119. — for loss by fire.

Municipal liability, see MUNICIPAL CORPORATIONS, § 94.

Liability of water company for destruction of property of municipality by fire in consequence of failure to maintain sufficient pressure. 30 L.R.A.(N.S.)

Duty of municipality or water company under its contract with consumer to supply water for extinguishment of fires. 23 L.R.A. 146; 36 L.R.A. (N.S.) 1045; 52 L.R.A.(N.S.) 402.

Liability of water company in tort for loss to one sustaining no contract relation with it by its failure to comply with contract with municipality. 6 L.R.A. contract with municipality. (N.S.) 1171; 21 L.R.A.(N.S.) 1021.

#### 120. Rates.

For irrigation, see supra, § 97.

Rights and duties of municipality as to rates for water. 61 L.R.A. 118. Water rates as taxes. 21 L.R.A. 519. Collection of rates for water. 61 L.R.A. 109. Incorporation of territory into municipality as affecting existing contract as to rates in that territory. L.R.A.1916A, 1071.

## § 121. - regulation and fixing of.

Valuation of property for purpose of fixing rates, generally, see Public SERV-ICE CORPORATIONS, § 5.

Estimating return of company, for ratemaking purposes, see Public Service CORPORATIONS, § 6.

Control of rates of water company. L.R.A. 181; 61 L.R.A. 99.

Power of municipality apart from contract to regulate rates to be charged by water company. 33 L.R.A. (N.S.) 759; 43 L.R.A. (N.S.) 994.

Power of judiciary to fix rates. 8 L.R.A. (N.S.) 529.

Allowance for depreciation in plant in fixing rates. 38 L.R.A.(N.S.) 1209.

Effect of contract with patron to preclude regulation of rates. L.R.A.1915C, 282.

Right to raise rates of public service corporation fixed by franchise. L.R.A.1915C,

Right to reduce rates fixed by franchise or charter. L.R.A.1915C, 261.

§ 122. — duty to furnish water at proper rates; discrimination.

Discrimination in rates. 61 L.R.A. 113; 27 L.R.A.(N.S.) 674; L.R.A.1915D, 1086.

Consult also L.R.A. Digests of Cases.

WATERS, III. b-cont'd

Right of light or water company whose rates are fixed by public authorities to establish a minimum charge. 26 L.R.A. (N.S.) 1109.

Mandamus to compel water company to supply individual applicant with water at reasonable rates. 1 L.R.A.(N.S.) 963.

Consumer's right to compel water company to respect rates stipulated in contract with municipality. 1 L.R.A. (N.S.) 958; L.R.A.1915D, 917.

Power of municipality operating plant to make a special rate to a particular company or person. L.R.A.1916D, 996.

Giving of free service or reduced rates to governmental agencies, cities, schools, charities, and the like as an unlawful discrimination. L.R.A.1918D, 904.

What are dwellings within the meaning of a water company's obligation to supply water at prescribed rates for dwellings. 11 L.R.A. (N.S.) 613.

123. - recovery back of overcharge. Recovery back of overcharges for water. 18 L.R.A. (N.S.) 124.

#### 124. Meters.

Metering water furnished municipality. 61 L.R.A. 112.

Right of municipal corporation to require use of water meters and impose expense of same on consumers. 23 L.R.A. (N.S.) 410; L.R.A.1915A, 320.

Duty toward one entering premises to read water meter. 31 L.R.A.(N.S.) 381.

#### WATERSPOUT.

Injury by, to employee on top of train. 47 L.R.A.(N.S.) 498.

## WATER WAYS.

In general, see WATERS.

Doctrine of "attractive nuisance" as applied to water ways. 19 L.R.A. (N.S.) 1143; 47 L.R.A. (N.S.) 1101.

Right to, as way of necessity, where other possible modes of access exist. 17 L.R.A.(N.S.) 1023.

## WATERWORKS.

Taxation of, see Taxes, §§ 29, 32. As to public water supply, see WATERS,

#### Waukesha Cream ale.

Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 316.

## WAX CYLINDERS.

As infringement of copyright of sheet music. 2 B. R. C. 91.

#### WAY.

Way of necessity, see EASEMENTS, § 14. Private ways, see EASEMENTS; PRIVATE ROADS.

Railway, see RAILBOADS.

Railroad right of way, see Railboads, § 15. Street railway, see STREET RAILWAYS.

Loss of profits as element of damages for breach of contract for construction and repair of. 53 L.R.A. 49.

## WAYBILLS.

Loss or damage from default as to waybilling due to initial carrier's own negligence or breach of contract. 31 L.R.A.(N.S.) 88.

## WAY OF NECESSITY.

See EASEMENTS, § 14.

## WAY STATION.

What is, within meaning of fence laws. 7 L.R.A.(N.S.) 207.

#### WEAPONS.

§ 1. Generally. Carrying of, see Carrying Weapons. Firearms, see Firearms.

Admissibility of opinion evidence as to kind or nature of weapon with which wound or other external injury was inflicted. L.R.A.1915B, 1143.

Necessity and sufficiency of description of offense of carrying arms in bail bond or recognizance. 38 L.R.A.(N.S.) 322.

§ 2. Homicide or assault while using. Homicide while using dangerous weapons. 63 L.R.A. 387.

Homicide in commission of misdemeanor with dangerous weapon. 45 L.R.A. (N.S.) 219.

What weapons may be considered deadly under law of homicide and assault. 21 L.R.A. (N.S.) 497.

Right to use deadly weapon in resisting trespass. 22 L.R.A.(N.S.) 724.

Use of deadly weapons, as affecting degree of homicide in heat of passion. 5 L.R.A.(N.S.) 823.

Begin with this book on every law question.

WEAPONS—con'td

Criminal responsibility of one who aids another in assault in which the latter without his knowledge or consent uses a deadly weapon. 23 L.R.A.(N.S.) 273.

Presumption as to malice aforethought in homicide arising from use of deadly weapon. 38 L.R.A.(N.S.) 1081.

#### WEARING APPAREL.

Location of, as affecting insurance on. 26 L.R.A. 239.

Measure of damages for loss or conversion of or injury to. L.R.A.1917D, 495.

As a family expense or necessary within statute rendering wife or her property liable therefor. L.R.A.1917F, 862.

#### WEATHER.

Recovery under Workmen's Compensation Act for injuries caused by weather conditions. L.R.A.1918F, 936.

ditions. L.R.A.1918F, 936.

Weather conditions as an independent intervening efficient cause. 20 L.R.A. (N.S.) 92.

Carrier's liability for injury to live stock by weather conditions. 34 L.R.A. (N.S.) 1013.

State of, as affecting amount of damages for carrying passenger beyond destination. 17 L.R.A.(N.S.) 1228.

Effect of weather conditions on question of negligence in running train at speed preventing stoppage within distance disclosed by headlight. 39 L.R.A. (N.S.) 980.

Use of party wall as protection against weather as rendering adjoining owner liable to contribute to cost. 6 B. R. C. 455.

## WEBB-KENYON ACT.

Constitutionality, construction and effect of. L.R.A.1916C, 299; L.R.A.1917B, 1229; L.R.A.1918B, 455.

Effect of, on previously enacted state statutes. 48 L.R.A.(N.S.) 350. Effect of, upon duty of carrier to accept

Effect of, upon duty of carrier to accept liquor for transportation to points where its sale is prohibited or restricted. 45 L.R.A.(N.S.) 120.

#### WEDDING.

Husband's right of action for mental suffering from loss of baggage of intended bride, causing postponement of. 3 L.R.A.(N.S.) 226.

#### WEEDS.

Removal of, from highways, see HIGHWAYS,

Validity and construction of statute in relation to. 43 L.R.A.(N.S.) 1090.

Liability for permitting spread of, to adjoining property. 52 L.R.A. 293.

Warranty of freedom from noxious weed

seeds on sale of seeds. 37 (N.S.) 82; L.R.A.1916C, 1013. 37 L.R.A.

Measure of damages for allowing land to become infested with. 12 L.R.A.(N.S.)

Measure of damages where seed sold contains noxious seed. 37 L.R.A.(N.S.)

#### WEEVIL.

Liability of warehouseman for injury to agricultural products by weevil. L.R.A. (N.S.) 1114.

## WEIGHTS AND MEASURES.

Constitutionality of statutes as to weight, see Constitutional Law, § 176.

Right of witness to express opinion as to weight. L.R.A.1918A, 712.

Knowledge or intent as element of offense of using or giving false weight or measure. L.R.A.1917D, 1129.

Validity of statute or ordinance regulating weight of loads drawn in city streets. 31 L.R.A.(N.S.) 685.

Validity of sale by false weights and meas-

ures. 12 L.R.A.(N.S.) 599.

Power of municipality to regulate use of scales by merchants. 23 L.R.A.(N.S.)

Necessity of weighing or measuring goods sold out of a larger lot. 26 L.R.A. (N.S.) 17.

Admissibility of memoranda on check stubs as memoranda of weight. 42 L.R.A. (N.S.) 729.

Power to prescribe the manner or method of determining quantity or amount of commodity. L.R.A.1916E, 379.

Validity of regulation as to weight of bread.

44 L.R.A.(N.S.) 632. Validity of statute or ordinance for the settlement of weights as between buyer and seller by public weigher. L.R.A.(N.S.) 731.

Constitutionality of statute which makes shipper's statement as to weight conclusive. L.R.A.1917E, 1022.

## WELL.

Oil and gas wells, see MINES, §§ 33-38. In general, see WATERS, §§ 79, 80. Consult also L.R.A. Digests of Cases. WELL—cont'd

Mechanics' lien for sinking. 6 L.R.A. (N.S.) 550; 43 L.R.A.(N.S.) 559.

#### WET.

Carrier's liability for injury by goods be-coming wet. 39 L.R.A.(N.S.) 645. Recovery under Workmen's Compensation Act for injury caused by wetting. LR.A.1918F, 872.

#### WHALES.

Mode of exercising right to catch. L.R.A. 511.

#### WHARFAGE.

See WHARVES, §§ 10, 11.

## WHARFINGER.

Claim against state for services by. L.R.A. 55.

Rights of vendee of, to support title as against owner. 25 L.R.A.(N.S.) 781.

Liability for safety of wharf or dock where wharfinger assigns berth. 61 L.R.A.

#### WHARVES.

1. Generally.

Right to compensation for obstruction or destruction of wharf rights, see EMI-NENT DOMAIN, § 53.

License to use, see LICENSE, § 45.

Delegation of municipal power as to. L.R.A. 726.

Admiralty jurisdiction of wharfage contract. 66 L.R.A. 233.

Establishment of dock line. 14 L.R.A. 498.

Effect of construction by abutting owner of wharf on street. 16 L.R.A.(N.S.) 506.

Obstruction to navigation as a special injury to wharf right. 59 L.R.A. 84. Right of wharfage separated from upland.

40 L.R.A. 393.

Right of state to grant tide land so as to destroy wharfage right of shore owner. 63 L.Ř.A. 264.

Rights of vendee of wharfinger to assert title as against owner. 25 L.R.A. (N.S.) 781.

Division of water front in absence of special agreement between adjoining owners. 25 L.R.A.(N.S.) 259.

Duty of municipality as to municipal wharves before they are thrown open to the public. 18 L.R.A.(N.S.) 595. As real property for purposes of taxation.

15 L.R.A. 298.

WHARVES-cont'd

Docks and wharves on railroad right of way as separate subjects of taxation. L.R.A. 1916Ē, 416.

Wharf or dock as fixture. L.R.A.1916A,

What constitutes a wharf within meaning of workmen's compensation act. L.R.A. 1916A, 203.

Permissive user which will constitute a dedication of a wharf or a landing place. 48 L.R.A.(N.S.) 469.

§ 2. Grant, taking or use of land for. Grant of tide lands to municipality for. 3 L.R.A.(N.S.) 822.

Right to erect wharves under grant. L.R.A. 640.

Taking of land for, as a public purpose. 22 L.R.A. (N.S.) 135.

Use of property for, as violation of restrictive covenants against use for purpose offensive or detrimental to neighborhood. 9 L.R.A.(N.S.) 1039.

Use of railroad right of way for purposes of, as against owner of fee. 36 L.R.A. (N.S.) 520.

§ 3. Right to erect and maintain. The rule in England. 40 L.R.A. 635. The rule in this country. 40 L.R.A. 637. Cases recognizing the right of the riparian owner. 40 L.R.A. 637.

Rule where title extends to thread of stream. 40 L.R.A. 638.

Effect of custom. 40 L.R.A. 638. Statutory right. 40 L.R.A. 638.

Rights as against individuals. 40 L.R.A. 639.

Right under grant or license. 40 L.R.A. 640.

To low-water mark. 40 L.R.A. 641. Prescriptive right. 40 L.R.A. 641. The Federal cases. 40 L.R.A. 641.

Cases denying the right to build wharves. 40 L.R.A. 642.

Cases absolutely denying right. 40 L.R.A.

Statutory restrictions. 40 L.R.A. 643. Wharf beneficial. 40 L.R.A. 643. Regulation of right. 40 L.R.A. 644. Harbor lines. 40 L.R.A. 644.

Right of municipal corporation to build wharf. 40 L.R.A. 645,

Right of city to regulate wharf. 40 L.R.A. 646.

Right of New York city. 40 L.R.A. 646. Abatement of wharf. 40 L.R.A. 646. Effect of street along shore. 40 L.R.A. 646. Private contracts. 40 L.R.A. 647. Direction of wharf. 40 L.R.A. 647. Rights of state and general government. 40 L.R.A. 647.

Effect of constructing wharf in front of private property. 40 L.R.A. 647.

Right in wharf which has been erected. 40 L.R.A. 647.

Log pier. 40 L.R.A. 648.

Ejectment for pier. 40 L.R.A. 648. Begin with this book on every law question.

WHARVES-cont'd

§ 4. Costs of improvement for.

Power to assess cost of improvements for wharf purposes on fee owners. L.R.A.(N.S.) 289.

§ 5. Obstruction of wharf rights.

Right to obstruct or destroy wharf rights in navigable waters for public purposes without compensation. • 34 L.R.A. (N.S.) 423.

§ 6. As obstruction to navigation. Piers as obstruction to navigation. 59 L.R.A. 68.

§ 7. Liability for safety of wharf ordock.

General rule of liability. 61 L.R.A. 946. Where wharfinger assigns berth. 61 L.R.A. 948.

What are defects. 61 L.R.A. 948. Defects outside of dock. 61 L.R.A. 949. Defect in surface of wharf. 61 L.R.A. 950... Liability as between owner and lessee. L.R.A. 952.

Liability of public corporation. 61 L.R.A. 953.

Defenses. 61 L.R.A. 954.

Liability of landlord to third persons as tocondition of. 26 L.R.A. 203; L.R.A. 1916F, 1129.

Violating ordinance as to, as ground of private action. 5 L.R.A.(N.S.) 260.

Liability of one maintaining amusement pier for safety of patrons. 42 L.R.A.(N.S.) 1071.

§ 8. Liability for injury to. Liability for injury to wharf by vessel at-tached thereto during storm. 27 L.R.A. (N.S.) 312.

§ 9. Discrimination as to privileges-

Right to equal wharfage facilities from carrier. 12 L.R.A.(N.S.) 509; 43 L.R.A. (N.S.) 965.

Right to discriminate between hackmen and other solicitors of patronage at wharf. 16 L.R.A.(N.S.) 777; L.R.A.1915B, 358.

§ 10. Wharfage charges. Right to wharfage. 70 L.R.A: 193. Basis of right. 70 L.R.A. 193. Public regulation of. 70 L.R.A. 197. Legislative regulation of rates. 33 L.R.A. 181.

Effect of Federal Constitution. 70 L.R.A.

Who and what liable for. 70 L.R.A. 202. When liability attaches. 70 L.R.A. 202. Rights of municipality. 70 L.R.A. 205. Rights of municipality. 70 L.R. Who entitled to. 70 L.R.A. 205.

Amount. 70 L.R.A. 207. Defenses. 70 L.R.A. 208. Collection; lien. 70 L.R.A. 209.

Contract for; jurisdiction of admiralty. 66 L.R.A. 233. Claim against state for services as wharfin-

ger. 42 L.R.A. 55. Maritime lien for wharfage. 70 L.R.A. 388\_ WHARVES-cont'd

§ 11. — regulation and fixing of rates. Legislative power to fix rates for use of. Liability of master to servant for injuries from lead noising. 35 T.R.A. 181.

Business of wharfage as affected with a public interest authorizing regulation as to rates and prices. 6 L.R.A.(N.S.) 836.

#### WHEAT.

Carrier's right to make discriminating rate for wheat to be converted into flour to be shipped over its road. 6 L.R.A. (N.S.) 225.

#### WHIP.

As deadly weapon. 21 L.R.A.(N.S.) 506.

#### WHIPPING.

Homicide by. 60 L.R.A. 801.

## WHISKY.

As intoxicating liquor. 20 L.R.A. 649. Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 303.

#### WHISKY COCKTAIL.

Judicial notice of intoxicating character of. 19 L.R.A. (N.S.) 848.

## WHISTLE.

At railroad crossing, see RALBOADS, §§

Frightening of horse by street car whistle. 34 L.R.A. 485.

## WHISTLE POSTS.

Compensation for making, as element of damages for laying out street across railway property. 24 L.R.A.(N.S.) railway property. 1235.

#### WHITECAPS.

Necessity of instruction as to law on circumstantial evidence on prosecution Whitecapping under statute. L.R.A. 205.

Consult also L.R.A. Digests of Cases.

#### WHITE LEAD.

#### WHITE SLAVERY.

See Prostrution, § 2.

#### WHITEWASHING.

Tenant's duty as to. 64 L.R.A. 755.

#### WHOLESALE.

Control by wholesalers over price on retail, see Monopoly and Combinations, §§ 5,

What amounts to retail sale of intoxicating liquors as distinguished from wholesale. 32 L.R.A. (N.S.) 622; L.R.A. 1915B, 389.

Legality of combination by dealers not to patronize wholesalers who sell to undesirable persons. 35 L.R.A.(N.S.) 1054; L.R.A.1915A, 789.

## WHOOPING.

As disturbance of public peace. 32 L.R.A. (N.S.) 505.

## WHORE.

Charging woman with being, as libel or slander, see LIBEL AND SLANDER, § 12.

## WIDE TIRES.

Validity of statute or ordinance regulating width of tires of vehicles in city streets. 31 L.R.A.(N.S.) 685.

## WIDOW.

Inheritance by, see DESCENT AND DISTRIBUTION, § 7.

Dower of, see DOWER.

Allowance of, see Executors and Administrators, §§ 55, 55a.

Right of, as to homestead, see HOMESTEAD, § 18.

Action by, for death of husband, see Huson BAND AND WIFE, § 65.
69 Rights of, in insurance on husband's life,

see INSURANCE, §§ 190, 191.

WIDOW—cont'd

Right to redeem from foreclosure sale, see Mortgage, § 88.

Election by, between will and other distributive rights, see WILLS, §§ 112-115.

Legal status of adopted child as to adopt-

ing father's widow. 17 L.R.A. 435. Who takes under gift to "widow." L.R.A. (N.S.) 816.

Devise or bequest to one described as "widow" as affected by illegality or non-existence of marriage. 1917B, 1153.

Does widow come within the term "heirs." L.R.A.1918A, 1108.

'Widow's right to proceeds of insurance on husband's life payable to himself or his executors or administrators. 35 L.R.A. (N.S.) 964.

Right of, prior to assignment of dower, to maintain trespass quare clausum. L.R.A.(N.S.) 209.

Right to restrain or compel removal of remains of deceased husband. 3 L.R.A. (N.S.) 489.

**Seduction of.** 21 L.R.A. (N.S.) 265; L.R.A. 1916D, 458.

Duty of widow as devisee to pay taxes. 32 L.R.A. 757.

Assessment of land of decedent's estate to widow. 50 L.R.A.(N.S.) 411.

Right to contest will of husband or of husband's former wife. L.R.A.1918A, 466.

#### WIDOWER.

Right of curtesy, see CURTESY. Inheritance by, see DESCENT AND DISTRIBU-TION, § 7.

Right to compel or restrain removal of remains of deceased wife. 3 L.R.A. (N.S.) 482.

Rights of, under homestead and exemption laws. 4 L.R.A.(N.S.) 390; L.R.A. 1917C, 364.

Partition of homestead where homestead right is in widower. 4 L.R.A.(N.S.) 790.

## WIDOW'S ALLOWANCE.

See EXECUTORS AND ADMINISTRATORS, §§ 55, 55a.

## WIDTH.

Of highway, see HIGHWAYS, §§ 8, 8a. Of tire, see WIDE TIRES.

Of lode claim within placer claim. L.R.A. 294.

WIFE.

See HUSBAND AND WIFE.

## WILD ANIMALS.

See Animals, § 11.

#### WILD CAR.

Liability of railroad company for injury totrespasser or licensee by car running wild. L.R.A.1915A, 143.

#### WILFULNESS.

Contributory wilfulness as a defenseagainst an action for personal injury based on wilfulness of defendant. L.R.A.1918D, 1195.

May wilfulness precluding the defense of contributory negligence be predicated of omission of duty before discovery of person in position of peril on railroad or street railway track. L.R.A.(N.S.) 427.

Wilful injury by railroad company operating trains or cars longitudinally along public street. 49 L.R.A. (N.S.) 688.

Liability of partnership for wilful torts. 51 L.R.A. 469.

#### WILLS.

I. In general, § 1.

II. Agreement for; prevention of, \$\$ 2, 3.

III. The instrument; form; execution; requisites; validity, \$\$ 4-58.

a. In general, § 4.

b. Various forms of wills, \$\$

c. Testamentary character, § 7.

d. Incorporation of extrinsic document, 🖇 8.

e. Testamentary capacity, \$\$ 9-15.

f. Undue influence, §§ 16, 17. g. Execution; publication; attestation, §§ 18-32.

h. Reformation; modification,

§ 33. i. Revocation, \$\$ 34-42.

j. Revival, §§ 43, 44.

k. What may be devised or bequeathed, \$\$ 45, 46.

l. Probate, \$\$ 47-56.

1. In general, \$\$ 47-55. 2. Foreign wills, \$ 56.

m. Contests, § 57. n. Codicils, § 58.

IV. Holographic; nuncupative, \$ 59. Begin with this book on every law question.

## WILLS-cont'd

- V. Devise and legacy, \$\$ 60-129.
  - a. Construction, validity, and effect generally, \$\$ 60, 61.
  - b. Implication; repugnancy, \$\$ *62, 63.*
  - c. Intention of testator, \$\$ 64, 65.
  - d. Description of property devised or bequeathed, \$\$ 66, 67.
  - e. After-born children not mentioned; disinheriting, \$ 68.
  - 1. Description of beneficiaries; who may take, \$\$ 69, 70.
  - g. Capacity of legatee or devisee; restrictions on charitable gifts, §§ 71-73.
  - h. What property passes, \$\$ 74, 75.
  - i. Partial intestacy, § 76.
  - j. Nature of estate or interest created, §§ 77-102.
    - 1. In general, § 77.
    - 2. Repugnancy, § 78.
    - 3. Life or fee, \$\$ 79-81. 4. Rule in Shelley's Case,
    - \$ 82.
    - 5. Restrictions and conditions, §§ 83-90.
    - 6. Remainders, § 91.
    - 7. Limitations; limitations over; executory devises, \$\$ 92-94.
    - 8. Income or support, \$ 95.
    - 9. Interest of several, §§ 96-98.
    - 10. Verted or contingent interest, §§ 99-102.
  - k. Rights and preferences of legatces; enforcement; payment: garnishment, 103-109.
  - 1. Acceptance; reelection; nunciation, §§ 110, 115.
  - conversion, m. Equitable \$ \$ 116-118.
  - n. Charge on donee or land devised, § 119.
  - o. Lapsing; ademption; advancements; abatement; revocation, §§ 120-126.
  - p. General or specific, \$\$ 127, 128.
  - q. Who will take void legacy, \$ 129.
- VI. Suit to construe will, \$ 180.

## I. In general.

## j 1. Generally.

- Conflict of laws as to, see CONFLICT OF Laws, § 35.
- Presumption and burden of proof as to, see EVIDENCE, §§ 102, 103.

  Admissibility of acts and declarations of
- testator, see EVIDENCE, § 230.
- Identity of property given by, see IDENTITY AND IDENTIFICATION, § 10.
- Lost wills, see LOST INSTRUMENTS, § 3. Consult also L.R.A. Digests of Cases.

- WILLS, I.—cont'd
- Parties plaintiff in actions affecting, see PARTIES, § 6.
- Sufficiency of execution by will of power of appointment, see Powers, § 4.
- Rule of benefit society requiring designa-tion of beneficiary by. L.R.A.1918F, 777.
- Change in character or use of dominant tenement as affecting easement created by will. L.R.A.1917A, 531.
- Liability for mutilation or spoliation of. L.R.A.1917B, 558.
- Revocation of letters of administration upon discovery of. 49 LR.A. (N.S.) 894.
- Testamentary libels. 49 L.R.A. (N.S.) 897. Effect of invalid attempt to appoint testamentary guardian. 45 L.R.A. (N.S.)
- Is the right to take property by will or inheritance a natural or statutory right.
- 9 L.R.A.(N.S.) 121. Validity of assignment of insurance policies to persons to be named in will. L.R.A. (N.S.) 184.
- Liability of estate for comissions of broker whose employment is permitted by will. 64 L.R.A. 554.
- Payment to administrator as discharge of debt when will is subsequently discovered and probated. 7 L.R.A. (N.S.) 878.
- Devise as violation of covenant in lease against assignment or sale. 14 L.R.A. (N.S.) 1205.
- Privilege of communications to attorney during preparation of. 17 L.R.A. 188; 17 L.R.A. (N.S.) 108.
- Necessity of knowledge by testator of contents of his will and proof thereof. L.R.A.1918D, 747.

## II. Agreement for; prevention of.

- § 2. Generally.
- Oral agreement to give property by, see CONTRACTS, § 33.
- Validity of agreement as to, see Contracts, § 86.
- Specific performance of agreement for, see SPECIFIC PERFORMANCE, § 9.
- Measure of damages for failure to perform contract to compensate for services by will. 41 L.R.A. (N.S.) 246.
- Gift as a fraud on contract to will property. 20 L.R.A.(N.S.) 1154.
- Revocation of consent given by one spouse to will of the other in the latter's life-time. L.R.A.1915E, 815.
- § 3. Frustration of decedent's intention.
- Prevention of making of, by fraud. 25 L.R.A. 571.
- Impressing share of heir, devisee, or legatee, with constructive trust because of his fraud in frustrating decedent's intention to give the property to a third person. 8 L.R.A. (N.S.) 698; 31 L.R.A. (N.S.) 176.

WILLS; II.—cont'd

May a constructive trust be based upon an undertaking to hold for the benefit of another property received through devise or inheritance where no actual testamentary intention has been frustrated. 33 L.R.A. (N.S.) 996; L.R.A. 1918F, 1045.

III. The instrument; form; execution; requisites; validity.

## a. In general.

§ 4. Generally.

Conflict of laws as to formal validity of will disposing of real property. 2 L.R.A.(N.S.) 424.

## b. Various forms of wills.

§ 5. Generally.

Nuncupative or holographic, see infra, § 59.

§ 6. Joint or mutual wills. Revocation of, see infra. § 35. Probate of, see infra, § 49.

## c. Testamentary character.

7. Generally.

Effect of words in obligation for payment of money indicating that it was intended as a bequest. L.R.A.1917C,

Testamentary character of agreement that surviving partner shall have the partnership business or property. L.R.A. 1918B, 907.

Effect of declaring one to be an heir or next

of kin. 45 L.R.A. (N.S.) 48. Sufficiency of letter as. 15 L.R.A. 635; 17 L.R.A. (N.S.) 1126.

When deed to be deemed testamentary in character. 1 L.R.A.(N.S.) 315.

When may instrument executed with the formalities of a will, but not couched in the formal testamentary phraseology, be admitted to probate or otherwise given effect as a will. 41 L.R.A.(N.S.) 39

May an instrument not on its face of a testamentary character be shown by extrinsic evidence to be such so as to take effect as a will. 13 L.R.A. (N.S.) 1203.

Admissibility of extrinsic evidence to show that instrument, on its face a will. was not intended as such. 28 L.R.A. (N.S.) 417.

Collateral attack on probate where decree or will affirmatively shows will to be invalid for lack of testamentary character of instrument. 42 L.R.A. (N.S.)

#### d. Incorporation of extrinsic document.

8 8. Generally.

Generally. 68 L.R.A. 353.

Reference to extrinsic document. 68 L.R.A. 354.

erence. 68 L.R.A. 371.

Begin with this book on every law question.

WILLS, III. d—cont'd

Necessity that extrinsic document be actually in existence. 68 L.R.A. 376.

Parol evidence as to reference, to identity, or to existence of extrinsic document. 68 L.R.A. 384.

Separate wills in relation to property in different countries. 68 L.R.A. 384.

Recital in will of conveyance of land as devise, where conveyance was not in fact made, or proves ineffectual. 3 L.R.A. (N.S.) 645.

#### e. Testamentary capacity.

§ 9. Generally.

Opinion evidence as to, see EVIDENCE, §§

191, 192. to incompetency, generally, see In-COMPETENT PERSONS.

Conflict of laws as to testator's capacity.

2 L.R.A.(N.S.) 414. Validity and effect of stipulation, of incapacity of testator. 23 L.R.A.(N.S.)

Revocation of will by one executed when testator is incompetent. L.R.A.1916C, 92.

Signature made by hand of unconscious person. L.R.A.1915B, 678.

Admissibility of finding of coroner as to cause of death to show mental condition of testator. 45 L.R.A.(N.S.) 408. Power of one lacking testamentary capacity to revoke will. 18 L.R.A.(N.S.) 99.

Collateral attack on probate where decree or will affirmatively shows lack of testamentary capacity. 42 L.R.A.(N.S.)

457.

§ 10. What constitutes capacity or incapacity.

general. 27 L.R.A. (N.S.) 2; L.R.A. 1915A, 444.

Specific tests of capacity. 27 L.R.A. (N.S.) 25; L.R.A.1915A, 450. Old age. 27 L.R.A. (N.S.) 25; L.R.A.

1915**A**, 450. Insane delusions. 12 L.R.A. 161; 27

L.R.A. (N.S.) 62; L.R.A.1915A,

Belief in spiritualism, witchcraft, etc. 16 L.R.A. 677; 15 L.R.A.(N.S.) 673.

Suicide. 24 L.R.A. 577; 27 L.R.A. (N.S.) 94.

Temporary weakness or aberration. L.R.A. (N.S.) 94; L.R.A.1915A, 463.

Effect of morphinism on. 39 L.R.A. 263. Wills planned in strength, executed in extremis. 27 L.R.A.(N.S.) 98.

Miscellaneous cases. 27 L.R.A. (N.S.) 99; L.R.A.1915A, 463.

#### § 11. — drunkenness,

Present intoxication. 39 L.R.A. 220. Habits of intoxication. 39 L.R.A. 220.

Drunkenness as evidence of incapacity. L.R.A. 221.

Identification of extrinsic document by ref- Inquisition of drunkenness as evidence. 39 L.R.A. 227.

WILLS, III. e-cont'd

§ 12. Married woman.

Right of wife under statute removing disabilities of married woman to devise property held by her husband and herself as joint tenants. 7 L.R.A. (N.S.) 701.

Sufficiency of husband's consent to wife's will. 37 L.R.A. (N.S.) 1133.

§ 13. Time at which incapacity exists. Testamentary capacity at the time of giving instructions for will as affecting measure of capacity which must exist at time of execution. 2 B. R. C. 41.

#### 14. Evidence as to.

Presumption and burden of proof as to, see Evidence, § 39.

Opinion evidence as to, see EVIDENCE, §§ 189-193.

Admissibility of declarations of beneficiary or executor to show lack of testamentary capacity, see EVIDENCE, § 231.

Relevancy of evidence as to, see EVIDENCE, § 254.

Sufficiency of evidence as to, see EVIDENCE, §§ 291, 292, 298.

Competency of attending physician to testi-fy as to capacity of testator in will contest. 32 L.R.A.(N.S.) 72.

§ 15. Evidence of attesting witnesses as to.

Opinions of subscribing witnesses as to sanity or insanity. 39 L.R.A. 715.

Admissibility of declarations of deceased subscribing witness unfavorable testator's competency. 27 L.R.A. (N.S.) 294.

Weight of testimony of subscribing witness against competency of testator. L.R.A. (N.S.) 575.

## f. Undue influence.

\$ 16. Generally.

Presumption and burden of proof as to, see

EVIDENCE, § 53.

Admissibility of declarations of beneficiary or executor to show, see EVIDENCE, § 231.

Relevancy of evidence as to, see EVDENCE, § 260.

Sufficiency of evidence of, see EVIDENCE, § 300.

Drunkenness in connection with undue influence as affecting testamentary capacity. 39 L.R.A. 224.

Effect of unnatural testamentary disposition on question of undue influence. 6 L.R.A. (N.S.) 202; 22 L.R.A. (N.S.) 1024.

Effect of meretricious relations between testator and beneficiary on validity of devise or bequest. 17 L.R.A.(N.S.) 477.

Character of presumption as to undue influence in bequest to mistress. 11 L.R.A. (N.S.) 554.

Burden of proof as to. 17 L.R.A. 494; 36 L.R.A. 724, 733.

Consult also L.R.A. Digests of Cases.

WILLS, III. f—cont'd

Ante-testamentary declarations as evidence of undue influence. 3 L.R.A.(N.S.)

Omitting part of will from probate because of undue influence. 34 L.R.A. (N.S.) 978.

§ 17. Of draftsman or person active in procuring execution.

Evidentiary force of circumstance that one benefited by a will was the draftsman thereof, or was active in procuring its execution. 28 L.R.A. (N.S.) 270.

g. Execution; publication; attestation.

§ 18. Generally.

Proof of execution of lost or destroyed wills. 38 L.R.A. 441.

Effect of execution by mistake of will intended for another person. 3 B. R. C. 341.

Soldiers' and seamen's wills. 4 B. R. C. 899.

§ 19. On Sunday.

Execution of, on Sunday. 14 L.R.A. 194.

§ 20. Signature of testator.

Effect of execution by mistake of will intended for another person. 3 B. R. C. 341.

What amounts to signature by testator. L.R.A.1915D, 902.

Hand guided by another. L.R.A.1915D, 906. Signature made by hand of unconscious person. L.R.A.1915B, 678.

Necessity that witnesses see testator sign, or that they see his signature. L.R.A.(N.S.) 161; L.R.A.1915B, 87.

Signature of witness to will before testator signs it. 14 L.R.A. 160; 26 L.R.A. (N.S.) 1126; L.R.A.1916D, 1063.

Interlineations or changes by testator after signing. 51 L.R.A.(N.S.) 169.

§ 21. - by other person.

Signature by other person. 6 L.R.A. 357;\*\* 22 L.R.A. 299.

§ 22. — by mark.

Signature by mark; signing will. 22 L.R.A.

Does ability to write invalidate signature to, made by mark or by aid of other person guiding the pen. 7 L.R.A. (N.S.) 1193.

Use of mark to name other than true name. L.R.A.1915D, 905.

Proof of signature by mark when attesting witnesses are dead. 44 L.R.A. 142.

Proof of signature by mark where attesting witnesses have forgotten circumstances attending its execution.

L.R.A. 142; 51 L.R.A. (N.S.) 955. Effect of adverse testimony of attesting witnesses as to execution of will signed by mark. L.R.A.1916C, 1240.

WILLS, III. g-cont'd § 23. — place of.

When will deemed to have been signed or subscribed at the end. 17 L.R.A. (N.S.) 353; 23 L.R.A.(N.S.) 515; 30 L.R.A. (N.S.) 1173.

Writing name in body of will as a signa-ture thereto. 29 L.R.A. (N.S.) 63; 46 L.R.A. (N.S.) 552; L.R.A.1917D, 632.

Signing of will at end of instrument where name follows attestation clause. 17

L.R.A.(N.S.) 354. Collateral attack on probate where decree or will affirmatively shows matter below testator's signature. 42 L.R.A. (N.S.) 458.

§ 24. — proof of.

Necessity of proving by subscribing witness. 35 L.R.A. 321.

Proof of, when attesting witnesses are dead. 44 L.R.A. 142.

Proof of will where attesting witnesses have forgotten circumstances attending its execution. 44 L.R.A. 142; 51 L.R.A. (N.S.) 927.

Effect of adverse testimony of attesting witnesses as to execution of will. L.R.A.1916C, 1218.

Loss of eyesight of attesting witness preventing his identification of instrument or signature. L.R.A.1915E, 593.

#### § 25. Publication.

Requisites of publication of will. 8 L.R.A. 825.

26. Attestation; attesting witnesses. Evidence of attesting witness as to testator's mental capacity, see supra. § 15. Proof of testator's signature by attesting

witnesses, see supra, § 24. Opinion of attesting witness as to testator's

sanity, see EVIDENCE, § 192. Admissibility of acts and declarations of attesting witness, see EVIDENCE, § 232.

Validity of attestation of will through an interpreter. L.R.A.1918B, 691.

Effect of fact that person who executed will was not previously known to witness. 21 L.R.A. (N.S.) 531.

Collateral attack on probate where decree or will affirmatively shows the will to be invalid because of defects as to at-42 L.R.A. (N.S.) testing witnesses. **456**.

§ 27. — necessity of witness.

Necessity of witness to holographic will. 14 L.R.A.(N.S.) 968.

28. - competency of witnesses generally.

Trustee or member of charitable beneficiary as witness to will. 36 L.R.A. (N.S.) 504.

Effect of invalidity of bequest, occasioned by interest of attesting witness, upon rights of persons jointly or subsequently entitled thereto. 4 B. R. C. 710.

Begin with this book on every law question.

WILLS, III. g-cont'd

Competency, as an attesting witness, of of-ficer or stockholder of a corporation named as executor or trustee. L.R.A. 1916D, 185.

Minor witnesses to will. L.R.A.1916E, 695.

29. — time of competency

Is the competency of an attesting witness to a will to be determined as of the time of attestation or of probate. 35 L.R.A. (N.S.) 686.

30. — signature of witnesess.

Necessity that witnesses see testator sign, or that they see his signature. L.R.A.(N.S.) 161.

When witness is deemed to subscribe in testator's presence. 1 L.R.A.(N.S.) 393; L.R.A.1916C, 950.

Signature of witnesses to will before testator signs it. 14 L.R.A. 160; 26 L.R.A.(N.S.) 1126; L.R.A.1916D, 1063.

Necessity that attesting witnesses be present at the same time. L.R.A.1917F. 872.

Effect of witness not signing his true name. L.R.A.1917D, 896.

§ 31. — attestation by mark. By mark. 22 L.R.A. 372.

32. — attestation clause.

Necessity of attestation clause of will. 14 L.R.A.(N.S.) 255.

Signing of will at end of instrument where name follows attestation clause. L.R.A. (N.S.) 354.

## h. Reformation; modification.

§ 33. Generally.

Effect of mistake of law as to effect of will, as ground of reformation. 28 L.R.A. (N.S.) 870.

How far will modified by codicil. 1 L.R.A. (N.S.) 397.

## i. Revocation.

§ 34. Generally.

Revival of prior will by revocation of later one, see infra, § 34. Of particular legacies or devises, see infra,

§ 126.

Presumption and burden of proof as to, see EVIDENCE, § 103.

Conflict of laws as to. 2 L.R.A. (N.S.) 464. Partition deed as. 57 L.R.A. 339. Presumption as to revocation of missing

will. 38 L.R.A. 433.

§ 85. Of joint or mutual wills.

Right to revoke joint or mutual will. 38 L.R.A. 291; 27 L.R.A. (N.S.) 508; 37 L.R.A. (N.S.) 1196.

36. Of husband or wife,

Settlement of property rights between hus-band and wife on account of divorce as implied revocation of will. 20 L.R.A. (N.S.) 1073.

WILLS, III. i—cont'd

§ \$7. - by marriage and having chil-

Sufficiency of provision as to after-born child to prevent revocation, see infra, § 68.

Effect of marriage, followed by birth of child, to revoke woman's will. 5 L.R.A. (N.S.) 1084.

Removal of disabilities as affecting rule regarding revocation of woman's will by marriage. L.R.A.1918B, 943.

Effect of statute making wife an heir of husband upon rule that marriage alone without birth of issue does not revoke a man's will. 25 L.R.A.(N.S.) 182.

Effect of statute making husband an heir of wife upon rule that marriage alone, without birth of issue, will not revoke a woman's will. 34 L.R.A.(N.S.) 1021.

Adopted child as a "child" within statute relating to revocation of will. 30 L.R.A.(N.S.) 916; L.R.A.1918F, 1083.

Collateral attack on probate where decree or will affirmatively shows its revocation by testator's marriage. 42 L.R.A. (N.S.) 457.

§ 38. By subsequent will.

General rules as to wills proper. 37 L.R.A.

Modification of the general rules. 37 L.R.A. 567.

Rule applied to codicils. 37 L.R.A. 571. Revocation as affected by invalidity of some or all of the dispositive provisions of the later will. L.R.A.1916C, 101.

Revocation of will by will defectively executed or one executed when testator is incompetent. L.R.A.1916C, 92.

Effect of later to revoke earlier will by implication, where later will does not dispose of whole estate. 6 B. R. C. 35.

Effect of unfulfilled intention to execute new will upon presumptive revocation of old. 2 B. R. C. 538.

89. By mutilation, destruction, cancelation, etc.

Revival of earlier will by, see infra, § 44.

Interlineations or changes by testator after signing. 51 L.R.A. (N.S.) 169.

Subsequent ratification of unauthorized destruction as revocation of will. 2 B. R. C. 550.

Burden of explaining erasures or alterations appearing on face of will. 17 L.R.A. (N.S.) 184.

Admissibility of declarations of testator on issue of his intention in destroying his will. 24 L.R.A.(N.S.) 180.

Revocation of a will by burning, tearing, etc., upon making a new will or with the intent to make a new will. L.R.A. 1918A, 914.

Cancelation or mutilation of will as affected by invalidity of a second will. 6 L.R.A. (N.S.) 1107

Consult also L.R.A. Digests of Cases.

WILLS, III. i-cont'd

\$ 40. - revocation of part of will by. Attempt to revoke portions of a will by burning, tearing, canceling, literating, or destroying. 38 L.R.A. (N.S.) 797.

41. Effect of interference with. Effect upon will itself in the absence of a statute requiring certain formalities as to revocation. 41 L.R.A. (X.S.) 105.

Effect upon right of legatees or devisees to take. 41 L.R.A.(N.S.) 109.

§ 42. Who may revoke.

Power of one lacking testamentary capacity, to revoke will. 18 L.R.A.(N.S.) 99.

#### j. Revival.

48. Generally. Of revoked will. 37 L.R.A. 575.

§ 44. By revocation or destruction of

later will.

Revival of former will. 37 L.R.A. 575; 14 L.R.A. (N.S.) 937; 37 L.R.A. (N.S.)

Revival of former codicil. 37 L.R.A. 579.

k. What may be devised or bequeathed.

45. Generally.

Custody of child, see INFANTS, § 7.

Right of entry for condition broken as subject of a devise. 60 L.R.A. 762. Burial lot as subject of devise. 67 L.R.A. 121.

Right of entryman to devise claim or interest in public lands. 34 L.R.A.(N.S.)

Contingent remainder as subject of devise by remainderman. 21 L.R.A. (N.S.) 121.

Applicability to devise, of rule against conveyance of land held adversely. 35 L.R.A.(N.S.) 734.

Law governing validity of testamentary disposition of leasehold property. 7 B. R. C. 459.

46. Interest in insurance policy. Power of insured to destroy rights of beneficiary by bequeathing policy. 49 L.R.A. 748, 752.

Right to change beneficiary in policy by will. 4 L.R.A.(N.S.) 939.

Bequest of policy of insurance or proceeds thereof as a specific legacy. 7 L.R.A. (N.S.) 592.

Right to designate by will the beneficiary of benefit insurance. 42 L.R.A.(N.S.)

#### l. Probate.

#### 1. In general.

§ 47. Generally, Contest of, see infra, § 57. WILLS, III. l, 1-cont'd

Courts of probate jurisdiction, see Courts, § 34.

Evidence on, generally, see Evidence, §§ 39, 189-193, 230, 254, 291, 292, 2.3.

Effect and conclusiveness of probate, see JUDGMENT, §§ 25, 69.

Probate of will as evidence. L.R.A.1917E, 533.

Pendency of probate proceedings in both state and Federal courts. 42 L.R.A. 460.

Limitation of estate upon probate of will as a violation of the rule against perpetuities. 10 L.R.A.(N.S.) 564.

Validity of agreement to defeat probate of will. 16 L.R.A.(N.S.) 236; 43 L.R.A.(N.S.) 575.

Validity and effect of stipulation of incapacity of testator. 23 L.R.A.(N.S.) 783. Is competency of attesting witness to a will to be determined as of time of attestation or of probate. 35 L.R.A.(N.S.) 686.

Constitutionality of tax or fee as condition of probate. 50 L.R.A. (N.S.) 997.

Constitutionality of succession taxes with respect to jurisdiction of probate courts. 33 L.R.A.(N.S.) 600.

Collateral attack on probate where the decree or the will affirmatively shows that the will is invalid. 42 L.R.A. (N.S.) 454.

§ 48. Contents of will as affecting right to probate.

Probate limited to factum. 34 L.R.A. (N.S.) 965.

Will at least valid in part. 34 L.R.A. (N.S.) 968.

Where invalidity may be total. 34 L.R.A. (N.S.) 969.

More than one instrument. 34 L.R.A.(N.S.) 970.

Limited or partial probate. 34 L.R.A (N.S.) 971.

Charitable gifts as affected by date of will, etc. 34 L.R.A.(N.S.) 975.

Joint or mutual wills. 34 L.R.A.(N.S.) 976.

Miscellaneous. 34 L.R.A.(N.S.) 976.

§ 49. Of joint or mutual wills. Two wills in one instrument. 38 L.R.A. 289.

Right to revoke. 38 L.R.A. 291.

Joint wills to operate on survivor's death.

38 L.R.A. 292.

Contents of, as affecting right to probate. 34 L.R.A.(N.S.) 976.

§ 50. Probate of part of will. Limited or partial probate. 34 L.R.A.(N.S.) 971.

May the part of a lost or destroyed will which can be established, be admitted to probate where there are other portions that cannot be established. 26 L.R.A. (N.S.) 654.

Begin with this book on every law question.

WILLS, III. l, 1-cont'd

May part of a will be set aside for lack of testamentary capacity or undue influence and the remainder upheld. 41 L.R.A.(N.S.) 1126.

§ 51. Effect of delay in probating. Generally. 57 L.R.A. 253.

Where the estate is sold or mortgaged by the heirs. 57 L.R.A. 255.

Where the devisees are under disabilities. 57 L.R.A. 257.

Where the will is concealed, lost, or destroyed. 57 L.R.A. 258.

Estoppel. 57 L.R.A. 260.

Second wills and codicils. 57 L.R.A. 261. Suspension of probate proceedings. 57 L.R.A. 262.

Probate in solemn form and second probate. 57 L.R.A. 262.

Wills from other states. 57 L.R.A. 263. Statutory limitations. 57 L.R.A. 264.

Right to probate will after distribution of property as intestate. 36 L.R.A.(N.S.) 89.

§ 52. Practice; procedure.

Evidence of attesting witnesses as to testamentary capacity, see supra, § 15.

Proof of testator's signature see supra.

Proof of testator's signature, see supra, § 24.

Evidence to establish lost or dertroyed will. 38 L.R.A. 433.

Admissibility in probate courts of copies of records of other states. 5 L.R.A.(N.S.) 948.

Necessity of procuring depositions of attesting witnesses to will who are beyond the jurisdiction of the court. 47 L.R.A.(N.S.) 722.

Necessity and sufficiency of proof to account for nonproduction of will upon application to probate it as a lost or destroyed will. 50 L.R.A. (N.S.) 861.

§ 53. — notice.

Notice of distribution in probate proceedings as jurisdictional. 37 L.R.A.(N.S.) 368.

Right to probate will on service of notice by publication. 35 L.R.A.(N.S.) 1058.

§ 54. — withdrawal of proceedings. Right to dismiss or withdraw proceedings to probate a will or issues thereunder. 19 L.R.A.(N.S.) 121.

§ 55. Revocation of; setting aside. Who may sue or take other proceedings to set aside decree of probate. 54 L.R.A. 761.

Remedy of pretermitted heirs to have probate set aside. 37 L.R.A.(N.S.) 1144. Revocation of probate as termination of appointment of administrator c. t. c. 21 L.R.A.(N.S.) 975.

WILLS, III. 1-cont'd

## 2. Foreign wills.

§ 56. Generally.

for las

unde

ipnek

iating,

[2]2

sat :

14 \*

**21**.

Litoba:

311

64

133

100

17.

ī.

Effect and conclusiveness of, see JUDGMENT, § 69.

Presumption as to probate of will in other state. 48 L.R.A. 136.

Jurisdiction to admit to probate will not probated at testator's domicil. L.R.A.(N.S.) 658.

Ancillary probate at testator's domicil after probate in other jurisdiction. 1 L.R.A. (N.S.) 996.

#### m. Contests.

§ 57. Generally.

Provision for forfeiture by contesting will, see infra, § 86.

Evidence on, see Evidence, §§ 39, 189-193, 254, 291, 292, 298.

Who may contest will. L.R.A.1918A, 447. Right of state to contest, so as to escheat the property. 2 L.R.A.(N.S.) 643.

Validity of contract not to contest probate of. 13 L.R.A.(N.S.) 484.

Right to dismiss or withdraw proceedings to contest a will or issues thereunder. 19 L.R.A.(N.S.) 121.

Validity of agreement that costs of contesting a will shall be paid out of the estate. 2 B. R. C. 633.

Right of executor to allowance for attor-neys' fees for services rendered in attempt to establish or resist attack upon will. 26 L.R.A. (N.S.) 757; L.R.A. 1917A, 450.

Comparison of marks and spelling of disputed will. 65 L.R.A. 95.

## n. Codicils.

§ 58. Generally.

How far will modified by. 1 L.R.A. (N.S.)

Revocation of prior will by. 37 L.R.A. 571. Revocation of codicil as affecting will. 46 L.R.A.(N.S.) 983.

Effect of republication of will by codicil to incorporate extrinsic document into will. 68 L.R.A. 381.

Effect of signature to codicil of will not signed at the end. 17 L.R.A.(N.S.)

Effect of delay in probating. 57 L.R.A. 261. Who may contest will as affected by codicil. L.R.A.1918A, 452.

## IV. Holographic; nuncupative.

§ 59. Generally.

Revocation of previous will by. 37 L.R.A. **566.** 

Soldiers' and scamen's wills. 4 B. R. C. 899.

Dating holographic will. L.R.A.1916E, 503. Consult also L.R.A. Digests of Cases, 88

WILLS, IV.—cont'd

Writing name in body of holographic will as a signature thereto. 29 L.R.A. (N.S.) 64; 46 L.R.A.(N.S.) 552; L.R.A. 1917D, 632.

Violation of requirement that holographic will shall be written by testator.

LR.A. (N.S.) 1145; L.R.A. 1917F, 393.

Necessity of witnesses to an holographic will. 14 L.R.A. (N.S.) 968.

What is "last sickness," permitting a nun-cupative will. 13 L.R.A.(N.S.) 1092.

Sufficiency of showing that paper offered as a holographic will was intended as such. 33 L.R.A. (N.S.) 1018.

Custody of holographic will. (N.S.) 842. 37 L.R.A.

Collateral attack on probate where decree or will affirmatively shows the will to be invalid for defects as to witnesses. 42 L.R.A.(N.S.) 456.

Proof by holographic will where attesting witnesses have forgotten circumstances attending its execution. 51 L.R.A. (N.S.) 949.

Effect of adverse testimony of attesting witnesses as to execution of holographic will. L.R.A.1916C, 1234.

Devise of real property by nuncupative will. L.R.A.1916E, 1132.

## V. Devise and legacy.

## a. Construction, validity, and effect, generally.

§ 60. Generally.

Charitable bequests, see CHARITIES.

Bequest for masses, see Masses.

Bequest for support of minister, see RE-LIGIOUS SOCIETIES, § 8.
Conflict of laws as to, see CONFLICT OF

LAWS, § 35.

Transfer of cotenant's interest by, see Co-TENANCY, § 12.

As to perpetuities, see PERPETUITIES.

As to inheritance tax, see Taxes, §§ 90-Creation of trust by, generally, see TRUSTS,

II. Creation of secret trust by will, see TRUSTS.

Creation of precatory trusts by, see Trusts,

§ 9. governing construction of will.

L.R.A. (N.S.) 443.

Duty of executor to inform legatee of terms of legacy. 6 B. R. C. 104.

Right of child in homestead of parent as affected by will. 56 L.R.A. 38.

Devise or legacy reciting consideration as acknowledgment affecting bar of limitations. 1 L.R.A.(N.S.) 1117.

Provision in will directing deduction of debts from shares of legatees, as requiring deduction of statute-barred debt. 4 B. R. C. 727.

Bringing advancements into hotchpot where will directs a distribution as in case of intestacy. 4 B. R. C. 278.

WILLS, V. a-cont'd

Effect of invalidity of bequest occasioned by interest of attesting witness upon rights of persons jointly or subsequently entitled thereto. 4 B. R. C. 710.

Marketability of title where construction of

will is involved. 38 L.R.A.(N.S.) 17.

Marketability of title based on exercise of power of sale in will. 38 L.R.A.(N.S.)
18

Federal courts following state decisions as to construction and effect of. 40 L.R.A. (N.S.) 430.

## § 61. Ambiguities; omissions; extrinsic evidence.

As to testator's intention, see infra, § 65. Ambiguities in discription of land conveyed, see infra, § 67.

Parol evidence as to testator's intention, see EVIDENCE, § 167.

Admissibility of acts and declarations of testator, see EVIDENCE, § 230.

Extrinsic evidence to establish identity of legatee or devisee. 47 L.R.A.(N.S.) 514.

Parol evidence of mistake in description of land devised. 16 L.R.A. 321.

May beneficiary be put to his election by extrinsic evidence of testator's intention. 28 L.R.A.(N.S.) 657.

#### b. Implication; repugnancy.

§ 62. Implication.

Bequests or devise by implication. 10 L.R.A. \$16;\* 11 L.R.A. 185;\* 15 L.R.A. (N.S.) 73; L.R.A.1917A, 1213.

Effect of limitation over in case the person to whom property is given in the first instance dies without lineal descendants, issue, children, heirs of the body, etc., to give to his issue an interest by implication either by way of remainder, executory devise, or substitutional gift. 51 L.R.A.(N.S.) 485.

§ 63. Repugnancy.

As to nature of estate or interest created, see infra, § 78.

## c. Intention of testator.

§ 64. Generally.

Frustration of, see supra, § 3.

Effect of frustrating decedent's intention, see supra. § 6.

see supra, § 6.

Presumption and burden of proof as to, see
EVIDENCE, § 42.

Parol evidence as to, see EVIDENCE, § 167.

Sufficiency of showing that paper offered as holographic will was intended as such. 33 L.R.A. (N.S.) 1018.

Of testator misdescribing the land. 6 L.R.A.(N.S.) 963; L.R.A.1915E, 1008.

Effect of unfulfilled intention to execute new will on presumptive revocation of old one. 2 B. R. C. 538.

Begin with this book on every law question.

WILLS, V. c-cont'd

Of testator that fee simple shall pass though words of limitation not used. 2 L.R.A.(N.S.) 183.

Expression of intention to make provision for family as affecting estate taken by beneficiaries of trust, in the absence of any express definition thereof. 17 L.R.A.(N.S.) 1215.

Bequest of stocks, bonds, or notes as general or specific as depending upon testator's intent. 11 L.R.A.(N.S.) 67.

Effect of testator's intention in devise to religious society for specific uses. 11 L.R.A. (N.S.) 515.

Of testator as to adeeming general legacy to donee by gift. 38 L.R.A.(N.S.) 588; L.R.A.1916C, 618.

Effect of rule in Shelley's Case on intent. 29 L.R.A.(N.S.) 1039.

As to time to which contingency of death of legatee or devisee without child or issue on which a gift is conditioned is referable. 25 L.R.A. (N.S.) 1045.

## § 65. Evidence as to.

Declarations of testator as admissible on issue of his intent in destroying will. 24 L.R.A. (N.S.) 180.

Competency of scrivener or draftsman to testify to his own or the testator's intention. 38 L.R.A.(N.S.) 91.

Admissibility of extrinsic circumstances in ascertaining testator's intention as to disinheriting after born child. 13 L.R.A.(N.S.) 781.

May beneficiary be put to election by extrinsic evidence of testator's intention. 28 L.R.A.(N.S.) 657.

# d. Description of property devised or bequeathed.

§ 66. Generally.

Devises or bequests in severalty of undesignated parcels of property to different persons. 41 L.R.A.(N.S.) 1049.

Failure to mention or identify the subjectmatter of a devise or bequest. 36 L.R.A.(N.S.) 618.

Bequest of "the rest of my money" as comprehending entire residuary estate. 4 B. R. C. 548.

#### § 67. Mistake in description.

Parol evidence of mistake in description of land devised. 16 L.R.A. 321.

Correction of misdescription of land in will. 6 L.R.A.(N.S.) 943; L.R.A.1915E, 1008.

#### e. After born children not mentioned; disinheriting.

8 68. Generally.

Capacity of after born child to take, see infra, § 70.

Choice of remedy of pretermitted heirs, see Election of Remedies, § 6. WILLS; V. e-cont'd

Decrees invalidating wills affecting rights of persons not in being. 8 L.R.A. (N.S.) 65.

Omission of children from will as affecting right to probate. 34 L.R.A.(N.S.) 966.

Conflict of laws as to disinheriting. L.R.A.(N.S.) 459.

Admissibility of extrinsic evidence as to whether omission of child from will was intentional. 51 L.R.A.(N.S.) 646.

Sufficiency of provision as to after-born child to prevent revocation of will. 43 L.R.A. (N.S.) 1195.

Admissibility of extrinsic circumstances in ascertaining intention of testator in respect to disinheriting an after born child. 13 L.R.A.(N.S.) 781.

Right of adopting parent to disinherit adopted child. L.R.A.1916D, 424.

Right to disinherit illegitimate or legitimated child. L.R.A.1918A, 45.

# f. Description of beneficiaries; who may take.

§ 69. Generally.

Devise to one and his heirs, issue, children, etc., see infra, § 82.

Estate taken under gift to several, see infra, §§ 96-98.

Right of one committing homicide to take under will of victim, see DESCENT AND DISTRIBUTION, § 8.

Meaning of term "natural heirs." 45 L.R.A. (N.S.) 1163.

Meaning of devise to "nearest male heirs." 7 B. R. C. 982.

Does widow come within the term "heirs." L.R.A.1918A, 1108.

Meaning of "next of kin." 15 L.R.A. 300. Right of persons claiming through deceased relative to participate with those standing in equal degree of relationship with such relative, in provision for "next of kin," etc. 28 L.R.A. (N.S.) 479.

Do terms "child," "children," "issue," etc.,

in a will, include adopted children. 27 L.R.A.(N.S.) 1158; L.R.A.1918B, 123. Right of adopted children under will. 17

L.R.A. 437.

Who takes under gift to "husband," "wife" or "widow." 33 L.R.A.(N.S.) 816.

Devise or bequest to one described as "hus-band," "wife," or "widow," as affected by illegality or nonexistence of marriage. L.R.A.1971B, 1153.

Who are relatives or relations. 13 L.R.A. 87; 14 L.R.A. 342.

Inheritance by illegitimate under will. 23 L.R.A. 754.

Enlargement of class by testator's exclusion therefrom of persons who prima facie would not fall within its description. L.R.A.1916F, 790

Gift to one who shall have rendered specifled services to testator or another, as void for uncertainty. L.R.A.1917C,

Consult also L.R.A. Digests of Cases.

WILLS, V. f-cont'd

Extrinsic evidence to establish identity of legatee or devisee. 47 L.R.A.(N.S.) 514.

§ 70. Unborn children.

Capacity of child en ventre sa mere to take under devise or bequest to "children," etc. 1 B. R. C. 582.

g. Capacity of legatee or devisee; restrictions on charitable gifts.

§ 71. Generally.

Conflict of laws as to. 2 L.R.A. (N.S.) 456.

Applicability of statutes limiting time or amount of bequests or devises for charitable, educational, or other specific purposes, to devise or bequest to an individual absolutely, in the hope that he will devote it to such purpose. L.R.A.(N.S.) 1262.

§ 72. Restriction on power of corporation or association to take.

Conflict of laws as to. 2 L.R.A.(N.S.) 456. Effect of subsequent incorporation to make valid a gift to an unincorporated association. 14 L.R.A. 410.

Validity of bequest to corporation of its own stock. 18 L.R.A. 255.

§ 73. - who may question power. Right of private person to contest power of corporation to take or hold property under a will. 32 L.R.A. 297; 46 L.R.A. (N.S.) 73.

Right to question power of corporation to take by will property in excess of its charter authority. 9 L.R.A.(N.S.) 689; 44 L.R.A. (N.S.) 544.

Who may take advantage of statute rendering foreign corporation incapable of taking title to real estate. 33 L.R.A. (N.S.) 355.

# h. What property passes.

74. Generally.

What property passes under deed, see DEEDS, §§ 21-27.

What is appurtenant to land for the purposes of wills. 15 L.R.A. 654.

Devise or bequest of property as passing good will of business conducted in connection with such property. 16 L.R.A. (N.S.) 240.

What passes under devise or bequest of store, shop, or business. L.R.A.1917D, 435.

Devise as carrying visible easement.

L.R.A.(N.S.) 882.

Meaning of word "effects" in a will.

L.R.A.1918F, 769.

Real estate as "effects" in a will. 12

L.R.A.(N.S.) 661; L.R.A.1918F, 775.

Where, by the provisions of a will, upon the failure of a gift of a share in the residue the share is to fall back into the residue, does it become intestate property to the extent of the proportionate share of the first taker thereof. 3 B. R. C. 156.

WILLS, V. h—cont'd

Bequest of "the rest of my money" as comprehending entire residuary estate. B. R. C. 548.

Do stock dividends or dividends in stock of other corporations declared before tes-

tator's death, pass to legatee of original stock. L.R.A.1918B, 666.

Construction of word "things" as used in devise or legacy. L.R.A.1918A, 222. Sufficiency of bequest to pass bank deposit. 5 B. R. C. 539.

What passes under bequest of contents of, in, a place or receptacle. L.R.A. 1915C, 653.

When will the appointment of a "residuary legatee" amount to a gift of undisposed of realty. 5 B. R. C. 141.

Devolution of lapsed legacy or devise where will contains residuary clause. 44 L.R.A. (N.S.) 789.

# § 75. Right to proceeds of land under a devise.

Generally. 58 L.R.A. 719.

Land voluntarily conveyed by testator. 58 L.R.A. 720.

Land taken from testator by compulsory proceedings. 58 L.R.A. 720.

## i. Partial intestacy.

§ 76. Generally.

Election to take under will as affecting right to take property not disposed of by will. L.R.A.1917D, 762.

#### j. Nature of estate or interest created.

#### 1. In general,

§ 77. Generally. Under deed, see DEEDS, §§ 28-31. As to trusts generally, see TRUSTS. Creation of trust by will, see TRUSTS, II.

Meaning and effect of term "lend" or "loan" employed in will. L.R.A.1915D, 497.

Necessity of word "heirs" in devise in trust to pass fee to trustee. 2 L.R.A. (N.S.) 172.

Right of husband under a devise and bequest to others subject to the "legal rights" of the husband. 2 L.R.A. (N.S.) 1193.

Expression of intent to make provision for family as affecting estate taken by beneficiaries of trust in absence of any express definition thereof. 17 L.R.A. (N.S.) 1215.

Effect of reference to extrinsic document to control or modify the character of the estate that would otherwise pass under instrument. 8 L.R.A. (N.S.) 1038.

# 2. Repugnancy.

78. Generally. Devise absolutely: effect of subsequent gift | Unqualified limitations. 29 L.R.A. (N.S.)

over. 5 L.R.A.(N.S.) 323.

WILLS, V. j, 2-cont'd

Effect of videlicit following devise to restrict estate given to first taker. 33 L.R.A.(N.S.) 191.

Validity of restraint on the alienation of a fee simple during a limited time. 3 L.R.A. (N.S.) 668.

Validity of restraints on alienation of legal life estates. L.R.A.1918E, 571.

#### 3. Life or fee.

§ 79. Generally.

or property, effects, etc., contained in, a place or receptacle. L.R.A. Under deed, see DEEDS, § 29.

Devise or bequest to one and his children as giving the children an estate jointly or in common with the parent, or a remainder upon a life estate in the parent. L.R.A.1917B, 49.

80. Power to consume or dispose of chattels consumable by use.

Right of one to whom estate is devised for life, with power to consume, to convey a good title. 13 L.R.A. (N.S.) 458.

Power of disposition bestowed on devisee as indicative of quantum of estate intended to be devised. 18 L.R.A. (N.S.) 463. Effect of bequest for life of chattels con-

sumable in the use. 16 L.R.A. (N.S.) 483.

#### 81. - effect of, on remainder over after life estate.

Power to create remainder after life estate with absolute power of disposal. 6 L.R.A.(N.S.) 1186; 39 L.R.A. (N.S.) 805.

Remainder after devise or bequest for life with power of disposition. 1 L.R.A. (N.S.) 782.

# 4. Rule in Shelley's Case.

§ 82. Generally. Rule in Shelley's Case as applied to deeds, see DEEDS, § 30.

As affecting estate by entireties. 30 L.R.A.

The facts and the law of Shelley's Case. 29 L.R.A.(N.S.) 968.

Definitions of term used. 29 L.R.A. (N.S.) 970.

Varying statements of the rule. 29 L.R.A. (N.S.) 973.

Antiquity of the rule; Perrin v. Blake controversy. 29 L.R.A.(N.S.) 977.

Supposed objects of the rule. 29 L.R.A. (N.S.) 979.

Reasonableness of rule. 29 L.R.A. (N.S.) 988.

Operation and effect of rule. 29 L.R.A. (N.S.) 993.

Requisites of rule. 29 L.R.A.(N.S.) 1000. Estates to which rule applies. 29 L.R.A. (N.S.) 1021.

Application of rule to wills and deeds. 29 L.R.A.(N.S.) 1038.

Effect of rule on intention. 29 L.R.A. (N.S.) 1039

1069.

Begin with this book on every law question.

WILLS, V. j, 4—cont'd

Qualified limitations. 29 L.R.A. (N.S.) 1077. Limitations over. 29 L.R.A. (N.S.) 1110. Limitations to children. 29 L.R.A. (N.S.)

Miscellaneous limitations. 29 L.R.A. (N.S.)

Executory trusts. 29 L.R.A. (N.S.) 1136.

Application of rule to limitations of personal property. 29 L.R.A.(N.S.) 1146.

Abolition of rule by statute. 29 L.R.A. (N.S.) 1158.

Conveyance of fee by devise to one and his or her child or children. 4 L.R.A. (N.S.) 948.

"Children" as word of purchase or limitation. 12 L.R.A.(N.S.) 283.

Effect upon rule in Shelley's Case, of express prohibition against conveyance or encumbrance of property by life tenant. 7 L.R.A.(N.S.) 1109.

Effect of provision in bequest of personalty that, upon the death of the first taker, the property shall go to his "heirs," to create an absolute title in him. L.R.A. (N.S.) 470.

#### 5. Restrictions and conditions.

#### \$ 83. Generally.

Contingent interests, see infra, §§ 99-102.

Character of estate created by grant, lease, or devise of property to person so long as he shall desire to live upon it, or devote it to a particular use. 21 L.R.A. (N.S.) 575.

Character, as creating a condition precedent or subsequent, of testamentary provision that beneficiary shall assume or use a certain name. 7 B. R. C. 192.

Provision in devise for payment of a sum of money, or for the support of a third person, as a condition subsequent or a condition precedent. L.R.A.1917A, 617.

Validity of bequest on condition of adhering to, or renouncing, particular religious belief. 5 L.R.A. (N.S.) 804.

Validity of provision that money shall be payable to obligee only and not to his estate. 17 L.R.A. (N.S.) 1239.

Effect upon remainder of forfeiture of life estate for breach of condition subsequent. 21 L.R.A.(N.S.) 605.

Devises or bequests conditioned upon di-

vorce or separation or limited upon its continuance. 49 L.R.A.(N.S.) 637.

Devise or legacy conditioned on conduct of person other than the beneficiary. L.R.A.1918E, 372.

84. Specifying use of devise to religious society.

Effect of specifying use of real estate in devise to religious society. 11 L.R.A. (N.S.) 509.

Effect of provision directing the particular purposes to which property granted or devised to or for the benefit of a religious or charitable organization shall be devoted. 7 L.R.A. (N.S.) 1119.

Consult also L.R.A. Digests of Cases.

WILLS, V. j, 5-cont'd

§ 85. In restraint of marriage.

Construction and validity of restraints on marriage. 4 B. R. C. 64.

Validity and effect of conditions requiring consent to marriage of legatee or devisee. L.R.A.1917D, 468.

Validity of provision for person while un-

married. 2 L.R.A. (N.S.) 545.

Meaning of words "unmarried," and "without having been married," in will. 15 L.R.A. 292.

Validity and construction of conditions against marriage with a certain person, or a particular class of persons. L.R.A.1917A, 44.

Validity as affected by fact that the gift to which it relates is to a daughter or other female relative. 49 L.R.A. (N.S.) 606.

Validity of condition in restraint of marriage as affected by fact that a breach entails only a partial for-feiture. 49 L.R.A.(N.S.) 627.

Provision in restraint of marriage in a deed or will as a condition or a limitation. 49 L.R.A.(N.S.) 615.

Effect of testamentary provision restricting widow to enjoyment during widowhood, upon quantum of estate taken by her. 28 L.R.A.(N.S.) 1093; L.R.A.1918C, 861.

#### § 86. Provision for forfeiture by contesting.

Validity of the condition. 68 L.R.A. 447.

Operation. 68 L.R.A. 449. Exceptions to operation. 68 L.R.A. 451.

What amounts to breach of condition. L.R.A. 454; 21 L.R.A.(N.S.) 953; 39 L.R.A.(N.S.) 1160.

What amounts to a contest within forfeiture clause in will. 21 L.R.A.(N.S.) 953; 39 L.R.A.(N.S.) 1160.

Parties entitled to assert forfeiture. L.R.A. 455.

Waiver of forfeiture. 68 L.R.A. 455.

Condition against contest in connection with the doctrine of election. 68 L.R.A. **456.** 

# § 87. Restraint on alienation.

Repugnancy between gift of fee and restraint on alienation, see supra, § 78.

Restriction of alienation as affected by rule against perpetuities or suspension of alienation, see PERPETUITIES.

Validity of limitation upon power of alienation imposed upon devise of equitable estate to married woman. L.R.A. (N.S.) 426; L.R.A.1917A, 679.

Validity of restraint on alienation of a fee simple during a limited time. 3 L.R.A. (N.S.) 668.

Validity of restraints on alienation of legal life estates. L.R.A.1918E, 571.

Effect on prior takers of failure to gift because it violates the rule against perpetuities. 20 L.R.A. 509.

WILLS, V. j, 5-cont'd

§ 88. Satisfaction of condition.

Will court determine whether condition in devise or bequest as to good conduct or character of beneficiary has been satisfied, where that duty has been imposed on no one else. 25 L.R.A.(N.S.) 424. Right of court to control discretion vested

by will in one person to determine whether or when another is fit to receive legacy or devise. 25 L.R.A. (N.S.)

Performance of condition in restraint of marriage. 4 B. R. C. 190.

§ 89. Involuntary breach of condition. Effect of fact that breach of condition in devise or legacy relating to conduct of legatee or devisee is involuntary on latter's part. 27 L.R.A.(N.S.) 684; L.R.A.1915A, 91.

§ 90. Relief against forfeiture. Equitable relief against forfeiture of devise on condition of support. 69 L.R.A.

Equitable relief against forfeiture of devise on condition of payment of money. 69 L.R.A. 842.

#### 6. Remainders.

§ 91. Generally.

Effect of power of disposal on remainder over after life estate, see supra, § 81. Under rule in Shelley's Case, see supra, § 82.

Contingent remainders, see infra, § 101.

Devise or bequest to one and his children as giving the children a remainder upon a life estate in the parent. L.R.A.1917B, 49.

Character of remainder created by grant or devise to one for life, with remainder to his children who may survive him. 25 L.R.A. (N.S.) 888.

Effect on remainder of forfeiture of life estate for breach of condition subsequent. 21 L.R.A. (N.S.) 605.

Effect of invalidity of bequest of life estate

occasioned by interest of attesting witness upon rights of persons entitled to remainder. 4 B. R. C. 710.

#### 7. Limitations; limitations over; executory devises.

§ 92. Generally.

Under rule in Shelley's case, see supra. § 82. Limitations in devise or bequest to class, see infra, § 97.

Limitations of estate on probate of will as violation of rule against perpetuities. 10 L.R.A. (N.S.) 564.

Provision in restraint of marriage as a limitation. 49 L.R.A.(N.S.) 615; B. R. C. 128.

WILLS, V. j. 7-cont'd

§ 93. Limitations over.

Under rule in Shelley's case. 29 L.R.A. (N. S.) 1110.

Validity of devise over upon indefinite cessation of lineal descendants of first taker. 3 L.R.A.(N.S.) 1143.

Effect on absolute gift of fee of failure for remoteness of limitation over. L.R.A. 509.

Necessity that share be actually paid or conveyed to first taker before his death in order to defeat a gift over, or substitutional gift dependent upon the death of the first taker before receipt or payment of share. 8 L.R.A. (N.S.) 180.

Devise or bequest limited upon continuance of divorce or separation. 49 L.R.A. (N.S.) 637.

Effect of limitation over in case the person to whom property is given in the first instance dies without lineal descendants, issue, children, heirs of the body, etc., to give to his issue an interest by implication by way of remainder, executory devise, or substitutional gift. 51 L.R.A.(N.S.) 485.

94. Executory devise.

Effect of limitation over in case the person to whom property is given in the first instance dies without lineal descendants, issue, children, heirs of the body, etc., to give to his issue an interest by implication by way of executory devise. 41 L.R.A. (N.S.) 485.

Limitation to heirs under rule in Shelley's case by executory devise. 29 L.R.A.(N.

8.) 1011.

# 8. Income or support.

§ 95. Generally.

As to life tenants generally, see LIFE TEN-ANTS.

Testamentary annuity as payable out of corpus or income. L.R.A.1917E, 580.

Apportionment, as between life tenant and remainderman, of income from securities which the trustee must or may convert. 6 B. R. C. 207.

Effect of annexing to valid devise invalid direction as to accumulation of income to defeat gift. 20 L.R.A. 514.

Duty of devisee of income to pay taxes. 32 L.R.A. 755.

Right to intermediate income under bequest to persons who come into existence after the death of the testator. L.R.A.1916F, 800.

Provision in devise for payment of a sum of money, or for the support of a third person, as a charge, a condition subsequent, or a condition precedent. L.R.A.1917A, 617.

May provision in a will for support of a person which is made a lien or charge upon property devised or bequesthed to others be reached by his creditors. 23 L.R.A. (N.S.) 526.

Begin with this book on every law question.

WILLS, V. j, 8-cont'd

Remedy for enforcement of legacy for support when charged on devise. L.R.A.(N.S.) 824.

Right of estate of one entitled by will or statute to an allowance for support and maintenance to accumulations undrawn and unexpended at time of her death. 9 L.R.A.(N.S.) 997.

#### 9. Interest of several.

§ 96. Generally.

When may a testamentary gift be considered as one to a class. L.R.A.1918B, 234; 7 B. R. C. 784.

Bequest to a class one of whom died before the execution of the will. 2 L.R.A.

(N.S.) 580.

By what law members of class to whom testamentary gift is made are to be ascertained. 2 B. R. C. 557.

Effect of invalidity of bequest occasioned by

interest of attesting witness upon rights of persons jointly or subsequently entitled thereto. 4 B. R. C. 710.

Where by the provisions of a will, upon the failure of a gift of a share in the residue the share is to fall back into the residue, does it become intestate property to the extent of the proportionate share of the first taker thereof. 3 B. R. C. 156.

§ 97. Time for determination of persons taking.

Time for ascertaining members of class described as testator's "heirs," "next of kin," "relations," etc., to whom an estate in real or personal property is limited by way of remainder or executory gift. 33 L.R.A. (N.S.) 1.

§ 98. Distribution per stirpes or per capita.

Gift to persons not designated by name but by general description, and as being living at a certain time prior to testator's decease, as a gift to individuals or to a class. 34 L.R.A.(N.S.) 945.

#### 10. Vested or contingent interests.

§ 99. Generally.

Contingency in gift to class, see supra, § 97.

Doctrine as to possibility of issue extinct as affecting devise or legacy. 48 L.R.A. (N.S.) E65.

§ 99a. Provision contemplating the attainment of a certain age as rendering gift contingent.

Circumstances supporting or varying impli-cation of contingency. L.R.A. 1915C, 1022.

The decisions considered with reference to the sufficiency of the context to vest the gift immediately. L.R.A.1915C, 1072. Consult also L.R.A. Digests of Cases.

WILLS, V. j, 10-cont'd

Legacies charged on real estate. L.R.A. 1915C, 1072.

Contingency as a constituent part of the description of the legatee or devisec. L.R.A.1915C, 1076.

Appendix A. Cases which turn upon existence of an antecedent gift, apart from direction to pay, convey or divide. L.R.A.1915C, 1085.

Appendix B. Cases as to sufficiency of the context to overcome implication of contingency. L.R.A.1915C, 1102.

§ 100. Time to which contingency is referable.

Time of vesting of remainder, see infra, § 102.

Does contingency of death without issue, children, etc., import their survival of first taker. 37 L.R.A.(N.S.) 164.

To what time is the contingency of death of a legatee or devisee without child or issue, upon which a gift is conditioned, referable. 25 L.R.A. ditioned, referable. (N.S.) 1045.

§ 101. Remainders.

Expectant and contingent interest in real property as subject of attachment or levy. 30 L.R.A. (N.S.) 115.

Contingent remainder as subject of devise by remainderman. 21 L.R.A. (N.S.) 121.

Effect of union of life estate and remote remainder or reversion in the same person, upon intermediate contingent remainder. 7 L.R.A. (N.S.) 433.

Will remainder contingent upon child surviving parent vest, upon death of parent during lifetime of child, but before the determination of a precedent estate outstanding in a third person. 30 L.R.A.(N.S.) 908.

Creation of vested remainder notwithstanding life tenant's power to dispose of property. 1 L.R.A.(N.S.) 1005.

Character of remainder as affected by direction that children, etc., of deceased remainderman, shall take their parent's share. 37 L.R.A.(N.S.) 728.

Character of remainder created by grant or devise to one for life, with remainder to his children who may survive him. 25 L.R.A. (N.S.) 888.

Character of remainder created by devise thereof to certain persons, "or as many of them as may be living at the time;" "to such of [a class or group] as may be living;" or with other forms of expression importing survivorship. L.R.A.1917D, 601.

Testamentary gift in the form of a direction to pay, to divide, or to convey as contingent on survival of the time of payment or conveyance. L.R.A.1918E, 1097.

102. — time of vesting.

Suspending time of vesting estate; when estates vest; rule which governs. 9 L.R.A. 215.\*

WILLS, V. j, 10—cont'd Construction of will as to time of vesting of estate. 1 L.R.A. 433.\*

k. Rights and preferences of legatees; enforcement; payment; garnishment.

§ 103. Rights of legatees generally. Right of legatee to dividends on stock. 45 L.R.A. 393.

Right of legatee for whose benefit the purchase of annuity is directed to receive principal in lieu thereof. 33 L.R.A. (N.S.) 979.

Heating apparatus as part of realty where rights of devisee are involved. 1 B. R. C. 982.

Right of devisee or legatee to attack conveyance or transfer by testator. 30 L.R.A.(N.S.) 194.

Right of one claiming through devisee to protection against unrecorded conveyance by ancestor or his personal representative. 34 L.R.A.(N.S.) 328.

§ 104. Interest on legacy.

Personal liability of executor or administrator to distributees for interest during litigation involving construction and interpretation of will. 31 L.R.A. (N.S.) 357.

Conflict of laws as to. 2 L.R.A.(N.S.) 468.

§ 105. Preference between legacies.

Is a legacy given to a creditor in satisfaction of his debt entitled to priority over other legacies of same class. 2 B. R. C. 509.

Right of devisee to completion of improvements at the expense of the state. 36 L.R.A. (N.S.) 303.

Right of devisee of incumbered property to exoneration at expenses of legatee. 3 L.R.A. (N.S.) 898.

§ 106. Enforcement.

Remedies for enforcement of legacy when charged upon devise. 30 L.R.A.(N.S.) 815.

§ 107. — action to recover legacy. Legatee or devisee as real party in interest by whom action must be brought. 64 L.R.A. 611.

§ 108. Payment or enjoyment of legacv.

Acceleration of enjoyment by election, see infra, § 115.

Effect of executor's promise as to payment of legacy upon trust relations with legatee. 9 L.R.A.(N.S.) 214.

§ 109. Garnishment of legacy.

Garnishment of residuary legacies before settlement. 59 L.R.A. 387.

Garnishment of husband's interest in wife's legacy or distributive share. 47 L.R.A. 360.

WILLS, V. cont'd

l. Acceptance; election; renunciation.

110. Generally.

What constitutes election to take under or against will. 49 L.R.A.(N.S.) 1072.

Election by legatee, conflict of law as to. 2 L.R.A. (N.S.) 459.

General principle that one accepting benefit under will ratifies other provisions of will. 13 L.R.A. 567.

Mode and effect of renouncing benefit under will. 19 L.R.A.(N.S.) 595.

Allowing specified time for election to take under devise or bequest as violation of rule against perpetuities or suspension of power of alienation. 26 L.R.A. (N.S.) 825.

Condition in will for forfeiture of interest by any contesting beneficiary in connection with doctrine of election. 68 L.R.A. 456.

Devise or bequest of property in which testator had but a part interest as putting co-owner, who is a beneficiary, to his election. 30 L.R.A.(N.S.) 644.

May beneficiary be put to his election by extrinsic evidence of testator's intention. 28 L.R.A.(N.S.) 657.

Necessity of electing between claiming own property which the will attempts to dispose of, and a legacy or devise in lieu of dower or other fixed right. 42 L.R.A.(N.S.) 1127.

When beneficiary deemed to have elected to take under a will assuming to dispose of his property. 4 L.R.A.(N.S.) 1065.

§ 111. Who may elect.

For widow, see infra, § 113.

Power of personal representative to elect, see EXECUTORS AND ADMINISTRATORS, § 18.

Right of one's creditors or personal representatives to make or control election for or against a will, or between different provisions of a will or statute. 11 L.R.A.(N.S.) 379.

Right of devisees to make or control election for or against a will or between different provisions of a will or statute. 11 L.R.A.(N.S.) 382.

§ 112. Between dower and provision in will.

Effect of, see infra, §§ 114, 115.

By widow between provisions of will and other rights. 18 L.R.A. (N.S.) 272. Conflict of laws as to. 2 L.R.A. (N.S.) 459;

L.R.A.1915F, 680.

Effect on legacy in lieu of dower, of widow's death during period for election. 2 L.R.A.(N.S.) 959.

Apportionment of annuity created and accepted in lieu of dower. 63 L.R.A. 625.

Necessity of electing between claiming own property which the will attempts to dispose of, and a legacy or devise in lieu of dower. 42 L.R.A.(N.S.) 127.

Begin with this book on every law question.

WILLS, V. 1-cont'd

§ 113. — who may elect for widow. Who may elect against a will on behalf of an insane widow. 17 L.R.A. 296; 35 L.R.A.(N.S.) 1210; 49 L.R.A.(N.S.) 1108.

114. Effect of election.

Effect on third person of widow's election to take against will. 14 L.R.A. 293. Effect of spouse's election to take against

will upon rest of will. 27 L.R.A. (N.S.)

Election to take under will as affecting right to take property not disposed of by will. L.R.A.1917D, 762.

Effect of election in one jurisdiction for or against the provisions of a will, upon right to elect as to property situated in another jurisdiction. 3 B. R. C. 519.

Effect of provision in will for equitable conversion on wife's dower or distributive share where the will makes no provision for her or she renounces such provision. 22 L.R.A. (N.S.) 285.

Statute of limitations applicable to actions to enforce implied promise arising from acceptance of devise chargeable with payment of legacy. 8 L.R.A. (N.S.)

115. — acceleration by.

Acceleration of remainder by renunciation of life estate. L.R.A.1915A, 671; L.R.A.1918B, 64.

Widow's renunciation of life estate. 18 L.R.A. (N.S.) 272; L.R.A.1918B,

# m. Equitable conversion.

§ 116. Generally.

Equitable conversion generally, see EQUIT-ABLE CONVERSION.

Conflict of laws as to. 2 L.R.A. (N.S.) 457. Doctrine of equitable conversion in relation to succession tax. 1 L.R.A. (N.S.) 400; 19 L.R.A.(N.S.) 290.

When is there such a failure of testator's purpose or object as to preclude the application of the doctrine of equitable conversion. 20 L.R.A.(N.S.) 117.

· Conversion by directing sale after devising land. 39 L.R.A.(N.S.) 817.

§ 117. Effect of.

Law governing effect of. 2 L.R.A. (N.S.) 432.

Effect of provision in will for equitable conversion upon wife's dower or distributive share, where the will makes no provision for her, or she renounces such provision. 22 L.R.A. (N.S.) 285.

Doctrine of equitable conversion as affecting one's right to sign consent or remonstrance as landowner. 50 L.R.A. (N.S.)

Consult also L.R.A. Digests of Cases.

WILLS, V. m—cont'd

§ 118. As of what time. As of what time conversion takes place un-

der direction to sell real property which postpones sale to definitely ascertainable time subsequent to testator's death. 20 L.R.A.(N.S.) 65.

n. Charge on donee or land devised.

119. Generally.

Testamentary annuity as payable out of corpus or income. L.R.A.1917E, 580.

General directions in, to pay debts, as charging homestead. 44 L.R.A.(N.S.) 1177. Remedies for enforcement of legacy when charged on devise. 30 L.R.A. (N.S.)

815.

Debt charged against, or owed to testator by, a devisee as a charge against person taking the property devised in succession or by substitution. LR.A. 1917D, 567.

Provision in devise for payment of a sum of money or for the support of a third person as a charge, a condition subsequent, condition or

LR.A.1917A, 617.

May provision in will for support of a person, which is made a lien or charge upon property devised or bequeathed to others be reached by his creditors. 23 L.R.A.(N.S.) 526.

Statute of limitations applicable to action to enforce an implied promise arising from acceptance of devise chargeable with payment of legacy. 8 L.R.A.

³**3**93. (N.S.)

Admissibility of extrinsic evidence for purpose of charging property with payment of legacies or debts where the will is silent on that point. 19 L.R.A. (N.S.) 457.

o. Lapsing; ademption; advancements; abatement; revocation.

§ 120. Lapsing.

Conflict of laws as to. 2 L.R.A.(N.S.) 467. Effect of death of beneficiary of testamentary gift of an annuity, before its purchase. 2 B. R. C. 909.

Effect of statutes designed to prevent lapsing of testamentary provisions upon death of beneficiary in testator's lifetime to render the property bequeathed twice liable to legacy or inheritance tax. 5 B. R. C. 857.

Devolution of lapsed legacy or devise where will contains residuary clause.

L.R.A. (N.S.) 789.

Lapsing of gift in form of direction to pay or divide in case of death of legatee before gift takes effect in possession. L.R.A.1918E, 1098.

§ 121. Ademption.

Liability of bequest of stocks, bonds, or notes to ademption. 11 L.R.A.(N.S.)

Gift to one spouse by parent of the other as ademption. 26 L.R.A.(N.S.) 1050. Power of guardian or conservator to adeem

legacy. 28 L.R.A.(N.S.) 401.

WILLS, V. o-cont'd

§ 122. — of specific legacy.

Disposal, loss, or destruction of subject-matter, or payment of debt, as ademption of specific legacy or devise. 40 L.R.A.(N.S.) 542.

Change in subject-matter or substitution of other property as an ademption of a specific legacy or devise. 40. L.R.A.(N.S.) 553; L.R.A.1918D, 538.

Collection of insurance policy during life-time of testator as ademption of spe-cific legacy thereof. 40 L.R.A.(N.S.) 561.

123. — of general legacy.

Gift by testator as ademption of general legacy to donee. 38 L.R.A. (N.S.) 588; L.R.A.1916C, 618.

\$ 124. Advancements. Advancements by testator, see ADVANCE-MENTS.

§ 125. Abatement.

Conflict of laws as to. 2 L.R.A. (N.S.) 467. Liability of bequest of stocks, bonds, or notes to abatement. 11 L.R.A.(N.S.)

Order of abatement to pay debts as between demonstrative legacies and specific legacies or devises. 4 L.R.A. (N.S.) 922.

# 126. Effect of divorce to revoke gift by will.

Generally. 69 L.R.A. 940.

When status mentioned in will controls. 69 L.R.A. 940.

Effect of lapse of time between divorce and testator's death. 69 L.R.A. 942.

Effect of property settlement. 69 L.R.A. 943.

As affecting right to take under gift to "husband," "wife" or "widow." 33 L.R.A. (N.S.) 826.

Settlement of property rights between husband and wife on account of divorce as implied revocation of will. 20 L.R.A. (N.S.) 1073.

# p. General or specific.

§ 127. Generally.

Ademption of specific legacy, see supra, § 122.

Ademption of general legacy, see supra, § 123.

Bequest of policy of insurance, or proceeds thereof, as specific legacy. 7 L.R.A. (N.S.) 592.

Contribution as between specific legatees and specific devisees to pay testator's debts. 1 L.R.A.(N.S.) 461.

Effect of bequest for life of chattels consumable in the use as general or specific bequest. 16 L.R.A.(N.S.) 484.

Order of abatement to pay debts as between acies. 4 L.R.A.(N.S.) 922.

| WILLS, V. p—cont'd | § 128. Of stocks, bonds, or notes. ls bequest of stocks, bonds, or notes gen-eral or specific. 11 L.R.A.(N.S.)

#### q. Who will take void legacy.

§ 129. Generally.

Right of heir or residuary legatee to gift failing for remoteness. 20 L.R.A. 517. Effect of invalidity of bequest occasioned by interest of attesting witness upon rights of persons jointly or subsequently entitled thereto. 4 B. R. C. 710.

#### VI. Suit to construe will.

§ 130. Generally. Jurisdiction of suit, see EQUITY, § 13.

#### WILSON ACT.

Effect of removal of constitutional objections to state statute by. 48 L.R.A. (N.S.) 349.

#### WIND.

Proximate cause of loss or injury by, see PROXIMATE CAUSE, § 5.

Causes of loss covered by insurance against windstorm. L.R.A.1915B, 1094.

#### WINDING UP.

Of corporation, see Corporations, IX. Of partnership, see Partnership, §§ 29-51.

Allowance of expenses of winding up business of estate as costs of administration. 40 L.R.A.(N.S.) 203.

Liability of personal representative, testamentary trustee, or guardian in winding up business in behalf of estate. 40 L.R.A. (N.S.) 222.

# WINDOW FRONTS.

As fixtures. 41 L.R.A.(N.S.) 1022.

#### WINDOWS.

As fixtures. 30 L.R.A.(N.S.) 1189. Right to open windows in party wall. 10 L.R.A. (N.S.) 1191.

Right to close windows in party wall. L.R.A.(N.S.) 194.

er of abatement to pay debts as between demonstrative legacies and specific leg-Burglary by forcing. 17 L.R.A.(N.S.) 1100.

Burglary by raising window already partly open. 17 L.R.A.(N.S.) 1102.

Begin with this book on every law question.

WINDOWS-cont'd Burglary by taking screen from window. 17 L.R.A.(N.S.) 1100; 38 L.R.A.(N.S.) 770.

#### WINDSTORM.

Causes of loss covered by insurance against. L.R.A.1915B, 1094.

#### WINE.

As intoxicating liquor. 20 L.R.A. 647. Judicial notice of intoxicating character of. 48 L.R.A.(N.S.) 305.

# WING FENCES.

Compensation for making, as element of damages for laying out street across 24 L.R.A. (N.S.) railway property. 1234.

#### WIRES.

Electric wires, see ELECTRICITY; HIGHWAYS,

Injury to trainman by overhead wires. 47 L.R.A.(N.S.) 497.

Right to carry wires across railroad. L.R.A. 1915B, 823.

# WIRE TAPPING.

See TAPPING WIRES.

#### WITCH.

Actionability of charge that one is a witch. L.R.A.1916E, 682.

#### WITCHCRAFT.

Belief in, as insane delusion. 37 L.R.A. 272. Belief in, as affecting capacity to make will or deed. 16 L.R.A. 677.

Prohibition of fortune telling under English witchcraft act. 43 L.R.A. (N.S.) 204.

# WITHDRAWAL.

Of appearance, see APPEARANCE, § 5. From arbitration, see Arritration, § 3. Right of attorney to withdraw action, see ATTORNEYS. § 16. Consult also L.R.A. Digests of Cases.

# WITHDRAWAL-cont'd

From loan association, see Building and LOAN ASSOCIATIONS, § 8.

Of bid for public contract, see CONTRACTS, § 160a.

Of subscription for corporate stock, see Con-PORATIONS, § 80.

From conflict by one setting up self defense as excuse for homicide, see Homicide, § 29.

Of pleading, see PLEADING, § 13.
Of telephone service, see TELEPHONES, § 9. Of juror, see CRIMINAL LAW, § 38; TRIAL,

§ 18a. Of probate proceedings, see WILLS, § 54.

Of property from auction sale. 57 L.R.A. 784; 20 L.R.A. (N.S.) 1133; L.R.A. 1917A, 74.

Right to withdraw order given agent before acceptance by principal. 10 L.R.A.

(N.S.) 1138. Right to withdraw names from petition or remonstrance. 11 L.R.A.(N.S.) 372; 35

L.R.A.(N.S.) 1113.
Of name from initiative or referendum petition. 50 L.R.A.(N.S.) 223; L.R.A. 1917B, 39.

Liability for causing withdrawal of surety from bond. 42 L.R.A.(N.S.) 388.

Validity of agreement made in consideration of withdrawal of candidacy for office. 37 L.R.A.(N.S.) 289.

Right to withdraw proceedings to probate or contest will or issues thereunder. 19 L.R.A.(N.S.) 121.

Right of officer to withdraw resignation. 16

L.R.A.(N.S.) 1058; L.R.A.1917F, 547. Abutting owner's right to withdraw before action thereon of consent to construction of railroad or street railway in street or highway. 7 L.R.A.(N.S.) 994.

Right to withdraw money paid into court after tender. 5 L.R.A. (N.S.) 561.

Effect of withdrawal from combat as affecting civil liability for assault. L.R.A. 1915C, 893.

Effect of withdrawal of one party to a common design to commit an offense on his liability for a homicide by the other party. L.R.A.1918B, 76.

Effect of withdrawal from joint enterprise or partnership to exclude from participation in the profits thereof. L.R.A. 1918B, 679.

#### WITHOUT RECOURSE.

Assignor without recourse as an endorser. 36 L.R.A. 119.

Indorsement without, as putting purchaser on inquiry. 29 L.R.A. (N.S.) 378; 44 L.R.A.(N.S.) 402; L.R.A.1918F, 1152.

WITHOUT HAVING BEEN MARRIED.

Meaning of term. 15 L.R.A. 293.

#### WITNESSES.

I. In general, \$\$ 1-8.

II. Competency, §§ 9-25.

a. In general, §\$ 9-16.

b. Husband and wife, §§ 17-21.

c. Effect of death, §§ 22-24.

d. As to character or reputation, \$ 25.

III. Examination, \$\$ 26-40.

a. In general, §§ 26-30.

b. Cross-examination, §§ 31-38.

c. Re-direct examination, § 39. d. Protection; privileges, § 40.

IV. Impeachment; discrediting; corroboration, \$\$ 41-46.

V. Credibility, § 47. VI. Compensation, §§ 48-51.

a. In general, \$\$ 49, 50.

b. Of expert witness, \$ 51.

#### I. In general.

§ 1. Generally.

Attesting witness, see ATTESTING WITNESS; WILLS, §§ 15, 24, 26-31.

Constitutionality of statutes as to, see Constitutional Law, § 192.

Contempt by, see CONTEMPT.

Right to continuance for absent witness, see CONTINUANCE, §§ 2, 3.

Validity of contract to procure testimony, see Contracts, § 103.

Right of accused to be confronted with witnesses against him, see CRIMINAL LAW, § 47.

Effect of death of, see DEATH, § 23.

Jurisdiction of courts of equity to entertain bill to perpetuate testimony, see Deposition, § 2.

District attorney as, see DISTRICT AND PROS-ECUTING ATTORNEY, § 4.

As to evidence, see EVIDENCE.

Opinions and conclusions of, see EVIDENCE, VIII.

Privileged communications to, see EVIDENCE, §§ 20-26.

Oath to, see OATH, § 3.

Sickness of, see SICKNESS, § 5.

Matters as to, generally during trial, see TRIAL, § 11.

To will, see WILLS, §§ 15, 24, 26-31.

Liability of one who procures defamatory testimony to be given. 4 B. R. C. 986. Right of convicted person to maintain an

Right of convicted person to maintain an action against witness for negligently giving false evidence. 3 B. R. C. 251.

Validity of agreements with. 19 L.R.A. 373;

L.R.A.1918F, 1102.

Comparison of handwriting by. 62 L.R.A. 869.

To prove lost or destroyed wills. 38 L.R.A. 443.

Treating of jury by, as ground for new trial or reversal. 19 L.R.A.(N.S.) 737.

Admonishing or warning witness by judge in criminal case as ground of reversal or new trial. L.R.A.1917E, 859.

Begin with this book on every law question.

WITNESSES, I.—cont'd

Sickness of, as ground for injunction against judgment. 30 L.R.A. 795.

Right to set aside verdict or grant new trial because of demeanor of. 41 L.R.A. (N.S.) 855.

Constitutionality of statute permitting court to appoint expert witnesses. 33 L.R.A.(N.S.) 917.

Exception of consuls from serving as. 45 L.R.A. 586.

Right of un-named witness to maintain action for libel or slander based on charge that some of witnesses had committed perjury. 23 L.R.A.(N.S.) 728.

Collateral attack on probate where decree or will affirmatively shows that the will is invalid for defects as to witnesses. 42 L.R.A.(N.S.) 455.

Former jeopardy; discharge of jury because of matter affecting witness. L.R.A.1917D, 1148.

2. Before grand jury.

Witnesses before grand jury, generally. 28 L.R.A. 321.

Competency of criminals as witnesses before grand jury. 28 L.R.A. 319.

Swearing of witnesses before grand jury. 28

Swearing of witnesses before grand jury. 28 L.R.A. 320.

Wife as witness before grand jury. 28 L.R.A. 322.

Unauthorized presence of witness in grand jury room as affecting indictment. L.R.A.1916D, 1126.

Power to grant immunity to witness. L.R.A.1918A, 376.

3. Interference with or detention of.
 Interference with as a crime.
 25 L.R.A. 439.
 Procuring one having knowledge of offense to leave the jurisdiction.
 33 L.R.A. (N.S.) 976.

Detention of one as witness as false imprisonment. 39 L.R.A.(N.S.) 503.

§ 4. Securing attendance of.

Power to regulate or restrict constitutional right of defendant in criminal cases to compulsory process to procure attendance of witnesses in his behalf. 8 L.R.A.(N.S.) 509.

Continuance to procure witness who is beyond the jurisdiction. L.R.A.1918E, 527.

§ 5. Subpoena duces tecum.

Refusal to produce books or papers in response to subpoena, upon ground that they contain private matter.

29 L.R.A.(N.S.) 716.

Particularity required in description of documents in subpoena duces tecum. 31 L.R.A.(N.S.) 835.

Inducing witness to evade or disregard summons or subpena as contempt of court. L.R.A.1915D, 571.

§ 6. Necessary witnesses.

Subscribing witness, necessity of calling. 35 L.R.A. 321.

§ 7. Limiting number of. Limiting number of. 10 L.R.A. 576.\* WITNESSES, I.—cont'd

§ 8. Reference to, by prosecuting at-

Attack on defendant's witnesses by prosecuting attorney in argument as ground for reversal. 46 L.R.A. 653.

Reversible error in comments on witnesses by counsel in argument to jury. L.R.A. 1918D, 92.

Comments by prosecuting attorney on absence of witnesses as ground of reversal of conviction. 46 L.R.A. 665; 34 L.R.A.(N.S.) 811; L.R.A.1918D, 70.

Reference by prosecuting attorney in argument to jury to attempts to tamper with witnesses or jurymen as ground for reversal. 30 L.R.A.(N.S.) 795.

#### II. Competency.

#### a. In general.

9. Generally.

Competency of witness to give opinion or

conclusion, see EVIDENCE, VIII.

Competency of expert witness, see EVIDENCE, VIII.

As to competency of evidence, see EVIDENCE, XII.

Of witness to handwriting, see EVIDENCE, §§ 199, 200.

Competency of witness to will, see WILLS, §§ 28, 29.

Capacity and competency of interpreter. L.R.A.1916F, 1206.

Right of attorney to testify in his own behalf or in behalf of client. 49 L.R.A. (N.S.) 422.

Deaf and dumb persons as witnesses; com-

petency. 24 L.R.A. 126. Constitutional right of colored persons to be witnesses. 14 L.R.A. 581, 584.

Competency of witnesses as affected by question whether suit for statutory penalty is a civil or criminal prosecution. 27 L.R.A.(N.S.) 746.

Competency to testify as to one's nationality. 37 L.R.A. (N.S.) 760.

Right of owner of baggage to testify as to its value in an action for its loss. 37 L.R.A.(N.S.) 588.

Waiver of objection to competency of witnesses by cross-examination of same. 33 L.R.A. (N.S.) 106.

Incompetency as witness of person making uncontradicted statement in presence of accused as affecting its character as a confession or admission. 25 L.R.A. (N.S.) 551; 42 L.R.A. (N.S.) 891.

Whose dying declarations are admissible. 56 L.R.A. 358.

Federal courts following state decisions as to competency of. 40 L.R.A. (N.S.) 449.

# § 10. Criminals.

Competency of criminals as witnesses before grand jury. 28 L.R.A. 319. Crimes which disqualify one as a witness.

L.R.A.1917F, 898.

Consult also L.R.A. Digests of Cases.

WITNESSES, II. a-cont'd

Conviction in another jurisdiction as affecting competency of witnesses. L.R.A. 1917A, 1138.

Pardon or commutation of sentence as affecting competency of witness convicted of crime. 47 L.R.A.(N.S.) 206.

11. - accomplice.

Competency of accomplice as affected by agreement for immunity. 24 L.R.A. (N.S.) 445.

Dismissal of prosecution towards one de-fendant to qualify him as a witness against others. 35 L.R.A. 710.

§ 12. Religious belief as qualification. In general. 42 L.R.A. 553; 23 L.R.A. (N.S.) 1023.

Classification by states. 42 L.R.A. 555. Federal cases. 42 L.R.A. 566. English and Scotch cases. 42 L.R.A. 566.

§ 13. Competency of children. Admissibility of declarations of infant, see EVIDENCE, § 218.

Minor witnesses to will. L.R.A.1916E, 695. As dependent upon age. 19 L.R.A. 605. As affected by magnitude of case. 19 L.R.A.

606. Necessity of oath. 19 L.R.A. 606.

The tests of competency now applied. 19 L.R.A. 607.

Illustrations of testing witnesses for competency. 19 L.R.A. 608.

Question of competency to be determined in open court. 19 L.R.A. 609.

Duty as to instruction of child. 19 L.R.A. 609.

How examined. 19 L.R.A. 610.

How far decision reviewable. 610.

Admissibility of declarations of infant too young to be sworn as a witness at the trial. 65 L.R.A. 316.

§ 14. Insanity.

Effect of insanity on competency of witness. · 37 L.R.A. 423; 46 L.R.A. (N.S.) 1028. Admissibility of declarations of insane person as affected by incompetency as a witness. L.R.A.1915E, 207.

Competency as witness of prosecutrix in prosecution for rape of female of unsound mind. L.R.A.1916F, 749.

§ 15. Morphinism.

Morphinism as affecting competency. 89 L.R.A. 265.

§ 16. Judge; prosecuting attorney. Competency of judge as witness in a cause on trial before him. 31 L.R.A. 465; L.R.A.1915F, 766.

Prosecuting attorney as witness. 55 L.R.A. 231.

# b. Husband and wife.

§ 17. Generally. Effect of death, see infra, § 24a. WITNESSES, II. b-cont'd

Privileged communications between, see Ev-IDENCE, § 223.

Admissibility of declarations of spouse incompetent to testify as a witness. L.R.A.1915E, 204.

Admissibility against one spouse of evidence
of facts revealed by physical examination of other spouse who would be an
incompetent witness. 49 L.R.A. (N.S.)
563.

Husband and wife as witnesses in action for wife's libel or slander. 30 L.R.A. 529. Competency of husband or wife as witness

for or against the other as to transactions prior to marriage. 67 L.R.A. 499; 45 L.R.A. (N.S.) 396.

Waiver of privilege as to communication between husband and wife by calling one spouse as a witness for the other. 40 L.R.A.(N.S.) 43.

Effect of statute making husband and wife competent witnesses for or against each other, upon the privilege as to confidential communications between them. 27 L.R.A. (N.S.) 273; L.R.A. 1916F, 389.

Applicability of disqualification statute to testimony of alleged spouse to establish marriage in order to succeed to share of the decedent's property. 51 L.R.A. (N.S.) 183.

Applicability of rule excluding testimony of interested person in controversy with decedent's estate, where husband or wife of devisee or legatee, or widow of decedent, is offered as a witness in controversy over succession to estate. 51 L.R.A. (N.S.) 212.

§ 18. Criminal cases.

Wife as witness before grand jury. 28 L.R.A. 322.

Husband or wife as witness against the other in criminal prosecutions. 2 L.R.A. (N.S.) 862; 22 L.R.A. (N.S.) 240; 41 L.R.A. (N.S.) 1213; L.R.A. 1917E, 1133.

Competency of wife to testify as to offense against her before marriage. 45 L.R.A. (N.S.) 396.

§ 19. As to misconduct of other spouse.

Competency of one spouse to testify as to misconduct of other spouse in action against a third person. 39 L.R.A.(N.S.) 315.

§ 20. Nonaccess.

Competency of woman to testify as to nonaccess of husband. 2 L.R.A.(N.S.) 619; L.R.A.1916B, 1053.

Admissibility of testimony of husband or wife, as to prenuptial nonaccess of husband. 14 L.R.A. (N.S.) 546.

§ 21. Dying declarations.

Admissibility of dying declarations of husband against wife. 56 L.R.A. 360.

Admissibility of dying declarations as affected by competency or incompetency of declarant as witness. 56 L.R.A. 432.

Begin with this book on every law question.

WITNESSES, II. b—cont'd Admissibility of dying declarations of wife against husband. 56 L.R.A. 360.

#### c. Effect of death.

\$ 22. Generally.

Competency of a party to deny a transaction with a person since deceased. 21 L.R.A. (N.S.) 755; 42 L.R.A. (N.S.) 298.

Admissibility after death of adversary of testimony or deposition of party given or taken before the former's death and relating to a personal transaction with him. 14 L.R.A. (N.S.) 488; L.R.A. 1915F, 771.

Admissibility of testimony as to transactions with the attorney or agent of deceased person. 7 LR.A.(N.S.) 684.

Competency of assignor of claim in suit to testify as to transactions with or statements by deceased, where not expressly excluded by terms of statute. 42 L.R.A.(N.S.) 316.

May statutory rule excluding testimony of transaction with deceased person by party or person in interest be invoked against estate of decedent or person claiming under the estate. 42 L.R.A.(N.S.) 305.

Do statutes disqualifying party as a witness because of death of other party apply to actions ex delicto. L.R.A.1916D, 811.

Competency to testify to possession of note, deed, or other articles at one time in possession of the decedent, where witness would be incompetent to testify directly to a transaction by which it is claimed decedent parted with his possession. 45 LR.A. (N.S.) 583.

#### § 28. Interested witnesses. Husband or wife, see infra, § 24a.

Competency of interested witness to testify as to transactions with deceased in which he did not participate. 29 L.R.A.(N.S.) 1179; 42 L.R.A.(N.S.) 320.

Competency of original debtor to testify to payment made to decedent, in action by third person against the estate to recover amount so paid. 28 L.R.A.(N.S.) 388.

Right of heir or next of kin to testify in favor of the estate. L.R.A.1918C, 918. Applicability of rule excluding testimony of interested person in controversy with decedent's estate, to controversies over succession to estate. 51 L.R.A. (N.S.) 187.

§ 24. — stockholders.

Competency of stockholder as witness where corporation is a party to a suit prosecuted by or against a personal representative. 27 L.R.A. (N.S.) 816.

WITNESSES, II. c-cont'd 24a. Husband and wife.

Right of surviving spouse to testify in favor of the estate. L.R.A.1918C, 918.

Competency as a witness of the husband or wife of a party to an action involving a decedent's estate. L.R.A.1917A, 2.

Applicability of disqualification statute to testimony of alleged spouse to establish marriage in order to succeed to share of the decedent's property. 51 L.R.A. (N.S.) 183.

# d. As to character or reputation.

§ 25. Generally.

Admissibility of evidence as to character or reputation, see EVIDENCE, §§ 249-253. Right, for purpose of cross-examination, to

Competency of witness as to character and reputation of deceased in trial for homicide. 3 L.R.A.(N.S.) 375.

Right of witness to testify to character from personal knowledge. L.R.A.(N.S.) 650.

Character of the accused, deceased, or parties. 2 L.R.A. (N.S.) 552; 22 L.R.A. (N.S.) 661.

#### III. Examination.

#### a. In general.

§ 26. Generally.

Contempt by witness, see CONTEMPT. Evidence generally, see EVIDENCE.

Examination of, as to sanity or insanity. 39 L.R.A. 305.

In proceeding in tribunal of association or corporation. 49 L.R.A. 369. Inquiries of, by jurymen. 1 L.R.A. (N.S.)

839.

8 27. Leading questions.
 Power of court to put. 57 L.R.A. 881;
 J.R.A.1916A, 1196.

Admissibility as dying declarations of mat-ters elicited by. 2 B. R. C. 923.

28. Refreshing memory.

Of witness to handwriting. 63 L.R.A. 164. Right for purpose of cross-examination to inspect paper used by witness to refresh memory. 22 L.R.A.(N.S.) 706.

§ 29. Power of court to call and examine witnesses.

Power of court to call witnesses. L.R.A.

1916A, 1191
Power of court to examine witnesses. 57 L.R.A. 878; L.R.A.1916A, 1192.

§ 30. Examination of witnesses to handwriting.

Generally. 63 L.R.A. 163; 65 L.R.A. 154. Direct examination. 63 L.R.A. 163. Cross-examination. 63 L.R.A. 168. Consult also L.R.A. Digests of Cases.

WITNESSES, III.—cont'd

#### b. Cross-examination.

§ 31. Generally.

Use of books on inexact sciences on. L.R.A. 569.

Refusal to allow cross-examination on relevant matters covered by the examination in chief as ground for reversal or new trial. 25 L.R.A.(N.S.) 683.

Right to have direct testimony stricken out where cross-examination is interrupted wholly or in part by sickness or death of witness. 15 L.R.A.(N.S.) 493. Cross-examination of husband or wife when

witness against the other in criminal prosecutions. 41 L.R.A.(N.S.) 1213; L.R.A.1917E, 1133.

inspect paper used by witness to refresh memory. 22 L.R.A.(N.S.) 706.

Cross-e. mination of plaintiff in action for personal injuries as to his willingness to submit to physical examination. 43 L.R.A.(N.S.) 622.

Cross-examination of prosecutrix on trial for statutory rape to show unchastity. 48 L.R.A.(N.S.) 273.

Rule as to right of accused to cross-examine witnesses as affecting admissibility of ex parte in proceeding to punish criminal contempt. L.R.A.1917B, 119.

§ 32. By court.

Power of court to cross-examine. 57 L.R.A. 882; L.R.A.1916A, 1198.

Interrogation of accused by court. L.R.A. 674.

§ 33. As to sanity.

Of nonexpert witness as to sanity or insanity. 38 L.R.A. 743.

Of expert witness as to sanity. 39 L.R.A.

§ 34. Witness as to character.

Of witness testifying to character. L.R.A.(N.S.) 739. 14

Of witness as to character of accused. L.R.A. 615.

§ 85. As to handwriting and typewriting.

Of expert witness. 63 L.R.A. 170; L.R.A. 1918D, 650.

Of nonexpert. 63 L.R.A. 168.

§ 36. To show conviction of crime. Cross-examination as proper mode of proving conviction of crime for purposes of impeachment. 30 L.R.A. (N.S.) 846.

§ 37. Of accused. Under statutory limitations. 15 L.R.A. 669.

In absence of statutory limitation. L.R.A. 670.

Right to question defendant concerning other crimes on cross-examination. 62 L.R.A. 345.

WITNESSES, III. b-cont'd

Right to cross-examine accused who has taken witness stand, as to confession which would not be admissible in evidence. 10 L.R.A.(N.S.) 604.

#### § 38. Effect of.

Waiver of objection to testimony by cross-33 L.R.A. (N.S.) examination.

#### c. Redirect examination.

#### 39. Generally.

Redirect examination of witness as to character. 14 L.R.A.(N.S.) 745. Of witness as to sanity or insanity. L.R.A. 326.

#### d. Protection; privileges.

# 40. Generally.

Protection against self-crimination, see CRIMINAL LAW, §§ 49-53.

As to privileged communications, see Evi-DENCE, §§ 220-226.

Privileged nature of words used by, see LIBEL AND SLANDER, § 30.

Privilege as to service of process, see WRIT

AND PROCESS, §§ 35, 36.

Who may grant immunity to a witness. L.R.A.1918A, 376.

Privilege of witness as to defamatory testimony. 22 L.R.A. 836.

Right of bank officer or employee to refuse to disclose state of depositors' account. L.R.A.1915D, 1061.

#### IV. Impeachment; discrediting; corroboration.

#### § 41. Generally.

Of nonexpert witness as to sanity or insanity. 38 L.R.A. 743.

Impeachment of accused by testimony at coroner's inquest. 70 L.R.A. 43.

Admissibility for purpose of impeachment in actions for sexual offenses, of evidence that prosecuting witness has made similar charges against other persons. 41 L.R.A. (N.S.) 216.

Right to show unchastity of prosecutrix in statutory rape to affect her credibility. 48 L.R.A.(N.S.) 272.

Right to show that a witness attempted to influence other witnesses for or against accused. 46 L.R.A. (N.S.) 1001.

Impeachment on trial of testimony given on preliminary examination by witness absent from the trial. 25 L.R.A. (N.S.) 884.

Pardon or commutation as affecting proof of conviction to impeach credibility of

witness. 47 L.R.A.(N.S.) 215. Right to use plea of nolo contenders to impeach defendant as a witness in another proceeding. 41 L.R.A. (N.S.) 74. Newly discovered evidence impeaching wit-

nesses as ground for bill of review. 30 L.R.A.(N.S.) 1037.

Begin with this book on every law question.

WITNESSES, IV .-- cont'd

§ 42. Discrediting.

Impeaching character of accused for credibility. 20 L.R.A. 616.

Use of books of inexact sciences to sustain or discredit expert. 40 L.R.A. 567.

Impeachment of, by specific instances as to character. 14 L.R.A.(N.S.) 697.

Admissibility of declarations of beneficiary or executor to show lack of testamentary capacity or undue influence for purpose of impeaching or discrediting declarant as a witness. 38 L.R.A. (N.S.) 743.

Cross-examination as proper mode of proving conviction of crime for purposes of impeachment. 30 L.R.A. (N.S.) 846.

# § 48. Contradiction.

Impeachment of own witness by proof of contradictory or inconsistent statements. 21 L.R.A. 426.

Contradiction of expert witness as to sanity or insanity. 39 L.R.A. 326.

Contradiction of subscribing witnesses as to testator's sanity or insanity. L.R.A. 719.

Admissibility of books of account to contradict witness. 52 L.R.A. 717.

Right to impeach or contradict dying declarations. 56 L.R.A. 441.

Admissibility of contradictory statements by declarant to impeach dying declara-tions. 37 L.R.A.(N.S.) 252.

# § 44. Right to impeach one's own wit-

General rule. 21 L.R.A. 418. Limits of the rule. 21 L.R.A. 420.

Exceptions, to the rule. 21 L.R.A. 422. Conflicting testimony. 21 L.R.A. 428.

Prior interrogation necessary. 21 L.R.A.

Effect of recalling. 21 L.R.A. 429.

Effect of calling opponent's witness. L.R.A. 430.

State statutes. 21 L.R.A. 430. English doctrine. 21 L.R.A. 432.

Does the rule preventing impeachment of one's own witness by proof of contra-dictory statements out of court apply where such statements would have been admissible in chief as admissions against interest. 22 L.R.A.(N.S.) 556.

Right to impeach one's own witness because he has not testified as expected, where his testimony is not affirmatively injurious. 42 L.R.A.(N.S.) 747.

Right of party calling a witness who contradicts himself on cross-examination to introduce evidence of previous statements consistent with his testimony on direct examination. L.R.A.1915F, 601.

#### 45. Corroboration.

Admissibility of books of account to corroborate witness. 52 L.R.A. 718.

Right to sustain dying declarations and witness testifying thereto. 56 L.R.A. 441.

Right of court to caution jury as to corrob-oration of testimony of accused. 19 L.R.A. (N.S.) 812,

WITNESSES, IV.—cont'd

Does the fact that a witness's testimony is contradicted by opposing testimony warrant the introduction of evidence of his reputation for truth and veracity. 12 L.R.A.(N.S.) 364.

Contradictory statements made by one accused of perjury as sufficient corroboration of single witness. L.R.A.1918E,

928.

§ 46. — by proof of previous consistent statements out of court.

The early doctrine. 41 L.R.A.(N.S.) 858. The purpose in proving consistent statements. 41 L.R.A.(N.S.) 870.

Consistent statements offered as evidence in chief. 41 L.R.A.(N.S.) 872. Necessity of impeaching the witness. 41

L.R.A.(N.S.) 873.

How witnesses are impeached. 41 L.R.A. (N.S.) 877.

The modern general rule of inadmissibility. 41 L.R.A.(N.S.) 878.

The reasons for excluding the evidence. 41 L.R.A. (N.S.) 883.

The rule in cases of rape. 41 L.R.A. (N.S.) 886.

Exceptions to the modern rule of inadmissibility. 41 L.R.A. (N.S.) 889.

Impeachment by proof of bad character. 41 L.R.A.(N.S.) 901.

Opening the door for consistent statements. 41 L.R.A.(N.S.) 903.

Re-establishing credit after evidence of contradictory statements. 41 L.R.A. (N.S.) 905.

Refuting inferences from equivocal conduct. 41 L.R.A. (N.S.) 917.

Need of preliminary proof of inconsistent statements. 41 L.R.A.(N.S.) 920.

Sequence of consistent and inconsistent statements. 41 L.R.A.(N.S.) 922. Coincidence of consistent statements and

events. 41 L.R.A.(N.S.) 923. Aids to memory. 41 L.R.A.(N.S.) 928.

Private writings. 41 L.R.A.(N.S.) 928. Previous consistent statements under oath. 41 L.R.A.(N.S.) 933.

Testimony by witnesses to their own consistent statements. 41 L.R.A. (N.S.) 938.

Self-serving declarations of litigant witnesses. 41 L.R.A.(N.S.) 940.

Consistent statements as answers to admissions against interest. 41 L.R.A.(N. 8.) 946.

Necessity of identity in substance of con-sistent statements and testimony. 41 L.R.A. (N.S.) 948.

Statements relating to age. 41 L.R.A.(N. 8.) 949.

Extra-judicial identifications of persons accused of crime. 41 L.R.A. (N.S.) 949. Corroborating the deed. 41 L.R.A. (N.S.)

Corroborating accomplices in trials for crime. 41 L.R.A.(N.S.) 954.

Right of party calling a witness who contradicts himself on cross-examination to introduce evidence of previous state-·Consult also L.R.A. Digests of Cases. 89

WITNESSES—cont'd

ments consistent with his testimony on direct examination. L.R.A.1915F, 601.

#### V. Credibility.

47. Generally.

Instructions as to, see TRIAL, §§ 61-63.

Attack out of court in presence of jurymen upon credibility of witness as ground for new trial. L.R.A.1917B, 248.

Credibility of witnesses as to character in criminal cases 14 L.R.A.(N.S.) 739.

Impeaching character of accused for credibility. 20 L.R.A. 616.
Right of jurors to act on their own knowl-

edge as to credibility of witnesses. 31 L.R.A. 496.

Right of jurors to test credibility of particular witness by their own knowledge. 37 L.R.A. (N.S.) 805.

Credibility of witness of unsound mind as question for the jury. 46 L.R.A.(N.S.) 1030.

Right to show unchastity of prosecutrix in statutory rape to affect her credibility. 48 L.R.A.(N.S.) 272.

Credibility and effect of testimony of person injured at a railroad crossing that he looked and listened where he must have detected the train had he looked or listened. L.R.A.1915B, 140.

#### VI. Compensation.

#### a. In general.

§ 48. Generally.

Witness fees to persons under detention or recognizance. 20 L.R.A. 57.

Duty of state to advance fees of witnesses summoned on its behalf. 31 L.R.A.(N. S.) 781.

Offering to pay witness as a ground for disbarment or suspension of attorney. L.R.A.1915A, 514.

§ 49. Right of state to require services of witness without.

Inherent right to command service. L.R.A. 116.

Application of constitutional provisions. 39 L.R.A. 118.

The rule as applied to expert testimony. 39 L.R.A. 120. General rules with relation to civil cases.

39 L.R.A. 121. § 50. Agreement for extra compensa-

tion.

Validity of agreements to pay witnesses extra compensation. 30 L.R.A. (N.S.) 280; L.R.A.1918F, 1102.

#### b. Of expert witness,

§ 51. Generally. As to matters of fact. 27 L.R.A. 669; 25 L.R.A.(N.S.) 1040; 33 L.R.A.(N.S.)

As to requiring examination or preparation. 27 L.R.A. 669.

WITNESSES, VI. b-cont'd

Cases denying the right to additional compensation. 27 L.R.A. 670.

Cases affirming the right to additional compensation. 27 L.R.A. 671.
Reasons given for the different rulings. 27 L.R.A. 671.

Statutory provisions. 27 L.R.A. 672. By whom paid. 27 L.R.A. 673. The English rule. 27 L.R.A. 673.

Duty of state to advance fees of witnesses summoned on its behalf. 31 L.R.A.(N. S.) 781.

Validity of agreement to pay expert. 30 L.R.A.(N.S.) 281; L.R.A. 1918F, 1102. Attorney's implied power to bind client for fees of. 23 L.R.A. (N.S.) 704.

Right of state to require services of expert witnesses without compensation. L.R.A. 120.

#### WOLF.

Liability for injury by. 11 L.R.A.(N.S.)

#### WOMAN SUFFRAGE.

See FEMALE SUFFRAGE.

#### WOMEN.

Generally.

As clerks, see CLERKS, § 4. As deputies, see DEPUTY, § 4.

Constitutionality of statutes, as to, see CONSTITUTIONAL LAW, § 177. Exclusion from saloons, see Intoxicating

Liquors, § 6.
Libel or slander by charging unchastity of, see Libel and Slander, § 12.

Eligibility to office, see Officers, § 7.

Included in term "persons." 19 L.R.A. 226. Evidence of specific instances to character of. 14 L.R.A.(N.S.) 689.

Negligence of, in getting on or off moving street car. 38 L.R.A. 789.

Arrest without warrant of women soliciting or accosting men. L.R.A.1917D, 697. Taking liberties with woman as an assault. L.R.A.1917A, 142.

§ 2. Rights of.

Right to vote, see ELECTIONS, § 3. Right to hold office, see Officers, § 7.

Right to practise law. 21 L.R.A. 701. Right to petition in relation to school mat-ters. 43 L.R.A. (N.S.) 293.

Constitutionality of statute entitling women to serve as jurors. L.R.A.1918E, 773.

#### WOOD.

Tenant's .right to cut, see LANDLORD AND TENANT, § 54. Begin with this book on every law question.

WOOD—cont'd See also Logs and Logging; LUMBER; Tim-BER; TREES.

Regulation of storage of, for purpose of fire protection. 41 L.R.A.(N.S.) 457. Sufficiency of delivery of cord wood on sale out of larger lot. 26 L.R.A.(N.S.) 38.

#### WOOD ALCOHOL.

Liability for injury to employee by explosion of. L.R.A.1918B, 864.

# WOODEN BUILDINGS.

Within fire limits, see Buildings, # 4.

#### WORDS.

As provocation for homicide, see HOMECEDE, § 24.

Meaning of, see DEFINITIONS.

Words as affecting false imprisonment where plaintiff did not accompany the person using them. 7 L.R.A. (N.S.) 576.

#### WORDS AND PHRASES.

Protection of descriptive word or phrase as-trademark, see TRADEMARK, § 7. In general, scee DEFINITIONS.

#### WORDS OF INHERITANCE.

Necessity for, in reservation of easements. 20 L.R.A. 632.

Effect of statute disposing of necessity of using, on estate passing by deed. 12: L.R.A.(N.S.) 963.

#### WORK AND LABOR.

l. Generally.

Right to compel prisoners to labor, see CRIMINAL LAW, § 77. Liability of husband for legal services for

wife in divorce suit, see DIVORCE AND-

SEPARATION, §§ 39-40a.
Wife's liability for legal services in divorce suit, see HUSBAND AND WIFE, § 23.

Right of married woman to recover for services to third persons see HUSBAND. AND WIFE, § 65.

Services of illegitimates, see ILLEGITIMACY, § 2a.

Lien for, see MECHANICS' LIENS.

Work on mining claim, see MINES, §§ 16, 25...

WORK AND LABOR-cont'd

Creditor's right as to personal services of debtor, see DEBTOR AND CREDITOR, § 2. Right of partner to compensation for serv-

ices, see Partnership, § 27.

Loss of service as element in action by father for seduction of child, see SEDUC-TION, § 5.

On Sunday, see SUNDAY, §§ 5, 6.

as to the value of professional services. 45 L.R.A.(N.S.) 181.

Guarantying payment of labor on goods destroyed as insurance. 47 L.R.A.

(N.S.) 301.

Combination to contain the contained of the Conclusiveness of the testimony of experts

Combination to control price of labor per se a violation of the statute against trusts and monopolies. 23 L.R.A.(N. 8.) 1260.

Effect of express provision by statute or charter for payment of subscription in cash or money to exclude payment in services. 27 L.R.A.(N.S.) 315.

Conscription of labor for working highway as a tax. 5 L.R.A.(N.S.) 1139.

What services for jurors are proper subjects of county charge. 21 L.R.A. (N.

Loss of service as element in action by father for seduction of child. 14 L.R.A.

Libel in charging one with exacting excessive compensation for. 40 L.R.A.(N. S.) 79.

#### 2. Contracts for.

Liability for, on contractor's bond, see BONDS, § 10.

Contracts for services in building or construction, see Building and Construc-TION CONTRACTS.

Implied contract to pay for, see CONTRACTS, §§ 4-6; MUNICIPAL CORPORATIONS, § 60. Oral contract as to generally, see Con-

TRACTS, §§ 35a, 36. Oral contract to will property in payment

for, see CONTRACTS, § 33.

Distinction between sales and contracts for, under statute of frauds, see CONTRACTS,

Oral contract for services not intended to be performed within a year, see Con-TRACTS, § 39.

Effect of part performance of contract for, see Contracts, §§ 137, 138.

Servant's duty as to, see MASTER AND SERV-ANT, II.

As to specific enforcement of contract to compensate for, see SPECIFIC PERFORM-ANCE, §§ 6, 9.

Compensation to partner for, see PARTNER-SHIP, §§ 27, 85, 43.

Agreement to compensate for by will, see WILLS, § 2.

On Sunday, see SUNDAY, §§ 5, 6.

Bequest or devise in payment for services, etc. rendered testator as subject to succession tax, L.R.A.1916C, 553.

Consult also L.R.A. Digests of Cases,

WORK AND LABOR-cont'd

Champertous contracts for services by laymen. L.R.A.1916E, 68.

Effect upon character of sum agreed upon for breach of contract as penalty or liquidated damages of single or multiple stipulations in contract. 1915E, 393.

Recovery by one who abandons a contract for work or labor without cause or justification. L.R.A.1916E, 790.

Claim against state for. 42 L.R.A. 47.

Right of husband or wife to compensation for services rendered to the other. 15 L.R.A. 215.

Validity of contract by husband to pay wife for services. L.R.A.1917D, 268.

Right of married woman to maintain action for services rendered to a third person living in the home. 46 L.R.A. (N.S.) 238.

Liability of one who solicits the services of a physician or surgeon for another. 46 L.R.A.(N.S.) 577.

Infant's right to repudiate contract for and sue on quantum meruit. 15 L.R.A. 211.

Validity of contract for, in violation of law. 12 L.R.A.(N.S.) 608.

Validity of contract for material patented or held in monopoly where a letting to the lowest bidder is required. 46 L.R.A. (N.S.) .990.

Moral obligation as consideration for promise to pay for past services. 53 L.R.A. 372; 26 L.R.A. 526.

Priority of claims for labor against property in hands of receiver over recorded liens. 41 L.R.A.(N.S.) 708.

Denial upon information and belief as to. 30 L.R.A.(N.S.) 776.

Promise of additional compensation for completing an executory contract other than for the payment of money. 11 L.R.A.(N.S.) 789; 28 L.R.A.(N.S.) 450.

Breach by promisor during lifetime of contract to compensate for services on death as starting statute of limitations. 36 L.R.A. (N.S.) 922.

Admissibility of books of account to prove work done and service rendered. 52 L.R.A. 695.

Assignee of accounts for, as real party in interest by whom action may brought. 64 L.R.A. 597.

Municipal contracts for work embodying a patented invention. 18 L.R.A. 45.

Measure of damages for failure to perform contract to compensate for services by will. 41 L.R.A. (N.S.) 246.

Loss of profits as element of damages for breach of contract for. 53 L.R.A. 33. Right to interest on demand for. 28 L.R.A.

(N.S.) 1.

Constitutionality of statute providing for imprisonment for breach of contract of labor or rental. 21 L.R.A. (N.S.) 242.

Assignment or release of the right to a third person's services. L.R.A.1917F, 842.

# WORKHOUSE.

Right of woman to be director of. L.R.A. 211.

Who is, within meaning of workman's compensation act. L.R.A.1916A, 115, 246.

# WORKMEN'S COMPENSATION.

Generally.

Construction and effect of workmen's compensation acts generally. L.R.A. 1916A, 23; L.R.A.1917D, 89.

Limitation of application of workmen's compensation statute by Federal laws. L.R.A.1916A, 461; L.R.A.1917D, 85.

Extraterritorial application of workmen's compensation act; conflict of laws. L.R.A.1916A, 443; L.R.A.1917D, 83. Applicability of Compensation Statutes to minors. L.R.A.1918F, 209.

Validity of statutes.

Constitutionality of workmen's compensation and industrial insurance statutes. 34 L.R.A. (N.S.) 162; 37 L.R.A. (N.S.) 466; L.R.A.1916A, 409; L.R.A.1917D,

§ 3. Review of decisions of commission; appeals.

Right and extent of review of findings of commission. L.R.A.1917D, 186.

Under English act of 1906. L.R.A.1916A, 178.

American decisions. L.R.A.1916A, 266.

Provision in Workmen's Compensation Act as to appeals in Scotland, where an action is raised independently of the act. L.R.A.1916A, 127.

Conclusiveness of finding as to whether injury was one "arising out of and in the course of" the employment. 1918F, 915.

Conclusiveness of findings as to what constitutes an accident or personal injury. L.R.A.1918F, 877.

§ 4. Who is an employee within meaning of acts.

In general. L.R.A.1916A, 115, 246; L.R.A. 1917D, 145; L.R.A.1918F, 201.

Public officers or employees. L.R.A.1917D,

Teachers. L.R.A.1918F, 204.

Who are employees of state, county, city, district, or charitable and other public institutions. L.R.A.1918F, 190.

Persons employed by employees. L.R.A. 1918F, 202.

Employees injured while off duty. L.R.A. 1918F, 202.

Officers and stockholders of corporation. LR.A.1918F, 203.

Members of partnership. L.R.A.1918F, 204. Employees paid by commission or by the piece. L.R.A.1918F, 205.

Employees sharing in profits. L.R.A. 1917D, 146.

Applicability of statute as affected by amount of remuneration of employee. L.R.A.1917D, 146; L.R.A.1918F, 205. Begin with this book on every law question.

WORKMEN'S COMPENSATION—cont'd Farm laborers and domestic servants. L.R.A.1917D, 147; L.R.A.1918F, 202.

Wives, children, and members of family. L.R.A.1918F, 205.

Independent contractors, subcontractors, and their employees. L.R.A.1916A, 118, 247; L.R.A.1917D, 148; L.R.A. 1918F, 206.

Employees of subcontractors. L.R.A. 1917D, 148.

"Casual" employees. L.R.A.1916A, 120, 247, 365; L.R.A.1917D, 147; L.R.A. 1918F, 202.

Seamen. L.R.A.1916A, 120.

Driver of taxicab as workman. L.R.A. 1918E, 422.

§ 5. Liability to servants of contractors.

general. L.R.A.1917D, 148; L.R.A. Ĭ918F, 206.

English and Colonial decisions. LRA. 1916A, 95.

§ 6. What employers and employments are within provisions of acts.

Who are employers within the meaning of the Compensation Statutes. L.R.A. 1918F, 179.

Applicability of Compensation Acts to states, counties, cities, districts, charitable and other public institutions, and their employees. L.R.A.1917D, 143; L.R.A.1918F, 190.

Application of English act of 1906 to workmen under the Crown (§ 9).
L.R.A.1916A, 111.
Liability of general or special employer.
L.R.A.1917D, 143.
Application to application to application to application to application.

Application to employer having limited number of employees. L.R.A.1917D, 144.

Liability of lessor of premises. L.R.A. 1917D, 145.

general. Employments in L.R.A.1916A,

192, 216; L.R.A.1917D, 150. Employment for purposes of employer's trade or business. L.R.A.1917D, 15...

Employment carried on for pecuniary gain. L.R.A.1917D, 151.

Extrahazardous employment and other occupations expressly included within Workmen's Compensation Acts. L.R.A.

1917D, 152; L.R.A.1918F, 230. Employment casual and not in the usual course of the employer's business. L.R.A.1918F, 215.

Factories, mills, warehouses, etc., power. L.R.A.1917D, 156.

Injury to servant driving automobile. L.R.A.1918E, 422.

Applicability of state compensation acts to injuries to railroad employees while engaged in handling interstate mail. L.Ř.Ă.1918D, **426**.

Applicability of state compensation statutes to non-negligent injuries of rail-road employees while engaged in interstate commerce. L.R.A.1918C, 450.

Applicability of State Compensation Acts to injuries within admiralty jurisdiction. L.R.A.1918C, 474.

WORKMEN'S COMPENSATION—cont'd Application of English act of 1996 to work-men in the sea service (§ 7). L.R.A.1916A, 103.

§ 7. What injuries are within provisions of act.

Admissibility of coroner's finding to show cause of death. L.R.A.1918E, 926.

Injury disabling employee "from earning full wages." L.R.A.1916A, 72.

Recovery of compensation where workman suffers injury from assault. L.R.A. 1916A, 309.

Applicability of compensation act where insane workman commits suicide or suffers personal injuries. L.R.A.1916A, 339.

§ 8. - "accident" and "personal injury."

In general. L.R.A.1916A, 29, 227; L.R.A.

1917D, 103; L.R.A.1918F, 867.

Hernia as an "accident" or "personal injury" within the meaning of the compensation act. L.R.A.1916A, 303 L.R.A.1917D, 108; L.R.A.1918F, 873. 303;

Injuries caused by weather conditions, such as lightning, sunstroke, freezing, etc. L.R.A.1916A, 38, 43, 241; L.R.A. 1917D, 108, 129; L.R.A.1918F, 936.

§ 9. — injuries "arising out of and in the course of" employment.

In general. L.R.A.1916A, 40, 232; L.R.A. 1917D, 114; L.R.A.1918F, 896.
Injury from assault. L.R.A.1918E, 498.

Injuries caused by sportive acts. L.R.A. 1918E, 504.

Injuries received while procuring refreshment. L.R.A.1916A, 320; L.R.A.1917D, 120; 6 B. R. C. 471.

Injuries received while seeking toilet facilities. L.R.A.1916A, 317.

Injury to employee, received while on the street. L.R.A.1916A, 314; L.R.A.1917D, 114; L.R.A.1918F, 911.

Injuries received while going to and from work. L.R.A.1916A, 331; L.R.A.1917D, 119; L.R.A.1918F, 907.

Injuries received while trying to save personal belongings from loss. L.R.A. 1916A, 322.

Loss of eye through infection. L.R.A.1916A, 326.

Injury by lightning. L.R.A.19186A, 347. Injury caused by weather conditions such as lightning, sunstroke, freezing, etc. L.R.A.1918F, 936.

caused by intoxication. L.R.A. Injury 1918F, 901.

Injury to servant using, or riding in, mas-ter's automobile L.R.A.1918E, 421.

Accident occasioned by adoption of dangerous method of doing work. 7 B. R. C. 137.

Consult also L.R.A. Digests of Cases.

WORKMEN'S COMPENSATION-cont'd Injury resulting from doing prohibited act. 7 B. R. C. 159; L.R.A.1918F, 914.

10. — disease.

Recovery for incapacity resulting from disease. L.R.A.1916A, 289.

Incapacity resulting from industrial or occupational disease. L.R.A.1916A, 106; L.R.A.1917D, 113; L.R.A.1918F, 872.

Effect of fact that pre-existing disease contributed to injury or death on right to recover. L.R.A.1917D, 110, 129.

Effect of pre-existing disease which aggravates injury. L.R.A.1918F, 869.

Recovery where disease is caused by or follows an accident. L.R.A.1917D, 130; L.R.A.1918F, 868.

§ 11. - "serious and wilful misconduct" of employee.

What constitutes "serious and wilful misconduct" within the meaning of the compensation act. L.R.A.1916A, 75, 243, 355; L.R.A.1917D, 133.

In case of injury to servant driving automobile. L.R.A.1918E, 423.

Recovery of compensation where injured workman was intoxicated at the time of the injury. L.R.A.1916A, 351; L.R.A.1917D, 134; L.R.A.1918F, 901.

Right to compensation where injury results from doing prohibited act. 7 B. R. C. 159; L.R.A.1918F, 914.

§ 12. What acts or conduct of workman after injury will defeat right to compensation.

Refusal of injured workman to have operation performed as bar to compensation under workmen's compensation act. L.R.A.1916A, 387.

§ 13. Remedies where injury is caused by third person.

Rights and remedies under compensation acts where injuries were caused by negligence of third person. L.R.A.1916A, 360; L.R.A.1917D, 98; L.R.A.1918F, **524.** 

Liability under English act of 1906 of third person whose negligence causes the injury (§ 6). L.R.A.1916A,

§ 14. Notice of injury; claim for compensation.

In general. L.R.A.1916A, 83, 244; L.R.A. 1917D, 135; L.R.A.1918É, 556.

Form and contents of notice. L.R.A.1917D, 137: L.R.A.1918E, 558.

Time within which notice must be given or other steps taken. L.R.A.1917D, 138; L.R.A.1918E, 559.

To whom notice must be given. 1917D, 138; L.R.A.1918E, 561. By whom notice must be given.

L.R.A. 1917D, 138; L.R.A.1918E, 562.

Employer prejudiced by failure to receive notice. L.R.A.1917D, 139; L.R.A. 1918E, 562.

WORKMEN'S COMPENSATION—cont'd Excuses for not giving notice or making claim. L.R.A.1917D, 141; L.R.A.1918E,

§ 15. Extent of recovery.

Compensation recoverable generally. L.R.A. 1916A, 129; L.R.A.1917D, 164. Consideration of possible earnings of injured

employee in other employment, in fixing compensation under compensation acts.

L.R.A.1916A, 377.

"Average weekly earnings" under compensation act of workman employed by sev-

eral employers. L.R.A.1916A, 373. Inability to get work because of injury, as "incapacity for work," within the mean-

ing of the workman's compensation act. L.R.A.1916A, 380.

Effect of pre-existing disease on extent of recovery. L.R.A.1917D, 110, 129.

Review of amount of award. L.R.A.1917D, 186.

§ 16. Who entitled to compensation.

Who are dependents. L.R.A.1916A, 121, 163, 248; L.R.A.1917D, 157; L.R.A. 1918F, 483.

When are husband and wife living together within the meaning of the compensation act. L.R.A.1916A, 370.

Recovery by nonresident alien dependents.

L.R.A.1918F, 496.
Right of personal representatives to compensation that was being paid to dependents or employees. L.R.A.1918F,

#### WORK OF NECESSITY.

See SUNDAY, § 6.

# WORK TRAIN.

Liability of railroad company for injury to person wrongfully riding on work train by collusion with train employee. 37 L.R.A.(N.S.) 427.

# \*\*\* ; : WORN COIN.

As medium of payment, see PAYMENT, § 8. Tender of. 33 L.R.A. 824.

# -++-WORSHIP.

Freedom of, see Constitutional Law, § 29b.

Disturbance of, see DISTURBING MEETING.

Injunctive relief as to mode of. 3 L.R.A. (N.S.) 879.

#### WORTHLESS PAPER.

Forgery of, see Forgery, § 8.

III. Beturn, § 41. Begin with this book on every law question.

WORTHLESS PAPER—cont'd

Payment of debt by. 35 L.R.A. (N.S.) 49,

Effect of transfer of third person's worthless check or note without indorsement.

10 L.R.A.(N.S.) 510.

Forgery of. 24 L.R.A. 34.

#### WOUND.

Opinion evidence as to cause of, see Evi-DENCE, § 187b.

#### WOUNDING.

Internal hemorrhage as evidence of statutory wounding. 28 L.R.A.(N.S.) 965.

#### WRECKING GANG.

Foreman of, as vice principal. 51 L.R.A. 527.

#### WRECKS.

Wreck as attractive nuisance. L.R.A. 1917F, 1031.

Obstruction of navigation by; liability for. 59 L.R.A. 58.

Employer's liability for negligence of independent contractor in removal of, from navigable river. 65 L.R.A. 848.

Liability of owner for cost of removing, from water. 3 L.R.A.(N.S.) 1120.

Presumption of survivorship among those perishing in shipwreck. 51 L.R.A. 863.

#### WRENCHES.

Master's liability for injury by defect in. 13 L.R.A.(N.S.) 681; L.R.A.1918D, 1141.

## WRIT AND PROCESS.

I. In general, § 1-7. II. Service, §§ 8-40.

a. In general, §§ 8-14.

b. Constructive or substituted service, \$\$ 15-21.
1. In general, \$\$ 15-19.

2. By publication, \$\$ 20,

21. c. Service on corporation, \$\$

22-29.

1. In general, \$\$ 22, 23.

oreign corporations, §§ 24-29. 2. Foreign

d. Privilege; exemption, 30-37.

e. Waiver of service, \$ 38.

f. Liability of officer making, § 39.

g. Liability for failure to make, \$ 40.

# WRIT AND PROCESS-cont'd

#### I. In general,

§ 1. Generally.

Various particular writs, see Assistance; ATTACHMENT; CAPIAS AD RESPONDEND-UM; CAPIAS AD SATISFACIENDUM; CER-TIOBABI; EXECUTION; FIERI FACIAS; HABEAS CORPUS; INJUNCTION; MAN-DAMUS; NE EXEAT; PROHIBITION; QUO WARRANTO; REPLEVIN; RETORNO HA-

Abuse of process, see Abuse of Process. Writ of error, see APPEAL AND ERROR;

CORAM NOBIS.

Burden of proof in action for failure to execute process, see Evidence, § 86.

Effect of form of summons in determining nature of action. 50 L.R.A.(N.S.) 23. Complaint as aiding defective summons. 44 L.R:A. (N.Š.) 138.

For summoning grand jury. 27 L.R.A. 778. Effect of lack of jurisdiction due to void, irregular, or defective process, on right to maintain action for malicious prosecution. 2 L.R.A.(N.S.) 1106.

Claiming, or taking possession of, prop-erty from officer who has seized it un-

der a writ. 47 L.R.A.(N.S.) 1146. Defectiveness of process against junior encumbrancer made a party to a suit for foreclosure of senior mortgage. L.R.A.(N.S.) 431.

Injunction against judgment for matters affecting process. 31 L.R.A. 204.

Injunction against sales or other proceedings under final process. 30 L.R.A. 98. Title of purchaser at judicial sale as af-fected by irregularities in process. 21 L.R.A. 43.

Solicitation to avoid as a crime. 25 L.R.A. 439.

Effect of omission of internal revenue stamp from. 48 L.R.A. 313.

Effect of defects or omission in copy of writ or process delivered to person served. L.R.A.1917C, 150.

Execution of process and writs in name of deputy. 42 L.R.A.(N.S.) 881.

2. Signature. Signing writ by proxy. 22 L.R.A. 298. Typewritten, printed or stamped signature. L.R.A.1917B, 285.

§ 3. Time of issuing. Issuance of, on holidays. 19 L.R.A. 318.

§ 4. Effect of writ or process issued without seal of court.

In criminal cases. 20 L.R.A. 424.

As to statutory requirements. 20 L.R.A. 424.

As to summons. 20 L.R.A. 425.

As to the mode and form of the seal. 20 L.R.A. 426.

As to use of seals on original writs in civil cases. 20 L.R.A. 427.

As to judicial writs under seal. 20 L.R.A. 498

Consult also L.R.A. Digests of Cases.

WRIT AND PROCESS, I .- cont'd

As to amending process and writs where the seal has been omitted. 20 L.R.A. 428.

§ 5. Mistake in name or description.

Omission of Christian name in publication of process. 11 L.R.A.(N.S.) 676; 28 L.R.A.(N.S.) 436.

Use of initials instead of Christian name in publication of process. 28 L.R.A.(N. S.) 436.

Effect of summons or notice to person by wrong initial. 15 L.R.A.(N.S.) 129; 42 L.R.A.(N.S.) 151.

Applicability of doctrine of idem sonans to substituted or constructive service of process. L.R.A.1915B, 1149.

Mistake in name of party in copy of writ or process delivered to person served. L.R.A.1917C, 155.

Misnomer as ground of attack on divorce decree. L.R.A.1917B, 439.

Complaint as aiding summons defective as to names. 44 L.R.A.(N.S.) 138.

§ 6. - effect of erroneously describing defendant as a corporation instead of as individual or partnership, or vice versa.

Describing defendant as corporation instead of partnership. 40 L.R.A.(N.S.) 567. Describing defendant as corporation instead of individual. 40 L.R.A.(N.S.) 568.

Describing defendant as partnership instead of corporation. 40 L.R.A.(N.S.) 569. Describing defendant as individual instead of corporation. 40 L.R.A.(N.S.) 569.

7. Amendment,

Amendment of process where seal has been omitted. 20 L.R.A. 428.

Of writ of error from Federal Supreme Court. 66 L.R.A. 839.

# II. Service,

# a. In general.

§ 8. Generally.

Acceptance of service, see ACCEPTANCE, § 2. Consent to mode of service, see CONSENT, § 16.

Constitutionality of statute as to, see Con-STITUTIONAL LAW, § 190. In action by or against partnership, see

PARTNERSHIP, § 54.

Quashing summons or setting aside service thereof as affecting statute of limitations. 45 L.R.A. (N.S.) 756.

Motion to quash summons or set aside service as extending time to plead. L.R.A.(N.S.) 855.

Attack on divorce decree based on illegal or defective service of process. L.R.A. 1917B, 435.

Fraudulent service of process in divorce suit as ground for attack on decree.

L.R.A.1917B, 451.

What constitutes "personal service" of pa-

pers. 16 L.R.A. 200.

WRIT AND PROCESS, II. a-cont'd

In whose name deputy should act in execution of process and writs. 19 L.R.A. 180.

Injunction against judgment for matters affecting service of process. 31 L.R.A.

Right of intervenor in attachment to attack validity of service of process. 23 L.R.A.(N.S.) 1084.

Resisting service of civil process fair on its face but invalid in fact as an offense. 21 L.R.A.(N.S.) 66.

Necessity for service upon wife in action for wife's libel and slander. 30 L.R.A. 529.

Right to break and enter dwelling to serve civil writ of process. L.R.A.1916D, 281.

Right of officer in executing criminal process to take possession of evidentiary articles. 18 L.R.A. (N.S.) 253; L.R.A. 1916C, 1017.

What service of process is sufficient to authorize judgment in rem. 50 L.R.A.

Services of writ or process by telephone. L.R.A.1915D, 427.

Necessity and sufficiency of service of notice of application for alimony or support or for change of allowance in that regard after decree of divorce or separation. L.R.A.1915B, 674.

Of writ or error from Federal Supreme Court. 66 L.R.A. 840.

Of citation from Federal Supreme Court. 66 L.R.A. 845.

Federal courts following states' decisions as to form of service of. 40 L.R.A. (N.S.) 453.

9. Who may serve. Power of consul to serve process. 45 L.R.A. 500.

10. Time of.

First and last days in computing time on. 49 L.R.A. 217

Service of, on holiday. 19 L.R.A. 318.

§ 11. Place of.

Place of constructive or substituted service, see infra, § 17.

12. — personal service out of state. Personal service out of state on nonresident. 50 L.R.A. 585.

18. On nonresident. Constructive service, see infra, § 18.

Due process in service on. 50 L.R.A. 577. What service sufficient as basis of judgment in personam against nonresident. 50 L.R.A. 577.

Right to serve process in action against corporation upon nonresident officer who is within state as a party. 24 L.R.A. (N.S.) 276; 52 L.R.A. (N.S.) 583.

§ 13a. On prisoner.

Process may generally be served. 46 L.R.A.

Prisoner serving sentence. 46 L.R.A. 707. Assistance of court. 46 L.R.A. 708.

Service on jailer. 46 L.R.A. 708.

WRIT AND PROCESS, II. a-cont'd Service immediately after discharge from criminal arrest. 46 L.R.A. 709.

Effect of privilege from first arrest. L.R.A. 709.

Illegality of first arrest. 46 L.R.A. 709. Custody under extradition proceedings. 46 L.R.A. 711.

14. What service sufficient to constitute due process.

basis of judgment in personam. L.R.A. 577.

As basis of judgment in rem. 50 L.R.A.

Constructive or substituted service on resident in action in personam as due process of law. 35 L.R.A.(N.S.) 292; L.R.A.1917C, 1143.

b. Constructive or substituted service.

# 1. In general.

§ 15. Generally.

In divorce suit, see DIVORCE AND SEPARA-TION, § 10.

As to decrees of divorce rendered upon constructive service, see DIVORCE AND SEPARATION, § 10.

Award of alimony upon constructive service, see DIVORCE AND SAPARATION, § 38.

Validity and effect of a judgment against parties designated in an action as unknown. L.R.A.1918F, 609.

Constructive or substituted service on resident in action in personam as due process of law. 35 L.R.A. (N.S.) 292;

L.R.A.1917C, 1143.
Applicability of doctrine of idem sonans to substituted or constructive service of process. 30 L.R.A. (N.S.) 122; L.R.A. 1915B, 1149.

Validity of constructive service upon part-nership in firm name. 29 L.R.A.(N.S.) 287.

Validity of statute authorizing constructive or substituted service on domestic corporation. 4 L.R.A. (N.S.) 117.

Is remedy of party to open a default judgment based on constructive service of process available to his privies. 26 L.R.A.(N.S.) 1063.

Effect on marketability of title of defective constructive service of process. L.R.A.(N.S.) 23.

Lack of actual notice in case of constructive service as ground for relief, under a statute permitting opening of a judgment for mistake, inadvertence, of a surprise, or excus L.R.A.(N.S.) 1068. or excusable neglect.

Effect of absence of personal service on validity of the Torrens Law. L.R.A. 1916D, 16.

Attack on divorce decree for failure to conform to statute in making constructive service on defendant spouse. LR.A. 1917B, 436.

Constructive service of process in suit to set aside divorce. L.R.A.1917B, 509.

Begin with this book on every law question.

WRIT AND PROCESS, II. b, 1-cont'd § 16. Inquiries as · to defendant's whereabouts.

Character of inquiry as to whereabouts of party necessary to sustain constructive service of process. L.R.A.(N.S.) 206.

§ 17. Place of service.

Where may process be served under statutes providing for constructive service by leaving it at one's usual place of abode, residence, and the like. 21 L.R.A. (N.S.)

§ 18. On nonresident.

Service by publication, see infra, § 20. In divorce suit, see DIVORCE AND SEPARA-TION, § 10.

Constructive service on alien enemy. L.R.A. 1918B, 196.

In proceedings in rem against nonresident. 50 L.R.A. 582.

Validity of personal judgments rendered upon constructive process against nonresidents. 16 L.R.A. 231.

Sufficiency of constructive service on alien

enemy. 5 B. R. C. 594.

May jurisdiction of suit to determine interests of partners or cotenants in real property within state rest upon constructive service upon nonresident. 52 L.R.A.(N.S.) 1061.

May jurisdiction of suit for specific performance of a contract for the conveyance of land within the territorial jurisdiction rest upon constructive service of process against a nonresident. 23 L.R.A.(N.S.) 1135.

May jurisdiction of suit to quiet title or remove cloud on title of land within the territorial jurisdiction rest upon constructive service of process against a nonresident. 29 L.R.A.(N.S.) 625.

§ 19. Validity of personal judgments rendered on constructive service. gainst residents. 16 L.R.A. 232.

What service sufficient as basis of judgment

in personam. 50 L.R.A. 577.

What property subject to. 16 L.R.A. 234.

For alimony or costs. 16 L.R.A. 234.

Against nonresident not personally

served within the state, and not appearing. 9 L.R.A.(N.S.) 593; L.R.A.1917F, 1161.

Validity of personal judgment against par-ties designated in an action as un-known. L.R.A.1918F, 609. Against nonresidents. 16 L.R.A. 231.

In proceedings in rem. 50 L.R.A. 582. Judgment for alimony. 9 L.R.A. (N.S.) 593; L.R.A.1917F, 1161.

Constitutionality of statute authorizing personal judgment against partners on personal service on one or more. 50 L.R.A. 595.

Validity and effect, as against defendant not personally served within the state, of a judgment in personam against joint debtors. 35 L.R.A.(N.S.) 312.

Consult also L.R.A. Digests of Cases.

WRIT AND PROCESS, II. b, 1-cont'd Service of process upon foreign corporation not doing business within the state, as

basis of a judgment in personam. 8 L.R.A.(N.S.) 538.

Effect of combining a claim for judgment in personam with a claim for judgment in rem in a suit based on constructive service or service by publication. L.R.A.1918B, 518.

#### 2. By publication.

} 20. In general.

Validity and effect of a judgment against parties designated in an action as unknown L.R.A.1918F, 609.

Validity of service by publication on alien enemy. L.R.A.1918B, 196.

Effect of combining a claim for judgment in personam with a claim for judgment in rem in a suit based on service by publication. L.R.A.1918B, 518.

Service by publication on resident in action in personam as due process of law. 35 L.R.A.(N.S.) 294; L.R.A.1917C, 1143. Right to probate will on service of notice

by publication. 35 L.R.A.(N.S.) 1058. Publication of process against married woman in her maiden name. 19 L.R.A. (N.S.) 984.

Effect of acceptance of service of process by publication or personally outside of state. 24 L.R.A.(N.S.) 1279.

When action based on service by publication deemed commenced for purpose of statute of limitations. 28 L.R.A. (N.S.) 702.

Service by publication to give jurisdiction of issues between nonresident and resident claimants to benefits under an insurance policy. L.R.A.1917B, 393.

Relief from judgments rendered on publication of process. 16 L.R.A. 361.

Opening, setting aside, and vacating decrees obtained by publication. 19 L.R.A.

Under the Torrens Law. L.R.A.1916D, 16. Sufficiency of notice by publication to insured of cancelation of fire policy. 50 L.R.A.(N.S.) 40.

21. Affidavit for.

Affidavit showing that persons sought to be made parties or their names are unknown. L.R.A.1918F, 629.

Falsity of affidavit to obtain leave to serve process by publication in divorce suit as fraud vitiating decree. L.R.A 1917B, 447.

Effect of omission of statement that owner is unknown in affidavit for service by publication in proceedings in rem, to enforce tax. 36 L.R.A.(N.S.) 1064.

Delay in procuring order for publication of summons after making of affidavit. 47 L.R.A.(N.S.) 499.

#### c. Service on corporation.

#### In general.

6 22. Generally.

What service sufficient as basis of judgment in personam against corporation. 50 L.R.A. 588.

WRIT AND PROCESS, II. c, 1-cont'd Validity of statutes authorizing construc-tive or substituted service on domestic corporation. 4 L.R.A.(N.S.) 117.

Injunction against judgment for matters relating to service on corporation. 31 L.R.A. 206.

3 28. On servant, agent, or officer Of foreign corporation, see infra, §§ 25-27.

Service of process on servant or agent of lessee of railroad corporation. 4 L.R.A. (N.S.) 272.

Admission or waiver of service by statutory agent of corporation appointed to receive service. 2 L.R.A.(N.S.) 389.

Service of process, after appointment of receiver, upon person designated by statute to receive service for corporation. 47 L.R.A. (N.S.) 179.

Service of process on railroad or steamship company by delivery to station or ticket agent. L.R.A.1916F, 453.

# 2. Foreign corporations.

**24.** Generally.

Acquiring jurisdiction over foreign corporation by service of process. L.R.A. 532.

Transactions pursuant to agreement with local dealer to sell product of foreign corporation within state as doing business therein, rendering corporation subject to service of process. 44 L.R.A. (N.S.) 1097.

Soliciting trade as doing business within the state so as to authorize service against. 9 L.R.A.(N.S.) 1214; 23 L.R.A.(N.S.) 834; L.R.A.1916E, 236.

What service of process upon is sufficient to constitute due process of law. 50 L.R.A. 589.

Exclusiveness of mode of service provided by statute requiring foreign corporations to designate person upon whom service of process may be made. 5 L.R.A.(N.S.) 298.

Compelling designation by foreign corporation of person upon whom process may be served as condition of right to do. business. 1 L.R.A.(N.S.) 558.

Service of process upon foreign corporation not doing business within the state, as basis of a judgment in personam. L.R.A.(N.S.) 538.

Return of service in suit against. 23 L.R.A.

§ 25. Who may be served. Early doctrine. 23 L.R.A. 490. Later doctrine. 23 L.R.A. 490. Statutes authorizing service. 23 L.R.A. 491. Where corporation is not engaged in business within the state. 23 L.R.A. 491. Service on director. 23 L.R.A. 494. Service on stockholder. 23 L.R.A. 494. Effect of designating agent. 23 L.R.A. 494. Failure to make designation. 23 L.R.A. 495, Termination of agency. 23 L.R.A. 495. Cashier. 23 L.R.A. 496. Begin with this book on every law question.

WRIT AND PROCESS, II. c, 2-cont'd Managing agent. 23 L.R.A. 496. Other agents. 23 L.R.A. 497. Service on state officer. 23 L.R.A. 499. Admission of service. 23 L.R.A. 500. Return of service. 23 L.R.A. 500. In garnishment cases. 23 L.R.A. 500. Serving process of Federal court. 23 L.R.A. £01.

English cases. 23 L.R.A. 501.

Service on insurance commissioner for for-

eign company. 23 L.R.A. 499. Service of process after appointment of receiver upon person designated by stat. ute to receive service for corporation.
47 L.R.A. (N.S.) 179.

Service of process in action not arising out of business transacted within the state, upon the agent of a foreign corporation, appointed pursuant to statute to receive service. L.R.A.1916F, 410.

Service of process on railroad or steam-ship company by delivery to station or ticket agent. L.R.A.1916F, 453.

**26.** — officer.

On officer casually present. 70 L.R.A. 532. Validity of service of process against foreign corporation on resident officer. L.R.A.1916E, 244.

Validity of service upon nonresident officer of foreign corporation while in state in connection with transaction to which the action relates. 43 L.R.A.(N.S.) 1015.

Right to serve process in an action against corporation upon nonresident officer who is within state as a party or witness. 24 L.R.A.(N.S.) 276; 52 L.R.A. (N.S.) 583.

27. - managing agent.

Right to serve managing agent. 23 L.R.A. 496.

Who is managing agent of foreign corporation for purposes of service of process. 4 L.R.A. (N.S.) 460.

28. — state officer.

Service on state officer. 23 L.R.A. 499. Service on insurance commissioner for foreign company. 23 L.R.A. 499.

§ 29. Revocation of appointment of agent.

Revocation by foreign corporation of appointment of attorney or agent to receive service of process. L.R.A.(N.S.) 678.

#### d. Privilege; exemption.

§ 30. Generally.

Privilege from service of process as affected by route taken or time consumed. 14 L.R.A.(N.S.) 63; L.R.A.1917B, 252.

§ 81. Who exempt.

Privilege of prisoner from arrest. 46 L.R.A. 70ő.

Privileges of members of Congress and state legislature. 23 L.R.A. 632.

WRIT AND PROCESS II. d-cont'd Privilege of consul from suit. 45 L.R.A. 579. Exemption of attorney from service of summons while in jurisdiction on legal business. L.R.A.1917B, 893.

32. - nonresident. Nonresident suitor, see infra, § 34. Nonresident witness, see infra, § 36.

Right of nonresident to exemption from service of process while within a jurisdiction pursuant to condition of bail bond. 27 L.R.A. (N.S.) 833; 51 L.R.A. (N.S.) 328.

83. Suitor.

Privilege of suitor in Federal court from arrest or service of summons out of state court. 22 L.R.A. (N.S.) 992.

Effect on suit of discharge from arrest of one arrested while attending court. 19 L.R.A. 560.

34. — nonresident.

Privilege from suit of nonresident party attending as a witness. 25 L.R.A. 727.

Privilege as affected by route taken or time consumed. 14 L.R.A. (N.S.) 663; consumed. L.R.A. (N.S.) L.R.A.1917B, 252.

Right to serve process in action against corporation upon nonresident officer who is within state as a party. 24 L.R.A. (N.S.) 276; 52 L.R.A. (N.S.) 1582.

Exemption of nonresident party from service of civil process while in state in connection with case. 42 L.R.A. (N.S.) 1101; L.R.A.1915A, 694; L.R.A.1916E, 1173.

Exemption of suitor from service while in an intermediate state en route to or from trial. L.R.A.1916A, 738.

§ 85. Witnesses.

Service of process on witness as contempt of court. L.R.A.1915D, 573.

· Privilege of witness from service of process as affected by route taken or time consumed. 14 L.R.A.(N.S.) 663; L.R.A. 1917B, 252.

Privilege of suitor or witness in Federal court from arrest or service of summons issued out of state court. 22 L.R.A.(N.S.) 992.

86. — nonresident witness.

Reason of the privilege. 25 L.R.A. 721. Nature of the privilege. 25 L.R.A. 722. The extent and limit of the privilege. L.R.A. 724.

Parties as witnesses. 25 L.R.A. 727. Witnesses in general. 25 L.R.A. 731. The effect of fraud and deceit. 25 L.R.A.

733. Enforcement of the privilege. 25 L.R.A.

734. The question of waiver. 27 L.R.A. 735. The question of deviation. 25 L.R.A. 737. English doctrine. 25 L.R.A. 737.

Service of process on, as contempt of court. In L.R.A.1915D, 573. Consult also L.R.A. Digests of Cases.

WRIT AND PROCESS, II. d-cont'd

Privilege of witness from service of process as affected by route taken or time consumed. 14 L.R.A.(N.S.) 663; L.R.A. 1917B, 252.

Exemption of witnesses from service while in an intermediate state en route to or from trial. L.R.A.1916A, 738.

Privilege from suit of nonresident party

attending as witness. 25 L.R.A. 727. Right of, to exemption from service of process while within jurisdiction pursuant to condition of bail bond. 27 L.R.A. (N.S.) 333; 51 L.R.A. (N.S.) 328.

Right to serve process in action against corporation upon nonresident officer who is within state as a witness. 24 L.R.A.(N.S.) 276; 52 L.R.A.(N.S.) 583.

§ 87. Waiver of.

Of privilege of nonresident witness from suit. 25 L.R.A. 735.

Of privilege of nonresident party. L.R.A. 1916E, 1173.

Waiver of exemption of nonresident party from service of civil process while in state in connection with case. 42 L.R.A. (N.S.) 1107.

#### e. Waiver of service.

38. Generally.

Right of fiduciary to waive service of process by appearing in action. 32 L.R.A. 681. Waiver of failure to serve, or defects in

service of process, by appeal from justice's court to courts where trial must be de novo. 34 L.R.A.(N.S.) 661.

#### f. Liability of officer making.

39. Generally.

Liability of sureties on constable's bond for assault made in serving or executing civil writ or process. 8 L.R.A.(N.S.) 1223.

Right to maintain action for property in specie against an officer executing writ. 18 L.R.A.(N.S.) 1272.

Mere display of invalid process without actual force or threats as ground of action for forceable entry and detainer. 37 L.R.A.(N.S.) 600.

# g. Liability for failure to make,

40. Generally.

Burden of proof in action to recover for failure to execute process. 3 L.R.A. (N.S.) 420.

Right to break and enter dwelling to serve civil writ of process. L.R.A.1916D, 281.

# III. Return.

§ 41. Generally. suit against foreign corporation. 23 L.R.A. 500.

3

WRIT AND PROCESS, III .-- cont'd

Burden of proving return of process. 3 L.R.A.(N.S.) 427. Burden of excusing nonreturn of process. 3 L.R.A.(N.S.) 429.

Recognition of return, or of decree ren-dered thereon, as affecting liability for making false return. 38 L.R.A.(N.S.)

Sufficiency of return attacked as showing a joint service rather than a several service. 49 L.R.A.(N.S.) 946.

Attack on divorce decree based on false return of personal service of process. L.R.A.1917B, 435.

#### WRITINGS.

Criticism of, as libel. 28 L.R.A. 670.

#### WRIT OF ASSISTANCE.

See ASSISTANCE.

# WRIT OF ENTRY.

Effect of remedy by, on equitable jurisdiction to remove cloud on title. 12 L.R.A. (N.S.) 62.

Remedy of pretermitted heirs by. 37 L.R.A. (N.S.) 1146.

#### WRIT OF ERROR.

See APPEAL AND ERROR.

# WRIT OF ERROR CORAM NOBIS.

See CORAM NOBIS.

# WRIT OF POSSESSION.

Writ of possession. 12 L.R.A. 81.\*

#### WRONGDOERS.

Joint wrongdoers, see JOINT CREDITORS AND DEBTORS.

Right of wrongdoers to maintain bill of interpleader. L.R.A.1918D, 1172.

Right of, to take advantage of general statutory imposition of damages for negligent injuries. 28 L.R.A. 749.

#### WRONGFUL ARREST.

Liability for making, see ARREST; FALSE | Payment of deposit to wrong person, see IMPRISONMENT. BANK3, § 25.

Begin with this book on every law question.

#### WRONGFUL ATTACHMENT.

Damages for, see ATTACHMENT, § 17.

#### WRONGFUL DELIVERY.

By carrier, see Carriers, § 119.

#### WRONGFUL DISTRESS.

Liability for, see LANDLORD AND TENANT, § 93.

#### WRONGFUL EXECUTION.

Loss of profits as element of damages for. 52 L.R.A. 57.

#### WRONGFUL INJUNCTION.

Loss of profits as element of damages for. 52 L.R.A. 58.

Right of tenant maintaining his possession by means of, to crops grown on the leasehold. 12 L.R.A.(N.S.) 194.

#### WRONGFUL REPLEVIN.

Loss of profits as element of damages for. 52 L.R.A. 56.

#### WRONG INITIAL.

Effect of summons or notice to person by. 15 L.R.A.(N.S.) 129.

# WRONG MEDICAL TREATMENT.

As defense to prosecution for homicide, see HOMICIDE, § 25.
Effect of, on liability on policy, see Ix-

SURANCE, § 162.

# WRONG NAME.

Liability of officer for making arrest of person under. 51 L.R.A. 219.

#### WRONG PERSON.

# X

#### X-RAY.

Photographs by. 35 L.R.A. 815; 51 L.R.A. (N.S.) 858.

Liability of physician for injuries resulting from electrical or X-ray treatment. 28 L.R.A.(N.S.) 262; 43 L.R.A.(N.S.) 784.

#### X-RAY—cont'd

Power to compel plaintiff to submit to X-ray examination. L.R.A.1915E, 938.

Does authority for physical examination of a plaintiff in an action for personal injuries include X-ray examination. 41 L.R.A.(N.S.) 1071.

# Y

#### YARDMASTER.

Authority of yardmaster of railway company to contract for services of other persons. L.R.A.1918F, 64.

#### YARDS.

Railroad yards as nuisance. 32 L.R.A. (N.S.)

Effect of constitutional or statutory provision exempting yards from condemnation proceedings. L.R.A.1916A, 1100.

Application to employees in, of statutes abrogating fellow-servant rule. 47 L.R.A. (N.S.) 117.

#### YEAR'S SUPPORT.

Of widow generally, see EXECUTORS AND ADMINISTRATORS, § 55a.

Widow's right to, out of insurance. 46 L.R.A. (N.S.) 788.

# YEAS AND NAYS.

Conclusiveness of enrolled bill as to compliance with provision for voting by. 23 L.R.A. 342.

Consult also L.R.A. Digests of Cases.

#### YELLING.

As disturbance of public peace. 32 L.R.A. (N.S.) 505.

# YOUNG MEN'S CHRISTIAN ASSOCI-ATION.

Exemption from property taxation of property of. L.R.A.1916D, 275.

Giving of free transportation to operating staff of, as an unlawful discrimination. L.R.A.1918D, 919.

# YOUNG WOMEN'S CHRISTIAN ASSO-CIATION.

Exemption from property taxation of property of. L.R.A.1916D, 275.

#### YOUTH.

As defense to homicide, see Homicide, § 20.

• A Section of the Control of the Cont •

# TABLE OF SUPPLEMENTED L.R.A. NOTES



# TABLE OF

# SUPPLEMENTED L.R.A. NOTES.

In the first column of this table, arranged in order of volumes and pages, will be found those L.R.A. notes that have been supplemented in subsequent volumes of L.R.A., both old and new series, and opposite them, in the parallel column, appear the supplementary notes.

In every instance, whether all or only part of a note has been supplemented, the *initial* page of that note appears in proper sequence in the left hand column. Figures in parenthesis following the initial page, on the same line or on the next indented line, refer to a later page of the same note and indicate that only the part or subdivision of the note which begins on that page is supplemented by the corresponding note in the right hand column. In a few instances, a word or phrase in parenthesis has been used to indicate the part of the note that has been supplemented.

In the second column the colon between the volume and page numbers represents the letters "L.R.A."

This table is for quick reference by one who is using any L.R.A. note and wishes to know on the instant whether or not it has been supplemented later. It is not in any sense a substitute for the Index to Notes. In addition to annotation which specifically supplements an earlier note, other kindred, collateral, or closely related annotations may be found in the Index to Notes which will prove very valuable.

1 L.R.A.	8 L.R.A.
131	174 (175)17: 474.
143 (145)	224
19: 53.	23018: 171.
191 (192) 4: 717.	19: 700.
28520: 765.	24714: 371.
43212: 73.	38517: 79.
	60912: 486.
2 L.R.A.	200,
129 (130)	4 L.R.A.
153 (154)14: 264.	1
16619: 339.	33 (41)67: 33.
28514: 300.	34:(N.S.)261.
20: 635.	88: (N.S.)40.
35016: 60.	51
520 (521)36: (N.S.)547.	11727:(N.S.)1158.
668 (670)12: 161.	30:(N.S.)914.
27:(N.S.)62,	200
	55514: 721,
788 (784) 4: 717.	57212: 486.
798 (801)	68014: 193.
825	
844	73612: 161.
45: (N.S.)982.	27: (N.S.) 62,

1423

•	
4 L.R.A.—cont'd.	110 L.R.A.—cont'd.
785 (791)12: 220.	65317: 79.
13: (N.S.)197.	676 (677)
793	(679)
850 (851)16: 819.	734 (738)20: (N.S.)689.
000 (001)	816
KIDA	010
5 L.R.A.	11 T D A
143 (144)20: (N.S.)689.	11 L.R.A.
253 (255)	43 (50)
270 (273)	39:(N.S.)487.
276 (289)23: 131.	6314: 193.
759 (760)24: 231.	18515: (N.S.)73.
76522: 808.	28522: (N.S.)35.
817 (818)	30527: (N.S.)1158.
	30: (N.S.)914.
6 L.R.A.	46025: 291.
33 (35)	63414: 370.
$(45,46)\ldots 17:272.$	14: 381.
$(47) \dots \dots \dots 17: 270,$	15: 377.
75 (76)	684 (686)
161 (162)5: (N.S.)340.	19: 700.
101 (102) 0. (N.S./040,	
16727: (N.S.) 25.	687 2: (N.S.) 295.
54517: 79.	81741: (N.S.)730.
579	83921: 217.
610 (611)25: 275.	845 (847)20: 765.
62121: 789.	
788	18 L.R.A.
30: (N.S.)319.	14036: 539.
43: (N.S.) 97.	16127:(N.S.)62.
813 3:(N.S.)334.	16820: 765.
4:(N.S.)366.	20522: 372.
83817: 272.	220
,	34213: 374.
7 L.R.A.	781 (783)
32739:(N.S.)844.	808 (810)
49814: 193.	000 (010)
500	13 L.R.A.
765	17717: 243.
826	
020	36: (N.S.)881. 21714: 69.
e T D A	21/
8 L.R.A.	14:(N.S.)112.
41414: 862.	(legislative power) .16: 695.
44318: 79.	38847:(N.S.)668.
490 (491) 1: (N.S.) 279.	711 (712)32: 43.
494 (495)	72138: 208.
640 (643)17: 130.	5: (N.S.)415.
19:53.	27: (N.S.) 532.
68725: 566,	76147: 820.
•	796 (797)49: 156.
9 L.R.A.	844
69	, , , , , , , , , , , , , , , , , , , ,
140 (143) 2': (N.S.) 1052,	14 L.R.A.
1063,	6914: (N.S.)112.
41: (N.S.) 695.	7820: (N.S.)58.
32136: (N.S.)547.	103 7: (N.S.)617.
58914: 579.	12819: 206.
593	
000	47: (N.S.)811. 13827: (N.S.)92.
10 L.R.A.	
	44: (N.S.)164.
12914: 585.	151 (156)26: 802.
60: 330.	151 (156)
60: 330. 178 (180)20:(N.S.)689.	151 (156)
60: 330. 178 (180)20: (N.S.) 689. 193 (194)14: 268.	151 (156)
60: 330. 178 (180)	151 (156)
60: 330. 178 (180)20: (N.S.) 689. 193 (194)14: 268.	151 (156)
60: 330. 178 (180) 20: (N.S.) 689. 193 (194) 14: 268. 15: (N.S.) 711. 366 41: (N.S.) 683. 1916B, 827.	151 (156)
60: 330. 178 (180)	151 (156)
60: 330. 178 (180)	151 (156)
60: 330. 178 (180) 20: (N.S.) 689. 193 (194) 14: 268. 15: (N.S.) 711. 366 41: (N.S.) 683. 1916B. 827. 369 36: (N.S.) 464. 401 17: 270.	151 (156)
60: 330. 178 (180) 20: (N.S.) 689. 193 (194) 14: 268.	151 (156)
60: 330. 178 (180)	151 (156)
60: 330. 178 (180) 20: (N.S.) 689. 193 (194) 14: 268.	151 (156)

# TABLE OF SUPPLEMENTED L.R.A. NOTES.

14	L.R.A.—cont'd.			L.R.A.—cont'd.
	459	.1915D, 458.		268 (269)
	466	.23: (N.S.)463.		39516: (N.S.)621.
		1915E, 936.		46841:(N.S.)230.
	540	.16: (N.S.) 98.		49759: 146.
		34: (N.S.) 940.		38: (N.S.)297.
		1915E, 186.		510 9: (N.S.) 698.
	548	.18: 449.		29: (N.S.) 205.
	556 (560)			51639: (N.S.)847.
	685	.1915B, 770.		1918A, 65.
	690 (692, 693)	. 1915D. 982.		54728: 849.
	733	8: (N.S.)656.		57824:(N.S.)160.
	737 (738)	4: (N.S.) 485.		600 36: (N.S.) 354.
	101 (100) 11111111111	32: (N.S.) 1201,		1915D, 204,
		1915E, 668.		627 2: (N.S.) 105.
	(740)			32: (N.S.)1206.
	(140)	23: (N.S.) 1056,		1918F, 555.
	745	1018F 88		646 5: (N.S.)860.
	#01	19106, 00.		23: (N.S.)500.
	781			677
	,			
	791			745 4: (N.S.)427.
	(792)			33: (N.S.)883.
		44: 795.		1915A, 521.
	828 (830)			
		65: 854.	17	L.R.A.
		1		81 (82)14: (N.S.)431.
1.5	L.R.A.	1		129 (130)
10	33 (35)	10./37.53.801		18817: (N.S.) 108.
		00 (N.S.)001.		22547:(N.S.)309.
		29: (N.S.) 808.		243 (245)
	` <b>^98</b>	1916C, 364.		25414: (N.S.) 998.
				31: (N.S.)667.
	160			191òD, 962.
		21:(N.S.)178.		27541: (N.S.)430.
		39: (N.S.)744.		(276)
		1917C, 1153.		29635: (N.S.)1210.
	190	.52:(N.S.)369.		49: (N.S.)1108.
	249			33028: (N.S.)1124.
		19:(N.S.)835.		435 8: (N.S.) 117.
		28:(N.S.)673.		33:(N.S.)139.
		1915C, 359.		474 (477)
	296 (298)	.66: 51.		718.
	347	.1915C, 664.		(480, pipes) 7:(N.S.)506.
	395 (396)	.43:(N.S.)207.		(480, poles)24: 721.
	413	.37:(N.S.)281.		49436: 724, 733.
	459			
	487			5491916C, 196.
	509	.43: (N.S.) 565.		69118: (N.S.)427.
	531	. 7: (N.S.) 582.		70539: 745.
		40: (N.S.) 585.		7791917D, 450.
		1916D, 1276.		79212: (N.S.)310.
	542			85321: 789, 798.
	583 (585, amount)	EQ. 910		
	(585, party)		18	L.R.A.
	(000, party)	18: (N.S.)1252.		45 5: (N.S.) 680.
	612	19 658		46: (N.S.)990.
	012	11:(N.S.)930.		1917A, 442.
		28: (N.S.)757.		631916C, 1033.
		37:(N.S.)1115.		75 (77)
	635	17./V Q 11198		10020: (N.S.)742.
	717			16668: 699.
	111	32: (N.S.)940.		15:(N.S.)49.
		32: (N.S.)940. 1917F, 861.	•	170 (171)19: 700.
	700			224
	722	4. (N.O.) 000.		1918D, 794.
	781			2751916E, 1282.
	0.00	44: (N.S.) 68.		30530: (N.S.)85.
	860	.zs:(N.5.)183.		3751916E, 650.
				449 (450)28: (N.S.)66.
16	L.R.A.			1916C, 1109.
	49	.40: (N.S.)279.		473 (476)
	91			481 (482)
	205			491 (492)26:(N.S.)614.
				. ,

18 L.R.A.—cont'd.	90 L.R.A.—cont'd.
582 (584)29: 845.	73731:(N.S.)636.
60436:(N.S.)1181	
69542: 175.	21:(N.S.)1005.
1916C, 150.	1917A, 719.
838 (equity)1918A, 1178.	
	81 L.R.A.
19 L.R.A.	33 (48)
9264: 236.	7125: (N.S.) 267.
17:(N.S.)650.	7618:(N.S.)320.
23: (N.S.) 331.	84 2: (N.S.) 631.
25: (N.S.) 465.	25:(N.S.)193.
37:(N.S.)193.	34: (N.S.) 454.
191ŠA. 369.	1916C, 263.
9917: (N.S.) 648.	14643:(N.S.)634.
141	1691915F, 587.
65: 38.	17442: (N.S.)799.
12:(N.S.)1130	2061: (N.S.) 474.
26: (N.S.)242.	200
35:(N.S.)628.	28: (N.S.)615.
40: (N.S.)893.	25536: (N.S.) 194.
17742: (N.S.)877.	263 (265)
20647:(N.S.)811.	289 9: (N.S.) 407.
211	41: (N.S.)799.
222 (225)60: 331.	1915B, 621.
262	289 (295) 5: (N.S.) 1012.
28950:(N.S.)1197	38:(N.S.)259. (297)23:(N.S.)1056.
31649: 203.	354
15: (N.S.)687.	1915C, 181.
33141:(N.S.)187.	(355)29: (N.S.)846.
339 3:(N.S.)218.	(358)24: 711.
26: (N.S.) 1058	22: (N.S.)742,
1918E, 517.	755.
3421915F, 1093.	467 (471)67: 33, 60.
37130:(N.S.)278.	485
1918F, 1101.	502
452 1:(N.S.)665.	50: (N.S.) 1040.
4751917F, 394.	(511)
577	623 (629)
3:(N.S.)608,	662
20: (N.S.) 264.	1915B, 247.
1915F, 880.	729
(580)	77625:(N.S.)257.
59438:(N.S.)474.	1917B, 786.
65311: (N.S.) 930.	789 (796)
18: (N.S.)244.	12: (N.S.)1130.
28: (N.S.)757.	98./N S \949
37: (N.S.)1115	35:(N.S.)628.
52: (N.S.) 91. 6651915A, 400.	40: (N.S.) 893.
890 18./N C \704	(797)28: 344.
68916:(N.S.)794.	15: (N.S.) 350.
24: (N.S.)475.	27: (N.S.) 255,
1918C, 373. 72113: (N.S.)278.	35:(N.S.)549.
775 (felse mestance) 40. (N.C.)210.	829
775 (false pretenses) 49: (N.S.) 835,	
79264: 119.	22 L.R.A.
51: (N.S.)907.	148 (149)1916D, 132.
814	18715: (N.S.)868.
85839: 672.	31: (N.S.)783.
25: (N.S.) <b>251.</b>	34: (N.S.)737.
20. (11.13.) 202.	(189)
	(195)
90 L.R.A.	1917 F. 472.
10125:(N.S.)1194	
3424: (N.S.) 1121	
391	256 (257)
43422:(N.S.)181.	. 46: (N.S.) 1096.
35: (N.S.)636.	415 (428)36: (N.S.)68.
4871915C, 158.	460 8: (N.S.)656.
535 (538)16: (N.S.) 1006	
66832: 236.	(540)23: 158.

-	L.R.A.—cont'd.		. 04	L.R.A.—cont'd.	
33	561	R. (N.S.) 905	20	577	
	991	34: (N.S.) 118.		592	
		1916B, 947.		629	1944
	594			1915C. 46	7.
	649			(634)34:(N.S.)	1080.
	663		i	1917F. 36	12
	, , , , , , , , , , , , , , , , , , , ,	43: (N.S.)187.		6841915D, 88	56.
	•	1915F, 1125.		710 (711)	
	794	.31:(N.S.)632.		763 (765)	
	824	.52: (N.S.)142.		38: (N.S.	1195.
		1916B, 1186.		1917 <b>F</b> , 59	
	836	. 1915C, 987.		78916: (N.S.)	
				80042: (N.S.	) 18 <b>3</b> .
23	L.R.A.	* .		80624: (N.S.	
	33	.65: 353.		881	TGA'
	(44)	. <b>6</b> 5 : 362.	1	•	
	120 (124)	.16:(N.S.)233.	25	L.R.A.	
	146!		ŀ	33 2:(N.S.	
		6:(N.S.)1171.		4839:(N.S.	
	~ <i>:</i>	21: (N.S.)1021.		67 (68)	
		36: (N.S.) 1045.		39: (N.S.)	)46.
	4 mm / 4 mm \	52:(N.S.)402.		9018:(N.S.)	1108.
	155 (157)	.26: 198.	Ì	152	1010
	200		1	16135: (N.S.	1016.
		10:(N.S.)74. 22:(N.S.)486.		257 2: (N.S.	
		32: (N.S.) 62.	1	(274) 9: (N.S. 287 51: (N.S.	)49. \210
	•	42: (N.S.) 1144.	ĺ	(289) 8: (N.S.	1010.
		52: (N.S.) 505.	ŀ	41:(N.S.	
	215		l	3201916E, 20	) <b>202.</b> 07
	239	16: (N.S.)114.	l	34125: 349.	
	287	.59: 169.		30: (N.S.	946.
		1917B, 1041.	ł	51: (N.S.	
	301 (303)	.36:(N.S.)812.	ŀ	36040: 717.	•
	313	.25: (N.S.)394.		37: (N.S.)	1005.
	325 (326)	.39:(N.S.)658.	ĺ	386 7:(N.S.	651.
	335.,			(393)50: 429.	
	340			5271: (N.S.)	
	449	. 1917C, 8.		59347: (N.S.	
	490 (496)	.4: (N.S.)400.		62716: (N.S.	) 555.
	520		l	75925: 848.	
	561 622		l	32: 853. 78416: (N.S.)	1100
	642			(786)32:(N.S.	
	658		ŀ	41: (N.S.	
	000	36: (N.S.)1194.		(790)	,
		1915A, 382.		84832: 853,	
	691	.12:(N.S.)1010.			
	707	.45: (N.S.) 349.	ءه ا	L.R.A.	
	(712)	. 5:(N.S.)1002.	~	4820:(N.S.	1484
		21:(N.S.)914.	ĺ	87:(N.S.	
		39: (N.S.)1187.	ł	1915D, 11	
	737	.26: (N.S.)232.		(52)20:(N.S.	)489.
	(743)	.12: (N.S.)896.	l	15342:(N.S.	
		26: (N.S.)237.		197 (201)	1171.
	780	.18: (W.D.) A19.	ŀ	237	848.
			1	<b>3051918C, 3</b> 4	
24	L.R.A.			<b>34039:649, 6</b>	
	64		ł		67.
		38: (N.S.)272.		20: (N.S.	
	010	1915D, 911.	İ	1916C, 56	
	212	.40: (N.S.)409.		<b>366</b>	
	272		1	50432: (N.S. 1915E, 70	ra.
	289 (295)	2: (N.S.)127,	ŀ	544	979
		10: (N.S.) 693.	l	581	
	369		Ì	51: (N.S.	
	412 (413)	.51:(N.S.)275.		638	1066.
	488	.30: (N.S )1001.	l	659 (662)	
		1917C, 97.	•	36: (N.S.	1115.
•				•	

QR T. DA				
ZU D.K.A.	cont'd.		30 L.R.A.—cont'd.	
686 (e:	xcavations) 5		560 (569-571)35:(N.S.)14	<b>12</b> _
	19	18A, 849.	609	
707 (7)	11)30	:(N.S.)127.	737 4: (N.S.)2	13.
27 L.R.A.		21	81 L.R.A.	
56	42	:(N.S.)1013.	23416:(N.S.)8	78.
82		:(N.S.)280.	33: (N.S.)7	
92		:(N.S.)164.	49: (N.S.)1	
136		: (N.S.)228.	26131:(N.S.)8	13
		:(N.S.)1007.	321	10.
161 (1	59) 9	: (N.S.)1035.	12: (N.S.)8	59
248		:(N.S.)441.	19: (N.S.)7	
			23: (N.S.)9	
426		: 539.	4651915F, 766.	V <del>Z</del> .
			489	ο.
				96.
	19	15D, 209.	515 (519) 7:(N.S.)2	70.
669		:(N.S.)1040.	566	12.
	33	:(N.S.)336.	(589)	109.
776 (7	88)49	N.S. 1215	(969)	. ~ ~
,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	,		22: (N.S.)1:	111-
28 L.R.A.			609 (646)	40
		:(N.S.)112	747 (763–770)35: (N.S.)1	₩Z.
	40	(N.S.) 935.	798	
(a	rains or sewers) 19		(806)14: (N.S.)66	D <b>4</b> .
289.``		:(N.S.)668.	•	
344		(N.S.)350. 31	32 L.R.A.	
<b>V</b>		:(N.S.)255.	11624:(N.S.)1	168_
		:(N.S.)549.	(117)	
		(N.S.) 1097.	14223:(N.S.)3	45.
433			(144)17:(N.S.)50	94.
	1.9	18F. 570.	1017E 1040	3
. (4	$11) \dots 1\overline{2}$	: (N.S.)670.	1771915E, 327.	
` '-	25	:(N.S.)356.	208	
546		(N.S.)49.	29346:(N.S.)7	2.
020		15C, 789.	(297) 9:(N.S.)6	
600		16E, 452.	44: (N.S.)5	
			400 (403)	
, 020		. (	455 (465)	91.
	-	{	543	29.
29 L.R.A.			595	
			62514:(N.S.)1	
120	<b></b>	:(N.S.)874.	62514: (N.S.)1 37: (N.S.)1	42. 019
120 154		:(N.S.)874. :(N.S.)369.	37: (N.S.)1 (630)	42. 019 14.
120 154 226		: (N.S.)874. : (N.S.)369. : (N.S.)255.	37: (N.S.)1 (630)	42. 019 14.
120 154 226		: (N.S.)874. : (N.S.)369. : (N.S.)255. : (N.S.)260.	37: (N.S.)1 (630)14: (N.S.)1 71538: (N.S.)1 1917F 663	42. 019 14. 46.
120 154 226 (2		: (N.S.)874. : (N.S.)369. : (N.S.)255. : (N.S.)260.	37: (N.S.)1 (630)14: (N.S.)1 71538: (N.S.)1 1917F 663	42. 019 14. 46.
120 154 226 (2		:(N.S.)874. :(N.S.)369. :(N.S.)255. :(N.S.)260. :18A, 398. :(N.S.)1079.	37:(N.S.)1 (630)14:(N.S.)1 71538:(N.S.)1	42. 019 14. 46.
120 154 226 (2		: (N.S.)874. : (N.S.)369. : (N.S.)255. : (N.S.)260. !8A,398. : (N.S.)1079. : (N.S.)809.	37: (N.S.)1 (630)	42. 019 14. 46.
120 154 226 (2 305 337		: (N.S.)874. : (N.S.)369. : (N.S.)255. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)809. 15E. 1023.	37: (N.S.)1 (630)	42. 019 14. 46.
120 154 226 (2 305 337		: (N.S.)874. : (N.S.)369. : (N.S.)255. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)809. 15E, 1023. : (N.S.)916.	37: (N.S.)1 (630)	42. 019 14. 46. 09.
120 154 226 (2 305 337		: (N.S.)874. : (N.S.)369. : (N.S.)265. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)809. 15E, 1023. : (N.S.)916. 15D. 843.	37: (N.S.)1 (630)	42. 019 14. 46. 09.
120 154 226 (2 305 337		: (N.S.)874. : (N.S.)369. : (N.S.)265. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)809. 15E, 1023. : (N.S.)916. 15D, 843. : (N.S.)603.	37: (N.S.)1 (630) 37: (N.S.)1 715 38: (N.S.)1 1917F, 603. 744 (748) 40: (N.S.)66  33 L.R.A. 33 4: (N.S.)7 48: (N.S.)1 85 (87) 1917E, 361.	42. 019 14. 46. 09.
120 154 226 (2 305 337 485 (4 541 (5		: (N.S.)874. : (N.S.)369. : (N.S.)255. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)809. 15E, 1023. : (N.S.)916. 15D, 843. : (N.S.)603. 16C, 923, 929.	37: (N.S.)1 (630) 37: (N.S.)1 715 38: (N.S.)1 1917F, 603. 744 (748) 40: (N.S.)6  33 L.R.A. 33 4: (N.S.)7 48: (N.S.)7 48: (N.S.)1 85 (87) 1917E, 361. 118 31: (N.S.)5	42. 019 14. 46. 09. 82. 56.
120 154 226 (2 305 337 485 (4 541 (5 681 (6		: (N.S.)874. : (N.S.)369. : (N.S.)255. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)809. 15E, 1023. : (N.S.)916. 15D, 843. : (N.S.)603. 16C, 923, 929. : (N.S.)650.	37: (N.S.)1 (630) 37: (N.S.)1 715 38: (N.S.)1 1917F, 603. 744 (748) 40: (N.S.)6  33 L.R.A. 33 4: (N.S.)7 48: (N.S.)7 48: (N.S.)7 1917E, 361 118 31: (N.S.)5 177 (183) 15: (N.S.)1	42. 019 14. 46. 09. 82. 56. 80. 08.
120 154 226 (2 305 337 485 (4 541 (5 681 (6 761		: (N.S.)874. : (N.S.)369. : (N.S.)255. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)809. 15E, 1023. : (N.S.)916. 15D, 843. : (N.S.)603. 16C, 923, 929. : (N.S.)650.	37: (N.S.)1 (630)	42. 019 14. 46. 09. 82. 56. 80. 08.
120 154 226 (2 305 337 485 (4 541 (5 681 (6 761	43       24       127, 242)     46       19     3       19     19       86)     13       52)     26       19     19       85)     1       19     1       92)     57	: (N.S.)874. : (N.S.)369. : (N.S.)255. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)809. 15E, 1023. : (N.S.)916. 15D, 843. : (N.S.)603. 16C, 923, 929. : (N.S.)650. 15D, 1195. : 57.	37: (N.S.)1 (630)	42. 019 14. 46. 09. 82. 56. 80. 08. 001.
120 154 226 (2 305 337 485 (4 541 (5 681 (6 761	43       24       127, 242)     46       19     3       19     19       86)     13       52)     26       19     19       85)     1       19     1       92)     57	: (N.S.)874. : (N.S.)369. : (N.S.)255. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)809. 15E, 1023. : (N.S.)916. 15D, 843. : (N.S.)603. 16C, 923, 929. : (N.S.)650.	37: (N.S.)1 (630) 37: (N.S.)1 715 38: (N.S.)1 715 40: (N.S.)1 1917F, 603. 744 (748) 40: (N.S.)6  33 L.R.A. 33 4: (N.S.)7 48: (N.S.)1 85 (87) 1917E, 361. 118 31: (N.S.)5 177 (183) 15: (N.S.)1 231 (after maturity) 28: (N.S.)9 (before maturity) .23: (N.S.)4	42. 019 14. 46. 09. 82. 56. 80. 08. 001. 98.
120 154 226 (2 305 337 485 (4 541 (5 681 (6 761	43       24       127, 242)     46       19     3       19     19       86)     13       52)     26       19     19       85)     1       19     1       92)     57	: (N.S.)874. : (N.S.)369. : (N.S.)255. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)809. 15E, 1023. : (N.S.)916. 15D, 843. : (N.S.)603. 16C, 923, 929. : (N.S.)650. 15D, 1195. : 57.	37: (N.S.)1 (630) 37: (N.S.)1 715 38: (N.S.)1 715 38: (N.S.)1 1917F, 603. 744 (748) 40: (N.S.)6  33 L.R.A. 33 4: (N.S.)7 48: (N.S.)1 85 (87) 1917E, 361. 118 31: (N.S.)5 177 (183) 15: (N.S.)1 25: (N.S.)1 231 (after maturity) 28: (N.S.)4 (before maturity) 23: (N.S.)4 (235) 15: (N.S.)1	42. 019 14. 46. 09. 82. 56. 80. 08. 001. 98. 03. 165.
120 154 226 (2 305 337 485 (4 541 (5 681 (6 761	43         24         127, 242)       46         19         3         19         52)       26         19         85)       1         19         20       19         85)       1         19       1         52)       57         58       58	: (N.S.)874. : (N.S.)369. : (N.S.)255. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)809. 15E, 1023. : (N.S.)916. 15D, 843. : (N.S.)603. 16C, 923, 929. : (N.S.)650. 15D, 1195. : 57.	37: (N.S.)1 (630)	42. 019 14. 46. 09. 82. 56. 80. 08. 001. 98. 03. 165. 03.
120	43         24         127, 242)       46         19         3         1286)       13         19         52)       26         85)       1         19         92)       57         58	: (N.S.)874. : (N.S.)369. : (N.S.)265. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)809. 15E, 1023. : (N.S.)916. 15D, 843. : (N.S.)603. 16C, 923, 929. : (N.S.)650. 15D, 1195. : 57.	37: (N.S.)1 (630)	42. 019 14. 46. 09. 82. 56. 80. 08. 001. 98. 03. 165. 03.
120 154 226 (2 305 337 485 (4 541 (5 681 (6 761 786 (7	43       24       1       27, 242)     46       19       3       19       52)     26       85)     1       19     57       58     58       48     48	: (N.S.)874. : (N.S.)369. : (N.S.)255. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)809. 15E, 1023. : (N.S.)916. 15D, 843. : (N.S.)603. 16C, 923, 929. : (N.S.)650. 15D, 1195. : 57. : 564.	37: (N.S.)1 (630) 37: (N.S.)1 715 38: (N.S.)1 715 38: (N.S.)1 1917F, 603. 744 (748) 40: (N.S.)66  33 L.R.A. 33 4: (N.S.)7 48: (N.S.)1 85 (87) 1917E, 361. 118 31: (N.S.)5 177 (183) 15: (N.S.)1 231 (after maturity) 28: (N.S.)9 (before maturity) 23: (N.S.)4 (235) 15: (N.S.)1 23: (N.S.)4 266 25: (N.S.)4 (274, 281) 25: (N.S.)4	42. 019 14. 46. 09. 82. 56. 80. 08. 001. 98. 03. 36. 38.
120	43         24         127, 242)       46         19         3         1286)       13         19         52)       26         85)       1         19         92)       57         58	: (N.S.)874. : (N.S.)369. : (N.S.)265. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)809. 15E, 1023. : (N.S.)916. 15D, 843. : (N.S.)603. 16C, 923, 929. : (N.S.)650. 15D, 1195. : 57. : 564.	37: (N.S.)1 (630) 37: (N.S.)1 715 38: (N.S.)1 715 38: (N.S.)1 1917F, 603. 744 (748) 40: (N.S.)6  33 L.R.A. 33 4: (N.S.)7 48: (N.S.)1 85 (87) 1917E, 361. 118 31: (N.S.)5 177 (183) 15: (N.S.)1 231 (after maturity) 28: (N.S.)9 (before maturity) 23: (N.S.)4 (235) 15: (N.S.)1 23: (N.S.)4 (236 25: (N.S.)4 (274, 281) 25: (N.S.)4 546 23: (N.S.)4	42. 019 14. 46. 09. 82. 56. 80. 08. 001. 98. 03. 165. 03. 36. 36.
120 154 226 (2 305 337 485 (4 541 (5 681 (6 761 786 (7 80 L.R.A. 161 186 206	43 24 24 27, 242) 46 19 3 3 32 86) 13 52) 26 19 85) 1 19 92) 57 58	: (N.S.)874. : (N.S.)369. : (N.S.)255. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)916. 15E, 1023. : (N.S.)916. 15D, 843. : (N.S.)603. 16C, 923, 929. : (N.S.)650. 15D, 1195. : 57. : 564.	37: (N.S.)1 (630)	42. 019 14. 46. 09. 82. 556. 80. 001. 03. 165. 03. 03. 165. 03.
120	43       24       1       27, 242)     46       19       3       19       52)     26       85)     1       19     57       58     1       20     33	: (N.S.)874. : (N.S.)369. : (N.S.)265. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)809. 15E, 1023. : (N.S.)916. 15D, 843. : (N.S.)660. 15D, 1195. : 57. : 564. : (N.S.)990. : (N.S.)76. : (N.S.)76. : (N.S.)76. : (N.S.)166, 167.	37: (N.S.)1 (630) 37: (N.S.)1 715 38: (N.S.)1 715 38: (N.S.)1 1917F, 603. 744 (748) 40: (N.S.)6  33 L.R.A. 33 4: (N.S.)7 48: (N.S.)1 85 (87) 1917E, 361. 118 31: (N.S.)5 177 (183) 15: (N.S.)1 231 (after maturity) 28: (N.S.)9 (before maturity) 23: (N.S.)4 (235) 15: (N.S.)1 23: (N.S.)4 (236 25: (N.S.)4 (274, 281) 25: (N.S.)4 546 23: (N.S.)4	42. 019 14. 46. 09. 82. 556. 80. 001. 03. 165. 03. 03. 165. 03.
120	43       24       1       27, 242)     46       19       3       19       52)     26       85)     1       19     57       58     1       20     33	: (N.S.)874. : (N.S.)369. : (N.S.)265. : (N.S.)260. 18A, 398. : (N.S.)1079. : (N.S.)809. 15E, 1023. : (N.S.)916. 15D, 843. : (N.S.)660. 15D, 1195. : 57. : 564. : (N.S.)990. : (N.S.)76. : (N.S.)76. : (N.S.)76. : (N.S.)166, 167.	37: (N.S.)1 (630)	42. 019 14. 46. 09. 82. 556. 80. 001. 03. 165. 03. 03. 165. 03.
120 154 226 (2 305 337 485 (4 541 (5 681 (6 761 786 (7 30 L.R.A. 161 186 206 305 (3	43         24         127, 242)       46         19         3         19         52)       26         19         52)       26         19         85)       1         19       57         58         48         20       33         33)       10	: (N.S.)874. : (N.S.)369. : (N.S.)260. : (N.S.)260. : (N.S.)1079. : (N.S.)916. : (N.S.)916. : (N.S.)603. : (N.S.)603. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650.	37: (N.S.)1 37: (N.S.)1 14: (N.S.)1 715	42. 019 14. 46. 09. 82. 56. 80. 80. 80. 838. 0. 152. 50.
120 154 226 (2 305 337 485 (4 541 (5 681 (6 761 786 (7 30 L.R.A. 161 186 206 305 (3	43         24         127, 242)       46         19         3         19         52)       26         19         52)       26         19         85)       1         19       57         58         48         20       33         33)       10	: (N.S.)874. : (N.S.)369. : (N.S.)260. : (N.S.)260. : (N.S.)1079. : (N.S.)916. : (N.S.)916. : (N.S.)603. : (N.S.)603. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650.	37: (N.S.)1 37: (N.S.)1 14: (N.S.)1 715	42. 019 14. 46. 09. 82. 56. 80. 80. 80. 838. 0. 152. 50.
120 154 226 (2 305 337 485 (4 541 (5 681 (6 761 786 (7  30 L.R.A. 161 186 206 305 (3	43         24         1         27, 242)       46         19         3         19         52)       26         85)       1         19       57         58       1         58       1         48       21         48       21         48       21         33       33         10       10	: (N.S.)874. : (N.S.)369. : (N.S.)260. : (N.S.)260. : (N.S.)1079. : (N.S.)916. : (N.S.)916. : (N.S.)603. : (N.S.)663. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)663. : (N.S.)663. : (N.S.)663. : (N.S.)663. : (N.S.)663. : (N.S.)664.	37: (N.S.)1 37: (N.S.)1 14: (N.S.)1 715	42. 019 14. 46. 09. 82. 80. 08. 08. 03. 165. 03. 152. 50.
120 154 226 (2 305 337 485 (4 541 (5 681 (6 761 786 (7  30 L.R.A. 161 186 206 305 (3	43         24         127, 242)       46         19         3         19         52)       26         19         85)       1         19         52)       26         19         85)       1         19       57         58         48         20)       33         33)       10         35)       42         14       42         14       42         14       42         15       42         16       42         17       42         18       42         19       42         10       42         11       42         12       43         13       42         14       43         15       42         16       43         17       43         18       43         19       43         10       43         11       44         12       44	: (N.S.)874. : (N.S.)369. : (N.S.)260. : (N.S.)260. : (N.S.)1079. : (N.S.)809. : (N.S.)916. : (N.S.)916. : (N.S.)603. : (N.S.)603. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)664. : (N.S.)990. : (N.S.)76. : (N.S.)76. : (N.S.)166, 167. : (N.S.)463. 15C. 396. : (N.S.)98. : (N.S.)98. : (N.S.)98.	37: (N.S.)1 37: (N.S.)1 14: (N.S.)1 715	42. 019 14. 46. 09. 82. 80. 08. 08. 03. 165. 03. 152. 50.
120 154 226 (2 305 337 485 (4 541 (5 681 (6 761 786 (7  30 L.R.A. 161 186 206 305 (3	43       24       1       27, 242)     46       19       3       19       52)     26       85)     1       19     57       58     48       21     48       22     33       33)     10       35)     42       14     25	: (N.S.)874. : (N.S.)369. : (N.S.)260. : (N.S.)260. : (N.S.)1079. : (N.S.)916. : (N.S.)916. : (N.S.)603. : (N.S.)663. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)650. : (N.S.)663. : (N.S.)663. : (N.S.)663. : (N.S.)663. : (N.S.)663. : (N.S.)664.	37: (N.S.)1 37: (N.S.)1 14: (N.S.)1 715	42. 019 14. 46. 09. 82. 80. 08. 08. 08. 03. 165. 03. 152. 50.

34 L.R.A.—cont'd.	1 87 L.R.A.	
137	116 1:(N.S.)47	7
(common carrier)21:(N.S.)188.	8: (N.S.)95	
(138)	35: (N.S.)97	
28: (N.S.)450.	1916A. 660	
16139: 264.	(121)30: (N.S.) 330	9.
19327: (N.S.) 695.	, 1916A, 468.	
39824: (N.S.)432.	2071916E, 1163.	
48: (N.S.)204. 48121: (N.S.)283.	23329:(N.S.)19-	4.
	1916F, 506. 26127: (N.S.) 62.	
48: (N.S.) 823. 5091: (N.S.) 520.	301	
609	423	
(611)46: 86.	518 (520)	5.
17:(N.S.)1165.	520 2: (N.S.) 19	7,
6341915B, 645.	1190	
(665)	561 (575)14: (N.S.)93	7.
1915B, 645.	593 (610)14: (N.S.)12:	
720	7831:(N.S.)114 830 (836)1915C, 595.	±1.
1918E, 767.		
73733:(N.S.)895.	38 L.R.A.	
788 8:(N.S.)384.	97 (100)	8.
1915E, 1095.	20827:(N.S.)53	2.
82434:(N.S.)798.	(214) 5: (N.S.) 413	5.
48:(N.S.)917.	1915F, 898.	
1916D, 12 <b>24.</b>	305 (306)	۸۵۸
1918E, 218.	(324)	uuu.
	(330) 9:(N.S.)119	97.
35 L.R.A.	(332)39:(N.S.)26	
3318:(N.S.)451.	433	4.
32: (N.S.)303.	529	
44: (N.S.) 57.	29: (N.S.)63	
1916F, 864.	34: (N.S.)12 1917B, 108,	о.
5818:(N.S.)1259.	<b>57710: 1131.</b>	
29: (N.S.)770. 14120: (N.S.)261.	640 (655)	2.
	687	
41: (N.S.)315. 28949: (N.S.)1129.	721 (747)	
(298)	78630: (N.S.) 270	0.
37230:(N.S.)761.	39 L.R.A.	
417 (421)1915A, 100.	331916B, 1263.	
489 9:(N.S.)579,	305 (328)42: 767.	
21:(N.S.)868.	449 (454)	
51250: (N.S.)454.	491	
<b>5611915C</b> , 558.	551	
647 8:(N.S.)231.	32: (N.S.)55	4.
6781:(N.S.)188.	58160: 481, 500. 1916E, 523.	
701 (705)	(590) 3:(N.S.)99	7.
80251:(N.S.)843.	649 (661, 667)20: (N.S.) 140	6.
	1916C, 564.	
36 L.R.A.	(672)	1. ?
9210:(N.S.)542.	715 (720) 6: (N.S.) 576	
1171917A, 1167.	73744:(N.S.)119	
13919:(N.S.)249.	77535:(N.S.)100	JU.
106 (nonsupport)1916E, 762.	40 L.R.A.	
232	131	0.
293 2: (N.S.) 95.	1916F. 101.	-
413 (414)23: (N.S.)453.	17762: 683.	
434	25: (N.S.)83	
465 (homicide) 13: (N.S.) 1024.	52: (N.S.)73	
25: (N.S.) 376.	43222:(N.S.)779	¥. •4
52: (N.S.) 230.	27:(N.S.)110 40:(N.S.)13	
(burglary)1918A, 1168.	465 (470)	••
58247:(N.S.)689.	503 (510)19: (N.S.)83	5.
72144:(N.S.)119.	28: (N.S.)67	3.
78138: (N.S.)383.	1915C, 359.	
·		

40	L.R.A.—cont'd.	45	L.R.A.—cont'd.
	59322:(N.S.)345.	1	44620: (N.S.)185.
	1918E, 738.	ľ	<b>30</b> : (N.S.)291.
	71714: (N.S.) 96.		42:(N.S.)332.
	37: (N.S.)1005.	1	481 (496)
	737	1	54146: (N.S.)219.
		1	647 (648)
41	L.R.A.	1	687 (703)
	321 (328)42: 822.	i	39: (N.S.)671.
	371 (377)32: (N.S.) 376.	ł	(707)
	42219:(N.S.)658.	1	737 (743) 3: (N.S.)584.
	49464: 983, 986.	1	(748)10: (N.S.)947.
	35: (N.S.)824.	1	(751)1915C, 386.
	59350: (N.S.)266.	ł	80040: (N.S.)1197.
	59924: (N.S.)221.	l	
	650 (660)	46	L.R.A.
	20: (N.S.)321.	]	33 (86)
	33: (N.S.)419.	1	32217:(N.S.)329.
	•	1	641 (absence of witness) .34: (N.S.)811.
49	L.R.A.	1	(665)34:(N.S.)811.
_	11011:(N.S.)1142.	Ì	753 (778)1915E, 395.
	1751916C, 150.	l l	(784)50: (N.S.)83.
	247 See Indexes under "Insurance"—	1	(100) 1111111111111111111111111111111111
	"Incontestability."	١	
	293 (294) 4: (N.S.) 558.	47	L.R.A.
	1915A, 797.	1	33 (44)
	368 (394)1915B, 703.	ł	871917D, 707.
	43235: (N.S.)870.	1	2461918D, 1049.
	101717 720	1	289 (301)
	55323:(N.S.)1023.	1	4331917E, 1148.
	753 (768)	1	51224: (N.S.) 1260.
	(771)		34: (N.S.)1060. 59318: (N.S.)409.
		1	34: (N.S.) 141.
43	L.R.A.	1	63730: (N.S.) 231.
	33 (59)14: (N.S.)862.	ł	69648: (N.S.) 906.
	46: (N.S.)38.	1	1918F, 510.
1	225 8: (N.S.)108.	1	80632: (N.S.)730.
	44: (N.S.) 643. 27743: (N.S.) 945.	1	
	27743: (N.S.)945.	l	
	305 (371) 9: (N.S.) 972.	48	L.R.A.
	55425: (N.S.) 1265.	1	68
	593 (609) 3: (N.S.) 576.	ł	368 (392)
	24: (N.S.)1182.		40: (N.S.)913.
	1915E, 714.	1	465 (473)
	70614:(N.S.)464.	1	54223:(N.S.)1014.
	34: (N.S.)283.	į.	30: (N.S.) 453.
	1918D, 1032.	1	625 (638)
	81427: (N.S.) 803.	1	691
	(816)16: (N.S.) 938.	1	20: (N.S.) 1050.
		1	47:(N.S.)137. 75330:(N.S.)436.
44	L.R.A.	1	755
	177 (180)12: (N.S.)1173.	i	•
	2891918C, 539.	49	L.R.A.
	321 (337)23:(N.S.)164.		111 (saloons)18: (N.S.)657.
	27:(N.S.)195.	1	153 (158)
	(347)21:(N.S.)328.	1	193
	400	ı	(212)15: (N.S.) 689.
	5271915F, 854.	I	38:(N.S.)1160.
	593 (601) 9:(N.S.)933.		353 2: (N.S.) 672.
	(605)		(379) 8:(N.S.)917.
	7371918E, 255.	1	52:(N.S.)843.
		1	47117:(N.S.)177.
45	L.R.A.	1	49719: (N.S.)700.
	33 (44)24:(N.S.)659.	1	25: (N.S.)727.
	(48)34: (N.S.) 1047.	1	44: (N.S.)557.
	13651: (N.S.) 373.	1	612 8: (N.S.)783.
	<b>392</b> 1917B, 326.	i	1915E, 457.
	(394)	1	6791: (N.S.) 242.
	35: (N.S.) 563.	l	18:(N.S.)1221.
	50: (N.S.) 510.	ı	32: (N.S.) 1173.
	1916D, 211.		52; (N.S.)241.

			T TO A 112
-	L.R.A.—cont'd.	1 22	L.R.A.—cont'd.
	71527:(N.S.)1069.	1	43238: (N.S.) 255.
	781 1:(N.S.)208.	1	73224:(N.S.)1286.
	22: (N.S.)163.	1	857 (858)1918C, 628.
		1	891 (895, 903)22:(N.S.)281.
KΩ	L.R.A.		934 (939)1916F, 206.
•	3326:(N.S.)451.	1	002 (000)
	00. (37 C) 100.	1	
	30: (N.S.) 990.	54	L.R.A.
	41:(N.S.)123.	1 -	3313:(N.S.)742.
	46: (N.S.)148.	1	(52)
	7517:(N.S.)514.	1	
	38: (N.S.) 1111.		(71)
	1421918E, 892.	1	(124)
	16136:(N.S.)240.	1	<b>225</b>
	51: (N.S.)319.	1	$(231) \dots 45: (N.S.)982.$
	071 (074) 00 (NC) 214	1	(233)14: (N.S.)1172.
	371 (374)38: (N.S.)514.	1	440 2: (N.S.)666.
	3977: (N.S.) 362.	ļ.	25: (N.S.)596.
	42: (N.S.)386.	ı	1915B, 1121.
	50131: (N.S.)491.	١.	(448)
	1915 <b>D, 3</b> 00.	1 '	(110),
	<b>5</b> 77 (583)59: <b>1</b> 78.	1	51340: (N.S.)249.
	(585)35:(N.S.)292.	ı	67350: (N.S.)78.
	1917C, 1143.		718 7: (N.S.)1114.
	(501) 0. (N. C.) 500		865 9:(N.S.)224.
	(591) 8: (N.Ś.)538.	į	38: (N.S.)941.
	(595)35: (N.S.)312.		934 3: (N.S.)473.
	71424:(N.S.)490.		21: (N.S.)267.
	51:(N.S.)1069.		21. (11.5.)201.
	83616:(N.S.)280.		
	(841)	55	L.R.A.
	(911)	100	122 (136)1916A, 982.
21	T D A		35334:(N.S.)510.
91	L.R.A. 3320:(N.S.)942.	1	000 (004) 10 (N.S.) 010.
		1	381 (384)19: (N.S.)84.
	19342: (N.S.)69.	1	418
	1915B, 505.	f	(424)36:(N.S.)957.
	(222)	1	513 (530)
	3201916C, 1094.		65043:(N.S.)806.
	(330)17:(N.S.)124.	ı	1915E, 281.
	1916C, 1097.	1	7131915C, 681.
	353 9: (N.S.)174.		751 (bad loans and in-
		1	
	43:(N.S.)639. (360)37:(N.S.)944.	1	$\mathbf{vestments}) \dots 39: (N.S.) 173.$
	(300)	1	•
	(381)	56	L.R.A.
	6571916D, 1020.	1	33 (77) 4:(N.S.)786.
	698 (706)28:(N.S.)337.		
		1	97./N/S \550
	(713)1915F, 759.		27: (N.S.) 550.
	(713)1915F, 759.		19340:(N.S.)1095.
52	(718)1915F, 759.		19340: (N.S.)1095, 1915F, 955.
52	(718)1915F, 759.		193
52	(713)		193
52	(713)		193
52	(713)		193
52	(713)		193
52	(713)		193
52	(713)		193
52	(713)		193
52	(713)		193
52	(713)		193
52	(713)		193
52	(713)		193
52	(713)		193
52	(713)		193
52	(713)		193
52	(713)		193
52	(713)		193
52	(713)		193
	(713)		193
	(713)		193
	(713)		193
	(713)		193
	(713)		193
	(713)		193
	(713)		193
	(713)	57	193
	(713)	57	193
	(713)	57	193

155	57	L.R.A.—cont'd.	59 L.R.A.—cont'd.
17; (N.S.) 800   26; (N.S.) 179, 28; (N.S.) 179, 28; (N.S.) 179, 28; (N.S.) 179, 28; (N.S.) 175, 335, 353   29; (N.S.) 181, 355, 36; (N.S.) 46; (N.S.) 1150, 310, 32; (N.S.) 162, 335, 32; (N.S.) 164, 32; (N.S.) 164, 32; (N.S.) 164, 33; (N.S.) 165, 33; (N.S.) 164, 33; (N.S.) 164, 33; (N.S.) 111, 33; (N.S.) 36, 36; (N.S.) 378, 376, 376, 376, 376, 376, 376, 376, 376	٠.	155	465
28: (N.S.)753. 43: (N.S.)355. 353. 29: (N.S.)781. 432. 40: (N.S.)1150. 1918E, 937. 513. 29: (N.S.)764. 26: (N.S.)774. 1916E, 1054. 583. 44: (N.S.)505. 643 (651) 1916F, 358. 673. 35: (N.S.)574. (684) 9: (N.S.)1117. 16: (N.S.)672. 19: (N.S.)368. 784. 20: (N.S.)31117. 16: (N.S.)872. 19: (N.S.)364. 784. 20: (N.S.)383. 785. 1916A, 1191. 932. 9: (N.S.)383. (280, scaffolds) 1916F, 1036. (280) 1916A, 1191. 932. 9: (N.S.)426. 585. 21: (N.S.)426. (290) 24: (N.S.)426. (293) 1918F, 1036. (293) 1918F, 363. (295, reservation) 1918F, 363. (296, reservation) 1918F, 363. (296, reservation) 1918F, 363. (296, reservation) 1918F, 363. (296, reservation) 1918F, 363. (297, reservation) 1918F, 363. (298) 1918F, 1006. (398) 1919F, 1006. (98) 1919F, 1006. (98) 1919F, 1006. (98) 1919F, 1006. (98) 1919F, 1006. (115) 1918F, 1006. (115) 19			
43: (N.S.) 355. 429: (N.S.) 781. 432. 46: (N.S.) 1150. 1918B, 937. 513. 26: (N.S.) 764. 1916A, 1054. 583. 44: (N.S.) 505. 643 (651) 1916B, 356. 673. (684) 1916B, 356. 673. (684) 1916B, 356. 673. 35: (N.S.) 5074. 19: (N.S.) 1117. 20: (N.S.) 1117. 20: (N.S.) 1117. 20: (N.S.) 1054. 20: (N.S.) 1117. 20: (N.S.) 1054. 20: (N.S.) 1117. 20: (N.S.) 1054. 20: (N.S.) 1133. 20: (N.S.) 1034. 20: (N.S.) 203. 2033. 2034. 2035. 2036. 2037. 2037. 2038.			1915B, 834.
353. 29; (N.S.)781. 432. 46; (N.S.)1150. 1918B, 937. 513. 29; (N.S.)764. 29; (N.S.)774. 29; (N.S		28: (N.S.) 753.	
432. 46: (N.S.)1150. 1916B, 937. 513. 26: (N.S.)764. 1916A, 1054. 583. 44: (N.S.)505. 643 (651) 1916F, 358. 673. 35: (N.S.)505. 673 (654) 1916F, 358. 673. 36: (N.S.)5074. 19: (N.S.)1056. 673 (651) 1916F, 358. 674. 684) 19: (N.S.)1117. 20: (N.S.)704. 481. 20: (N.S.)705. 481. 20: (N.S.)982. 20: (N.S.)983. 20: (N.S.)983. 20: (N.S.)984. 20: (N.S.)983. 20: (N.S.)984. 20: (N			
1918E, 937.   604   37; (NS) 1058.   626; (NS.) 764.   266; (NS.) 764.   266; (NS.) 764.   362; (NS.) 166.   362; (NS.) 166.   363; (651)   1916F, 358.   673   355; (NS.) 1574.   39; (NS.) 1107.   39; (NS.) 1105.   39; (NS.) 1205.   39; (NS.) 1			
513			1910D, 831.
26: (N.S.)774. 1916A, 1064. 643 (651)		513 98 · (N S \ 784	673 69. (N.S.) 1006.
1916A, 1054   44 (NS.) 5055   643 (651)   1916F, 258   673   9 (NS.) 514   294   51 (NS.) 534   35 (NS.) 574   294   51 (NS.) 534   321 (366)   15 (NS.) 534   321 (366)   10 (16 (NS.) 1035   321 (			
683			021111111111111111111111111111111111111
643 (651)			60 L.R.A.
673		643 (651)1916F, 358.	
16: (N.S.) 672. 19: (N.S.) 1056. 36: (N.S.) 303. 42: (N.S.) 643. 784		67335: (N.S.)574.	
19 (N.S.) 1056, 36 (N.S.) 33. 42 (N.S.) 48. 36 (N.S.) 33. 42 (N.S.) 48. 43 (N.S.) 48. 44 (N.S.) 48.			30:(N.S.)704.
36: (N.S.) 33. 42: (N.S.) 643. 784			
## 42: (N.S.) 643. ## 20: (N.S.) 1133. ## 1917 A, 74 ## 17 (820, scaffolds)			
784. 20: (N.S.) 1133. 1917A, 74 817 (820, scaffolds) 1915F, 1036. (820, railroads) 19: (N.S.) 738. 7375. 1916A, 1191. 850  825. 1916A, 1191. 932. 9: (N.S.) 426. 58 L.R.A. 36: (N.S.) 978. (railroads) 1915A, 129. (47) 16: (N.S.) 146. (18.S.) 146. (19.S.)			
1917A, 74. 817 (820, scaffolds)			
887 (820, railroads) 1916K, S.)738. 875 1916A, 1191. 932 9; (N.S.) 426.  88 L.R.A. 33 (railroads) 1916A, 129. (47) 16; (N.S.) 146. 21; (N.S.) 601. 155 30; (N.S.) 360. (293) 1918F, 363. (295, reservation) 19; (N.S.) 618. (299) 24; (N.S.) 451. (306) 14; (N.S.) 322. 1918D, 183. 321 (municipality) 20; (N.S.) 656. (328) 9; (N.S.) 598. 28; (N.S.) 200. 613 (589) 15; (N.S.) 598. 410 1918B, 308. 613 (589) 15; (N.S.) 598. 613 (589) 15; (N.S.) 598. 660 11; (N.S.) 766. 673 30; (N.S.) 704. 673 35; (N.S.) 227. 788 26; (N.S.) 266. 28; (N.S.) 206. 673 35; (N.S.) 227. 788 26; (N.S.) 266. 28; (N.S.) 297. (105) 31; (N.S.) 31. (107) 39; (N.S.) 814. (115) 39; (N.S.) 814. (115) 39; (N.S.) 814. (115) 39; (N.S.) 814. (115) 39; (N.S.) 814. (116) 30; (N.S.) 705. (107) 39; (N.S.) 814. (117) 39; (N.S.) 598. (118) 34; (N.S.) 1168. (118) 34; (N.S.		1917A, 74.	
Section   19: (N.S.) 738.   19: (N.S.) 178.   19: (N.S.) 178.   19: (N.S.) 178.   19: (N.S.) 128.   19: (N.S.) 128.   19: (N.S.) 129.   19: (N.S.) 148.   19: (N.S.) 149.   19: (N.S.) 148.		817 (820, scaffolds) 1915F, 1036.	850 1:(N.S.)766.
932. 9: (N.S.) 426.  58 L.R.A.  33 26: (N.S.) 978.			
58 L.R.A.         33			AT T DA
58 L.R.A.  33		932 9:(N.S.)420.	
33	KA	T. R. A.	
(railroads)		33	
(47)		(railroads)1915A, 129.	1918F, 1005.
155		(47)16:(N.S.)146.	(95)25: (N.S.)239.
(293)		21: (N.S.) 601.	
(299)		15530: (N.S.) 360.	
(299)		(203)	
(299)			
(306)		(299)	(105) 91·(NS)301
1918D, 183.   20: (N.S.)656.   20: (N.S.)201.   (328)   9: (N.S.)598.   28: (N.S.)200.   51: (N.S.)309.   1915D, 309.   (539)   15: (N.S.)952.   30: (N.S.)705.   (599)   1915C, 380.   (600)   30: (N.S.)704.   673   39: (N.S.)816.   28: (N.S.)825,   1917F, 1055.   833   38: (N.S.)1000.   59 L.R.A.   33 (logs)   51: (N.S.)1172.   135 (146, 148, 163)   38: (N.S.)297.   (162)   18: (N.S.)647.   1917F, 1082.   (177)   39: (N.S.)988.   (178, constructive service)   9: (N.S.)168.   (107)   39: (N.S.)814.   (115)   (15)   (15)   (N.S.)814.   (115)   (15)   (N.S.)814.   (15)   (15)   (N.S.)816.   (15)   (N.S.)816.   (15)   (N.S.)816.   (15)   (N.S.)816.   (15)   (N.S.)816.   (15)   (N.S.)816.   (15)   (15)   (15)   (N.S.)816.   (1		(306)14: (N.S.) 322.	
20: (N.S.) 598. 20: (N.S.) 598. 28: (N.S.) 200. 51: (N.S.) 309. 410.		1918D, 183.	
193   194   195   195   196		321 (municipality)20: (N.S.)656.	(115)39:(N.S.)814.
28: (N.S.) 598.   28: (N.S.) 598.   51: (N.S.) 309.   19: (N.S.) 309.   19: (N.S.) 516.   20: (N.S.) 516.   20: (N.S.) 635.   43: (N.S.) 116.   25: (N.S.) 50.   30: (N.S.) 704.   600)   30: (N.S.) 704.   621.   25: (N.S.) 50.   30: (N.S.) 694.   44: (N.S.) 156.   28: (N.S.) 825,   1917E, 1055.   28: (N.S.) 1000.   1917B, 1032.   1917B, 1032.   1917B, 1032.   1917F, 1161.   (178, other state)   9: (N.S.) 1068.   (178, constructive service)   9: (N.S.) 1168.   28: (N.S.) 1068.   (178, constructive service)   9: (N.S.) 1168.   (28: (N.S.) 1168.   (28: (N.S.) 1168.   (29: (N.S.) 1168.   (20: (N.S.) 1264.   (29: (		20:(N.S.)201.	19319:(N.S.)665.
51: (N.S.) 309.			277 (287)1915D, 201.
410		· · · · · · · · · · · · · · · · · · ·	583 7:(N.S.)424.
513 (589)			
30: (N.S.) 705. (599)		*#10	, , ,
(599)			43: (N.S.)1116.
(600)			
673		(600)30:(N.S.)704.	\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \
788		67335:(N.S.)227.	
28: (N.S.) 925, 1917E, 1055. 833 38: (N.S.) 1000.  59 L.R.A. 33 (logs) 51: (N.S.) 1172. 135 (146, 148, 163) 38: (N.S.) 297. (162) 18: (N.S.) 647. 1917B, 1032. (177) 39: (N.S.) 988. (178, constructive service) 9: (N.S.) 593. (178, other state) 9: (N.S.) 5168. (178, other state) 9: (N.S.) 1168. 28: (N.S.) 1068. (180) 34: (N.S.) 1106. 1915E, 421. (181) 41: (N.S.) 219. (183) 23: (N.S.) 1254.		78826: (N.S.)816.	872 (804) 90 (N.S.) 1050
1917E, 1055. 833		28: (N.S.)825,	
833		1917E, 1055.	
59 L.R.A.  33 (logs)		83338:(N.S.)1000.	833 (865)1915E, 687.
33 (logs)	59	L.R.A.	(555)
135 (148, 148, 163)	••		62 L.R.A.
(162)		135 (146, 148, 163)38: (N.S.)297.	331916D, 750.
(177)			
(178, constructive service) 9: (N.S.) 593.		1917B, 1082.	
service) 9: (N.S.)593. 1917F, 1161. (false pretenses) 43: (N.S.)667. (false pretenses) 43: (N.S.)754. (forgery) 43: (N.S.)774. (180) 34: (N.S.)1106. 1915E, 421. (181) 41: (N.S.)219. (183) 23: (N.S.)1254. (pribery) 1915B, 103. (1915D, 388.			
1917F, 1161. (178, other state) 9: (N.S.) 1168. 28: (N.S.) 1068. (180) 34: (N.S.) 1106. 1915E, 421. (181) 41: (N.S.) 219. (183) 23: (N.S.) 1254.		service) 9: (N.S.) 593.	(sodomy)46: (N.S.)266.
(178, other state) 9: (N.S.) 1168. 28: (N.S.) 1068. (180) 34: (N.S.) 1106. 1915E, 421. (181) 41: (N.S.) 219. (183) 23: (N.S.) 1254. (170 gery) 43: (N.S.) 754. (181 cmey) 43: (N.S.) 777. (181 cmey) 1915A, 809. (181 cmey) 1915A, 809. (181 cmey) 1917B, 309. (181 cmey) 1917B, 309.			
28: (N.S.) 1068. (180)	•	(178, other state) 9: (N.S.)1168.	(10rgery)43:(N.S.)754.
1915E, 421. (arson)1915A, 809. (181)		· 28:(N.S.)1068.	(lemoezziement)43:(N.S.)//4.
(181)			(arceny)
(183)			
<b>353</b> (366)1918B, 972. <b>369</b> 1917C, 1119.			(robbery)1917D. 388.
			3691917C, 1119.

<b>62</b> L.	R.A.—cont'd.	1	65	L.R.A.—cont'd.
67	78 (688)	.25:(N.S.)831.		25029:(N.S.)126.
		52:(N.S.)736.		316 (318)1915E, 203.
	(714)	. 5:(N.S.)899.		44517: (N.S.) 371.
	• •	19:(N.S.)561.		(467)
		27:(N.S.)966.		16: (N.S.)816.
		48: (N.S.)893.		25: (N.S.)33.
79	95 (797)	. 6: (N.S.)928.		52947:(N.S.)279.
	(798, 802)	.33: (N.S.)54.		62017:(N.S.)758.
81	L7 (861)J	.36: (N.S.) 162.		8051915A, 121.
-	(866)	18: (N.S.) 520.		83317:(N.S.)758.
	(870)	34: (N.S.) 1004.		(855)
	(873)	41:(N.S.)391.		95341: (N.S.)366.
97	4	1915F. 820		
•		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	00	TDA
63 L.	PA		00	L.R.A.
	33	18 · (N S )590		11917:(N.S.)758.
	)3			30422: (N.S.)243.
	39			35333:(N.S.)143.
20		1916C, 222.		65745: (N.S.) 1131.
	53 (387)	45. (N.C.) 910		7981915B, 280.
9.	13		67	L.R.A.
	(532)			3334:(N.S.)261.
	•	23: (N.S.)648.		38:(N.S.)40,
		28: (N.S.)490.		87 (91)1915E, 1205.
		29: (N.S.)795.		(92)1915E, 1201.
		41: (N.S.)223.		1181918A, 147.
	16			15316:(A.S.)870.
	73			(157)24: (N.S.)1283.
88	3 <b>3</b>			209 3: (N.S.) 608.
		52:(N.S.)275.		20:(N.S.)264.
90	02	.49:(N.S.)580.		1915F, 880.
96	83 (984)	.36: (N.S.)162.		25337; (N.S.) 1150.
		į		426
64 L.	R.A.			529 (542)45:(N.S.)71.
	33 (59)	.38:(N.S.)907.		(546)
	19			565
	80 . <b></b>			65620:(N.S.)996.
23	3 <b>6</b>			49:(N.S.)1159.
		23:(N.S.)331.		705 (708)
		25:(N.S.)465.		78349:(N.S.)83.
		37:(N.S.)193.		100::::::::::::::::::::::::::::::::::::
		1915A, 369.		T.D.4
38	53 (356)		68	L.R.A.
		35:(N.S.)385.		33 (rape)1916B, 747.
		1917D, 942.		(larceny)28: (N.S.)536.
47	74 (481)	. 3:(N.S.)929.		1916B, 846.
	(486)	.12: (N.S.)717.		(arson)16: (N.S.) 285.
		26: (N.S.) 953.		1916D, 1299.
		1918D, 1137.		(identification of
50	01			body) 7: (N.S.) 181.
		1915D, 838.		(embezzlement)1917A, 1289.
	31			28545:(N.S.)404.
64	48 (665)	.16:(N.S.)210.		1918E, 924.
68	89 (712)	.11:(N.S.)368.		447 (454)
	` '	19: (N.S.) 143.		39: (N.S.)1160.
		30:(N.S.)580.		673 (699)15: (N.S.)49.
		41:(N.S.)1034.		799 2: (N.S.) 725.
82	23 (833)	.35: (N.S.)385.		13: (N.S.)610.
	` '	1917D, 942.		29: (N.S.)813.
97	77 (983, 986)			1916C, 372.
		` '		833 (842)16:(N.S.)162.
65 L.		į.		(02m)) TOM:
	<b>13</b> <i>.</i>	12:(N.S.)1130.	60	L.R.A.
_		26: (N.S.)242.	U	
		85: (N.S.)628.		193
		40: (N.S.)893.		31718: (N.S.)431.
		51: (N.S.) 361.		353 (375)23: (N.S.)776.
		1915F, 830.		67323: (N.S.)924.
17	77 (186)	.21:(N.S.)679.		27:(N.S.)420.
_,	• •	25:(N.S.)1285.		7711918E, 470.
	•	1916C, 666.		892 (898)
		•		

70 L.R.A.	, 2 L.R.A. (N.S.)—cont'd.
3333: (N.S.) 465.	115 9: (N.S.)1118.
579 1: (N.S.) 49.	127
32:(N.S.)371.	130
73118: (N.S.) 297.	30: (N.S.)694.
799 (crops)1918A, 550.	44: (N.S.) 156.
188 (Clops)	1916F,286.
•	144
1 L.R.A.:(N.S.)	1681917D, 740.
49 9: (N.S.)988.	197
32:(N.S.)371.	210
13711:(N.S.)670.	244
18417:(N.S.)684.	261
40: (N.S.) 875.	269
20545: (N.S.)871.	52: (N.S.) 889.
48: (N.S.)1001.	288
20833:(N.S.)807.	51: (N.S.)1040.
215 See L.R.A. Indexes under "Auto-	1915E, 987.
mobiles."	303 5: (N.S.)1103
24218:(N.S.)1221.	331 (constitutionality) .20: (N.S.)160.
32: (N.S.)1173.	1915E, 917.
52: (N.S.)241.	(fixtures)34: (N.S.) 218.
307	(337)25: (N.S.)758.
364 6: (N.S.) 1046.	45: (N.S.) 495,
35: (N.S.)611.	(338)19: (N.S.)874.
40019:(N.S.)290.	353
427 3: (N.S.)1132.	1915E, 68.
19: (N.S.)772.	38324:(N.S.)143.
32: (N.S.)713.	39221:(N.S.)176.
42: (N.S.) 1070,	3951917F, 911.
1915 <b>F</b> , 690.	408 (459)1915F, 680.
439	51252:(N.S.)670.
50: (N.S.)880.	531
477 8: (N.S.) 95.	55322: (N.S.)661.
35: (N.S.)979.	5741915B, 498.
1916A, 660.	5887:(N.S.)1131.
54025: (N.S.) 946.	30: (N.S.)957.
6391915F, 1143.	49:(N.S.)1123.
66028: (N.S.) 934.	1917A, 433.
1916C, 255.	1918B, 383.
75234:(N.S.)286.	6191916B, 1053.
766	6281915B, 492.
	63125:(N.S.)193.
42: (N.S.) 735. 9181917C, 246.	34: (N.S.)454.
9261917C, 240.	1916C, 263.
9281917C, 248.	63714:(N.S.)493.
9321917C, 246.	6431918A, 475.
93627:(N.S.)1151.	652 (653)
1917C, 245.	37:(N.S.)1191.
969	51: (N.S.)726.
977	66625:(N.S.)596.
10071918E, 367.	1915B, 1121.
1024 3: (N.S.) 508.	695 5: (N.S.) 779.
1110	14:(N.S.)464.
37: (N.S.)409.	34: (N.S.)282.
1915A, 715.	1918D, 1032.
1171 3: (N.S.) 954.	72513:(N.S.)610.
117813: (N.S.)646.	29:(N.S.)813.
1184	1916C, 372.
1916E, 253.	7441915E, 722.
118843: (N.S.) 961.	(748)
1916E, 253.	29: (N.S.)813.
1192	(757)24:(N.S.)246.
48: (N.S.)294.	804 (806)1915D, 733.
	809
ATDA/WC\	1015R 740
<b>2 L.R.A.(N.S.)</b> 9525:(N.S.)180.	81327:(N.S.)898.
	83612: (N.S.)760.
52: (N.S.)943. 10532: (N.S.)1206.	13:(N.S.)615.
1918F, 555.	29: (N.S.) 808.
1916F, 555. 110 <b>24</b> :(N.S.)1178.	1916C, 364.
110	19100, 302.

2 L.R.A.(N.S.)—cont'd.	OTDA/WC) contil
842	<b>13 L.R.A. (N.S.)</b> —cont'd. <b>741</b>
85921:(N.S.)263.	746
1916E, 1150.	191èE, 9 <del>é</del> .
86222: (N.S.)240.	75923: (N.S.)643.
41; (N.S.) 1213. 1917E, 1133.	42:(N.S.)863. 76324:(N.S.)103.
87320: (N.S.) 1019.	25:(N.S.)1297.
88738:(N.S.)830.	33: (N.S.)179,
927 (928)	1917C, 822.
964	774
101341:(N.S.)695.	8871915C, 378.
1100	93533:(N.S.)949. 98232:(N.S.)713.
1916E, 280.	38: (N.S.)72.
111541:(N.S.)236.	42: (N.S.)1073.
1173 5: (N.S.)1177.	1 1915F, 698.
1191	98834:(N.S.)1089,
12: (N.S.)831.	1094. 9971916F, 914.
21 : (N.S.)972. 49 : (N.S.)135.	11151916B, 616.
40.(11.5.)100.	1126
3 L.R.A.(N.S.)	113219: (N.S.)772.
49 <b>22</b> : (N.S.) 1073.	32: (N.S.)713.
1915D, 831.	42: (N.S.)1070.
111	1915F, 690. 118723:(N.S.)673.
141	1918F, 688.
168	119625:(N.S.)178.
36: (N.S.)115.	11991918A, 442.
1917C, 63.	4 7 7 4 (37.0)
172	4 L.R.A.(N.S.) 491915C, 789.
209	49 (58)34:(N.S.)351.
218	1915C, 809.
1918E, 517.	(66–68)40: (N.S.) 486.
<b>244</b> 1915E, 91.	8016:(N.S.)1129.
251 9: (N.S.)1148.	11926: (N.S.) 134. 1915E, 267.
19: (N.S.) <b>606.</b> 1915F, 673.	14932: (N.S.)740.
259	1915E, 413.
47:(N.S.)932.	1891915A, 1179.
(287)	202
323 7: (N.S.)87. 339 1915E, 455.	40: (N.S.) 254.
34520: (N.S.)232.	1916F, 1249.
38: (N.S.)488.	30250:(N.S.)412.
42: (N.S.) 1179.	309
51: (N.S.) 992.	339
38240: (`N.S.) 576. 41247: (N.S.) 955.	1917C, 361.
432	41741:(N.S.)439.
28: (N.S.)773.	421
46: (N.S.)357.	1915E, 152.
1918F, 317.	42733:(N.S.)883. 1915A, 521.
47321:(N.S.)267. 47839:(N.S.)370.	485
1915D, 130.	1915E, 668.
500 4:(N.S.)220.	5211916E, 821.
5584:(N.S.)480.	5581915A, 797.
564	565
57624:(N.S.)1182. 1915E, 715.	569
588	607
608	61636:(N.S.)388.
1915F, 880.	62944:(N.S.)68.
<b>622</b>	63650:(N.S.)1007.
. 1918D, 683.	64329: (N.S.) 842.
726 (life insurance)1917B, 671.	1915A, 67. 67824:(N.S.)1045.
(inheritance)39:(N.S.)1088. 1915C, 328.	678
19190, 928.	voo

4 L.R.A.(N.S.)—cont'd.	5 L.R.A.(N.S.)—cont'd. 89919: (N.S.)561.
72921:(N.S.)887.	89919:(N.S.)561.
74018: (N.S.) 613.	27: (N.S.)966.
782:	48: (N.S.)893.
78627:(N.S.)550.	9261917A, 1056.
(792)27: (N.S.)550.	1002
8169: (N.S.) 317.	39: (N.S.)1187.
84828: (N.S.)1215.	100539: (N.S.)649.
86530:(N.S.)1030.	101238: (N.S.)258.
8901916D, 719.	1915B, 1202.
90944:(N.S.)1003.	102537: (N.S.)419.
91322: (N.S.)472.	102818: (N.S.)260.
93942: (N.S.) 1162.	25: (N.S.)228,
9531916A, 894.	106420: (N.S.)337.
1020	26: (N.S.)110-
1029	10811917C, 7ó3.
10351918C, 108.	10861917E, 576.
1091 (1118)1916C, 222	1105
1130 See L.R.A. Indexes under "Auto-	1917D, 1011.
mobiles."	11541916D, 782.
117038: (N.S.)4	
118527: (N.S.) 1062.	A T D A (TC)
* * * * * * * * * * * * * * * * * * *	6 L.R.A.(N.S.)
5 L.R.A.(N.S.)	19130:(N.S.)1153.
136	52: (N.S.)186.
1915A, 789.	1981918D, 364.
1917A, 379.	202
14818: (N.Ś.)1233.	212
1831918D, 388.	225
186 (sale of dangerous	29824:(N.S.)511.
instrumentality)	302
1915C, 460.	
(question of law) 47: (N.S.) 1204.	311
(260, master and	33716: (N.S.) 214.
servant)15:(N.S.)784.	1917 E, 4. 3691916C, 1104.
(244, crossing)47: (N.S.) 820.	
(250)	381
(256)	39138:(N.S.)452. 39728:(N.S.)680.
274	442
824	4631917F, 637.
. 42: (N.S.) 465. 3751918C, 1195.	469
4151915F, 898.	477
<b>418</b> 1915B, 407.	1916D, 266.
439	5161916B, 1220.
571	524
619	550
280.	562
6571915E, 127.	5811917B, 916.
1018R 1091	6091916E, 957.
663	68545:(N.S.)559.
674 8: (N.S.) 1116.	71051:(N.S.)50.
27:(N.S.)283.	75032: (N.S.)355.
50:(N.S.)421.	1917F 774
68046:(N.S.)990.	882
1917A, 442.	905
72146:(N.S.)142.	34: (N.S.)118.
7331918A, 849.	1916B, 947.
751	91440: (N.S.) 655.
28: (N.S.)490.	91737: (N.S.)754.
29 : (N.S.) 795.	52:(N.S.)1154.
41: (N.S.) 223.	9281917A, 1163.
77914: (N.S.)464.	9341915B, 681.
34: (N.S.)282.	940
1918D, 1032.	1917D, 942.
83130:(N.S.)619.	9421915E, 1008.
838	001 10./NTC\040
50: (N.S.)489,	98119: (N.S.) 646.
86023:(N.S.)500.	22: (N.S.)634.
87425: (N.S.) 1217.	33:(N.S.)646.
88616:(N.S.)918.	42: (N.S.)1229,_
1917A, 683.	49: (N.S.)472.
,	

A T D A (STA)	. N T D A /3TO \
6 L.R.A.(N.S.)—cont'd. 101343:(N.S.)1037.	7 L.R.A.(N.S.)—cont'd. 899
101343: (N.S.) 1037.	93313:(N.S.)1105.
1915C, 747. 10161916A, 1302.	45: (N.S.)75.
10211918D, 1192.	95848: (N.S.)191.
104635:(N.S.)611.	99123: (N.S.)433.
104832: (N.S.)189.	10411916D, 341.
105432:(N.S.)189.	105333:(N.S.)741.
10671916C, 989.	107613:(N.S.)613.
1082	29: (N.S.)814.
100030: (N.S.)1161.	1131
1094	49: (N.S.)1123.
1107	1917A, 433. 1918B: 383.
11801918D, 720.	115431: (N.S.)417.
118639: (N.S.) 805.	101¢ A 720
22.00.11.11.11.11.11.11.11.11.11.11.11.11.	11631917E, 1035.
7 L.R.A.(N.S.)	
97 9: (N.S.)851.	8 L.R.A.(N.S.)
10836: (N.S.)1194.	4942: (N.S.)439.
1915A, 382.	7729: (N.S.)199.
11423: (N.S.) 924.	1915D, 243.
27: (N.S.) 420. 1327: (N.S.) 152.	9535: (N.S.) 979.
132	1916A, 660. 10844:(N.S.)643.
19: (N.S.) 446.	117
· 27:(N.S.)379.	13124:(N.S.)201.
36: (N.S.) 957.	34:(N.S.)767.
15217: (N.S.) 707.	144
19: (N.S.)446.	14944: (N.S.)98.
27: (N.S.) 379.	19934: (N.S.) 826.
1551917B, 948.	227
156	1917A, 1155. 240
1915E, 320.	25: (N.S.) 938.
1881916A, 549.	249
19118:(N.S.)882.	26351:(N.S.)56.
19525: (N.S.)446.	287
48: (N.S.) 308.	29948: (N.S.)819.
21646:(N.S.)663.	38414:(N.S.)893.
2531915B, 181.	1915E, 1095.
27423: (N.S.)739. 1916A,743.	42632:(N.S.)51. 1918B, 670.
2821915C, 960.	5651915D, 551.
33548: (N.S.) 657.	585
3521915D, 588.	30:(N.S.)783.
35715:(N.S.)701.	43: (N.S.)911.
28: (N.S.)648.	51:(N.S.)959.
1916D, 301.	5971915A, 761.
362	69831: (N.S.)176.
1915D, 1211.	33:(N.S.)996. 76234:(N.S.)58.
<b>424</b>	1915B, 834.
20:(N.S.)635.	7831915E, 457.
43: (N.S.)1116.	804
48110: (N.S.)74.	81448: (N.S.)840.
22: (N.S.) 486.	84444:(N.S.)317.
32: (N.S.)62.	89617:(N.S.)382.
42: (N.S.)1144.	909
52: (N.S.) 505. 50134: (N.S.) 1195.	916 (917)52: (N.S.)842.
582	93731:(N.S.)517.
1916D, 1276.	1915C, 648. 9441917F, 266.
60950:(N.S.)880.	
61241: (N.S.) 290.	983
621	1069
64649:(N.S.)1219.	1107
6691918F, 965.	1917A, 231.
<b>694</b>	111627: (N.S.) 283.
72951:(N.S.)1153.	50: (N.S.)421.
76328:(N.S.)1029.	1130
- +	

0 T D A (TO)	10 T D 4 (TC)
8 L.R.A.(N.S.)—cont'd. 113720:(N.S.)298.	10 L.R.A.(N.S.) 4925:(N.S.)1308.
42: (N.S.) 1160.	4925:(N.S.)1308.
42: (N.S.) 1160. 1148	1915A, 77. 7422: (N.S.)486.
1180	32: (N.S.) 62.
44:(N.S.)422.	42: (N.S.)1144.
121044; (N.S.)427.	52: (N.S.) 505.
1240 <b>34</b> : (N.S.)715.	1141917D, 745.
• • • • • • • • • • • • • • • • • • • •	11738:(N.S.)1195.
9 L.R.A.(N.S.)	1917F, 597.
4948: (N.S.) 547.	12926:(N.S.)99.
140	, 15925:(N.S.)60.
14623: (N.S.) 636.	16740: (N.S.) 102.
1915F, 568. 15449: (N.S.)922.	1721915E, 496.
17443: (N.S.) 922.	17721:(N.S.)178.· 39:(N.S.)744.
224	39: (N.S.) 744. 1917C, 1153.
27727:(N.S.)487.	2041917E, 886.
44: (N.S.) 583,	216
1918C, 1168.	25: (N.S.) 574:
2821917B, 1128.	1916B, 890.
(advertising)33: (N.S.)947.	332
322	35212: (N.S.)831.
3381915E, 501.	21:(N.S.)972x
40741: (N.S.)799.	49: (N.S.)135. 40422: (N.S.)1100.
1915B, 621. 4461917A, 379.	415
478	43234:(N.S.)637.
48: (N.S.) 198.	443
485	463
496	640
5011917A, 379.	70637:(N.S.)409;
57239:(N.S.)519.	1915A, 715,
58021:(N.S.)868.	722.
5931917F, 1161.	73628: (N.S.) 593.
59828: (N.S.) 200, 51: (N.S.) 309,	32: (N.S.)240.
<b>601</b>	48: (N.S.)1221.
68944:(N.S.)544.	84224: (N.S.)1057.
69829:(N.S.)205.	84520:(N.S.)958.
7811918A, 884.	85748: (N.S.)840.
88030:(N.S.)404.	8971917E, 397.
1917E, 1029.	92544:(N.S.)359.
92921: (N.S.)873.	1918C, 239.
1916E, 774. 98832: (N.S.)371.	92839:(N.S.)563.
102642: (N.S.) 555.	99221:(N.S.)836.
1918C, 1015.	44: (N.S.) 161.
1033 (1035)	1043
21:(N.S.)93.	1051
26: (N.S.) 382.	106134:(N.S.)1221.
33:(N.S.)79.	11551916C, 343.
37: (N.S.)834.	11751918A, 940.
47:(N.S.)662.	11 L.R.A.(N.S.)
1916A, 957.	·
10571916A, 1279.	9249: (N.S.) 853. 1661917F, 172.
1084	18248: (N.S.)440.
110435:(N.S.)784.	202
111716:(N.S.)672.	368
19: (N.S.) 1056.	20. /N S \500.
35: (N.S.)575.	41: (N.S.) 1034.
36: (N.S.)33.	37235: (N.S.) 1113.
42:(N.S.)643.	41730:(N.S.)176,
11191917E, 654.	34 · (N.S.)34
1127	43250:(N.S.)432.
114819: (N.S.) 606. 1915F, 673.	20120 010
116828: (N.S.)1068.	449
119748:(N.S.)979.	10 (27 G) 10 m
121423: (N.S.)834.	1918E, 1039.
1916E, 236.	49749:(N.S.)305,

11 L.R.A.(N.S.)—cont'd.	12 L.R.A.(N.S.)—cont'd.
50434:(N.S.)804.	40323:(N.S.)1003.
48: (N.S.) 919.	44: (N.S.)680.
1916D, 1227. 1918E, 219.	1916F, 890. 44926: (N.S.)1207.
550	42: (N.S.) 176,
29 : (N.S.) 745.	191êD, 826.
55417:(N.S.)477.	(454)
5571915D, 1218.	1916D, 827. 46120: (N.S.) 876.
56128:(N.S.)566.	1
30: (N.S.)409. 1915B, 685.	48: (N.S.) 667. 47943: (N.S.) 1128.
61629:(N.S.)905,	1918D, 187.
65331: (N.S.) 670.	<b>519</b> 20: (N.S.) 1095.
67628: (N.S.)436.	23: (N.S.) 192.
713	38: (N.S.) 101. 1915C, 877.
748	526
52: (N.S.)377.	537
789	1915E, 460.
81846: (N.S.) 669.	5681917C, 246.
82524: (N.8.)840.	575 (576)43: (N.S.)1109. (616)1915B, 851.
913	64332: (N.S.)792.
37:(N.S.)1115.	51: (N.S.)778.
94022:(N.S.)2.	661 (wills)1918F, 775.
94823: (N.S.)824.	670
1915D, 355.	711
973	1918D, 1137,
101821:(N.S.)1005.	721
1017 4 710	748
1028	76013:(N.S.)615.
106042:(N.S.)1041.	1916C, 376. 76835: (N.S.) 563.
1918D, 819. 108217: (N.S.) 809.	50: (N.S.) 510.
26: (N.S.) 179.	1916D, 211.
28: (N.S.)753.	83121: (N.S.) 972.
43: (N.S.) 355.	49: (N.S.) 135. 853
109233: (N.S.) 909. 50: (N.S.) 195.	23: (N.S.)954.
1917B, 15.	86123: (N.S.) 960.
111932: (N.S.) 616.	1916F, 1227.
47: (N.S.) 1058.	8691918E, 111.
11571916A, 1143.	881
1163	101670 810
43: (N.S.)131.	9461915A, 106.
1918E, 351.	95624: (N.S.)514.
1186	42:(N.S.)379. 9691918D, 741.
1916 <b>F, 393</b> .	10191915E, 172.
10 T D 4 (WO)	10211916E, 828.
981918E, 959.	104047; (N.S.)84.
102	110028: (N.S.)992.
44:(N.S.)1160.	1915D, 852. 112530: (N.S.)1084.
11240: (N.S.)935.	51:(N.S.)1082.
(drains or sewers) 1915A, 129.	1130
13122:(N.S.)190. 18838:(N.S.)913.	35: (N.S)628.
52:(N.S.)207.	40: (N.S.) 893. 51: (N.S.) 361.
240	1915F, 830,
267	11551918E, 708.
37; (N.S.) 976.	117714:(N.S.)130.
49: (N.S.)415.	37: (N.S.) 1017.
319	1190
382	51:(N.S.)151. 1918F, 169.
39: (N.S.)20.	120123: (N.S.) 1151.
38927:(N.S.)425.	1207
1915E, 356.	1918E, 1033.
·	

1440	TABLE OF SUPPLEM	ENTED L.R.A. NOILS.
		44 T T A 477 W \
13 L.R.A.(N.S.)		14 L.R.A.(N.S.)
146	39:(N.S.)46.	4937:(N.S.)993.
		15546:(N.S.)557.
		1851917A, 127.
1/3	21: (N.S.)417.	100
185		216
• 222	34:(N.S.)758.	26:(N.S.)382.
	1015F 161	33:(N.S.)79.
228		37:(N.S.)834.
220	1915C, 571.	47:(N.S.)662.
244	19150, 571.	
244	1915C, 467.	1916A, 957.
258 (personal ei	ncounter) 1917C, 199.	251
283		<b>284</b>
	191 <b>è</b> C, 1 <b>ó22</b> .	42:(N.S.)1073.
909	1915D, 196.	1916F, 696.
		909 (stansing) 17. (N.C.) 909
	1917C, 476.	293 (stopping)17: (N.S.) 823.
	1918B, 475.	29: (N.S.) 159.
384		44:(N.S.)478.
413		(speed)1917F, 1187.
		31220:(N.S.)426.
		3221918D, 183.
	1915B, 144.	
901	16: (N.S.)963.	33033: (N.S.) 983.
	43:(N.S.)187.	34624:(N.S.)369.
	1915 <b>F</b> , 1125.	3561918A, 898.
572	45:(N.S.)382.	40038:(N.S.)351.
	1916B 830	443
501	34:(N.S.)874.	448
991		
	42:(N.S.)793.	4571918A, 937.
601:	29: (N.S.)808.	46434:(N.S.)282.
	1916C, 364.	1918D, 1032.
620		47642: (N.S.) 122.
0_0	31: (N.S.) 338.	4881915F, 771.
890	30: (N.S.)1164.	499
028		787
668 (670)	30: (N.S.)800.	50728: (N.S.)234.
-	40:(N.S.)832.	5141916D, 613.
	51:(N.S.)337.	52643:(N.S.)901.
•	1918D, 1141.	5481916E, 1273.
687		56123:(N.S.)492.
	51:(N.S.)337.	
	1918D, 1141.	58624: (N.S.)1257.
007		42: (N.S.)840.
697		1917A, 1295.
	47: (N.S.) 173.	60332:(N.S.)306.
716	1915B, 875.	i 1915D, 817.
725		64839:(N.S.)1055.
758	30: (N.S.)720.	
	51: (N.S.)646.	6631917B, 252.
011	45:(N.S.)664.	6741917C, 1014.
011	10102 444	689 (714)1916B, 965.
	1916F, 444.	(763)
889	1915F, 444.	862
905	34:(N.S.)506.	89332: (N.S.)867.
	52: (N.S.) 1038.	090
916		9101915A, 679.
1019	34:(N.S.)240.	91429:(N.S.)851.
1010	1918C, 1157.	93737:(N.S.)291.
1004	19160, 1197.	97245: (N.S.) 707.
1024	25:(N.S.)376.	000 01.(37.5) 007
	52:(N.S.)230.	99831:(N.S.)667.
1066	34: (N.S.)466.	1915D, 962.
	50: (N.S.)1013.	100325:(N.S.)840.
1071	34: (N.S.\469.	1015A, 491.
10/1		102530:(N.S.)375.
	1917E, 823.	
		1916E, 248.
1122		108624:(N.S.)321.
•	25:(N.S.)33.	10621915A, 757.
	38: (N.S.)973,	1067
	90:(11.0.)813.	
	1918E, 121.	10901915B, 298.
1126		11281915C, 734.
	50: (N.S.)858.	11501918F, 794.
	20: (N.S.)686.	118823:(N.S.)938.
1100		
	1915A, 325.	1917C, 882.
1214		1242
1219 (1244)	32: (N.S.) 1090.	1915B, 1119.
(1959)	20: (N.S.)732.	125932:(N.S.)1190.
(		

15 L.R.A. (N.S.)		16 L.R.A. (N.S.)—cont'd.
61		22730:(N.S.)552.
73		52: (N.S.)754.
94	24:(N.S.)408.	23643:(N.S.)575.
108	25:(N.S.)1001.	2851916D, 1299.
	42:(N.S.)151.	35333: (N.S.)960.
134		48: (N.S.)198.
140	52:(N.S.)267. see 36:(N.S.)295.	445
	1917C, 1172.	4891917C, 324.
206		494
214		5271916A, 930.
254	23:(N.S.)1224.	58542:(N.S.)872.
272	34:(N.S.)1050.	63127:(N.S.)537.
277		49: (N.S.) 67. 6471918D, 205.
904	49: (N.S.) 250. 1918C, 528.	66052:(N.S.)153.
	1915E, 563.	67219:(N.S.)1056.
350		35: (N.S.)575.
	35: (N.S.)549.	36: (N.S.)33.
	51:(N.S.)1097.	42: (N.S.)643.
402		6911915A, 616.
425		74243: (N.S.)332.
443		74628: (N.S.) 615. 1915F, 1076.
466		7771915B, 358.
479		78620:(N.S.)321.
	1915E, 989.	33: (N.S.)419.
519		79424:(N.S.)475.
523	35:(N.S.)592.	1918C, 3 <b>73.</b> 8071916A, 972.
535 (541)	33: (N.S.)1061. 1916F, 691.	81625:(N.S.)33.
886 (687)	38:(N.S.)1162. \	38: (N.S.)973.
701.		1918E, 121.
	1916D, 301.	82926:(N.S.)696.
715		1 980 10151 041
		8601915D, 941.
	1017D 800	870 (terminal office closed)
	1917D, 690. 23: (N.S.) 691.	870 (terminal office closed) 24: (N.S.) 1283.
	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 325.	870 (terminal office closed) 24: (N.S.) 1283. 874
747	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79.	870 (terminal office closed) 24: (N.S.) 1283. 874
747 756 763	1917D, 690. 23: (N.S.)691. 33: (N.S.)325. 47: (N.S.)673. 1918B, 79. 1918A, 389.	870 (terminal office closed) 24: (N.S.) 1283. 874
747 756 763	1917D, 690	870 (terminal office closed) 24: (N.S.) 1283. 874
747 756 763 775 790	1917D, 690	870 (terminal office closed)  24: (N.S.) 1283.  874
747	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673	870 (terminal office closed) 24: (N.S.)1283. 874
756 763 775 790 810 840 (845)	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79. 1918A, 389. 1916E, 898. 1915D, 305. 1915E, 991. 17: (N.S.) 758. 31: (N.S.) 783.	870 (terminal office closed) 24: (N.S.) 1283. 874. 1915D, 397. 878. 33: (N.S.) 738. 49: (N.S.) 132. 886. 1915F, 888. 890. 40: (N.S.) 133. 1915C, 605. 918. 1917A, 683. 931. 1915F, 577. 935. 25: (N.S.) 938.
747 756 763 775 790 819 840 (845) 868	1917D, 690. 23: (N.S.)691. 33: (N.S.)325. 47: (N.S.)673. 1918B, 79. 1918A, 389. 1916E, 898. 1915D, 305. 1915E, 991. 17: (N.S.)758. 31: (N.S.)783.	870 (terminal office closed) 24: (N.S.) 1283. 874. 1915D, 397. 878. 33: (N.S.) 738. 49: (N.S.) 132. 886. 1915F, 888. 890. 40: (N.S.) 133. 1915C, 605. 918. 1917A, 683. 931. 1915F, 577. 935. 25: (N.S.) 938. 963. 43: (N.S.) 187.
747	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79. 1918A, 389. 1916B, 898. 1916D, 306. 1915E, 991. 17: (N.S.) 758. 31: (N.S.) 783. 34: (N.S.) 737.	870 (terminal office closed) 24: (N.S.) 1283. 874. 1915D, 397. 878. 33: (N.S.) 738. 49: (N.S.) 132. 886. 1915F, 888. 890. 40: (N.S.) 133. 1915C, 605. 918. 1917A, 683. 931. 1915F, 577. 935. 25: (N.S.) 938. 963. 43: (N.S.) 187.
756	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79. 1918A, 389. 1916E, 898. 1915D, 305. 1915E, 991. 17: (N.S.) 758. 31: (N.S.) 783. 34: (N.S.) 737. 1917F, 472. 42: (N.S.) 107.	870 (terminal office closed) 24: (N.S.)1283. 874. 1915D, 397. 878. 33: (N.S.)738. 49: (N.S.)132. 886. 1915F, 888. 890. 40: (N.S.) 133. 1915C, 605. 918. 1917A, 683. 931. 1915F, 577. 935. 25: (N.S.)938. 963. 43: (N.S.)187. 1915F, 1125. 1020. 1915F, 979.
747	1917D, 690. 23: (N.S.)691. 33: (N.S.)325. 47: (N.S.)673. 1918B, 79. 1918A, 389. 1916E, 898. 1915D, 305. 1915E, 991. 17: (N.S.)758. 31: (N.S.)783. 34: (N.S.)737. 1917F, 472. 42: (N.S.)107.	870 (terminal office closed) 24: (N.S.) 1283. 874. 1915D, 397. 878. 33: (N.S.) 738. 49: (N.S.) 132. 886. 1915F, 888. 890. 40: (N.S.) 133. 1915C, 605. 918. 1917A, 683. 931. 1915F, 577. 935. 25: (N.S.) 938. 963. 43: (N.S.) 187. 1915F, 1125. 1020. 1915F, 979. 1026. 1915D, 838.
747	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79. 1918A, 389. 1916E, 898. 1915D, 305. 1915E, 991. 17: (N.S.) 758. 31: (N.S.) 783. 34: (N.S.) 737. 1917F, 472. 42: (N.S.) 107. 39: (N.S.) 671. 51: (N.S.) 358.	870 (terminal office closed)  24: (N.S.)1283.  874. 1915D, 397.  878. 33: (N.S.)738.  49: (N.S.)132.  886. 1915F, 888.  890. 40: (N.S.) 133.  1915C, 605.  918. 1917A, 683.  931. 1915F, 577.  935. 25: (N.S.)938.  963. 43: (N.S.)187.  1015F, 1125.  1020. 1915F, 979.  1026. 1915D, 838.  1035. 21: (N.S.)83.  1055. 23: (N.S.)123.
747	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79. 1918A, 389. 1916B, 898. 1916D, 306. 1915E, 991. 17: (N.S.) 758. 31: (N.S.) 758. 34: (N.S.) 737. 1917F, 472. 42: (N.S.) 107. 39: (N.S.) 671. 51: (N.S.) 358. 1915F, 554. 28: (N.S.) 104.	870 (terminal office closed) 24: (N.S.) 1283. 874. 1915D, 397. 878. 33: (N.S.) 738. 49: (N.S.) 132. 886. 1915F, 888. 890. 40: (N.S.) 133. 1915C, 605. 918. 1917A, 683. 931. 1915F, 577. 935. 25: (N.S.) 938. 963. 43: (N.S.) 187. 1915F, 1125. 1020. 1915F, 979. 1026. 1915D, 938. 1035. 21: (N.S.) 83. 1055. 23: (N.S.) 123.
747	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79. 1918A, 389. 1916B, 898. 1916D, 305. 1915E, 991. 17: (N.S.) 758. 31: (N.S.) 737. 1917F, 472. 42: (N.S.) 107. 39: (N.S.) 671. 51: (N.S.) 358. 1915F, 554. 28: (N.S.) 104. 46: (N.S.) 484.	870 (terminal office closed)  24: (N.S.)1283.  874. 1915D, 397.  878. 33: (N.S.)738.  49: (N.S.)132.  886. 1915F, 888.  890. 40: (N.S.)  1915C, 605.  918. 1917A, 683.  931. 1915F, 577.  935. 25: (N.S.)938.  963. 43: (N.S.)187.  1915F, 1125.  1020. 1915F, 979.  1026. 1915D, 838.  1035. 21: (N.S.)83.  1055. 23: (N.S.)123.  1916F, 694.  1058. 1917F, 547.
747	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79. 1918A, 389. 1916E, 898. 1915D, 305. 1915E, 991. 17: (N.S.) 758. 31: (N.S.) 758. 31: (N.S.) 737. 1917F, 472. 42: (N.S.) 107. 39: (N.S.) 671. 51: (N.S.) 358. 1915F, 554. 28: (N.S.) 104. 46: (N.S.) 104.	870 (terminal office closed) 24: (N.S.) 1283. 874. 1915D, 397. 878. 33: (N.S.) 738. 49: (N.S.) 132. 886. 1915F, 888. 890. 40: (N.S.) 133. 1915C, 605. 918. 1917A, 683. 931. 1915F, 577. 935. 25: (N.S.) 938. 963. 43: (N.S.) 187. 1915F, 1125. 1020. 1915F, 979. 1026. 1915D, 838. 1035. 21: (N.S.) 83. 1055. 23: (N.S.) 123. 1916F, 694. 1058. 1917F, 547. 1132. 52: (N.S.) 668.
747	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79. 1918A, 389. 1916E, 898. 1915D, 305. 1915E, 991. 17: (N.S.) 758. 31: (N.S.) 783. 34: (N.S.) 737. 1917F, 472. 42: (N.S.) 107. 39: (N.S.) 671. 51: (N.S.) 358. 1915F, 554. 28: (N.S.) 104. 46: (N.S.) 484. 35: (N.S.) 755.	870 (terminal office closed)  24: (N.S.)1283.  874. 1915D, 397.  878. 33: (N.S.)738.  49: (N.S.)132.  886. 1915F, 888.  890. 40: (N.S.)  1915C, 605.  918. 1917A, 683.  931. 1915F, 577.  935. 25: (N.S.)938.  963. 43: (N.S.)187.  1915F, 1125.  1020. 1915F, 979.  1026. 1915D, 838.  1035. 21: (N.S.)83.  1055. 23: (N.S.)123.  1916F, 694.  1058. 1917F, 547.
747	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79. 1918A, 389. 1916E, 898. 1916D, 305. 1915E, 991. 17: (N.S.) 758. 31: (N.S.) 737. 1917F, 472. 42: (N.S.) 107. 39: (N.S.) 671. 51: (N.S.) 358. 1915F, 554. 28: (N.S.) 104. 46: (N.S.) 484. 35: (N.S.) 755. 27: (N.S.) 340. 29: (N.S.) 250.	870 (terminal office closed)  24: (N.S.)1283.  874. 1915D, 397.  878. 33: (N.S.)738.  49: (N.S.)132.  886. 1915F, 888.  890. 40: (N.S.) 133.  1915C, 605.  918. 1917A, 683.  931. 1915F, 577.  935. 25: (N.S.)938.  963. 43: (N.S.)187.  1916F, 1125.  1020. 1915F, 979.  1026. 1915D, 838.  1035. 21: (N.S.)83.  1055. 23: (N.S.)123.  1916F, 694.  1058. 1917F, 547.  1132. 52: (N.S.)668.  1136. 31: (N.S.)1186.
747	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79. 1918A, 389. 1916E, 898. 1915D, 305. 1915E, 991. 17: (N.S.) 758. 31: (N.S.) 783. 34: (N.S.) 737. 1917F, 472. 42: (N.S.) 107. 39: (N.S.) 671. 51: (N.S.) 358. 1915F, 554. 28: (N.S.) 104. 46: (N.S.) 484. 35: (N.S.) 755.	870 (terminal office closed) 24: (N.S.)1283. 874. 1915D, 397. 878. 33: (N.S.)738. 49: (N.S.)132. 886. 1915F, 888. 890. 40: (N.S.)133. 1915C, 605. 918. 1917A, 683. 931. 1915F, 577. 935. 25: (N.S.)938. 963. 43: (N.S.)187. 1915F, 1125. 1020. 1915F, 979. 1026. 1915D, 938. 1035. 21: (N.S.)83. 1055. 23: (N.S.)123. 1916F, 694. 1058. 1917F, 547. 1132. 52: (N.S.)668. 1136. 31: (N.S.)1186.  17 L.R.A. (N.S.)
747	1917D, 690. 23: (N.S.)691. 33: (N.S.)691. 33: (N.S.)325. 47: (N.S.)673. 1918B, 79. 1918A, 389. 1916E, 898. 1915D, 305. 1915E, 991. 17: (N.S.)758. 31: (N.S.)783. 34: (N.S.)787. 1917F, 472. 42: (N.S.)107. 39: (N.S.)671. 51: (N.S.)358. 1915F, 554. 28: (N.S.)104. 46: (N.S.)484. 35: (N.S.)755. 27: (N.S.)340. 29: (N.S.)250. 41: (N.S.)181.	870 (terminal office closed) 24: (N.S.) 1283. 874.
747	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79. 1918A, 389. 1916E, 898. 1915D, 305. 1915E, 991. 17: (N.S.) 758. 31: (N.S.) 737. 1917F, 472. 42: (N.S.) 107. 39: (N.S.) 671. 51: (N.S.) 358. 1915F, 554. 28: (N.S.) 104. 46: (N.S.) 484. 35: (N.S.) 755. 27: (N.S.) 340. 29: (N.S.) 250. 41: (N.S.) 181.	870 (terminal office closed)  24: (N.S.)1283.  874. 1915D, 397.  878. 33: (N.S.)738.  49: (N.S.)132.  886. 1915F, 888.  890. 40: (N.S.) 133.  1915C, 605.  918. 1917A, 683.  931. 1915F, 577.  935. 25: (N.S.)938.  963. 43: (N.S.)187.  1915F, 1125.  1020. 1915F, 979.  1026. 1915D, 838.  1055. 23: (N.S.)83.  1055. 23: (N.S.)83.  1055. 23: (N.S.)68.  1136. 31: (N.S.)1186.  17 LRA.(N.S.)  101 1918B, 1133.  124 1916C, 1097.  162 35: (N.S.)787.
747	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79. 1918A, 389. 1916B, 898. 1916D, 306. 1915E, 991. 17: (N.S.) 758. 31: (N.S.) 737. 1917F, 472. 42: (N.S.) 107. 39: (N.S.) 671. 51: (N.S.) 358. 1915F, 554. 28: (N.S.) 104. 46: (N.S.) 484. 35: (N.S.) 755. 27: (N.S.) 340. 29: (N.S.) 250. 41: (N.S.) 181.	870 (terminal office closed) 24: (N.S.)1283. 874. 1915D, 397. 878. 33: (N.S.)738. 49: (N.S.)132. 886. 1915F, 888. 890. 40: (N.S.) 133. 1915C, 605. 918. 1917A, 683. 931. 1915F, 577. 935. 25: (N.S.)938. 963. 43: (N.S.) 187. 1915F, 1125. 1020. 1915F, 979. 1026. 1915D, 838. 1035. 21: (N.S.)83. 1055. 23: (N.S.)123. 1916F, 694. 1058. 1917F, 547. 1132. 52: (N.S.)668. 1136. 31: (N.S.)1186.  17 L.R.A. (N.S.) 101. 1918B, 1133. 124. 1916C, 1097. 162. 35: (N.S.)787. 1917F, 760.
747	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79. 1918A, 389. 1916B, 898. 1916D, 305. 1915E, 991. 17: (N.S.) 758. 31: (N.S.) 737. 1917F, 472. 42: (N.S.) 107. 39: (N.S.) 671. 51: (N.S.) 358. 1915F, 554. 28: (N.S.) 104. 46: (N.S.) 484. 35: (N.S.) 484. 35: (N.S.) 484. 35: (N.S.) 340. 29: (N.S.) 250. 41: (N.S.) 181.	870 (terminal office closed) 24: (N.S.)1283. 874. 1915D, 397. 878. 33: (N.S.)738. 49: (N.S.)132. 886. 1915F, 888. 890. 40: (N.S.) 133. 1915C, 605. 918. 1917A, 683. 931. 1915F, 577. 935. 25: (N.S.)938. 963. 43: (N.S.) 187. 1915F, 1125. 1020. 1915F, 1725. 1026. 1915D, 838. 1035. 21: (N.S.)83. 1055. 23: (N.S.)123. 1916F, 694. 1058. 1917F, 547. 1132. 52: (N.S.)668. 1136. 31: (N.S.) 1186.  17 L.R.A. (N.S.) 101. 1918B, 1133. 124. 1916C, 1007. 162. 35: (N.S.) 787. 1917F, 760. 210. 23: (N.S.) 982.
747	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79. 1918A, 389. 1916E, 898. 1916D, 305. 1915E, 991. 17: (N.S.) 758. 31: (N.S.) 737. 1917F, 472. 42: (N.S.) 107. 39: (N.S.) 671. 51: (N.S.) 358. 1915F, 554. 28: (N.S.) 104. 46: (N.S.) 484. 35: (N.S.) 755. 27: (N.S.) 340. 29: (N.S.) 250. 41: (N.S.) 181.	870 (terminal office closed)  24: (N.S.)1283.  874.
747	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79. 1918A, 389. 1916B, 898. 1916D, 305. 1915E, 991. 17: (N.S.) 758. 31: (N.S.) 737. 1917F, 472. 42: (N.S.) 107. 39: (N.S.) 671. 51: (N.S.) 358. 1915F, 554. 28: (N.S.) 104. 46: (N.S.) 484. 35: (N.S.) 484. 36: (N.S.) 484. 37: (N.S.) 484. 38: (N.S.) 484. 38: (N.S.) 484. 38: (N.S.) 484. 38: (N.S.) 484.	870 (terminal office closed)  24: (N.S.)1283.  874.
747	1917D, 690. 23: (N.S.) 691. 33: (N.S.) 691. 33: (N.S.) 325. 47: (N.S.) 673. 1918B, 79. 1918A, 389. 1916B, 898. 1916D, 306. 1915E, 991. 17: (N.S.) 758. 31: (N.S.) 737. 1917F, 472. 42: (N.S.) 107. 39: (N.S.) 671. 51: (N.S.) 358. 1915F, 554. 28: (N.S.) 104. 46: (N.S.) 484. 35: (N.S.) 755. 27: (N.S.) 340. 29: (N.S.) 340. 29: (N.S.) 181.  33: (N.S.) 844. 18: (N.S.) 707.  \$32: (N.S.) 748. 1917E, 391. 34: (N.S.) 940. 1915E, 186. 52: (N.S.) 940.	870 (terminal office closed) 24: (N.S.)1283. 874.
747	1917D, 690. 23: (N.S.)691. 33: (N.S.)691. 33: (N.S.)325. 47: (N.S.)673. 1918B, 79. 1918A, 389. 1916B, 898. 1916D, 305. 1915E, 991. 17: (N.S.)758. 31: (N.S.)758. 31: (N.S.)737. 1917F, 472. 42: (N.S.)107. 39: (N.S.)671. 51: (N.S.)358. 1915F, 554. 28: (N.S.)104. 46: (N.S.)484. 35: (N.S.)755. 27: (N.S.)340. 29: (N.S.)250. 41: (N.S.)181.	870 (terminal office closed) 24: (N.S.)1283. 874.
747	1917D, 690. 23: (N.S.)691. 33: (N.S.)691. 33: (N.S.)325. 47: (N.S.)673. 1918B, 79. 1918A, 389. 1916E, 898. 1915D, 305. 1915E, 991. 17: (N.S.)758. 31: (N.S.)737. 1917F, 472. 42: (N.S.)107. 39: (N.S.)671. 51: (N.S.)358. 1915F, 554. 28: (N.S.)104. 46: (N.S.)484. 35: (N.S.)755. 27: (N.S.)340. 29: (N.S.)250. 41: (N.S.)181. 33: (N.S.)748. 1917E, 391. 34: (N.S.)748. 1917E, 391. 34: (N.S.)940. 1915E, 186. 52: (N.S.)877. 27: (N.S.)877. 27: (N.S.)811.	870 (terminal office closed)  24: (N.S.) 1283.  874.
747	1917D, 690. 23: (N.S.)691. 33: (N.S.)691. 33: (N.S.)325. 47: (N.S.)673. 1918B, 79. 1918A, 389. 1916B, 898. 1916D, 305. 1915E, 991. 17: (N.S.)758. 31: (N.S.)758. 31: (N.S.)737. 1917F, 472. 42: (N.S.)107. 39: (N.S.)671. 51: (N.S.)358. 1915F, 554. 28: (N.S.)104. 46: (N.S.)484. 35: (N.S.)755. 27: (N.S.)340. 29: (N.S.)250. 41: (N.S.)181.	870 (terminal office closed) 24: (N.S.)1283. 874.

1442 TAI	BLE OF SUPPLEM	DENTED L.R.A. NOTES.
17 L.R.A. (N.S.) -cont'd.		18 L.R.A. (N.S.)—cont'd.
385	1917F. 575.	451
431	1917E, 520.	44:(N.S.)57.
439		1916F, 864.
	43: (N.S.)911.	458
	51: (N.S.) 959.	47822: (N.S.) 969.
514	38:(N.S.)1111.	47: (N.S.)113. 4941918D, 962.
594	1917E, 1049.	580
609		585
650		60043:(N.S.)977.
	25: (N.S.)465.	6471917B, 1032.
	37:(N.S.)193.	66045: (N.S.)1068.
	1915A, 369.	6951915B, 435.
667		70732:(N.S.)748.
684		1917E, 391. 71332: (N.S.)649.
702		768
707		90244: (N.S.) 372.
	27:(N.S.)379.	9561917D, 1059.
733		963 (1019 et seq.)1918F, 801.
773		116734:(N.S.)495.
788		1918F, 402. 1205
800		1221
	28: (N.S.)753. 43: (N.S.)355.	52:(N.S.)241,
`808	26: (N.S.)248.	12521917A, 37.
821 (823)	29:(N.S.)159.	125929:(N.S.)770.
	44:(N.S.)478.	
841		19 L.R.A. (N.S.)
898		8833:(N.S.)676.
910		14330: (N.S.)580.
925 935		161
1019		269
1025	49: (N.S.) 958.	29728:(N.S.)265.
1054		34028:(N.S.)1267.
1083		37449:(N.S.)250.
1100		37744:(N.S.)1209.
1135		39146: (N.S.) 1157.
1140 1144		446
1144	1916F, 171.	483
1157 (moving pictures)	30:(N.S.)465.	50749: (N.S.)844.
	1918B, 361.	(510, 519)46: (N.S.)330.
1167		(516)20: (N.S.) 635.
1004	48: (N.S.)531.	(517)
1226 1236	41:(N.S.)745.	52642: (N.S.) 242.
1230		561
18 L.R.A.(N.S.)		48: (N.S.)893.
77	1915B, 1140.	5991917E, 1040.
109	27:(N.S.)319.	6071915F, 673.
156		6181915E, 800.
197		see 1918F, 364. 6231917E, 415.
	31:(N.S.)455.	646
214	1915C, 758.	33: (N.S.)646.
226		42:(N.S.)1229.
231		49: (N.S.)472.
201	47:(N.S.)830,	662
244		69331: (N.S.)319.
250		700
253		73349: (N.S.) 889.
260	25:(N.S.)228.	759£1:(N.S.)344.
272		7621918F, 1179.
288	1917 <b>C, 306</b> .	77232:(N.S.)713.
295	29:(N.S.)834.	42:(N.S.)1070.
300		1915F, 69C.
328		83528: (N.S.) 673.
409	34:(N.S.)141.	1915C, 359.

19 L.R.A. (N.S.)—cont'd.	1 20 L.R.A.(N.S.)-cont'd.
874	(686)1915A, 325.
88346: (N.S.) 1021.	(697)1918B, 649.
88725:(N.S.)384.	(738)35: (N.S.)840.
1017F, 270.	(753)34: (N.S.)118.
9071918F, 829. 9101917C, 9.	1916B, 947. 76940:(N.S.)1191.
92348: (N.S.) 213.	78530:(N.S.)623.
1916B, 879.	80931:(N.S.)951.
93831: (N.S.)743.	8161915C, 571.
9521915C, 1221.	84835:(N.S.)491.
96423: (N.S.)497.	40: (N.S.) 464. 8721917C, 324.
34: (N.S.)773. 1917C, 935.	87648: (N.S.) 667.
100634:(N.S.)818.	88625: (N.S.) 645.
1916A, 1273.	89425: (N.S.) 645.
103437:(N.S.)912.	93344:(N.S.)1160.
10391917D, 382.	93835:(N.S.)840.
1056	980
1094 (1139, road vehicles) 50: (N.S.)1147.	1007
(walls, fences, etc.) .1915D, 160.	1917C, 63.
$(1143) \dots 47: (N.S.) 1101.$	105047:(N.S.)137.
(wreck)	106533: (N.S.)491.
(fire)	109523:(N.S.)192.
117845: (N.S.) 98.	38: (N.S.) 101. 1915C, 877.
20 L.R.A.(N.S.)	111039:(N.S.)20.
791918F, 282.	11331917A, 74.
1101915B, 173.	1146
13333: (N.S.) 109.	46:(N.S.)759.
1461916C, 564. 15543: (N.S.) 792.	1917B, 974. 11581918F, 790.
1601915E, 917.	1164
18530: (N.S.) 291.	1101
42: (N.S.)332.	21 L.R.A.(N.S.)
20839: (N.S.)1107.	143:(N.S.)813.
1916C, 676. 23238: (N.S.) 488.	2332: (N.S.)1186.
232	41: (N.S.) 407. 521916B, 862.
51: (N.S.) 992.	751917A, 1155.
239	8135: (N.S.) 658.
42:(N.S.)720.	93
261	33: (N.S.)79, 37: (N.S.)834,
264	47:(N.S.)662.
32133: (N.S.) 419.	1916A, 957.
337	11528: (N.S.)554.
350191èE, 1179.	39: (N.S.)402.
3611915E, 131. 42130: (N.S.)73.	1915C, 450. 1641917E, 1097.
47341: (N.S.)49.	178
48437:(N.S.)539.	1917C, 1153.
1915D, 1118,	22839: (N.S.)1007.
4981916F, 393.	2631916E, 1150.
50025: (N.S.) 708.	2651916D, 458. 27732:(N.S.)940.
42: (N.S.) 624. 1915F, 1082.	1917F, 861.
513 (grade)	28348:(N.S.)823.
(553)1915E, 597.	3181918D, 714.
(592, 595, 597)40: (N.S.) 182.	3381918C, 58.
(593)40: (N.S.)94.	34935:(N.S.)1079. 40:(N.S.)1207.
1918D, 814. (598–600, 627–629) 1916F, 708.	191 <del>9</del> B, 853.
(607, 649)	35422: (N.S.)741.
(635)43:(N.S.)1116.	1915C, 181.
(632, 640, 641) 29: (N.S.) 180.	456
43: (N.S.) 1158.	525
1916A, 486. (646)51: (N.S.) 1077.	61448: (N.S.) 628.
(656)39: (N.S.)1167.	679
(676)1917D, 756.	1916A, 6 <b>66.</b>

21 L.R.A.(N.S.)—cont'd.	1 22 L.R.A.(N.S.)—cont'd.
6831915D, 1126.	12021916C, 740.
73128: (N.S.)139.	12241915B, 1180.
73534:(N.S.)998.	23 L.R.A.(N.S.)
1917A, 1220. 75542: (N.S.) 298.	1231916F, 694.
77426: (N.S.) 509.	13730:(N.S.)211.
79429:(N.S.)924.	50: (N.S.)252.
46: (N.S.) 702.	1441916A, 925.
8231917B, 403.	14727: (N.S.) 528.
830	16427:(N.S.)195. 17139:(N.S.)574.
8731916E. 774.	192
91439:(N.S.)1187.	1015C 977
95339: (N.S.)1160.	21731: (N.S.)657.
972	1918B, 1116. 28930: (N.S.)481.
99845: (N.S.) 344. 10051917A, 719.	39: (N.S.) 122.
1008	43: (N.S.)1164.
1000,,	1915C, 1184.
22 L.R.A.(N.S.)	3041918D, 1014.
18135: (N.S.) 636.	31037:(N.S.)977.
19443: (N.S.) 1142.	331
2251918E, 771.	1915A, 369.
24041: (N.S.) 1213.	35229:(N.S.)635.
1917E, 1133. 27638:(N.S.)272.	34: (N.S.)126,
1915D, 911,	1917B, 108.
31327:(N.S.)253.	35942:(N.S.)700. 1918B, 998.
<b>345</b> 1918E, 738.	36734: (N.S.) 323.
3641917D, 1011.	4101915A, 320.
38349: (N.S.)57. 48632: (N.S.)62.	4141916B, 860.
42: (N.S.) 1144.	4361918B. 134.
52:(N.S.)505.	463
49239: (N.S.) 151.	4771917A, 446.
1916D, 154. 5091915A, 860.	49734:(N.S.)773.
53442: (N.S.)465.	1917C, 935.
54528: (N.S.)144.	51530:(N.S.)1173. 5311918A, 550.
5681915B, 396.	548
57751: (N.S.)1168.	5531916D, 1041.
63433:(N.S.)646. 42:(N.S.)1229.	56125:(N.S.)734.
49: (N.S.) 472.	35: (N.S.) 699.
69139: (N.S.)307.	41:(N.S.)307. 52:(N.S.)801.
7411915C, 181.	1915D, 628.
77927:(N.S.)1164. 40:(N.S.)135.	1916E, 1225.
(784, obvious) 50: (N.S.) 1218,	56425:(N.S.)574.
7891917A, 517.	1916B, 890. 6011917D, 577.
82841:(N.S.)500.	626
84128: (N.S.) 655.	63347: (N.S.)1149.
1915F, 608. 86249: (N.S.) 387.	63642: (N.S.) 862.
87249: (N.S.)387.	(exhibition)1915F, 568.
88042: (N.S.)741.	(639)
910	(643)42:(N.S.)863.
46: (N.S.)357.	64828:(N.S.)490.
1918F, 317. 9211916E, 96.	29: (N.S.) 795.
969	41: (N.S.) 223. 6731918F, 688.
9961917A, 294.	679
10731915D, 830.	691
1077	47: (N.S.) 673.
1110	72625: (N.S.)382.
1918F, 169. 113641:(N.S.)132.	42: (N.S.)870. 7391916A, 743.
1917A, 259.	7451916A, 743.
1178 <b>32:</b> (N.S.) 1043.	751
118332:(N.S.)848.	815

ee I D A (WC) cont'd	1 25 L.R.A.(N.S.)
<b>83</b> L.R.A. (N.S.)—cont'd. 8241915D, 355.	1
8281918A, 906.	33
834	1918E, 121.
849	4038: (N.S.)487.
8701918F, 145.	42: (N.S.) 1178. 51: (N.S.) 990.
880	50
92427: (N.S.)420.	44:(N.S.)156.
9381917C, 882.	1916F. 286.
946	1321916B, 651.
9601916F, 1227.	180
96852: (N.S.) 275.	193
1003	239
1010	1918F, 1005.
1014	247
1020	2571917B, 786.
107541: (N.S.) 375.	343
1092	382
110739: (N.S.)1085.	3841917F, 270.
11601918C, 78.	4081916C, 1022.
120848: (N.S.) 373.	44648:(N.S.)308.
1218	46537: (N.S.)193.
122841:(N.S.)1119.	1915A, 369. 52951:(N.S.)629.
	542
24 L.R.A. (N.S.)	5741916B, 890.
103	5961915B, 1121.
33: (N.S.)179. 1917C, 822.	6311917A, 707.
15338: (N.S.)459.	708
165	1915F, 1082. 7111915F, 1029.
1731915D, 172.	734
1917D, 938.	41:(N.S.)307.
* 201	52: (N.S.)801.
2501917D, 892.	1915D, 628.
26828: (N.S.)334.	1916E, 1225. 75845:(N.S.)495.
1917D, 1020.	805
276	831
279	8401915A, 491.
4511918F, 370.	84242: (N.S.)782.
458	860
4751918C 373.	943
485	980
490	102742:(N.S.)209.
514	104033: (N.S.)336.
55725:(N.S.)40.	1211
38: (N.S.)487.	1918E, 1039.
42: (N.S.)1178.	1226
51:(N.S.)990. 56447:(N.S.)1106.	1915C, 758.
577	12341915B, 780.
692 (717)30: (N.S.) 666.	12851916A, 666.
7881915F, 992.	129733:(N.S.)179. 1917C, 822.
7991918D, 680.	13081915A, 77.
913	,,
933	26 L.R.A.(N.S.)
1915C, 839.	1341915E, 267.
1918D, 1152.	1711915E, 788. 17928: (N.S.) 753.
10241916E, 703.	43: (N.S.) 355.
11551917D, 828.	1891916E, 582.
11591915D, 830.	2261916D, 1078.
1182	24235: (N.S.) 628.
1257	40: (N.S.)893.
1917A, 1295. 126034:(N.S.)1060.	51: (N.S.)361. 1915F, 830.
1200	18101,000.

<b>26</b> L.RA.(N.S.)—cont'd.	1 27 L.R.A. (N.S.)—cont'd.
2941915B, 756.	47845: (N.S.)473.
3151915C, 345.	48744:(N.S.)583.
38233:(N.S.)79.	1918C, 1168.
37: (N.S.)834.	50837: (N.S.) 1196.
47: (N.S.) 662.	5221915B, 247. 53749:(N.S.)67.
1916A, 957. 3941915D, 172.	573
1917D, 938.	6201918C, 438.
40951:(N.S.)71. •	63949:(N.S.)927.
1916F, 113.	6741915D, 1086.
43736:(N.S.)72.	6771916D, 196.
45130: (N.S.) 990.	684
41:(N.S.)123. 46:(N.S.)148.	712
4661915A, 138.	811
4831917D, 690.	8431916A, 734.
5021915E, 264.	864
57534:(N.S.)762.	91039: (N.S.)437.
6031916C, 902,	96648:(N.S.)893.
923, 929.	972
7471917B, 214.	1032
7571917A, 450.	109734:(N.S.)613.
7641916A, 1054.	111739: (N.S.)72.
7741916A, 1055.	41: (N.S.)473.
81628:(N.S.)825. 1917E, 1055.	46:(N.S.)921. 112539:(N.S.)43.
89546: (N.S.) 759.	1151
1917B, 974.	11581918B, 123.
928 (940)34:(N.S.)994.	116440: (N.S.) 135.
44:(N.S.)268.	11741918C, 134.
9531918D, 1137.	00 T D 4 (35 G )
973 (railroads) 1915A, 129. 993	<b>28 L.R.A. (N.S.)</b> 1 (51–56, 79)1916C, 1109,
1916A, 1218.	1122.
10041915E, 955.	881916F, 1249.
101330:(N.S.)520.	1131916B, 812.
<b>1018</b> 1917C, 142.	1521917F, 551.
10581918E, 517.	178
<b>1126</b> 1916D, 1063.	19446:(N.S.)9.
1126	194
<b>1126</b> 1916D, 1063.	19446:(N.S.)9.
1126	194
1126	194
1126	194
1126	194
1126	194
1126	194
1126	194
1126	194
1126	194
1126. 1916D, 1063. 1145. 1917F, 393. 1167. 1915D, 983. 1207. 42: (N.S.) 176. 1916D, 826.  27 L.R.A.(N.S.) 1 1915A, 444. (92) 44: (N.S.) 164. 128 31: (N.S.) 338. 157 49: (N.S.) 600. 164 50: (N.S.) 929. 168 37: (N.S.) 976. 49: (N.S.) 415. 176 1915E, 1163.	194
1126. 1916D, 1063. 1145. 1917F, 393. 1167. 1915D, 983. 1207. 42: (N.S.) 176. 1916D, 826.  27 L.R.A.(N.S.)  1 1915A, 444. (92) 44: (N.S.) 164. 128. 31: (N.S.) 338. 157 49: (N.S.) 600. 164 50: (N.S.) 929. 168 37: (N.S.) 976. 49: (N.S.) 49: (N.S.) 415. 176 1915E, 1163. 186 1918C, 1008.	194
1126	194
1126. 1916D, 1063. 1145. 1917F, 393. 1167. 1915D, 983. 1207. 42:(N.S.)176. 1916D, 826.  27 L.R.A.(N.S.) 1 1915A, 444. (92) 44:(N.S.)164. 128 31:(N.S.)338. 157 49:(N.S.)600. 164 50:(N.S.)929. 168 37:(N.S.)976. 49:(N.S.)415. 176 1915E,1163. 186 1918C, 1008. 189 44:(N.S.)485. 209 1918C, 970. 233 43:(N.S.)383.	194       .46: (N.S.)9.         200       .51: (N.S.)309.         202       .39: (N.S.)1140.         227       .1916A, 1213.         262       .43: (N.S.)734.         293       .44: (N.S.)257.         50: (N.S.)819.         327       .1915A, 200.         334       .1917D, 1020.         426       .1917A, 679.         463       .36: (N.S.) 1152.         490       .29: (N.S.) 795.         41: (N.S.) 223.         495       .1916F, 235.         522       .43: (N.S.) 1150.         536       .1916B, 846.         554       .39: (N.S.) 402.         1915C, 450.       .         566       .30: (N.S.) 409.
1126. 1916D, 1063. 1145. 1917F, 393. 1167. 1915D, 983. 1207. 42: (N.S.) 176. 1916D, 826.  27 L.R.A. (N.S.)  1 1915A, 444. (92) 44: (N.S.) 164. 128 31: (N.S.) 338. 157 49: (N.S.) 600. 164 50: (N.S.) 929. 168 37: (N.S.) 976. 49: (N.S.) 415. 176 1915E, 1163. 186 1918C, 1008. 189 44: (N.S.) 485. 209 1918C, 970. 2233 43: (N.S.) 383. 255 35: (N.S.) 549.	194
1126. 1916D, 1063. 1145. 1917F, 393. 1167. 1915D, 983. 1207. 42: (N.S.) 176. 1916D, 826.  27 L.R.A.(N.S.)  1 1915A, 444. (92) 44: (N.S.) 164. 128. 31: (N.S.) 338. 157 49: (N.S.) 600. 164 50: (N.S.) 929. 168 37: (N.S.) 976. 49: (N.S.) 415. 176 1915E, 1163. 186 1918C, 1008. 189 44: (N.S.) 485. 209 1918C, 970. 233 43: (N.S.) 383. 255 35: (N.S.) 549. 51: (N.S.) 1097.	194       .46:(N.S.)9.         200       .51:(N.S.)309.         202       .39:(N.S.)1140.         227       .1916A, 1213.         262       .43:(N.S.)734.         293       .44:(N.S.)257.         50:(N.S.)819.         327       .1915A, 200.         334       .1917D, 1020.         426       .1917A, 679.         463       .36:(N.S.)1152.         490       .29:(N.S.)795.         41:(N.S.)223.         495       .1916F, 235.         522       .43:(N.S.)1150.         536       .1916B, 846.         554       .39:(N.S.)402.         1915C, 450.         566       .30:(N.S.)409.         1915B, 685.         572       .52:(N.S.)1158.
1126       1916D, 1063.         1145       1917F, 393.         1167       1915D, 983.         1207       42:(N.S.)176.         1916D, 826.         27 L.R.A.(N.S.)       1         1       1915A, 444.         (92)       44:(N.S.)164.         128       31:(N.S.)338.         157       49:(N.S.)600.         164       50:(N.S.)929.         168       37:(N.S.)976.         49:(N.S.)415.       176       1915E,1163.         186       1918C, 1008.         189       44:(N.S.)485.         209       1918C, 970.         233       43:(N.S.)383.         255       35:(N.S.)549.         51:(N.S.)1097.         273       1916F, 389.	194       46: (N.S.)9.         200       51: (N.S.)309.         202       39: (N.S.) 1140.         227       1916A, 1213.         262       43: (N.S.) 734.         293       44: (N.S.) 257.         50: (N.S.) 819.         327       1915A, 200.         334       1917D, 1020.         426       1917A, 679.         463       36: (N.S.) 1152.         490       29: (N.S.) 795.         41: (N.S.) 223.         495       1916F, 235.         522       43: (N.S.) 1150.         536       1916B, 846.         554       39: (N.S.) 402.         1915C, 450.         566       30: (N.S.) 409.         1915B, 685.         572       52: (N.S.) 1158.         593       32: (N.S.) 240.
1126. 1916D, 1063. 1145. 1917F, 393. 1167. 1915D, 983. 1207. 42: (N.S.) 176. 1916D, 826.  27 L.R.A.(N.S.)  1 1915A, 444. (92) 44: (N.S.) 164. 128. 31: (N.S.) 338. 157 49: (N.S.) 600. 164 50: (N.S.) 929. 168 37: (N.S.) 976. 49: (N.S.) 415. 176 1915E, 1163. 186 1918C, 1008. 189 44: (N.S.) 485. 209 1918C, 970. 233 43: (N.S.) 383. 255 35: (N.S.) 549. 51: (N.S.) 1097.	194
1126. 1916D, 1063. 1145. 1917F, 393. 1167. 1915D, 983. 1207. 42: (N.S.) 176. 1916D, 826.  27 L.R.A.(N.S.)  1 1915A, 444. (92) 44: (N.S.) 164. 128. 31: (N.S.) 338. 157 49: (N.S.) 600. 164. 50: (N.S.) 929. 168. 37: (N.S.) 976. 49: (N.S.) 415. 176. 1915E, 1163. 186. 1918C, 1008. 189. 44: (N.S.) 485. 209. 1918C, 970. 233. 43: (N.S.) 383. 255: 35: (N.S.) 549. 51: (N.S.) 1097. 273. 1916F, 389. 283. 50: (N.S.) 1097. 300. 1918A, 902. 308. 1918C, 340.	194       .46: (N.S.) 9.         200       .51: (N.S.) 309.         202       .39: (N.S.) 1140.         227       .1916A, 1213.         262       .43: (N.S.) 734.         293       .44: (N.S.) 257.         50: (N.S.) 819.         327       .1915A, 200.         334       .1917D, 1020.         426       .1917A, 679.         463       .36: (N.S.) 1152.         490       .29: (N.S.) 795.         41: (N.S.) 223.         495       .1916F, 235.         522       .43: (N.S.) 1150.         536       .1916B, 846.         554       .39: (N.S.) 402.         1915C, 450.       .         566       .30: (N.S.) 409.         1915B, 685.       .         572       .52: (N.S.) 1158.         593       .32: (N.S.) 240.         48: (N.S.) 1221.         615       .1915F, 1076.
1126       1916D, 1063.         1145       1917F, 393.         1167       1915D, 983.         1207       42:(N.S.)176.         1916D, 826.         27 L.R.A.(N.S.)       1916D, 826.         27 L.R.A.(N.S.)       1915A, 444.         (92)       44:(N.S.)164.         128       31:(N.S.)338.         157       49:(N.S.)600.         164       50:(N.S.)929.         168       37:(N.S.)976.         49:(N.S.)415.       1915E,1163.         186       1918C, 1008.         189       44:(N.S.)485.         209       1918C, 970.         233       43:(N.S.)383.         255       35:(N.S.)549.         51:(N.S.)1097.         273       1916F, 389.         283       50:(N.S.)421.         300       1918A, 902.         308       1918C, 340.         335       51:(N.S.)328.	194       .46:(N.S.)9.         200       .51:(N.S.)309.         202       .39:(N.S.)1140.         227       .1916A, 1213.         262       .43:(N.S.)734.         293       .44:(N.S.)257.         50:(N.S.)819.         327       .1915A, 200.         334       .1917D, 1020.         426       .1917A, 679.         463       .36:(N.S.)1152.         490       .29:(N.S.)795.         41:(N.S.)223.         495       .1916F, 235.         522       .43:(N.S.)1150.         536       .1916B, 846.         554       .39:(N.S.)402.         1915C, 450.         566       .30:(N.S.)409.         1915B, 685.         572       .52:(N.S.)1158.         593       .32:(N.S.)240.         48:(N.S.)1221.         615       .1916F, 1076.         648       .1916D, 301.
1126       1916D, 1063.         1145       1917F, 393.         1167       1915D, 983.         1207       42:(N.S.)176.         1916D, 826.         27 L.R.A.(N.S.)       1         1       1915A, 444.         (92)       44:(N.S.)164.         128       31:(N.S.)338.         157       49:(N.S.)490.         164       50:(N.S.)929.         168       37:(N.S.)976.         49:(N.S.)415.       176       1915E,1163.         186       1918C,1008.         189       44:(N.S.)485.         209       1918C,970.         233       43:(N.S.)383.         255       35:(N.S.)549.         51:(N.S.)1097.         273       1916F, 389.         283       50:(N.S.)421.         300       1918C, 340.         333       51:(N.S.)328.         357       51:(N.S.)1009.	194       46: (N.S.)9.         200       51: (N.S.)309.         202       39: (N.S.)1140.         227       1916A, 1213.         262       43: (N.S.)734.         293       44: (N.S.)257.         50: (N.S.) 819.         327       1915A, 200.         334       1917D, 1020.         426       1917A, 679.         463       36: (N.S.) 1152.         490       29: (N.S.) 795.         41: (N.S.) 223.         495       1916F, 235.         522       43: (N.S.) 1150.         536       1916B, 846.         554       39: (N.S.) 402.         1915C, 450.         566       30: (N.S.) 409.         1915B, 685.         572       52: (N.S.) 1158.         593       32: (N.S.) 2240.         48: (N.S.) 1221.         615       1915F, 1076.         648       1916D, 301.         665       1915F, 608.
1126	194       .46:(N.S.)9.         200       .51:(N.S.)309.         202       .39:(N.S.)1140.         227       .1916A, 1213.         262       .43:(N.S.)734.         293       .44:(N.S.)257.         50:(N.S.)819.         327       .1915A, 200.         334       .1917D, 1020.         426       .1917A, 679.         463       .36:(N.S.)1152.         490       .29:(N.S.)795.         41:(N.S.)223.         495       .1916F, 235.         522       .43:(N.S.)1150.         536       .1916B, 846.         554       .39:(N.S.)402.         1915C, 450.         566       .30:(N.S.)409.         1915B, 685.         572       .52:(N.S.)1158.         593       .32:(N.S.)240.         48:(N.S.)1221.         615       .1916F, 1076.         648       .1916D, 301.
1126. 1916D, 1063. 1145. 1917F, 393. 1167. 1915D, 983. 1207. 42: (N.S.) 176. 1916D, 826.  27 L.R.A. (N.S.)  1 1915A, 444. (92) 44: (N.S.) 164. 128 31: (N.S.) 338. 157 49: (N.S.) 600. 164 50: (N.S.) 929. 168 37: (N.S.) 976. 49: (N.S.) 415. 176 1915E, 1163. 186 1918C, 1008. 189 44: (N.S.) 485. 209 1918C, 970. 233 43: (N.S.) 383. 255 35: (N.S.) 549. 51: (N.S.) 1097. 273 1916F, 389. 283 50: (N.S.) 421. 300 1918A, 902. 308 1918C, 340. 333 51: (N.S.) 328. 357 51: (N.S.) 1009. 395 51: (N.S.) 1099.	194       .46: (N.S.)9.         200       .51: (N.S.)309.         202       .39: (N.S.) 1140.         227       .1916A, 1213.         262       .43: (N.S.) 734.         293       .44: (N.S.) 257.         50: (N.S.) 819.         327       .1915A, 200.         334       .1917D, 1020.         426       .1917A, 679.         463       .36: (N.S.) 1152.         490       .29: (N.S.) 795.         41: (N.S.) 223.         495       .1916F, 235.         522       .43: (N.S.) 1150.         536       .1916B, 846.         554       .39: (N.S.) 402.         1915C, 450.       .30: (N.S.) 409.         1915B, 685.       .572.       .52: (N.S.) 1158.         593       .32: (N.S.) 240.       .48: (N.S.) 1221.         615       .1915F, 1076.       .648.       .1916D, 301.         665       .1915F, 608.       .673.       .1915C, 359.
1126	194       46: (N.S.)9.         200       51: (N.S.)309.         202       39: (N.S.) 1140.         227       1916A, 1213.         262       43: (N.S.) 734.         293       44: (N.S.) 257.         50: (N.S.) 819.         327       1915A, 200.         334       1917D, 1020.         426       1917A, 679.         463       36: (N.S.) 1152.         490       29: (N.S.) 795.         41: (N.S.) 223.         495       1916F, 235.         522       43: (N.S.) 1150.         536       1916B, 846.         554       39: (N.S.) 402.         1915C, 450.         566       30: (N.S.) 409.         1915B, 685.         572       52: (N.S.) 1158.         593       32: (N.S.) 240.         48: (N.S.) 1221.       615         615       1915F, 1076.         648       1916D, 301.         665       1915F, 608.         673       1915C, 359.         675       1917B, 671.

28 L.R.A.(N.S.)—cont'd.	1 30 L.R.A.(N.S.)—cont'd.
77346:(N.S.)357.	29142:(N.S.)332.
1918F. 317.	31943: (N.S.) 97.
785 (825)1917E, 1055.	3391916A, 468.
9341916C, 255.	• 375
959	404
9851918A, 805. 9921915D, 852.	409
10131915E, 682.	1918B, 954.
1918B, 795.	4621916D, 834.
104541:(N.S.)175.	4651918B, 361.
10531915D, 142.	48139: (N.S.) 122.
10931918C, 861.	43: (N.S.)1164.
1108	1915C, 1184.
11241917D, 372.	4831918F, 1053.
125549:(N.S.)517.	5171918A, 80. 55252: (N.S.)754.
29 L.R.A.(N.S.)	580
49	637
60	69444:(N.S.)156.
6346:(N.S.)552.	1916F, 286.
1917D, 632.	78343: (N.S.)911.
1001915A, 77.	51: (N.S.)958. 80040: (N.S.)832.
12034: (N.S.) 621. 15944: (N.S.) 478.	51: (N.S.) 337.
1741916E, 1232.	1918D, 1141.
18043: (N.S.)1158.	829
1916A. 486.	83348:(N.S.)619.
1901917B, 782.	8551918B, 811.
1941916F, 506.	9141918F, 1082.
1991915D, 243.	94651:(N.S.)825. 95749:(N.S.)1123.
224	1917A, 433.
260 (milk)1917C, 247.	1918B, 383.
299	99041: (N.S.)123.
3251915B, 166.	46: (N.S.) 148.
3341917C, 447.	1001
35144: (N.S.) 395. 1918F, 1148.	1084
4281916C, 675.	1153
47239: (N.S.) 324.	11921915C, 155.
55849:(N.S.)764.	120748:(N.S.)531.
57741:(N.S.)462.	
63534: (N.S.) 126.	31 L.R.A. (N.S.) 116 (117)51: (N.S.) 1143.
1917B, 108. 6521915E, 581.	132
6631915D, 547.	1691918F, 1163.
6711916D, 981.	17633:(N.S.)996.
70947:(N.S.)173.	1801915A, 828.
7871917B, 683.	2781915D, 116.
795	30140:(N.S.)263. 3091918A,756.
8081916C, 364.	32943:(N.S.)63.
823	4171916A. 762.
8421915A, 67.	4231917C, 626.
8871915B, 884.	4551915C, 758.
900	4911915D, 300.
924	517
117942: (N.S.) 320. 11951915C, 1189.	588
1214	6081918A, 829.
,,,,,,,,,,,,,,,,,,,,,,	6191916B, 1039.
30 L.R.A.(N.S.)	6251918B, 1133.
1	6571918B, 1116.
211918B, 425,	6671915D, 962.
401918B, 639, 601916B, 792,	7461918D, 1041. 78334: (N.S.)737.
122	881
167	1916C, 1269,
1918C. 1044.	9001915D, 792.
211	91639: (N.S.)770.
2781918F, 1101.	94534:(N.S.)565.

31	L.R.A.(N.S.)—cont'd.		33 L.R.A.(N.S.)—cont'd.
	960		4261915D, 1184.
_	991		513 (insurance)47: (N.S.) 294
]	1118	.1915B, 486.	295
_	1137	50: (N.S.) 500.	5231915C, 435.
22	L.R.A.(N.S.)		592
-	51	1918B. 670.	6321916A, 474.
	62		6391916B, 944.
		52: (N.S.)505.	64642: (N.S.)1229
	72	. 48: (N.S.)420.	49: (N.S.)472.
	229	.43:(N.S.)145.	6811918B, 662.
	240	.48:(N.S.)1221.	70638:(N.S.)867.
	284	1918B, 489.	73849:(N.S.)132.
	303	1916F, 864.	759
	306	1016F, 804.	8041916F, 407.
	313		8831915A, 521.
	355		96048:(N.S.)198.
	505se		96950:(N.S.)195.
	515	.51: (N.S.)346.	1917B, 15.
	526		9961918F, 1045.
	544		10231918F, 811.
	559 (566)	.41: (N.S.)274.	10421915D, 524.
	588	. 1910E, 900.	34 L.R.A.(N.S.)
	616		581915B, 834.
	622	.1915B. 389.	1051916A, 1218.
	713	.42: (N.S.)1070.	10952:(N.S.)385.
		1915F, 690	1918A, 118.
	740	.1915E, 413.	1181916B, 947.
	748	. 1917E, 391.	1261917B, 108.
	772	. 1918B, 849.	2111917A, 1016.
	785	.1917F, 765.	240
	792 801		261
	809		282
	841		2991915E, 320.
	845	.1915B, 189.	309
	881	.48:(N.S.)974.	3511915C, 809.
	940		44552: (N.S.)1203.
	949		454
•	968		466
	1046		495
	173		506
1	181	. 1917F, 1085.	57342:(N.S.)720.
1	186	.41:(N.S.)407.	650 (milk)1917C. 244.
	l <b>2</b> 01		7581915E, 161.
3	1206	. 1918F, 555.	773
-	T D A /NC)		7901918A, 701. 79848:(N.S.)917.
90	L.R.A. (N.S.) 79	37 · /N S 1834	1916D, 1224.
		47:(N.S.)662.	1918E, 218.
		1916A. 957.	8181916A, 1273.
	81	.37: (N.S.)834.	87442: (N.S.)793.
		47: (N.S.) 662.	92443:(N.S.)131.
		1916A, 957.	1918E, 351.
	112		9401915E, 186.
		1915C, 1169.	9771915C, 649. 9841915C, 649.
	179	1918C, 551.	994
	196	47:(N.S.)932	9981917A, 1220.
	207	.51: (N.S.)369.	103644:(N.S.)299.
	230	.45: (N.S.)228.	10801917F, 362.
		1916C, 676.	11061915E, 421.
	236		11371915C, 839.
	291		1918D, 1152.
	<b>325</b>	.41:(N.S.)673.	35 L.R.A.(N.S.)
	401	. 1910A, 000.	1 (64)1915A, 899.
	403		167

	,
35 L.R.A.(N.S.)—cont'd.	37 L.R.A.(N.S.)—cont'd.
1751916F, 782.	4001917D, 821.
19048: (N.S.) 903.	4091915A, 715,
251	722. 44052:(N.S.)949.
385	1915D, 322,
3901915B, 472.	5181916E, 767.
48549:(N.S.)147.	5391915D, 1118.
49140: (N.S.) 464.	5601915E, 287.
54951:(N.S.)1097.	1916F, 704.
56350:(N.S.)510.	6181915C, 456.
1916D, 211. 574 (575)36: (N.S.)33.	724
	1918F, 819. 75452: (N.S.) 1154.
42: (N.S.) 643. 62840: (N.S.) 893.	834
51:(N.S.)361,	1916A, 957,
1915F, 830.	8771917D, 316.
6601918F, 1073.	97649:(N.S.)415.
69941:(N.S.)307.	10581917E, 437.
52: (N.S.)801.	119151:(N.S.)726.
1915D, 628.	12171916E, 742.
1916E, 1225.	OO T D A (NG)
7871917F, 760. 7951917D, 574.	38 L.R.A.(N.S.) 571918A, 898.
80241:(N.S.)111.	62
51: (N.S.) 632.	1918D, 445.
1917A, 1260.	7242:(N.S.)1073.
8701917E, 730.	1915F, 698,
879	1011915C, 877.
9791916A, 660.	1201915A, 541.
10461917A, 62.	1461917F, 603.
1054	161
106638: (N.S.) 420. 107940: (N.S.) 1207.	2041915B, 1119. 2581915B, 1202.
1918B, 853.	2721915D, 911.
. 1084 (1085)1916C, 570.	3661918D, 731.
11591917D, 976.	48742: (N.S.)1178.
121049:(N.S.)1108.	51:(N.S.)990.
	497191êE, 445.
36 L.R.A.(N.S.)	5081915A, 1137.
3342: (N.S.) 643. 501915D, 884.	559
98 (99, 102)	5711915E, 152.
1151917C, 63.	5881916C, 618.
12445: (N.S.) 465.	7141918B, 1056,
18552:(N.S.)760.	8471917E, 372.
20837:(N.S.)1191.	891
51: (N.S.)726.	913
24051:(N.S.)319.	9731918E, 121. 113944: (N.S.)420.
2441917B, 190. 30847:(N.S.)981.	11951917F, 597.
313	1100
34151: (N.S.) 234.	39 L.R.A.(N.S.)
3541915D, 204.	7241:(N.S.)473.
5301915D, 215.	46:(N.S.)921.
5471917C, 128.	12243:(N.S.)1164.
673 (722)40: (N.S.) 254. 86651: (N.S.) 1040.	1915C, 1184. 1511916D, 154.
8871918E, 255.	2421916D, 134.
1915E, 986.	1918C, 551.
9971915B, 134.	3501915B, 1058.
104552: (N.S.) 402.	3701915D, 130.
11581916F, 1291.	3741916B, 974.
11941915A, 382.	3851917B, 743.
1211	4021915C, 450.
97 T D A CNTC \	411
<b>87</b> L.R.A.(N.S.) 121917A, 328.	5801916C, 1269. 6491918C, 1188.
791917A, 326.	7441917C, 1153.
1931915A, 369.	7471915C, 823.
206 (207)1916E, 1163.	8471918A, 65.
2671916B, 1183.	8681918A, 1199.
· · · · · · · · · · · · · · · · · · ·	,

39 L.R.A.(N.S.)—cont'd.	42 L.R.A. (N.S.)—cont'd.
8781918D, 529.	876
901	9151915E, 460.
93348: (N.S.) 424.	10411918D, 819.
9381918A. 1055.	10451918D, 974. 10701915F, 690.
9881915B, 154. 10151917D, 586.	11011915A, 694.
1013	1010E 1170
1088	1916E, 1173. 112344: (N.S.)1030.
11071916C, 676.	1915C, 981.
11821915E, 618.	1144
	11551915E, 794.
40 L.R.A.(N.S.)	11721918F, 1036.
941918D, 814.	117851:(N.S.)990.
1331915C, 605.	122949:(N.S.)472.
177	i
45744:(N.S.)113,	40 T D A (WS)
51: (N.S.)1164.	43 L.R.A.(N.S.) 1091916A, 717.
4801915B, 481.	1311918E, 351.
4881917B, 693.	1371918E, 1039.
498 (after notice of in-	1621915F, 951.
tention to quit)1915A, 235.	1871915F, 1125.
5531918D, 538.	2621917C, 236.
561	4471916E, 448.
5851916D, 1276.	7251916F. 171.
6841918E, 917.	7301918E, 296.
6981918E, 814.	8061915E, 281.
79845: (N.S.)120.	8621915E, 316.
83251:(N.S.)337.	91151:(N.S.)959.
1918D, 1141. 893	9161917D, 627.
1915F, 830.	9611916E, 253.
935 (drains or sewers) 1915A, 129.	10371915C.747. 1066 (1072)1917C, 254.
10951915F, 955.	1080
11651916F, 86.	11281918D, 187.
12071918B, 853.	
1207	11581916A, 486. 11641915C, 1184.
41 L.R.A.(N.S.)	11581916A, 486.
41 L.R.A.(N.S.) 111	1158
41 L.R.A.(N.S.) 111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158
41 L.R.A.(N.S.)  111	1158

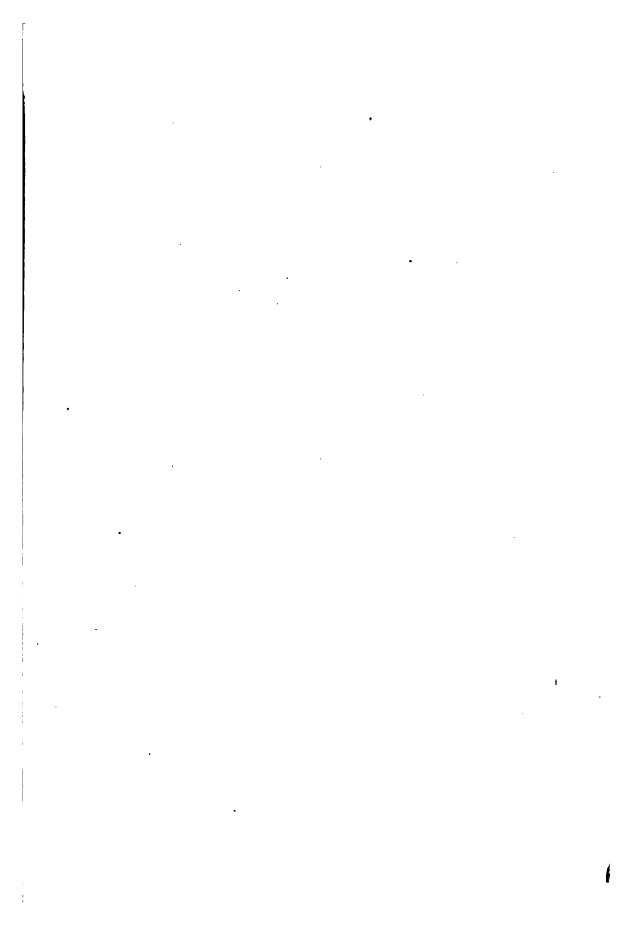
	TA T D 4 (TA)
45 L.R.A.(N.S.)—cont'd.	51 L.R.A.(N.S.)—cont'd.
6991918A, 918.	583 (accident insurance) 1915E, 575.
7261918C, 873.	(fire)1915E, 576.
	(theft)1915E, 579.
46 L.R.A.(N.S.)	1917F, 543.
2601918A, 398.	(liability)1915E, 580.
3081915D, 1095.	1917F, 615. 6321917A, 1260.
3571918F, 317.	
5171916D, 1193.	6861917C, 944.
5521917D, 632.	1918F, 547.
5611918B, 565.	7721916B, 762.
7591917B, 974.	10401915E, 986.
862 <b>1918F</b> , 1018.	11211917C, 363.
8771918C, 380.	52 L.R.A. (N.S.)
9901917A, 442.	1421916B, 1186.
10431916F, 215.	3851918A, 118.
104950: (N.S.)489.	4651918F, 1005.
10911918D, 924.	5741916D, 832.
11491918E, 937.	8011915D, 628.
11831918E, 416.	1916E, 1225.
	9491915D, 322.
47 L.R.A.(N.S.)	L.R.A.1915A.
381915C, 47. (55 track repairing) . 1915C, 62.	6711918B, 64.
. (55 track repairing) . 1915C, 62.	6941916E, 1173.
1918E, 859.	8621917E, 1137.
6621916A, 957.	002111111111111111111111111111111111111
7301916F, 101.	L.R.A.1915B.
10021918C, 1044.	7931917C, 1032.
10871915D, 684.	8341916E, 716.
1918C, 220.	L.R.A.1915C.
12141918D, 445.	47 (62)1918E, 859.
	8391918D, 1152.
48 L.R.A.(N.S.)	11691918C, 551.
651915D, 1099.	,
2131916B, 879.	L.R.A.1915D.
9061918F, 510.	1721917D, 938.
9171916D, 1224.	4081917A, 1202.
1918E, 218.	6281916E, 1225.
987 <b>1915C</b> , <b>48</b> .	6841918C, 220.
	6911916E, 1295.
49 L.R.A. (N.S.)	1917F. 384.
4381917F, 1060.	10211917D, 693.
8101918F, 819.	
11231917A, 433.	L.R.A.1915E.
1918B, 383.	1271916B, 1021.
	2871916F, 704.
50 L.R.A.(N.S.)	575 (theft insurance)1917F, 543.
591916F, 223,	(liability)
1917F, 365.	6821918B, 795.
1918F, 297.	8001918F, 364.
1951917B, 15.	·
2271916D, 1102.	L.R.A.1915F.
4321917D, 648.	7031917B, 105.
5101916D, 211.	8401916B, 1156.
6521916E, 759.	1918B, 912.
1917E, 1083.	1019F 475
8081918B, 873.	973 (976)1917D, 756.
8411918F, 1049.	1 ' '
11001916E, 1193.	L.R.A.1916A.
	231917D, 80.
1918C, <b>276</b> .	(29, 227)1917D, 103.
ET T TO A COLOR	1918F, 867.
51 L.R.A.(N.S.)	(38, 43, 241 weather
681916F, 113.	conditions) 1917D, 108.
1511918F, 169.	1917D, 129.
2211918F, 420.	1918F, 938.
3371918D, 1141.	(38, 64, 231, 239, as-
3611915F, 830.	sault)1917D, 112.
4651918F, 383.	1917D, 123.
522 1917 A, 1285.	1918E, 498.

L.R.A.1916A-cont'd.	
L.R.A.1916A—cont'd. (40, 232)	.1917D. 114.
(10, 202)	1018F 80A
(83, 244)	1017D 135
(00, 232)	1918E, 556.
(96, 120, 247, casua)	
employment)	1917D. 147.
complete memory ( ) ( )	1917D, 151.
	1918F, 215.
(100, 225)	1017D 08
(100, 220)	1918F, 524.
(113, 245)	1017D 149
(110, 210)	1010F 170
(115, 246)	1017D 145
(110, 240)	10100 001
(121, 248)	1017D 157
(121, 240)	. 1911D, 101.
(192, 216)	10170 150
(192, 210)	. 19171), 190.
000	1918F, 23U.
289	. 1917D, 104,
	1911D, 113.
	1917D, 129.
•	1918F, 868, 1918F, 869,
	19181, 869,
	19181.872.
303	. 1917D, 108,
	1917D, 111.
	1918 <b>F</b> , 869.
	1918F, 873.
309	. 1917D, 112.
	1917D, 123.
	1918E, 498.
314	
	1918F, 911.
320,	. 1917D, 120.
331	1918F, 906.
331	. 1917D, 118.
	1918F, 907.
347	. 1918F, 936.
351	
355	. 1917D, 133.
360	. 1917D, 98.
0.07	1918F, 524.
365	.1917D, 147.
370	1918F, 215.
370	. 1917D, 162.
373	19181, 491.
3/3	. 1917D, 175.
387	. 1917D, 17 <b>4.</b>
409	
443	. 1817D, 83.

L.R.A.1916A-cont'd.		
461	.1917D.	85.
	,1918C,	450
	1918C.	474
L.R.A. 1916B.	•	
1156	1010D	010
1100	1918F,	01Z.
L.R.A.1916C.	INTOL,	4/0.
	10104	001
227	.1918A,	231.
299	. 1917B,	1229.
T D 4 4044D	1918B,	455.
L.R.A.1916D.		
1049 (1050, interstate).	.1918C,	978.
1224	.1918E,	218.
L.R.A.1916E.		
640	1010E	0-2
759	16171	1000
1193	1010C	1000.
1295	.1017E	270.
1295	. 19171,	3 <del>54</del> .
L.R.A.1916F.		
223	.1917F.	365.
	1918F,	297.
L.R.A.1917A.		
280	1018E	361
433	1018R	383
L.R.A.1917B.	. 101010,	500.
1229	1019R	455
L.R.A.1917C.	. Taron,	700.
944	1010E	547
L.R.A.1917D.	. Talor,	347.
	10100	4-0
80 (86)	.19180,	450.
(88)	. 19180,	474.
(98)	.1918F,	524.
(103)	.1918F,	867.
(108 weather)	.1918F,	936.
(112 assault)	.1918E,	498.
(114)	.1918F,	896.
(135)	.1918E,	<b>556.</b>
(143)	.1918F,	179.
(145)	.1918F,	201.
(147, 151, casual em	-	
ployment)	. 1918F,	215.
(150)	. 1918F.	230.
(157)	.1918F,	483
L.R.A.1917F.		
365	.1918F.	297.
L.R.A.1918B.	-	
189	.1918E.	809.
327	.1918F.	958.
912	1918F	475.
· · · · · · · · · · · · · · · · · · ·	,	

. . . •







1

•

•

.

• . ,



